



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 28, 2012

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

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

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

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Employee Relations Manager Gina Donnelly stated that there was no presentation or report.

Public Comments: Brian Doyle, Association of Legal Professionals (ALP), clarified that an impasse was never declared against ALP and expressed comments on pension reform. Robert Sapien, International Association of Firefighters, Local 230, commented that everyone involved should have a real discussion about pension reform.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:05 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (a) with respect to existing litigation: (1) Citizens Against Airport Pollution v. City, et al.; Names of Parties Involved: Citizens Against Airport Pollution, an unincorporated association, Does 1-5, City of San José, City Council of the City of San José, Does 6-10, Does 10-30, Real Parties in Interest; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-177290; Amount of Money or Other Relief Sought: City to set aside and void approvals relating to 8th addendum to Airport Master Plan. (B) to confer to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical

CLOSED SESSION (Cont'd.)

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); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150. (C) to confer with Legal Counsel with respect to initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code in one (1) matter to be discussed.

By unanimous consent, Council recessed from the Closed Session at 11:20 a.m. and reconvened to Regular Session at 1:35 p.m. in the Council Chambers.

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

Absent: Council Members - Nguyen. (Excused)

INVOCATION

Founder and Chief Priest, Sri Maha Kaleshwar Shrine at Sambha Sathashiva Vidya Peetham, Santa Clara, California, presented the Invocation. (District 2)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 6.2 was heard before the Consent Calendar. (9-0-2. Absent: Nguyen, Oliverio.)

CEREMONIAL ITEMS

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

Mayor Reed and Council Member Chu recognized Lunar New Year in the City of San José. Vice Mayor Nguyen was not present.

1.2 Presentation of a commendation to YouthBuild San José for its support of low-income youth in achieving career and postsecondary success, and for its efforts to develop new young leaders to transcend poverty in America's poorest communities. (Mayor)

Mayor Reed and Council Member Chu recognized and commended YouthBuild San José.

1.3 Presentation of a proclamation declaring the week of February 27 – March 2, 2012 as “SEARCH WEEK” in the City of San José. (Constant)

Mayor Reed and Council Member Constant recognized the week of February 27, 2012 through March 2, 2012 as “SEARCH WEEK” in San José.

1.5 Presentation of a proclamation declaring the Month of February 2012 as “African American History Month” in the City of San José. (Kalra/Chu) (Orders of the Day)

Mayor Reed and Council Members Kalra and Chu recognized the Month of February 2012 as “African American History Month” in the City of San José.

TRANSPORTATION & AVIATION SERVICES

6.2 As recommended by the Transportation and Environment Committee on February 6, 2012:

- (a) Adopt a resolution setting a new Fee Schedule for Tow Services Agreements to become effective February 29, 2012 as follows:
 - (1) Basic Tow Service, \$185.00 per tow
 - (2) Service call:
 - (a) Class “A” regular duty tow-trucks \$ 46.25 per quarter hour
 - (b) Class “B” medium duty tow trucks \$ 78.25 per quarter hour
 - (c) Class “C” and “D” heavy duty tow trucks \$ 112.50 per quarter hour
 - (3) Extraordinary Service Tows:
 - (a) Class “A” regular duty tow-trucks \$ 92.50 per hour
 - (b) Class “B” medium duty tow-trucks \$ 315.00 per hour
 - (c) Class “C” and “D” heavy duty tow trucks \$ 450.00 per hour
 - (4) After Hours Gate Fee –\$ 80.00 (One hour after close SJPD Desk Hours until 6:00 a.m.)
 - (5) Vehicle Storage fee:
 - (a) \$65.00 per day, per space outside
 - (b) \$75.00 per day per space indoors
 - (6) Maintain contractual rates of compensation to the City of San José at the current levels of:
 - (a) \$ 75.25 per tow
 - (b) \$ 7.00 per dispatch
- (b) Accept direction from the Committee to staff to reduce the current flat rate security deposit from \$40,000 to \$25,000.

CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 15, 2012, transmitting the recommendations of the Transportation and Environment Committee.

City of San José Tow Contract Administrator Jamie Matthews provided the report.

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

Council Member Kalra expressed support to the Staff recommendations.

Chief of Police M. Christopher Moore presented comments and responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76148, entitled: “A Resolution of the Council of the City of San José Adopting a Fee Schedule for Tow Services Agreements”, was adopted and Staff was directed to reduce the current flat rate security deposit from \$40,000 to \$25,000. (10-0-1. Absent: Nguyen.)

