



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 13, 2011

The Council of the City of San José convened in Regular Session at 8:34 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 stated that there was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 8:35 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation: (1) Stand for San José, et al. v. City, et al; Names of Parties Involved: Stand for San José and Eileen Hannan, City of San José, City Council of San José, Redevelopment Agency of the City of San José, Diridon Development Authority; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive Relief; (2) Union Pacific Railroad Company v. City, et al; Names of Parties Involved: Union Pacific Railroad Company, City of San José, Does 1-10; Court: United States District Court, Northern District of California; Case No: C10-00210 RS; Amount of Money or Other Relief Sought: Damages according to proof; (3) California Clean Energy Committee v. City, et al; Names of Parties Involved: California Clean Energy Committee, City of San José, Does 1-50, FWSH Partners II, LLC, Edward D. Storm and Does 51-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-212623; Amount of Money or Other Relief Sought: Injunctive Relief; (4) Cicala, et al v. City, et al; Names of Parties Involved: Paul Cicala, Enrico Sagullo, Erick Sanchez, City of San José, Robert Davis, Officers Ordaz, Higgins, Marfia, Kyono and Diegel and

CLOSED SESSION (Cont'd.)

Does; Court: United States District Court, Northern District of California; Case No: C08-04032 PVT; Amount of Money or Other Relief Sought: Damages according to proof; (5) Valdez, et al v. City, et al; Names of Parties Involved: Francisco Valdez, Ricardo Vasquez, Daniel Martinez, Jamil Stubbs, City of San José, San José Police Chief Robert Davis, Officer R. Agaman (#4041), Officer Martin (#3894), Officer Rickert (#3734), Officer Wallace (#3922), Officer Orlando, Does 1 through 2500; Court: United States District Court, Northern District of California; Case No: C09 00176 RMW; Amount of Money or Other Relief Sought: Damages according to proof. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (b) with respect to anticipated litigation (Claim Not Filed) of significant exposure in one (1) matter. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (c) with respect to initiation of litigation in three (3) matters. (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, 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);

CLOSED SESSION (Cont'd.)

Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: [http://www. sanjoseca.gov/employeerelations/moa.asp](http://www.sanjoseca.gov/employeerelations/moa.asp); Telephone for Employee Relations: 408-535-8150.

To confer with Legal Counsel (A) pertaining to the San José Diridon Development Agency pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation: (1) Stand for San José, et al. v. City, et al; Names of Parties Involved: Stand for San José and Eileen Hannan, City of San José, City Council of San José, Redevelopment Agency of the City of San José, Diridon Development Authority; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive Relief.

By unanimous consent, Council recessed from the Closed Session at 11:00 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio (1:54 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Brendan McGuire, Holy Spirit Parish presented the Invocation. (Mayor)

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by the 5th Grade Class from Success Academy and students from San José Christian School, 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 Item 2.18 was deferred to January 10, 2012 and Item 4.6 was heard in the evening. (10-0-1. Absent: Oliverio.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Jubilee Christian Center in recognition of their service and dedication to help identify individuals and families in the local community who are in need of food, supplies, shelter, or clothing. (Chu)**

Mayor Reed and Council Member Chu recognized and commended the Jubilee Christian Center for their exemplary service and dedication.

- 1.2 Presentation of a plaque to the Great American Litter Pick-Up 2010/2011 Winners, and a commendation to Greg Brazil, Activities Director of Oak Grove High School, for his contribution to the District 2 Great American Litter Pick-Up Event. (Kalra)**

Mayor Reed and Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares recognized and commended Council Members Kalra and Chu as the 2010/2011 Great American Litter Pick-Up Winners.

Mayor Reed and Council Members Kalra and Chu recognized Greg Brazil, for his contribution to the District 2 Great American Litter Pick-Up Event.

- 1.5 Presentation of a commendation to the sponsors of Downtown for the Holidays in recognition of their commitment and contributions to San José's holiday traditions Christmas in the Park, Downtown Ice and Winter Wonderland. (Liccardo)**

Mayor Reed and Council Member Liccardo recognized and commended the sponsors of Downtown for the Holidays for their commitment and contributions.

- 1.6 Presentation of a commendation to CommUniverCity in honor of the organization's tremendous accomplishments in reaching a milestone garnering volunteers and resources for many community projects. (Liccardo)**

Mayor Reed and Council Member Liccardo recognized and commended CommUniverCity for their accomplishments.

CONSENT CALENDAR

Upon motion by Council Member Constant, seconded by Council Member Herrera, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Herrera.)

- 2.1 Approval of Minutes.**

There were none.

- 2.2 (a) **ORD. NO. 29000 – Amending Chapter 13.28 of Title 13 of the San José Municipal Code to (1) streamline and reorganize the chapter into five parts; (2) add and delete certain definition provisions; (3) revise the permit requirements; (4) revise the maintenance and replacement standards; and (5) clarify the assessment and enforcement provision.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29000 executed on December 6, 2011, submitted by the City Clerk.

Action: Ordinance No. 29000 was adopted. (10-0-1. Absent: Herrera.)

- (b) **ORD. NO. 29001 – Amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, which lists all infractions, to update the list of infractions.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29001 executed on December 6, 2011, submitted by the City Clerk.

Action: Ordinance No. 29001 was adopted. (10-0-1. Absent: Herrera.)

- (c) **ORD. NO. 29002 – Amending Chapter 1.17 of Title 1 of the San José Municipal Code to add a new Section 1.17.015 to permit waiver of costs associated with requests for records pursuant to the California Public Records Act and making the effectiveness and applicability of the provisions of this ordinance retroactive to November 10, 2011.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29002 executed on December 9, 2011, submitted by the City Clerk.

Action: Ordinance No. 29002 was adopted. (10-0-1. Absent: Herrera.)

- (d) **ORD. NO. 29003 - Amending Section 16.18.030 of Chapter 16.18 and Section 16.30.200 of Chapter 16.30 of Title 16 of the San José Municipal Code, the Gaming Control Regulatory Program Ordinance, to: (1) confine gaming to the single ground floor level of a permitted cardroom or to such other areas of a permitted cardroom as may be approved pursuant to the cardroom permit amendment procedure, (2) make the location of gaming in a cardroom a term and condition of the cardroom permit, and (3) make the requirement to apply for a cardroom permit amendment in order to be allowed to have gaming outside the single ground floor level of a cardroom retroactive to any application for a cardroom permit amendment pending on or after April 1, 2011.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29003 executed on December 9, 2011, submitted by the City Clerk.

Action: Ordinance No. 29003 was adopted. (10-0-1. Absent: Herrera.)

2.3 Approval of Council Committee Reports.

- (a) Community and Economic Development Committee Report of November 28, 2011. (Herrera)**
- (b) Rules and Open Government Committee Report of November 16, 2011.**
- (c) Rules and Open Government Committee Report of November 2, 2011.**
- (d) Rules and Open Government Committee Report of November 9, 2011. (Mayor)**

Documents Filed: (1) The Community and Economic Development Committee Report dated November 16, 2011. (2) The Rules and Open Government Committee Reports dated November 2, 2011, November 9, 2011 and November 16, 2011.

Action: The Committee Reports were approved. (10-0-1. Absent: Herrera.)

2.4 (a) Request for an excused absence for Council Member Constant from the Regular Meeting of the Neighborhood Services and Education Committee on December 8, 2011 due to personal medical appointment. (Constant)

Documents Filed: Memorandum from Council Member Constant, dated December 6, 2011, requesting an excused absence.

Action: The absence for Council Member Constant was excused. (10-0-1. Absent: Herrera.)

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Approve the Fourth Amendment to the agreement with Jefferson Wells International for continuation of on-call audit consultant services for the Terminal Area Improvement Program at the Norman Y. Mineta San José International Airport, increasing the total compensation by \$100,000 to a total not to exceed fee of \$700,000, and extending the term of the agreement to December 31, 2012. CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design/Study/Research/Inspection. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E., dated November 21, 2011, recommending approval of the fourth amendment to the agreement.

2.7 (Cont'd.)

Action: The Fourth Amendment to the agreement with Jefferson Wells International for continuation of on-call audit consultant services for the Terminal Area Improvement Program at the Norman Y. Mineta San José International Airport, increasing the total compensation by \$100,000 to a total not to exceed fee of \$700,000, and extending the term of the agreement to December 31, 2012 was approved. (10-0-1. Absent: Herrera.)