CONSENT CALENDAR

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

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29035 – Amending Section 3.28.1030 of Chapter 3.28 and Section 3.36.080 of Chapter 3.36 of Title 3 of the San José Municipal Code to allow voluntary deductions from pension payments for payment to a third party organization if permitted by rules and regulations adopted by the City’s retirement boards.**

Documents Filed: Proof of publication of the Title of Ordinance No. 29035 executed on February 21, 2012, submitted by the City Clerk.

Action: Ordinance No. 29035 was adopted. (10-0-1. Absent: Nguyen.) (First Reading: 9-1-1. Noes: Oliverio. Absent: Nguyen.)

- (b) **ORD. NO. 29037 – Repealing Ordinance No. 28960 (Chapter 6.88 of Title 6 of the San José Municipal Code) establishing regulations pertaining to medical marijuana collectives and to the individual cultivation and use of medicinal marijuana.**

Documents Filed: Proof of publication of the Title of Ordinance No. 29037 executed on February 21, 2012, submitted by the City Clerk.

Action: Ordinance No. 29037 was adopted. (10-0-1. Absent: Nguyen.)

- (c) **ORD. NO. 29038 – Amending Sections 15.14.270, 15.14.405, 15.14.465, 15.14.545, 15.14.575, 15.14.590, 15.14.695 and 15.14.745 of Chapter 15.14 of Title 15 of the San José Municipal Code to update definitions, allow issuance of permits to discharge stormwater to the sanitary sewer system, and clarify requirements for reports submitted to the City from regulated facilities.**

Documents Filed: Proof of publication of the Title of Ordinance No. 29038 executed on February 21, 2012, submitted by the City Clerk.

Public Comments: David Wall expressed concern about the funding for the stormwater to the sanitary sewer system.

Danielle Pirslin spoke in opposition to the City Council’s approach to the tax increases imposed to the residents of San José.

2.2 (c) (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29038 was adopted. (9-0-2. Absent: Campos, Nguyen.)

- (d) **ORD. NO. 29039** – Amending Sections 16.06.050 and 16.06.060 of Chapter 16.06 of Title 16 of the San José Municipal Code to provide for review and approval of administrative regulations by the Chief of Police before they become final; amending Section 16.32.020 of Chapter 16.32 of Title 16 to require the Chief of Police to issue a city key employee license for all key employee positions that are licensable by the California Gambling Control Commission; amending Section 16.30.060 of Chapter 16.30 to create a cardroom regulation fee in place of the cardroom table fee; amending Section 16.32.110 of Chapter 16.32 to specify that if investigation of a cardroom license takes longer than 180 days the administrator shall provide a written explanation of the reasons for delay and an estimated date for completion of the investigation, which will be updated every two months until the application is granted, withdrawn or denied; amending Section 16.32.620 of Chapter 16.32 to require the administrator to issue a temporary key employee license to each applicant for a key employee license who is issued an interim state key employee license by the California Gambling Control Commission; adding a new Section 16.32.630 providing for notice and an opportunity for an administrative review hearing prior to revocation of a temporary key employee license; adding a new Section 16.32.640 to make certain city key employee licenses retroactive to the date that the California Gambling Control Commission issued a state key employee license; making technical, and conforming amendments regarding licensing to Sections 16.32.190 and 16.32.610 of Chapter 16.32; and making technical clarifying and conforming amendments regarding minor violation procedure by adding Sections 16.33.020 and 16.33.030 and amending Section 16.33.010 of Chapter 16.33.

Documents Filed: Proof of publication of the Title of Ordinance No. 29039 executed on February 21, 2012, submitted by the City Clerk.

Action: Ordinance No. 29039 was adopted. (10-0-1. Absent: Nguyen.)

2.3 Approval of Council Committee Reports.

There were none.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Authorize the City Manager to:

- (a) Execute four purchase orders for the purchase of Citywide concrete removal, replacement and repairs in the public right-of way with Golden Bay Construction (Hayward, CA), Wilson's Concrete (San José, CA), Duran Hogan Construction (Campbell, CA) and CB Concrete Construction (Los Gatos, CA) for a total amount not-to-exceed amount of \$1,970,000 for all four contractors, for the period January 23, 2012 through January 22, 2013.**
- (b) Transfer funds between the four purchase orders as required based on usage and contractor capacity.**
- (c) Exercise options to extend the purchase orders for four additional twelve month terms without further Council action other than the appropriation of funds.**

CEQA: File No. PP08-186 and PP11-090. (Finance)

Documents Filed: City Council Action Request from Acting Director of Finance Julia H. Cooper, dated February 10, 2012, recommending authorization for the City Manager to execute four purchase orders, transfer funds and exercise options.

Action: The City Manager was authorized to execute four purchase orders for the purchase of Citywide concrete removal, replacement and repairs in the public right-of way with Golden Bay Construction (Hayward, CA), Wilson's Concrete (San José, CA), Duran Hogan Construction (Campbell, CA) and CB Concrete Construction (Los Gatos, CA) for a total amount not-to-exceed amount of \$1,970,000 for all four contractors, for the period January 23, 2012 through January 22, 2013; transfer funds between the four purchase orders as required based on usage and contractor capacity and exercise options to extend the purchase orders for four additional twelve month terms without further Council action other than the appropriation of funds. (10-0-1. Absent: Nguyen.)

2.8 Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective February 28, 2012 to change the salary ranges and titles for the following classifications:**
 - (1) Plant Operator I/II/III (3612/3652/3653) (formerly titled Plant Operator)**
 - (2) Senior Plant Operator I/II (3613/3655) (formerly titled Senior Plant Operator)**
 - (3) Plant Shift Supervisor I/II (3614/3618) (formerly titled Plant Shift Supervisor)**
 - (4) Plant Assistant Operations Manager I/II (3617/3619) (formerly titled Plant Assistant General Operations Supervisor)**

2.8 (b) Amend the City of San José Pay Plan effective February 28, 2012 to create the following classification:

(1) Retirement Investment Officer (7505)

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated February 6, 2012, recommending adoption of a resolution.

Public Comments: David Wall stated that he does not support taking away the pay and benefits of all the good people that work at the Water Pollution Control Plant.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 76145, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications”, was adopted. (10-0-1. Absent: Nguyen.)

2.9 Adopt a resolution authorizing the City Manager or designee to execute an agreement with The Health Trust in the amount of \$350,000 for the administration and disbursement of the funding for the Senior Wellness Initiative. CEQA: Not a Project, File PP10-066(e), Services that involve no change to the environment. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated February 6, 2012, recommending adoption of a resolution.

Action: Resolution No. 76146, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Execute An Agreement with the Health Trust in the Amount of \$350,000 for the Administration and Disbursement of the Funding for the Senior Wellness Initiative”, was adopted. (10-0-1. Absent: Nguyen.)

2.10 Report on bids and award of contract for the Sanitary Sewer Condition Assessment Fall 2011 project to the low bidder, Coastline Water Resources, Inc., in the amount of \$1,449,000 and approval of a contingency in the amount of \$145,000. CEQA: Exempt, File No. PP11-084, dated September 7, 2011. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated February 6, 2012, recommending award of the contract to the low bidder.

Action: The award of contract for the Sanitary Sewer Condition Assessment Fall 2011 project to the low bidder, Coastline Water Resources, Inc., in the amount of \$1,449,000, with related contingency was approved. (10-0-1. Absent: Nguyen.)

**2.11 As recommended by the Rules and Open Government Committee on February 15, 2012, support the amendment of the Fair Political Practices Commission Regulation 18705.5. (City Attorney)
[Rules Committee referral 2/15/12 – Item H(2)]**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 15, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Liccardo asked for clarification on when a Council Member should provide advance notice as to when to recuse himself/herself from participating in conflicting situations.

City Clerk Dennis D. Hawkins, CMC and City Attorney Richard Doyle responded to Council Member Liccardo's questions and concerns.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76147, entitled: "A Resolution of the Council of the City of San José Supporting the Petition to Amend Title 2, California Code of Regulations Section 18705.5", was adopted, as amended, with Staff requested to provide advance notice to the Council Members as to when to recuse himself or herself from participating in conflicting situations with regard to stipends. (10-0-1. Absent: Nguyen.)

2.12 As recommended by the Rules and Open Government Committee on February 15, 2012:

- (a) Approve the African American History Month Flag Raising as a City Council sponsored Special Event.**
- (b) Approve expending funds and accept donations from various individuals, businesses, or community groups in support of the event.**

CEQA: Not a Project. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 15, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The African American History Month Flag Raising as a City Council sponsored Special Event, expending funds and acceptance of donations from various individuals, businesses, or community groups in support of the event was authorized. (10-0-1. Absent: Nguyen.)

- 2.13 As recommended by the Rules and Open Government Committee on February 22, 2012, appoint Fernando Sepulveda, founding partner and CEO of the Impulsa Group in San José, California, to serve as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (Mayor)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 23, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: Fernando Sepulveda, founding partner and CEO of the Impulsa Group in San José, California, was appointed to serve as a private sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (10-0-1. Absent: Nguyen.)