2.8 Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute the Second Amendment and Continuation Agreement between the City of San José and Lamberson Koster & Company, a Wholly Owned Subsidiary of Arthur J. Gallagher & Company DBA Gallagher Construction Services to provide insurance broker services for an Owner Controlled Insurance Program (OCIP) for the Airport Master Plan Projects, to include the administration of the close out phase of the OCIP for the Airport Terminal Area Improvement Program, to extend the term of the agreement from October 27, 2011 to October 26, 2012, reduce the broker fee for the one-year extension term to \$50,000, and reduce the total compensation to an amount not to exceed \$1,300,000.**
- (b) Exercise an option to extend the Agreement, if required, for an additional one-year period from October 27, 2012 to October 26, 2013, at an annual broker fee of \$50,000, with no increase in the total not to exceed compensation of \$1,300,000.**

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

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E. and Acting Director of Finance Julia H. Cooper, dated November 21, 2011, recommending adoption of a resolution.

Action: Resolution No. 76090, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment and Continuation Agreement with Lamberson Koster & Company for an Owner Controlled Insurance Program for the Airport Master Plan Projects”, was adopted. (10-0-1. Absent: Herrera.)

2.9 Approve an ordinance amending Ordinance No. 28178, as amended, to adjust the dates of the two-year pilot for the Neighborhoods Commission to reflect an extension of the Commission to June 30, 2012. CEQA: Not a Project, File No. PP10-069. (City Manager’s Office)

Documents Filed: Memorandum from Deputy City Manager Norberto Dueñas, dated November 29, 2011, recommending approval of an ordinance.

Action: Ordinance No. 29004, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28178, As Amended, To Extend the Ending Date of the Pilot for the Neighborhoods Commission to June 30, 2012”, was passed for publication. (10-0-1. Absent: Herrera.)

- 2.10 Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Soo-in Yang for the design, fabrication and installation of a public artwork at the McEnery Convention Center in an amount not to exceed \$480,000. CEQA: Resolution No. 72767 and Addenda thereto, File No. PP08-002. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated November 21, 2011, recommending adoption of a resolution.

Action: Resolution No. 76091, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute and Agreement with Soo-In Yang for the Design, Fabrication and Installation of a Public Artwork at the McEnery Convention Center In An Amount Not To Exceed \$480,00", was adopted. (10-0-1. Absent: Herrera.)

- 2.11 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2011-2012:**

- (a) **Establish a city-wide appropriation to the Office of Economic Development for Cultural Affairs Special Projects in the amount of \$386,500.**
- (b) **Increase the estimate for Revenue from the Federal Government in the amount of \$294,000.**
- (c) **Increase the estimate for Other Revenue in the amount of \$60,000.**
- (d) **Increase the estimate for Revenue from Local Agencies in the amount of \$32,500.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer A. Maguire, dated November 21, 2011, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29005, entitled: "An Ordinance of the City of San José Amending No. 28928 to Appropriate Monies in the General Fund for the Cultural Affairs Special Projects; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption and Resolution No. 75092, 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. (10-0-1. Absent: Herrera.)

- 2.12 Adopt a resolution authorizing the City Manager to negotiate and execute a Second Amendment to the Wholesaler-Retailer Agreement for Supply of Recycled Water between the City of San José and San José Water Company (SJWC):**

- (a) **To permit SJWC to connect recycled water pipeline, to be built, operated and maintained by SJWC, to the South Bay Water Recycling (SBWR) System.**

- 2.12 (b) To permit SJWC to issue a temporary recycled water meter for construction purposes to a SBWR authorized contractor for use at a recycled water access point (RWAP) within the Retailer's service area.
- (c) To accept funding for the right to connect the new recycled water pipelines constructed by SJWC to the SBWR System.
- (d) To require insurance to be maintained by SJWC for the duration of the agreement.

CEQA: Mitigated Negative Declaration, File No. PP11-041. (Environmental Services)

Documents Filed: Memorandum from Acting Director of Environmental Services Kerrie Romanow, dated November 21, 2011, recommending adoption of a resolution.

Action: Resolution No. 76093, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Wholesaler Retailer Agreement for the Supply of Recycled Water with San José Water Company", was adopted. (10-0-1. Absent: Herrera.)

- 2.13 **Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Water District (District) for cost sharing of water conservation and wastewater flow reduction programs, for the period of January 1, 2012 through June 30, 2013, under which the City will pay the District an amount not to exceed \$500,000 and the City will receive an amount not to exceed \$180,000. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)**

Documents Filed: City Council Action Request from Deputy Director Mansour Nasser, dated November 17, 2011, recommending adoption of a resolution.

Action: Resolution No. 76094, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Santa Clara Valley Water District for Cost Sharing of Water Conservation and Wastewater Flow Reduction Programs, For the Period of January 1, 2012 Through June 30, 2013, Under Which the City Will Pay the District an Amount Not To Exceed \$500,000 and The City will Receive an Amount Not To Exceed \$180,000", was adopted. (10-0-1. Absent: Herrera.)

- 2.14 **Authorize the City Manager to amend the existing Open Purchase Order 45620 with Trendtec Inc. (San José, CA), to encumber an additional \$435,000 for a revised total amount not to exceed \$560,000 for continued temporary employment services of up to six Environmental Inspectors and to extend the term through June 30, 2012. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Purchase of Supplies. (Finance)**

Documents Filed: City Council Action Request from Purchase Division Manager Mark Giovannetti, recommending amending the existing open purchase order.

2.14 (Cont'd.)

Action: The existing Open Purchase Order 45620 with Trendtec Inc. was amended to encumber an additional \$435,000 for a revised total amount not to exceed \$560,000 for continued temporary employment services of up to six Environmental Inspectors and to extend the term through June 30, 2012. (10-0-1. Absent: Herrera.)

2.15 Authorize the City Manager to:

- (a) Exercise the second of three one-year options to renew an Open Purchase Order with Jeffco Painting & Coating, Inc. (Vallejo, CA) for the period November 1, 2011 through October 31, 2012, with total compensation not to exceed \$400,000, for plant-wide sand blasting and painting services at the Water Pollution Control Plant.**
- (b) Exercise the remaining option to renew the purchase order, not to exceed \$400,000, subject to the appropriation of funds.**
- (c) Desired Outcome: To complete scheduled sandblasting and painting projects at the Water Pollution Control Plant in accordance with their maintenance plan.**

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

Documents Filed: City Council Action Request from Acting Director of Finance Julia H. Cooper, recommending exercising the second of three one-year options and the remaining option to renew the purchase order.

Action: The second of three one-year options to renew an Open Purchase Order with Jeffco Painting & Coating, Inc. (Vallejo, CA) for the period November 1, 2011 through October 31, 2012, with total compensation not to exceed \$400,000, for plant-wide sand blasting and painting services at the Water Pollution Control Plant and the remaining option to renew the purchase order, not to exceed \$400,000, subject to the appropriation of funds, were approved. (10-0-1. Absent: Herrera.)

2.16 Accept the report on the Request for Proposal for the purchase of a hosted web content management system and adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement with Icon Enterprises, Inc., doing business as CivicPlus (Manhattan, KS) for a fully hosted web content management system to include all professional and technical support services, product upgrades, training, unlimited software licenses, taxes and first year of maintenance and support, for a not-to-exceed amount of \$235,029.**
- (b) Execute one-year options to extend the agreement to provide continuous hosting services and technical support after the initial year, subject to the annual appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts. (Finance/City Manager)

2.16 (Cont'd.)

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper and Director of Communications Tom Manheim, dated November 29, 2011, recommending acceptance of the report and adoption of a resolution.

Action: The report on the Request for Proposal for the purchase of a hosted web content management system was accepted and Resolution No.76095, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Icon Enterprises, Inc., Doing Business as CivicPlus for a Fully Hosted Web Content Management System for a First Year Amount Not To Exceed \$235,029”, was adopted. (10-0-1. Absent: Herrera.)

2.17 (a) Adopt a resolution:

(1) Authorizing the City Manager to execute an agreement with the County of Santa Clara to accept program funds from the County for 2010 State Homeland Security Program (SHSP) funding for Police and Fire Department training and exercise events in an amount up to \$829,386 and Fire Department funding for the 2010 Metropolitan Medical Response System Grant Program in the amount of \$317,419.

(2) Authorizing the City Manager to negotiate and execute additional amendments to the agreement and all related documents without further City Council action.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2011-2012:

(1) Establish a city-wide appropriation to the Fire Department for the 2010 Metropolitan Medical Response System Grant Program in the amount of \$317,419.

(2) Increase Earned Revenue Estimate from the Federal Government by \$317,419.