- 2.14 As recommended by the Rules and Open Government Committee on February 22, 2012:**

- (a) Approve the Mid-Autumn Festival and Resource Fair as a City Council sponsored Special Event.**
- (b) Approve and accept donations from various individuals, businesses, or community groups in support of the event.**

CEQA: Not a Project. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 22, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Mid-Autumn Festival and Resource Fair as a City Council sponsored Special Event and acceptance of donations from various individuals, businesses, or community groups in support of the event. (10-0-1. Absent: Nguyen.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 As recommended by the Rules and Open Government Committee on February 8, 2012:**

- (a) Refer the Operations Efficiency Diagnostic report from IBM to the City Auditor and City Manager for review, comment and development of recommendations to be brought to the Council through Council Committees;**
- (b) (1) Accept City Manager's report and work plan related to the IBM Operations Efficiency Diagnostic Report.**
(2) Accept the City Auditor's comments related to the IBM Operations Efficiency Diagnostic Report.

(Mayor)

3.3 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated February 24, 2012, recommending approval of the City Manager's recommended work plan, with clarifications. (2) Memorandum from Council Members Campos, Chu and Kalra, dated February 24, 2012, recommending Council reject those elements of the IBM report that are particularly threatening to the safety and security to the people of San José with suggestions. (3) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 15, 2012, transmitting the recommendations of the Rules and Open Government Committee. (4) Memorandum from City Manager Debra Figone, dated February 23, 2012, recommending acceptance of the report and work plan related to the IBM Operations Efficiency Diagnostic Report. (5) Supplemental memorandum from February 24, 2012, recommending acceptance on the City Auditor's comments on IBM Operations Efficiency Diagnostic report. (6) City of San José Operations Efficiency Diagnostic dated February 28, 2012, for discussion purposes only. (7) Letter from Jim Beall, Jr. Assembly Member to Mayor Reed, dated February 28, 2012, regarding the recent IBM Study and the suggestion that current staffing levels for police and fire departments can be dramatically reduced without risking the safety of the City's residents. (8) The San José Fire Department All-Risk Response Deployment Model Report dated February 28, 2012. (9) Petition submitted by Steve Kline, dated February 28, 2012, from approximately 400 residents urging the Council to reject the IBM Operations Efficiency Diagnostic Report and its recommendations.

Mayor Reed and City Manager Debra Figone presented introductory remarks.

Chief of Police M. Christopher Moore and Fire Chief William L. McDonald presented the report. Assistant City Manager Edward K. Shikada provided closing comments and noted the City Manager and City Auditor's recommendations.

Public Comments: Commenting on the IBM analysis, expressing opposition and suggestions were Aurelia Sanchez, Mark Ramoser, Silicon Valley Independent Living Center, Chris Pickup, Eric Hernandez, Captain Rick Palmer, Joe Rondone, Robert Sapien, Brandon Ragan, Howard Morton, John Dellinger, Mike Moraida, Aries Ramos, San José Firefighters, Local 230, David Wall, Jim Unland, Al Ochoa, Jeff Barone, San José Police Officers Association, Clara Zamora, Toni Senseverino, Gail Hayward, Selma Action Center, Agustin Millan, Mireya Molina, Steve Barrientos, Alma Community Center, Soren Coats, Brian O'Neill, Claudia Shope, Forrest Williams, Ben Field, South Bay Labor Council, Tom Linebarger, Tom Fink, Judy, Connie Langford, Jo Kenny, South Bay Pride at Work, Tom DeNatale, Steve Kline, Bob Brownstein, George Tijmeh, Anabelle Berrios Rivera, Blanca Carbajal, Tomelha Moon, Damian Gomez, Taj Shihu, Sergio Jimenez, Paul Alvarado, Goodyear/Mastic, Emilie Gatfield, Lucy Moran, Local 19, Joshua Barousse, City of San José Human Rights Commission, Jon Max Reger, Marie Hayter and Richard McCoy.

3.3 (Cont'd.)

Mayor Reed presented comments about his memorandum and expressed his support to the City Manager's work plan and agreed with her conclusion that she would not bring forward reductions in staffing in the Police and Fire Departments.

Council Member Herrera stated she does not support reducing Police/Fire Staffing or the Senior Nutrition Program.

Motion: Council Member Constant moved approval of the memorandum from Mayor Reed, dated February 24, 2012, recommending approval of the City Manager's recommended work plan with clarifications. Council Member Oliverio seconded the motion.

Council Member Campos expressed comments about the IBM report.