CEQA: Not a Project, File No. PP10-066(g), Agreement and Contracts for 2010 SHSP/MMRS Grant Agreement. (Fire/Police/City Manager)

Documents Filed: Memorandum from Fire Chief William L. McDonald, Chief of Police Christopher Moore and Budget Director Jennifer A. Maguire, dated November 21, 2011, recommending adoption of resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 76096, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with the County of Santa Clara to Accept Program Funds from the County for 2010 State Homeland Security Program (SHSP) Funding for Police and Fire Department Training and Exercise Events in an Amount Up To \$829,386 and Fire Department Funding for the 2010 Metropolitan Medical Response System (MMRS) Grant Program in the Amount of \$371,419 and to Negotiate and Execute Additional Amendments to the Agreement and All Related

2.17 (Cont'd.)

Documents Without Further City Council Action”; Ordinance No. 29006, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the Metropolitan Medical Response System Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76097, 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. (10-0-1. Absent: Herrera.)

- 2.18 (a) Adopt a resolution adopting the Mitigated Negative Declaration (MND) prepared for the Alum Rock Park Bank Repair and Stream Restoration Project (File No. PP08-203), as having been completed in compliance with CEQA reflecting the City’s independent judgment and analysis, and the adoption of a mitigation monitoring and reporting program.**
- (b) Approve a Cooperative Agreement with Santa Clara Valley Transportation Authority for construction of riparian improvements and repair of the Youth Science Institute Bridge in the Upper Penitencia Creek in Alum Rock Park.**
CEQA: Mitigated Negative Declaration/IS, File No. PP 08-203. (Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement)

Action: Deferred to January 10, 2012 per Orders of the Day.

- 2.19 Approval of a Sixth Amendment to an Agreement with Winzler & Kelly to expand the scope of services to include additional permitting assistance and geotechnical engineering design support for the Youth Science Institute Bridge Site on the Upper Penitencia Creek in Alum Rock Park, extend the term of the agreement from December 31, 2011 to April 30, 2013, and increase the compensation by \$46,900 to an amount not to exceed \$583,900. CEQA: Not a Project, File No. PP10-066. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated November 21, 2011, recommending approval of a sixth amendment to the agreement.

Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano provided a verbal correction to the CEQA designation.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, the Sixth Amendment to an Agreement with Winzler & Kelly to expand the scope of services to include additional permitting assistance and geotechnical engineering design support for the Youth Science Institute Bridge Site on the Upper Penitencia Creek in Alum Rock Park, extend the term of the agreement from December 31, 2011 to April 30, 2013, and increase the compensation by \$46,900 to an amount not to exceed \$583,900 was approved, as amended. (11-0.)

- 2.20 Adopt a resolution amending the Schedule of Parkland In-Lieu Fees and Credits (Resolution No. 73587, as amended) charged pursuant to the Park Impact and Parkland Dedication Ordinances (Chapters 14.25 and 19.38 of the San José Municipal Code) to provide an additional deferment of payment of parkland fees, interest and penalty until January 15, 2013, or the date of issuance of the first building permit for residential construction, whichever occurs earlier, for projects that currently have an approved parcel or final map by the City and have not been issued a building permit by the City for residential construction. CEQA: Not a Project, File No. PP10-067(a), adjustments to fees, rates, and fares. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated November 21, 2011, recommending adoption of a resolution.

Action: Resolution No. 76098, entitled: “A Resolution of the Council of the City of San José Amending Exhibit B of Resolution No. 73587 As Amended, To Provide for the Additional Deferment of the Payment of Parkland Fees and the Interest and Penalty Charged Pursuant to Chapter 19.38 of the San José Municipal Code for Residential Projects with Approved Final Maps and Parcel Maps and for Which Building Permits Have Not been Issued”, was adopted. (10-0-1. Absent: Herrera.)

2.21 Adopt a resolution to:

- (a) Accept the 2012-2013 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Resource Management;**
- (b) Declare those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance.**
- (c) Direct the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the City Council, on January 10, 2012 at 1:30 p.m., on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

CEQA: Exempt, File No. PP08-245. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 21, 2011, recommending adoption of a resolution.

2.21 (Cont'd.)

Action: Resolution No. 76099, entitled: “A Resolution of the Council of the City of San José Accepting and Confirming the Hazardous Vegetation Commencement Report for the Year 2011-2012 Compiled by the Santa Clara County Department of Agriculture and Resource Management; Declaring Certain Noxious or Dangerous Seasonal and Recurrent Weeds are Growing or Are Likely to Grow Upon Certain Public and Private Properties or That Refuse is Situated or Likely to Be Situated Upon Certain Properties Within the City of San José; Declaring Such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance and Directing that Notice of this Resolution and a Public Hearing on the Report on January 10, 2012 at 1:30 p.m. Be Given Pursuant to Chapter 9.12 of the San José Municipal Code”, was adopted. (10-0-1. Absent: Herrera.)

- 2.22 (a) Approve the first amendment to Cooperative Agreement with the City and Santa Clara Valley Transportation Authority for the Silicon Valley Rapid Transit Project contractor procurement to extend the term from October 31, 2011 by two months to December 31, 2011.**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Public Works Program Support Fund:**
- (1) Increase the Valley Transportation Authority Collaboration appropriation in the amount of \$44,000.**
 - (2) Increase the estimate for Earned Revenue by \$44,000.**

CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design, Study, Research, and Inspection. (Public Works/City Manager’s Office)

Documents Filed: Memorandum from Director of Public Works David Sykes and Budget Director Jennifer A. Maguire, dated November 21, 2011, recommending approval of the first amendment to the cooperative agreement and adoption of appropriation ordinance and funding sources resolution amendments.

Action: The first amendment to Cooperative Agreement with the City and Santa Clara Valley Transportation Authority for the Silicon Valley Rapid Transit Project contractor procurement to extend the term from October 31, 2011 by two months to December 31, 2011 was approved; Ordinance No. 29007, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Public Works Support Fund for the Valley Transportation Authority Collaboration Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76100, 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 Public Works Support Fund”, were adopted. (10-0-1. Absent: Herrera.)

2.23 Adopt a resolution:

- (a) **Preliminarily approving the Engineer’s Report for Proposed Maintenance District 24 (The Alameda).**
- (b) **Setting the public meeting to be held on January 24, 2012 at 1:30 p.m.**
- (c) **Setting the public hearing and tabulation of property owner ballots for February 28, 2012 at 1:30 p.m.**
- (c) **Directing the notice of meeting, hearing and ballots to be mailed to the property owners in District 6.**

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 November 21, 2011, recommending adoption of a resolution.

Action: Resolution No. 76101, entitled: “A Resolution of the Council of the City of San José Preliminarily Approving the Engineer’s Report for the Proposed New Maintenance District 24 (The Alameda) and Taking Certain Other Actions Preliminary to the Approval of Such New Maintenance District”, was adopted. (10-0-1. Absent: Herrera.)

2.24 Accept the 2010 – 2011 Annual Development In-Lieu Fee Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated November 21, 2011, recommending acceptance of the report.

Action: The 2010 – 2011 Annual Development In-Lieu Fee Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements was accepted. (10-0-1. Absent: Herrera.)

2.25 Approve the rejection of all bids received for the Coleman Soccer Fields Design-Build Project. CEQA: Mitigated Negative Declaration, File No. PP10-155, May 10, 2011. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated November 21, 2011, recommending approval of the rejection of all bids received.

Action: The rejection of all bids received for the Coleman Soccer Fields Design-Build Project, was approved. (10-0-1. Absent: Herrera.)

- 2.26 Approve a Continuation and First Amendment to the Agreement between the City of San José and Kimley-Horn and Associates, Inc. for the Wide and Metropolitan Area Network Re-Design, Installation, and Configuration Consultant Services to modify the scope of services and extend the termination date from June 30, 2011 to June 30, 2012 with no change in total compensation. CEQA: Exempt, File No. PP02-07-193. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans Larsen, dated November 21, 2011, recommending approval of a continuation and first amendment to the agreement.

Action: The Continuation and First Amendment to the Agreement between the City of San José and Kimley-Horn and Associates, Inc. for the Wide and Metropolitan Area Network Re-Design, Installation, and Configuration Consultant Services to modify the scope of services and extend the termination date from June 30, 2011 to June 30, 2012 with no change in total compensation was approved. (10-0-1. Absent: Herrera.)