Substitute Motion: Council Member Campos moved approval of the memorandum he cosigned with Council Members Chu and Kalra, dated February 24, 2012, recommending that the City Council reject those elements of the IBM report that are particularly threatening to the safety and security of the people of San José, including the following: (1) The theory that cutbacks in police staffing have no relationship to preventing or stopping crime. (2) The proposal that the City should reduce the San José Police Department staffing by 23-36%. (3) The proposal that the City should "exit" from its commitment to provide Emergency Medical Services through the Fire Department. (4) The proposal that the City should eliminate Senior Citizen lunch programs and programs for adults with mental disabilities, because it doesn't align with the mission of the Department of the Parks, Recreation and Neighborhood Services. Council Member Chu seconded the motion.

Chief of Police M. Christopher Moore, City Manager Debra Figone and Assistant City Manager Edward K. Shikada responded to Council questions and concerns.

Extensive Council discussion ensued.

On a call for the question, the substitute motion failed. (5-5-1. Noes: Constant, Herrera, Liccardo, Oliverio; Reed. Absent: Nguyen.)

Back to the Original Motion

Council Member Constant requested to amend the original motion to include acceptance of the reports from the City Manager and the City Auditor. Council Member Oliverio accepted the amendment. On a call for the question, the original motion failed. (5-5-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Absent: Nguyen.)

3.3 (Cont'd.)

Second Motion: Council Member Rocha moved acceptance of reports of the City Manager and the City Auditor with direction to the City Manager and City Auditor to return to Council before referring the work plan to the Council Committees. Council Member Pyle seconded the motion.

Council Members Campos, Chu and Kalra expressed their objections to the motion.

Action: On a call for the question, the motion carried, the reports from the City Manager and the City Auditor were accepted, with the City Manager and City Auditor directed to return to Council before referring the work plan to the Council Committees. (7-3-1. Noes: Campos, Chu, Kalra. Absent: Nguyen.)

- 3.5
- (a) **Follow-up discussion and possible direction regarding the advantages/disadvantages of a Sales Tax increase ballot measure at a June or November election;**
 - (b) **Discussion and possible direction regarding a general obligation bond measure to fund street repairs and improvements. (City Attorney and DOT)**
 - (c) **Discussion regarding legal requirements for calling an election for voter approval of tax measures. (City Attorney)**
- (Continued from 2/14/12 – Item 3.11)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Pyle, dated February 24, 2012, with recommendations as described below in “Action”. (2) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 8, 2012, transmitting the recommendations of the Rules and Open Government Committee. (3) Supplemental memorandum dated February 24, 2012, providing background for the requirements for placement of tax measures on the ballot. (4) Supplemental memorandum from Director of Transportation Hans Larsen, dated February 23, 2012, providing information to Council regarding a bond measure recently passed in San Francisco. (5) Memorandum from Council Member Pyle, dated February 8, 2012, recommending discussing the advantages of placing a tax measure on either the June or November ballot using points in her memorandum as guides for Council deliberation. (6) Memorandum from Council Member Constant, dated February 10, 2012, recommending dropping consideration of placing a tax measure on the June ballot given constitutional questions that arise from such an action.

Motion: Council Member Pyle moved approval of the memorandum from Mayor Reed and Council Member Pyle, dated February 24, 2012, recommending direction as described below in “Action”. Council Member Herrera seconded the motion.

Public Comments: David Wall, Johnny Khamis and Gary Smith presented comments about sales tax and business license tax increases and General Obligation Bonds to support street improvements.

3.5 (Cont'd.)

Council discussion ensued.

Action: On a call for the question, the motion carried, the memorandum from Mayor Reed and Council Member Pyle, dated February 24, 2012, was approved, as follows: (1) Council deferred consideration of any revenue measures to a meeting in June to consider placing a revenue measure on the November 2012 ballot. Include in discussion the possibility of other election dates for such a measure. (2) Additional polling to be conducted on a ¼ percent and a ½ percent Sales Tax increase, a Business Tax increase and a General Obligation Bond to support street improvements during the month of July. (3) Staff was directed to begin or continue outreach to various stakeholders including, but not limited to, business groups, neighborhood groups, taxpayer associations and labor associations. (8-2-1. Noes: Constant, Oliverio. Absent: Nguyen.)

NEIGHBORHOOD SERVICES

5.1 **As recommended by the Neighborhood Services and Education Committee on February 9, 2012, accept the Anti-Graffiti and Litter Program Semi-Annual Report. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Replacement memorandum from Council Member Campos, dated February 27, 2012, recommending acceptance of the Staff report with direction as described below in “Action”. (2) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 15, 2012, transmitting the recommendations of the Neighborhood Services and Education Committee.

Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and Assistant Chief of Police Rikki Goede presented the report.

Motion: Council Member Campos moved approval of his replacement memorandum, dated February 27, 2012, recommending acceptance of the Staff report with direction as described below in “Action”. Council Member Constant seconded the motion.

Public Comments on Items 5.1 and 5.2: Alofa Talivaa, Sierra Neighborhood Association Community Leader and Activist, expressed concern because the report was not accurate; the graffiti was not being taken care of timely and her association was cleaning up the graffiti in the neighborhood. Tina Morrill, Art Box Project San José, described the art box program and encouraged the community to get involved to reduce graffiti. David Wall pointed out that the legislators have not created a level to deterrents to discourage graffiti.

Acting Director Edmonds-Mares and Parks, Recreation and Neighborhood Services Park Manager Parks Manager Mike Will responded to Council questions and comments.

Council Member Campos requested that Staff return to Council with a policy analysis discussion about the service delivery method.

5.1 (Cont'd.)

Council Member Oliverio asserted that he feels the program has been working fine and that Staff could be working on other projects.

Action: On a call for the question, the motion carried, the replacement memorandum from Council Member Campos, dated February 27, 2012, was approved: (1) The Staff's Report on Anti-Graffiti and Litter Program Semi-Annual Report was accepted. (2) Staff was requested to provide Council with the following information to be included in the next Semi-Annual Anti-Graffiti and Litter Program Report: (a) Provide Council with the highest, lowest and average processing times between initial intakes to the work order completion process for both gang graffiti and non-gang graffiti reporting. (b) Provide Council with information showing the number of monthly intakes (phone and mobile applications) received from reporting period June 29, 2011 to May 2012. (c) Provide Council with the procedure on how Graffiti Protective Coatings (GPC) and/or staff determines and reports gang graffiti. (d) Provide Council with information showing both the GPC and the previous City of San José employee service structure to operate a graffiti removal program within the City, to include hours of operations. (3) If GPC is to exceed the \$633,330.60 cost per year as indicated in the service agreement before the end of the fiscal year, Staff should return to Council with a modified cost saving analysis to determine whether continuation of the contract is in the best interest of the San José residents. (4) Staff directed to return to Council with a policy analysis discussion about the service delivery method. (9-1-1. Noes: Oliverio. Absent: Nguyen.)

5.2 As recommended by the Neighborhood Services and Education Committee on February 9, 2012:

- (a) **Adopt a resolution to establish restitution rates for graffiti abatement program costs and expenses.**
- (b) **Direct the City Clerk to cause a certified copy of the resolution to be forwarded to the Clerk of Santa Clara County Juvenile Court and to the Santa Clara County Chief Probation Officer.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated February 15, 2012, transmitting the recommendations of the Neighborhood Services and Education Committee.

Action: Upon motion by Council Member Campos, seconded by Council Member Herrera and carried unanimously, Resolution No. 76149, entitled: "A Resolution of the Council of the City of San José To Establish Graffiti Abatement Costs and Expenses Under San José Municipal Code Section 9.58.270", was adopted and the City Clerk was directed to cause a certified copy of the resolution to be forwarded to the Clerk of Santa Clara County Juvenile Court and to the Santa Clara County Chief Probation Officer. (10-0-1. Absent: Nguyen.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **As recommended by the Community and Economic Development Committee on January 23, 2012: Accept this report on streamlining real estate actions to sell surplus property and direct Staff to work with the City Attorney's Office to amend relevant ordinances. (Office of Economic Development)**

Documents Filed: (1) Memorandum from Mayor Reed, dated February 27, 2012, recommending approval of the Staff recommendations with direction and modifications as described below in "Action". (2) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated January 24, 2012, transmitting the recommendations of the Community and Economic Committee. (3) Supplemental memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated February 23, 2012, (a) clarifying the recommendation for Category 1 properties, (b) adding a recommendation for Category 1 properties, (c) clarifying the use of brokers and (d) clarifying the delegation to City Staff for Category 3 properties.

Motion: Council Member Pyle moved approval of the memorandum from Mayor Reed, dated February 27, 2012, recommending approval of the Staff recommendations with direction and modifications as described below in "Action". Council Member Oliverio seconded the motion.

Deputy Director of Economic Development Nanci Klein and Director of Economic Development/Chief Strategist Kim Walesh responded to Council questions and concerns.

Council Member Liccardo requested to amend the motion to keep Item (4) of Mayor Reed's memorandum and to not drop the process. The amendment was accepted by Mayor Reed and Council Members Pyle and Oliverio.