- 2.27 Adopt the following Appropriation Ordinance amendment in the General Fund for 2011-2012 to increase the 2012-2013 Future Deficit Reserve appropriation by \$131,070. CEQA: Not a project, File No. PP10-066(e), Services that involve no physical changes to the environment. (City Manager’s Office)**

Documents Filed: City Council Action Request from Budget Director Jennifer A. Maguire, dated November 21, 2011, recommending adoption of appropriation ordinance amendments.

Action: Ordinance No. 29008, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the 2012-2013 Future Deficit Reserve; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-0-1. Absent: Herrera.)

- 2.28 (a) Approve a grant agreement between the City of San José and the United States Department of Commerce Economic Development Administration to accept \$2,350,943, and to match this grant with \$1,007,547 in City funds, for the construction of a photovoltaic project at the San Jose Environmental Innovation Center, for a term from September 21, 2011 to September 21, 2015.**

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

- (1) Increase the estimate for Earned Revenue by \$2,350,943;**
- (2) Increase the appropriation to the Environmental Services Department for Household Hazardous Waste Las Plumas Facility by \$2,758,490;**
- (3) Decrease the Reserve for Operations and Maintenance by \$407,547.**

CEQA: A CEQA Negative Declaration for the renovation of the EIC, including the installation of PV panels, was adopted on December 1, 2009, File No. PP09-138. Council District 3. (Economic Development/Environmental Services/City Manager’s Office)

2.18 (Cont'd.)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, Acting Director of Environmental Services Kerrie Romanow and Budget Director Jennifer A. Maguire, dated December 1, 2011, recommending approval of a grant agreement and adoption of appropriation ordinance and funding sources resolution amendments.

Action: A grant agreement between the City of San José and the United States Department of Commerce Economic Development Administration to accept \$2,350,943, and to match this grant with \$1,007,547 in City funds, for the construction of a photovoltaic project at the San Jose Environmental Innovation Center, for a term from September 21, 2011 to September 21, 2015, was approved; Ordinance No. 29009, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Integrated Waste Management Fund for the Household Hazardous Waste Las Plumas Facility Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76102, 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 Integrated Waste Management Fund”, were adopted. (10-0-1. Absent: Herrera.)

2.29 Adopt the following Appropriation Ordinance Amendments in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):

- (a) **Increase the TRAIL: Three Creeks Land Acquisition appropriation to the Parks, Recreation and Neighborhood Services Department by \$244,000.**
- (b) **Decrease the Reserve: TRAIL: Three Creeks appropriation by \$173,000.**
- (c) **Decrease the Ending Fund Balance by \$71,000.**

CEQA: Resolution No. 65459, File No. PP03-05-175. Council District 6. (Parks, Recreation and Neighborhood Services/City Manager’s Office)

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and Budget Director Jennifer A. Maguire, dated December 1, 2011, recommending adoption of appropriation ordinance amendments.

Action: Ordinance No. 29010, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Construction and Conveyance Tax Fund: Citywide Parks Purposes for the Trail: Three Creeks Land Acquisition Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-0-1. Absent: Herrera.)

2.30 As recommended by the Rules and Open Government Committee on December 7, 2011:

- (a) **Appoint Elizabeth Pope is to an unexpired term ending June 30, 2013 and John Legois to a term expiring June 30, 2014 to the Disability Advisory Commission. (Pyle).**
- (b) **Appoint June Ellen Cooley to the Traffic Appeals Commission to a term expiring June 30, 2014. (Nguyen)**
- (c) **Appoint Kristen O’Kane to the Parks and Recreation Commission to an unexpired term ending June 30, 2013. (Pyle)**
- (d) **Appoint Matthew Quevedo, Robin Martinez, and Sean O’Brien to the Human Rights Commission to terms expiring December 31, 2014. (Chu)**
- (e) **Appoint Stephen Reiss and Raj Bhanot to the Small Business Development Commission to terms expiring December 31, 2014. (Chu)**
- (f) **Appoint Maria Davis to an unexpired term ending June 30, 2013 and Janet Thorsud and Nguyen Sanders to the Early Care and Education Commission to terms expiring June 30, 2014. (Pyle)**
- (g) **Reappoint Donna M. Cox to the Mobilehome Advisory Commission to a term expiring December 31, 2014. (Nguyen)**
- (h) **Reappoint David William Clancy and Leo Cortez to the Small Business Development Commission to terms expiring December 31, 2014. (Chu)**
- (i) **Reappoint Joshua Stanley Barousse and Wendy Lee Ho to the Human Rights Commission to terms expiring December 31, 2014. (Chu)**
- (j) **Reappoint Lee Jack Ellak to the Housing and Community Development Commission to a term expiring December 31, 2014. (Nguyen)**
- (k) **Reappoint Ashok Naidu to the Advisory Commission on Rents to a term expiring December 31, 2014. (Herrera)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated December 7, 2011, recommending appointments and reappointments to the Boards, Commissions and Committees.

Action: The appointments and reappointments to the Boards, Commissions and Committees were approved. (10-0-1. Absent: Herrera.)

2.31 As recommended by the Rules and Open Government Committee on December 7, 2011, accept the 2012 Legislative Guiding Principles as edited by the Council Committees, and the Legislative Priorities and Advocacy Issues for the second year of the two-year Legislative Session in Sacramento and the 112th Congress. (City Manager’s Office)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated December 7, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The 2012 Legislative Guiding Principles as edited by the Council Committees, and the Legislative Priorities and Advocacy Issues for the second year of the two-year Legislative Session in Sacramento and the 112th Congress, were accepted. (10-0-1. Absent: Herrera.)

2.32 As recommended by the Rules and Open Government Committee on December 7, 2011:

- (a) Approve Operation Prom Dress as a City Council sponsored Special Event.**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support Operation Prom Dress.**

CEQA: Not a Project. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, dated December 7, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Operation Prom Dress as a City Council sponsored Special Event was approved and acceptance of donations from various individuals, businesses, or community groups to support Operation Prom Dress was authorized. (10-0-1. Absent: Herrera.)

2.33 As recommended by the Rules and Open Government Committee on December 7, 2011:

- (a) Approve the District 6 Willow Glen History Night as a City Council sponsored Special Event.**
- (b) Approve and accept 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 December 7, 2011, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 6 Willow Glen History Night as a City Council sponsored Special Event was approved and acceptance of donations from various individuals, businesses, or community groups to support Operation Prom Dress was authorized. (10-0-1. Absent: Herrera.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone recognized and congratulated Tom Manheim, Director of Communications, for his fifteen years of service to the City of San José.

3.3 As recommended by the Public Safety, Finance and Strategic Support Committee on October 20, 2011, accept the following annual reports:

- (a) Comprehensive Annual Financial Report for the City of San José for Fiscal Year 2010-2011.**
- (b) Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2010-2011.**

CEQA: Not a Project, File No. PP10-69 (a) Annual Reports. (Finance)

3.3 (Cont'd.)

Note: Items 3.3 and 9.2 were heard together.

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated November 29, 2011, recommending acceptance and transmitting the reports.

Acting Director of Finance Julia Cooper, City Auditor Sharon W. Erickson presented the report. Redevelopment Agency Managing Director Richard Keit and Staff offered the Redevelopment Agency report.

Council discussion ensued.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Comprehensive Annual Financial Report for the City of San José for Fiscal Year 2010-2011 and the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2010-2011 were accepted. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 It is recommended that the Redevelopment Agency Board:

- (a) **Approve the Comprehensive Annual Financial Report of the Redevelopment Agency of the City of San Jose for the Fiscal Year ending June 30, 2011.**
- (b) **Approve the Independent Auditor's Report on Internal Control Over Financial Reporting and On Compliance and Other Matters Based On An Audit of Financial Statement Performed In Accordance With Government Auditing Standards, and Compliance Report on California Redevelopment Agencies' Health and Safety Code 33080.1.**

CEQA: Not a Project. [MERGED]

Documents Filed: (1) Memorandum from Redevelopment Agency Managing Director Richard Keit, dated December 2, 2011, recommending acceptance of the reports. (2) The Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2011.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Comprehensive Annual Financial Report of the Redevelopment Agency of the City of San Jose for the Fiscal Year ending June 30, 2011 and the Independent Auditor's Report on Internal Control Over Financial Reporting and On Compliance and Other Matters Based On An Audit of Financial Statement Performed In Accordance With Government Auditing Standards, and Compliance Report on California Redevelopment Agencies' Health and Safety Code 33080.1, were accepted. (11-0.)

STRATEGIC SUPPORT SERVICES

- 3.4 (a) **As recommended by the Public Safety, Finance and Strategic Support Committee on November 17, 2011, accept the Team San José Quarterly Performance Report First Quarter Results ending September 30, 2011. (Team San José)**
- (b) (1) **Direct the City Manager to discontinue work on a Request for Proposal for management of the Convention Center and Cultural Facilities.**
- (2) **Direct the City Manager to negotiate a Convention and Visitors Bureau (CVB) Services Agreement with Team San José for the period of January 1, 2012 through June 30, 2014 with two additional three-year options.**
- CEQA: Not a Project, File No.PP10-066 (e), Agreements/Contracts. Council District 3. (Economic Development)**

Documents Filed: (1) Memorandum from Mayor Reed, Council Member Constant and Council Member Liccardo, dated December 9, 2011, recommending approval of the Staff recommendations with further direction. (2) Memorandum from City Clerk Dennis D. Hawkins, dated November 21, 2011, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated November 21, 2011, recommending direction to the City Manager.

Director of Economic Development/Chief Strategist Kim Walesh presented introductory remarks. Downtown Manager Leeland Wilcox presented the report.

Motion: Council Member Constant moved approval of the memorandum he cosigned with Mayor Reed and Council Member Liccardo, dated December 9, 2011, approving the recommendations outlined in the Staff report dated November 21, 2011, with Staff directed to discontinue work on a Request for Proposal for management of the Convention Center and Cultural Facilities; Bring any modifications to the institutional reforms to the attention of the City Council before changes are approved by the Team San José Board of Directors and to include the by-laws in the report when Staff returns to Council no later than January 30, 2012. Council Member Liccardo seconded the motion.

Council discussion followed.

Public Comments: Ross Signorino expressed support to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Members Constant and Liccardo, dated December 9, 2011 was approved, approving the recommendations outlined in the Staff report dated November 21, 2011, with Staff directed to: (1) Discontinue work on a Request for Proposal for management of the Convention Center and Cultural Facilities. (2) Bring any modifications to the institutional reforms to the attention of the City Council before changes are approved by the Team San José Board of Directors. (3) To include the by-laws in the report when Staff returns to Council no later than January 30, 2012. (11-0.)

3.5 Report on Request for Proposal (RFP) for Landscaping Maintenance Services for Small Parks and Civic Grounds and adopt a resolution authorizing the City Manager to:

- (a) **Negotiate and execute an agreement with Bayscape Landscape Management, Inc. (San José, CA) for Landscaping Maintenance Services for Small Parks and Civic Grounds, for an initial three-year term ending December 27, 2014, in an amount not to exceed \$1,368,000.**
- (b) *Execute three one-year options to renew the agreement, subject to the appropriation of funds. Not Approved.*
- (c) **Execute change orders as required to add or delete sites, or change service levels due to seasonal changes or budget constraints, subject to the appropriation of funds.**

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

Documents Filed: (1) Memorandum from Council Member Rocha, dated December 12, 2011, recommending direction to the City Attorney and City Manager. (2) Memorandum from Acting Director of Finance Julia H. Cooper, dated November 22, 2011, recommending adoption of a resolution. (3) Supplemental memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated December 9, 2011, providing an update on the status of implementing a contracted services delivery model for small parks and civic grounds landscape maintenance. (4) Supplemental memorandum from Acting Director of Finance Julia H. Cooper, dated December 12, 2011, providing information about health and other benefits that are offered by each of the proposers.

Council Member Rocha explained the intent of his memorandum.

City Attorney Richard Doyle, City Manager Debra Figone and Assistant City Manager Edward K. Shikada responded to Council questions and concerns.

Extensive Council discussion ensued.

Motion: Council Member Campos moved approval to reject the Staff recommendations and deny all bidders, to put this item back out to bid (Request for Proposal) for a period of six months, extend the contract of the current provider to ensure the work is being done and approve the memorandum from Council Member Rocha, dated December 12, 2011, directing the City Attorney and City Manager to (1) Evaluate the various means by which the City can ensure that basic vacation, sick leave and holiday benefits are provided to contract employees and report back to Council on the range of available options. As part of this analysis, Staff should evaluate the possibility of adding criteria to our Request for Proposal process that would award points based on the level of leave benefits a given proposer provides to employees. (2) With the assistance of the City's Human Resources Staff, attempt to determine industry norms for provision of vacation, sick leave and holiday benefits that may be suitable as minimum standards for City contractors. Council Member Rocha seconded the motion.

3.5 (Cont'd.)

Council Member Liccardo commended Council Member Rocha for bringing this important issue forward but cannot support the motion at this time.

Mayor Reed recommended forwarding the memorandum from Council Member Rocha to the Rules and Open Government Committee for discussion and consideration.

Mayor Reed suggested that Council approve the recommendation for the initial three year term but not the options. He added that he would not be supporting the motion on the floor.

Vice Mayor Nguyen, Council Members Herrera and Oliverio expressed opposition to the motion on the floor.

Substitute Motion: Council Member Constant moved approval of the Staff recommendations with the exception of the options included in (b), and refer the memorandum from Council Member Rocha to the Rules and Open Government Committee in January 4, 2012 for evaluation. Vice Mayor Nguyen seconded the motion.

Council Members Kalra and Campos expressed opposition to the motion.

Public Comments: Tom Ellington, Bayscape Landscape agreed with the Staff recommendations and spoke to the merits of his company. Ross Signorino stated it was usually normal to work one year and then receive a week vacation.

Action: On a call for the question, the substitute motion carried, the Staff recommendations were approved, with exception of Item 3.5(b) The memorandum from Council Member Rocha, dated December 12, 2011, was referred to the January 4, 2012 Rules and Open Government Committee meeting for discussion and evaluation. Resolution No. 76104, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Bayscape Landscape Management, Inc. for Landscaping Maintenance Services for Small Parks and Civic Grounds", was adopted, as amended. (8-3. Noes: Campos, Chu, Kalra.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Consideration of approval of an ordinance amending Title 20 of the San José Municipal Code (the Zoning Code) to amend portions of Chapters 20.10, 20.30, 20.40, 20.50, 20.70, 20.75, 20.80, 20.90, 20.100, and 20.200 to facilitate economic development goals, to establish regulations for the siting of above-ground storage tanks, to provide greater flexibility in connection with minor additions to existing non-residential buildings, to allow certain vehicle leasing activities in the CG-Commercial General Zoning District, to clarify regulations pertaining to incidental electric vehicle charging stations, to allow certain drinking establishments contained within full-service hotels or motels, to provide for the installation of tankless water heaters and energy power inverters, to expand the ability to use temporary use trailers, to provide for the neighborhood agriculture use in specified circumstances, to allow higher densities within the R-M Multi-Family Residential District, to clarify regulations and provide greater flexibility for residential uses in Residential and Main Street Zoning Districts, to streamline permitting processes for the conversion of two-family dwelling units to one-family dwelling units, to update the boundaries of the Downtown Zoning Area, as well as to make other clarifying or minor technical amendments throughout. Citywide. All SNI areas. CEQA: Reuse of the Envision San Jose 2040 General Plan EIR, Council Resolution No. 76041. The Director of Planning, Building, and Code Enforcement recommends approval (Planning Commission to hear item on December 7, 2011).**
- (b) **Consideration of approval of an ordinance amending Title 20 of the San José Municipal Code (the Zoning Code) to add a new chapter, Chapter 20.85 establishing certain height restrictions, and to amend portions of chapters 20.20, 20.40, 20.50, 20.90, and 20.120 to align zoning code provisions with the recently adopted Envision San José 2040 General Plan. Citywide. All SNI areas. CEQA: Reuse of the Envision San José 2040 General Plan EIR, Council Resolution No. 76041. The Director of Planning, Building, and Code Enforcement recommends approval (Planning Commission to hear item on December 7, 2011).**

(Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 28, 2011, transmitting the recommendations of the Planning Commission. (2) Supplemental memorandum from Planning Commission Secretary Joseph Horwedel, dated December 9, 2011, providing new information including public correspondence received subsequent to the original memorandum and a summary of the discussion from the December 7, 2012 Planning Commission hearing. (3) Proof of Publication of Notice of Public Hearing, executed on November 4, 2011, November 8, 2011 and December 5, 2011, submitted by the City Clerk.

Senior Planner Andrew Crabtree presented the report.

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

4.1 (Cont'd.)