Public Comments: David Wall expressed concern about selling surplus San José properties and taking a loss.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed, dated February 27, 2012, was accepted, as modified: (1) Staff directed to return to Council during this year's budget process on properties with significant barriers to gain Council direction on how to proceed or not. (2) Staff directed to focus their efforts on the sale of those properties with significant value that can be sold without much public controversy using the streamlined process used last year by the Redevelopment Agency. This process included posting solicitations and all pertinent documents through e-mail and online channels like LoopNet and CoStar services. Multiple offers were received on each site. Binding deals were negotiated with the highest bidder, approved by the Agency Board and the deals were consummated within 180 days in most cases. (3) Staff was authorized to entertain offers and negotiate a contract that would be subject to a 30 day public review period prior to Council approval. (4) *The process outlined in the Staff supplemental memorandum, dated February 23, 2012, as Additional Optional Tool for Category 1 Properties: Direct Negotiation with Solicitation of Alternatives, was not dropped.* (10-0-1. Absent: Nguyen.)

4.2 Hold a public hearing on a Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan to:

- (a) Allocate \$550,000 of Community Development Block Grant funds to pay 50% of the cost of a new fire truck to serve Low-Moderate Income neighborhoods.**
- (b) Amend the City's Tenant Based Rental Assistance Program financed with HOME Investment Partnership Program funds to expand the eligible special needs population to include chronically homeless families and individuals with substance abuse problems, giving preference to those in and around St. James Park.**
- (c) Adopt a resolution approving the Substantial Amendment and authorizing the Director of Housing, on behalf of the City, to:**
 - (1) Submit the Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD).**
 - (2) Negotiate and execute with HUD all agreements and documents for the expenditure of these federal funds.**

CEQA: Not a Project, PP10-067(b), Appropriation Ordinance. Council Districts 3, 4 and 5. SNI: Mayfair and East Valley/680 Communities. (Housing)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated February 27, 2012, recommending approval of the Staff recommendations as described below in "Action". (2) Memorandum from Director of Housing Leslye Corsiglia, dated February 6, 2012, recommending holding a public hearing and adoption of a resolution. (3) Proofs of Publications of Notices of Public Hearings, executed on January 20, 2012 and January 27, 2012, submitted by the City Clerk.

Motion: Council Member Liccardo moved approval of his memorandum dated February 27, 2012, recommending approval of the Staff recommendations as described below in "Action". Council Member Herrera seconded the motion.

Mayor Reed opened the public hearing on a Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan.

Public Comments: Alofa Talivaa, Sierra Neighborhood Association, spoke in support to the Staff recommendations. David Wall expressed opposition to the Staff recommendations.

Mayor Reed closed the public hearing on the 2011-2012 Consolidated Annual Action Plan.

4.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Liccardo, dated February 27, 2012, was approved, accepting the Staff recommendations to amend the City's Tenant Based Rental Assistance Program to expand the eligible special needs population to include chronically homeless individuals and families with substance abuse programs, giving preference to those in and around St. James Park and Resolution No. 76150, entitled: "A Resolution of the Council of the City of San José Approving the Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan and Authorizing the Director of Housing to Submit the Substantial Amendment to the U.S. Department of Housing and Urban Development and To Negotiate and Execute with HUD All Agreements and Documents for the Expenditure of Community Development Block Grant Funds", was adopted. (10-0-1. Absent: Nguyen.)

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 6:20 p.m.

RECESS/RECONVENE

The City Council recessed at 6:20 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, Oliverio, Pyle, Rocha; Reed.

Absent: Council Members - Nguyen. (Excused)

City Clerk Dennis D. Hawkins read the requests for continuance of the applications. Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Nguyen.)

CEREMONIAL ITEMS

1.4 **Presentation of a proclamation to Steve Brown for exemplary bravery and heroism while assisting in the apprehension of a suspected bank robber. (Kalra)**

Mayor Reed and Council Member Kalra recognized and commended Steve Brown for his outstanding bravery and heroism.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 **Adopt a resolution amending the North San José Area Development Policy to:**

- (a) **Allow reallocation of up to 450 of the remaining affordable housing units in Phase 1 as market-rate housing units to enable a shovel-ready market-rate housing project to proceed in Phase 1 if such project developer ensures by written agreement with the City a substantial benefit to the City towards the provision of new affordable housing to balance the reduction of affordable housing allocation in Phase 1.**
- (b) **Shift the number of reallocated affordable housing units originally reserved for Phase 1 to Phase 2, and correspondingly decrease the number of market-rate housing units in Phase 2, to ensure the vision of a mixed-income community.**

CEQA: Resolution No.72768, Addendum to the North San José Policy Update EIR. Council Districts 3 and 4. (Housing/Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Housing Leslye Corsiglia, dated February 13, 2012, recommending adoption of a resolution.