Director of Planning, Building and Code Enforcement Joseph Horwedel and Senior Planner Andrew Crabtree responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29011, entitled: “An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code (The Zoning Code) To Amend Portions of Chapters 20.10, 20.30, 20.40, 20.50, 20.70, 20.75, 20.80, 20.90, 20.100 and 20.200 To Facilitate Economic Development Goals, To Establish Economic Development Goals, To Establish Regulations for the Siting of Above Ground Storage Tanks, To Provide Greater Flexibility in Connection with Minor Additions to Existing Non Residential Buildings, To Allow Certain Vehicle Leasing Activities in the CG Commercial General Zoning District, To Clarify Regulations Pertaining to Incidental Electric Vehicle Charging Stations, To Allow Certain Drinking Establishments Contained Within Full-Service Hotels or Motels, To Provide for the Installation of Tankless Water Heaters and Energy Power Inverters, To Expand the Ability to Use Temporary Use Trailers, To Provide for the Neighborhood Agriculture Use in Specified Circumstances, To Allow Higher Densities Within the RM Multi-Family Residential District, To Clarify Regulations and Provide Greater Flexibility for Residential Uses in Residential and Main Street Zoning Districts, To Streamline Permitting Processes for the Conversion of Two-Family Dwelling Units to One-Family Dwelling Units, To Update the Boundaries of the Downtown Zoning Area, As Well As To Make Other Clarifying or Minor Technical Amendments Throughout” and Ordinance No. 29012, entitled: “An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code (The Zoning Code) To Add a New Chapter 20.85 Setting Forth Certain Height Restrictions and To Amend Portions of Chapters 20-20, 20.40, 20.50, 20.90 and 20.120 To Align Zoning Code Provisions with the Recently Adopted Envision San José 2040 General Plan”, were passed for publication. (11-0.)

4.2 Approve an ordinance amending Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code to:

- (a) **Create a Stevens Creek Urban Village Signage Area and an Oakridge/Blossom Hill Urban Village Signage Area to allow special sign standards for an Urban Village Area characterized by existing large-scale commercial development.**
- (b) **Establish a three-year pilot program to allow for programmable electronic signs as components of freestanding signs within a sub-area of the Stevens Creek Boulevard Urban Village and the Oakridge/Blossom Hill Urban Village Signage Areas.**
- (c) **Amend the minimum height requirement for buildings as relates to skyline signs and eliminate restrictions on skyline or roof signs adjacent to a park.**
- (d) **Increase the allowed area and allowable display height for fin signs, and allow greater flexibility for their location.**
- (e) **Increase the allowable signage area for freeway signs, and provide greater flexibility for the use of height exceptions to address grade differential.**

CEQA: Negative Declaration, File No. PP10-111 and PP11-099. (Planning, Building and Code Enforcement)

4.2 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Pyle, dated December 9, 2011, recommending approval of the Staff recommendations with revisions to the PES Pilot Program. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 28, 2011, recommending approval of an ordinance. (3) Proof of Publication of Notice of Public Hearing, executed on December 12, 2011, submitted by the City Clerk.

Mayor Reed and Council Member Campos provide meeting disclosures.

Senior Planner Andrew Crabtree presented the report.

Public Comments: Chop Keenan spoke in support to the Staff recommendations with one exception, for Staff to add the allowable square footage to exempt the existing pylon signs.

Director of Planning, Building and Code Enforcement Joseph Horwedel addressed the request from Mr. Keenan and responded to Council questions and comments.

Motion: Council Member Pyle moved approval of the memorandum she cosigned with Mayor Reed, dated December 9, 2011, approving the Staff recommendations, including the revisions to the PES Pilot Program. Council Member Herrera seconded the motion.

Council Member Oliverio requested to amend the motion to allow up to 75% LED programmable electric signs adjacent to freeways. The amendment with accepted by Council Members Herrera and Pyle.

Council Members Liccardo and Rocha provided meeting disclosures.

Council Member Constant requested to amend the motion to limit PES to approximately 75% across the board (universal) with the total sign area of a freestanding sign to provide ample room for architectural treatments. The amendment with accepted by Council Members Herrera and Pyle.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Member Pyle, dated December 9, 2011, was approved, approving the Programmable Electric Signs (PES) Pilot Program with the following revisions: (1) Amend the recommendations for the Pilot Program for Programmable Electric Signs in the Staff memorandum for the Blossom Hill areas as follows: (a) Limit PES to approximately 75% across the board (universal) with the total sign area of a freestanding sign to provide ample room for architectural treatments. (b) Replace 100 feet from signalized intersections with location of PES should be reviewed to ensure there will be no interference with the visibility of traffic signals. (c) 100 feet from another programmable sign on the same street. (2) Add the following for clarification: PES approved under the Pilot Program will be considered "legal non-conforming". (3) Allow

4.2 (Action Cont'd.)

up to 75% LED programmable electric signs adjacent to freeways. Ordinance No. 29013, entitled: “An Ordinance of the City of San José Amending Sections 23.02.800, 23.02.860 and 23.02.1220 of Chapter 23.02 and Section 23.04.030 of Chapter 23.04 To Establish and Provide Regulations for a Pilot Program for Programmable Electronic Display Signs Within Subareas of the Stevens Creek Boulevard Signage Area and the Oakridge/ Blossom Hill Urban Village Signage Area, Amending Section 23.04.0202 of Chapter 23.04 To Modify the Regulations for Signage in Commercial Areas, Including Fin Signs, Skyline Signs and Roof Signs and Amending Section 23.04.035 of Chapter 23.04 To Modify the Regulations for Freeway Signs”, was passed for publication, as amended. (11-0.)

4.3 As recommended by the Community and Economic Development Committee on November 28, 2011, accept staff’s analysis of development taxes, fees and costs, and:

- (a) **Direct the City Attorney to draft an ordinance to implement an interim incentive program to encourage absorption of vacant space by driving industry companies by partially suspending for a limited period the City’s the Building and Structures Tax (SJMC 4.46), and the Construction Excise Tax (SJMC 4.47) on the following uses: (1) Solar Photovoltaic Systems; (2) Office, Research and Development as defined in Section 20.200.818; and (3) Data Centers as defined in Section 20.200.265, and funding anticipated revenue losses to the City’s Traffic Capital Improvement Program with the Economic Development Enhancement Fund.**
- (b) **Direct staff to propose a plan for a modernization of the City’s construction taxes to better align the taxation policies with the job goals of the City’s Economic Strategy and Envision 2040 Plan.**
- (c) **Direct staff to explore and bring back for Council consideration in January 2012, a program that provides a reduction in the North San José Traffic Impact Fee for new development projects to improve competitiveness of North San José for near-term development.**

CEQA: Not a Project, File No. PP10-066(a), Staff Report. (Planning, Building and Code Enforcement/Economic Development)

Documents Filed: (1) Memorandum from Mayor Reed, Council Members Herrera, Liccardo, Chu and Kalra, dated December 9, 2011, recommending approving the Staff recommendations in the Staff report dated November 10, 2011, with direction. (2) Memorandum from City Clerk Dennis D. Hawkins, dated November 30, 2011, transmitting the recommendations of the Community and Economic Development Committee.

Director of Economic Development/Chief Strategist Kim Welsh presented the report on Development Taxes, costs and fees.

Mayor Reed offered meeting disclosures.

4.3 (Cont'd.)

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

Council Member Liccardo requested to amend the motion to include a fee incentive program for Downtown high-rise residential development for a limited time period. The amendment was accepted by Council Member Chu.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Members Herrera, Liccardo, Chu and Kalra, dated December 9, 2011, was approved, approving the recommendations outlined in the Staff report dated November 10, 2011 to the Community and Economic Development Committee. Since these actions are priorities of Economic Strategy, Staff should make every effort to return to Council no later than the January 24, 2012 Council Meeting with: (1) An ordinance to approve changes to the construction taxes as discussed in Item (a) of the Staff report. (2) An amendment to the North San José Area Development Policy to promote near-term development as discussed in Item (c) of the Staff report. (3) A fee incentive program for Downtown high-rise residential development for a limited time period. (11-0.)

- 4.4
- (a) **Approve a settlement and authorize the City Attorney to execute a Settlement Agreement to settle the case of Union Pacific Railroad Company v. City of San José. The settlement includes \$2,000,000 for the purchase of an approximately 9.04-acre parcel of real property, plus estimated closing costs of \$29,272, for a total amount of \$2,029,272.**
 - (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Integrated Waste Management Fund:**
 - (1) **Increase the estimate for Earned Revenue by \$300,000.**
 - (2) **Establish an estimate for Transfers in the amount of \$52,784.**
 - (3) **Establish an appropriation to the Finance Department for UP Settlement Payment in the amount of \$964,272.**
 - (4) **Decrease the Reserve for Operations and Maintenance by \$611,488.**
 - (c) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the San José/Santa Clara Treatment Plant Income Fund:**
 - (1) **Establish an estimate for Earned Revenue in the amount of \$79,382.**
 - (2) **Establish a Transfer to the Integrated Waste Management Fund in the amount of \$52,784.**
 - (3) **Increase the Ending Fund Balance by \$26,598.**
 - (d) **Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:**
 - (1) **Establish an appropriation to the Finance Department for UP Settlement Payment in the amount of \$1,065,000.**

- 4.4 (d) (2) **Decrease the Reserve: TRAIL: Coyote Creek (Story Road to Phelan Avenue) appropriation in the amount of \$600,000.**
(3) **Decrease the TRAIL: Coyote Creek (Story Road to Phelan Avenue) Design appropriation in the amount of \$465,000.**

CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office/City Manager's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle and Budget Director Jennifer A. Maguire, dated November 29, 2011, recommending approval of a settlement and authorization for the City Attorney to execute a Settlement Agreement and adoption of appropriation ordinances and funding sources resolution amendments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the City Attorney was authorized to execute a Settlement Agreement to settle the case of Union Pacific Railroad Company v. City of San José, including \$2,000,000 for the purchase of an approximately 9.04-acre parcel of real property, plus estimated closing costs of \$29,272, for a total amount of \$2,029,272; Ordinance No. 29014, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Integrated Waste Management Fund for the Union Pacific Settlement Agreement; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 76105, 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 Integrated Waste Management Fund"; Ordinance No. 29015, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the San José – Santa Clara Treatment Plant Income Fund for the Transfer to the Integrated Waste Management Fund; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 76106, 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 San José – Santa Clara Treatment Plant Income Fund" and Ordinance No. 29016, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Subdivision Park Trust Fund for the Union Pacific Settlement Agreement; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

- 4.5 **Conduct a public hearing on a Substantial Amendment to the 2010-2011 Consolidated Annual Action Plan to allocate \$550,000 of Community Development Block Grant funds for the City's Fire Department to purchase fire protection equipment (a fire truck) to serve a Low-Moderate Income Area. CEQA: Not a Project. (Housing)**

Documents Filed: Proofs of Publications of Notices of Public Hearings, executed on November 4, 2011 and November 8, 2011, submitted by the City Clerk.

Action: Dropped, to be renoticed.

PUBLIC SAFETY SERVICES

- 8.1**
- (a) Approve a report on status of site access and use agreement negotiations with Motorola to use four San José radio sites for the public safety component of the regional broadband system called BayWEB.**
 - (b) Authorize the Mayor to sign and file, together with Oakland and San Francisco, an amended petition with the FCC for a waiver to use the 700 MHz public safety spectrum.**
 - (c) Approve San José's comments on the BayRICS Joint Powers Authority System Funding Plan for filing with the BayRICS JPA.**
 - (d) Provide policy direction regarding San José's position on the Build-Own-Operate-Maintain Agreement (BOOM) between the BayRICS JPA and Motorola.**

(Fire)

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Constant, dated December 9, 2011, recommending approval of the Staff recommendations. (2) Memorandum from Fire Chief William L. McDonald and Mayor's Public Information Officer Michelle McGurk, dated December 2, 2011, recommending as described above in Item 8.1.

Director of Emergency Services Christopher Godley, CEM, presented the report.

Motion: Council Member Constant moved approval of the memorandum he cosigned with Mayor Reed, approving the Staff recommendations. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Member Constant, dated December 9, 2011, was approved, approving the Staff recommendations as described above. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 As recommended by the Community and Economic Development Committee on November 28, 2011, approval by the Redevelopment Agency Board of the Transition Plan for the San José Incubator Programs and Entrepreneur Center. CEQA: Not a Project, File No. PP10-066(a). (Redevelopment Agency/Economic Development)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Herrera, Pyle, Liccardo and Kalra, dated December 9, 2011, recommending approving the Transition Plan with further direction to Staff. (2) Memorandum from Redevelopment Agency Managing Director Richard Keit, dated December 2, 2011, recommending approval of the Transition Plan. (3) Memorandum from City Clerk Dennis D. Hawkins, dated November 30, 2011, transmitting the recommendations of the Community and Economic Development Committee.

9.1 (Cont'd.)

Mayor Reed amended the memorandum he cosigned with Council Members Herrera, Pyle, Liccardo and Kalra (see “Action” below).

Redevelopment Agency Managing Director Richard Keit presented the report.

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

City Attorney Richard Doyle requested to amend the motion to include direction to the City Attorney’s Office to explore additional steps that may be necessary to protect the San José BioCenter to preserve brand equity. The amendment was accepted by Council Members Herrera and Pyle.

Action: On a call for the question, the motion carried unanimously, the amended memorandum from Mayor Reed and Council Members Herrera, Pyle, Liccardo and Kalra, dated December 9, 2011, was approved, including: (1) The Transition Plan for the San José Incubators and Entrepreneur Center as outlined in the Staff report dated December 2, 2011 was approved. (2) Staff was directed to return to the Community and Economic Development Committee on January 23, 2012 and to City Council on February 3, 2012 with: (a) A progress report on the Transition Plan. (b) An analysis of private sector partners and academic institutions that could assist *or replace* the San José State University Research Foundation (SJSURF) to operate the incubators including UCSF, Stanford, UCSC, *Y Combinator* and venture capitalists. (c) An estimation of the current value of Agency-acquired capital equipment at the San José Biocenter and how those assets could be allocated if the Sublease and Operating Agreement between the Agency and SJSURF is terminated. (3) The Agency and City Staff were directed to develop a strategy on how San José can retain and grow the start-up companies that are located in the San José Biocenter and Innovation Center. (4) The City Attorney’s Office was directed to explore additional steps that may be necessary to protect the San José BioCenter to preserve brand equity. (5) Staff was directed to include in the Request for Inquiry (RFI) the option of responding as a partner or independently with San José State (pertaining to the San José Innovation Center and eCenter only). (11-0.)

9.3 **It is recommended that the City Council and Redevelopment Agency Board adopt resolutions accepting the Annual Report of Financial Transactions of community redevelopment agencies for FY 2010-11 for the purpose of forwarding the annual report to the State Controller, in accordance with Community Redevelopment Law, Section 33080.1 and determining that the amount spent on planning and administrative activities is not disproportionate to the amount spent on production, improvement, or preservation of affordable housing. CEQA: Not a Project. [MERGED]**

Documents Filed: Memorandum from Redevelopment Agency Managing Director Richard Keit, dated December 2, 2011, recommending adoption of resolutions.

9.3 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Rocha and carried unanimously, Resolution No. 76107, entitled: “A Resolution of the Council of the City of San José Accepting the Annual Report of Financial Transactions of Community Redevelopment Agencies for FY 2010-2011 for the Purpose of Forwarding the Annual Report to the State Controller, in Accordance with Community Redevelopment Law, Section 33081.1 and Determining that the Amount Spent on Planning and Administrative Activities is not Disproportionate to the Amount Spent on Production, Improvement or Preservation of Affordable Housing” and Redevelopment Agency Resolution No. 6032, entitled: entitled: “A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Accepting the Annual Report of Financial Transactions of Community Redevelopment Agencies for FY 2010-2011 for the Purpose of Forwarding the Annual Report to the State Controller, in Accordance with Community Redevelopment Law, Section 33081.1 and Determining that the Amount Spent on Planning and Administrative Activities is not Disproportionate to the Amount Spent on Production, Improvement or Preservation of Affordable Housing”, were adopted. (10-0-1. Absent: Rocha.)

OPEN FORUM

Documents Filed: Letter from Linda Skarpelos, Adopt-A-Park Volunteer for Mise Park, dated December 13, 2011, expressing concerns about a large investment of a relatively new product called, synthetic grass or artificial turf.

- (1) Linda Skarpelos expressed concern about replacing 25% of Mise Park with synthetic grass and requested Council wait until the State has launched environmental studies about these new products.
- (2) Ross Signorino expressed concern that because of cutbacks the Cybercrime Unit was eliminated from the City of San José and requested that Council consider reinstating the unit.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 6:04 p.m.

RECESS/RECONVENE

The City Council recessed at 6:04 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 Hawkins, CMC, read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

CEREMONIALS

1.3 Presentation of a commendation to Mekane Rama St. Gabriel Church in recognition of the church for providing spiritual and social services to meet the needs of the Ethiopian community in the City of San José. (Kalra)

Mayor Reed and Council Member Kalra recognized and commended Mekane Rama St. Gabriel Church.

1.4 Presentation of a commendation to The Harker School for winning an InvenTeam grant from the Lemelson-MIT Program for their aquatic thermoelectric generator project. (Constant)

Mayor Reed and Council Member Constant recognized and commended The Harker School.

1.7 Presentation of a commendation to Priscilla Carrasquilla, a recipient of the California Wellness Foundation's California Peace Prize and a long-time leader of the Clean Slate Tattoo Removal Program who has assisted hundreds of gang members to improve their lives. (Mayor/Pyle)

Mayor Reed and Council Member Pyle recognized and commended Priscilla Carrasquilla, a recipient of the California Wellness Foundation's California Peace Prize. Ms. Carrasquilla generously donated her \$25,000 California Peace Prize to the Mayor's Gang Prevention Task Force.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.6 (a) Adopt a resolution rescinding the adoption of Resolution Nos. 76072, 76073, and 76074 on November 29, 2011 in connection with the Moe's Stop Gas and Service Station Project and the certification of the related Environmental Impact Report.
- (b) Conduct an Administrative Hearing on and consider an Appeal of the Planning Commission's certification of the Final Environmental Impact Report (FEIR) for the proposed project, Moe's Stop Gas and Service Station, File No. PP11-049, a Conditional Use Permit to allow the demolition of an existing single-family detached residence, the expansion of an existing gas and service station, and other modifications, for property located at the southeast corner of McKee Road and N. 33rd Street. In addition, consider adoption of a resolution to uphold the Planning Commission's certification of the FEIR and certify that:
- (1) The City Council has read and considered the Final EIR;
 - (2) The Final EIR has been completed in compliance with the California Environmental Quality Act (CEQA);
 - (3) The Final EIR reflects the independent judgment and analysis of the City of San José; and
 - (4) The Director of Planning, Building and Code Enforcement shall transmit copies of the Final EIR to any other decision-making body of the City of San José for the project.
- (c) Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to approve a Conditional Use Permit for the Moe's Stop Gas and Service Station project, File No. CP11-049, and consider adoption of a resolution approving this Conditional Use Permit.

CEQA: EIR Resolution to be adopted. Council District 3. SNI: Five Wounds/ Brookwood Terrace. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 16, 2011, recommending conducting Administrative Hearings and adoption of resolutions. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated December 1, 2011, transmitting additional information. (3) Proof of Publication of Notice of Public Hearing, executed on December 2, 2011, submitted by the City Clerk. (4) Letter from James Dombroski, Attorney at Law, dated December 12, 2011, regarding the Final EIR for Moe's Stop Gas and Service Station. (5) Letter from Gary Wesley, Attorney at Law, dated November 28, 2011, regarding the re-approval of the expansion of Moe's Stop.

Mayor Reed opened the Administrative Hearing.

Director of Planning, Building and Code Enforcement Joseph Horwedel presented introductory remarks.

4.6 (Cont'd.)

Public Comments: James Dombroski, Attorney at Law, representing the appellant, requested that the Council reject the EIR and deny the Conditional Use Permit.

Gary B. Wesley, Attorney at Law, representing the applicant, requested that Council uphold the appeal and approve the FEIR and the Conditional Use Permit for Moe's Stop.

James Dombroski provided a rebuttal to Mr. Wesley's comments.

Mayor Reed closed the Administrative Hearing.

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

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Resolution No. 76108, entitled: "A Resolution of the Council of the City of San José Rescinding City Council Resolution Numbers 76072, 76073 and 76074 Adopted on November 28, 2011 In Connection with the Moe's Stop Gas and Service Station Project and the Certification of the Related Environmental Impact Report"; Resolution No. 76109, entitled: "A Resolution of the Council of the City of San José Finding a Final Environmental Impact Report Prepared for the Moe's Stop Gas and Service Station Described in Planning Division File No. CP11-049 Has Been Completed in Compliance with the California Environmental Quality Act"; Resolution No. 76110, entitled: "A Resolution of the Council of the City of San José Approving a Request for a Conditional Use Permit to Allow the Demolition of an Existing Single Family Detached Residence and the Expansion of an Existing Gas and Service Station on a 0.51 Gross Acre Site on the Southeast Corner of McKee Road and North 33rd Street (1604 McKee Road), San José" and Resolution No. 76111, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Regarding Environmental Impacts in Accordance With the California Environmental Quality Act of 1970 For the Moe's Stop Gas & Service Station Project, For Which a Focused Environmental Impact Report Has Been Prepared", were adopted. (11-0.)

PUBLIC HEARINGS

- 11.2 Adopt a resolution approving a street renaming to change a portion of Old Bayshore Highway located south of Highway 101, between Airport Parkway and North Fourth Street, to Matrix Boulevard (Airport Parkway Two, LLC, Owner). CEQA: Exempt. Planning staff recommends that Council adopt a resolution approving the proposed street renaming of a portion of Old Bayshore Highway to Matrix Boulevard.**

ST11-001 – District 3

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 21, 2011, transmitting the recommendation of the Planning Commission of approval. (2) Proofs of Publications of Notices of Public Hearings, executed on October 28, 2011 and 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.

Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo, Campos, Chu, Constant and Rocha offered meeting disclosures.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Resolution No. 76112, entitled: “A Resolution of the Council of the City of San José Renaming Old Bayshore Highway, Located South of Highway 101 Between Airport Parkway and North Fourth Street, To Matrix Boulevard”, was adopted. (11-0.)

- 11.3 Consider an ordinance rezoning the real property located on the south side of Paula Street, approximately 200 feet westerly of Race Street (1024, 1044 & 1050 Paula Street) from R-M Residential Zoning District to R-M(PD) Planned Development Zoning District to allow up to eight single-family detached residential units on an approximately .56 gross-acre site (Alison Sowell, Owner; Rockwell Homes, Developer). CEQA: Mitigated Negative Declaration. The Director of Planning, Building and Code Enforcement and the Planning Commission recommend approval (5-0-2; Kamkar and Kline Absent)**

PDC11-002 – District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC11-002, dated November 4, 2011. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 17, 2011, transmitting the recommendation of the Planning Commission of approval. (3) Proof of Publication of Notice of Public Hearing, executed on October 21, 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.

11.3 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 29017, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on An Approximately 0.56 Gross Acre Site on the South Side of Paula Street, 200 Feet Westerly of Race Street (1024, 1044 and 1050 Paula Street) To the RM (PD) Planned Development Zoning District”, was passed for publication and Resolution No. 76113, entitled: “A Resolution of the Council of the City of San José Adopted the 1024, 1044 and 1050 Paula Street Mitigated Negative Declaration, For Which An Initial Study Was Prepared, All In Accordance With the California Quality Act of 1970, As Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted. (11-0.)

- 11.4 Consider an ordinance rezoning the real property located at the southeast corner of Southwest Expressway and S. Bascom Avenue (2130 Southwest Expressway) from RM Multiple Residence Zoning District to RM(PD) Planned Development Zoning District to allow the conversion of a storage room into two studio apartments at an existing multiple family residential complex on a 3.87 gross acre site. CEQA: Exempt. Planning Director and Planning Commission (5-0-2, Commissioners Kline and Kamkar Absent) recommend approval.**
PDC10-028 – District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC10-028, dated October 21, 2011. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated November 17, 2011, transmitting the recommendation of the Planning Commission of approval. (3) Proof of Publication of Notice of Public Hearing, executed on October 14, 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.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 29018, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Southwest Expressway and South Bascom Avenue from the RM Multiple Family Zoning District to the RM (PD) Planned Development Zoning District”, was passed for publication. (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:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10080	N/E corner of River Oaks Parkway & Seely Avenue	4	Essex Cadence Owner, L.P.	4 Lots/ 769 Units	MFA	Approve
10082	N/E Corner of E. Tasman Drive and Baypointe Parkway	4	121 Tasman Apartments, LLC	1 Lot / 174 Units	MFA	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10093	S/W corner of Ruby Ave. & Aborn Rd	8	SummerHill LLC	Homes, 93 Lots / 107 Units	SFDR/ SFAR
10096	N/W corner of Baton Rouge Drive and N. Capitol Avenue	4	Warmington Residential	7 Lots/ 46 Units	MFA
10100	W/S of S. Monroe St. 400'N of Tisch Way	6	KB Home Southbay Inc.	38 Lots / 104 Units	SFAR
10102	W/S Guadalupe Mines Rd, 1,100'S of Via Campagna	10	Brookfield LLC	Brookside 98 Lots / 89 Units	SFD

ADJOURNMENT

The Council of the City of San José was adjourned at 7:31 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC
City Clerk

/smd 12-13-11 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.