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

4.3 (Cont'd.)

Mayor Reed provided meeting disclosures.

Public Comments: Dan Miller, Irvine Company, expressed his support to the Staff recommendations and the allocation of the units.

Council Member Oliverio registered a no note for the items discussed in the past on this project.

Action: On a call for the question, the motion carried, Resolution No. 76151, entitled: “A Resolution of the Council of the City of San José Amending the North San José Area Development Policy to Allow Reallocation of Up To 450 Affordable Housing Units in Phase 1 as Market-Rate Housing Units Under Certain Circumstances, To Shift the Number of Reallocated Affordable Housing Units Originally Reserved for Phase 1 to Phase 2 of the Policy, and To Memorialize Prior Council Action Regarding the Reallocation of Affordable Housing Units in Phase 1”, was adopted. (9-1-1. Noes: Oliverio. Absent: Nguyen.)

TRANSPORTATION & AVIATION SERVICES

6.1 Adopt a resolution to repeal Resolution No. 75868 and update the Master Speed Limit Resolution to:

- (a) Establish a 15 mph school zone speed limit on the following roadways, in accordance with California Vehicle Code Section 22358.4.
 - (1) In the vicinity of Dorsa Elementary School:
 - (a) Bal Harbor Way between Everglade Ave. and Mandarin Way
 - (b) Decatur Dr. between Bal Harbor Way and Cathay Dr.
 - (2) In the vicinity of Booksin Elementary School:
 - (a) Booksin Ave. between Dry Creek Rd. and Georgetta Dr.
 - (b) Dry Creek Rd. between Booksin Ave. and 250 feet east of Marques Ave.
 - (c) Georgetta Dr. between Booksin Ave. and Marques Ave.
 - (d) Marques Ave. between Dry Creek Rd. and 275 feet south of Georgetta Dr.
 - (3) In the vicinity of Montgomery Elementary School and Silver Creek High School:
 - (a) Daniel Maloney Dr. between Silver Creek Rd. and 325 feet west of Nieman Blvd.
 - (b) Camperdown Way between Heathcot Ct. and 200 feet west of Toryglen Way.
- (b) Reestablish 30 mph speed limit on Daniel Maloney Rd. between Silver Creek Rd. and Nieman Blvd.

CEQA: Exempt, File No. PP10-113. Council Districts 5, 6 and 8. (Transportation)

6.1 (Cont'd.)

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated February 6, 2012, recommending adoption of a resolution.

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

Public Comments: Jeff Bedolla spoke in opposition to the Staff recommendations. David Wall expressed support to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76152, entitled: "A Resolution of the Council of the City of San José Establishing a 15 MPH Speed Limit During School Hours, When Children Are Present, On 8 Roadway Segments in the Vicinity of Dorsa Elementary School, Booksin Elementary School, Monterey Elementary School and Silver Creek High School; Reestablishing a 30 MPH Speed Limit on Daniel Maloney Drive; Reestablishing, Without Change, Speed Limits On Other Streets Within the City of San José and Repealing Resolution No. 75868", was adopted. (10-0-1. Absent: Nguyen.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) **Adopt a resolution of the City Council of the City of San José (the "City") authorizing the Director of Finance and other authorized officers of the City, who routinely conduct investment management activity on behalf of the City, to order the deposit or withdrawal of monies in the Local Agency Investment Fund on behalf of the City.**
- (b) **Adopt a resolution of the City Council acting in its capacity as Successor Agency to the Redevelopment Agency of the City of San José (the "Successor Agency") authorizing the Chief Financial Officer of the Successor Agency and the Director of Finance and other authorized officers of the City, as Successor Agency, who routinely conduct investment management activity on behalf of the Successor Agency, to order the deposit or withdrawal of monies in the Local Agency Investment Fund on behalf of the Successor Agency.**

CEQA: Not a Project, PP10-069, City organizational and administrative activities. (Finance)

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated February 14, 2012, recommending adoption of resolutions.

9.1 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously, Resolution No. 76153, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance and Other Authorized Officers of the City of San José, Who Routinely Conduct Investment Management Activity on Behalf of the City, To Order the Deposit or Withdrawal of Monies in the Local Agency Investment Fund on Behalf of the City” and Successor Agency Resolution No. 7002, entitled: “A Resolution of the Council of the City of San José Acting in Its Capacity as the Successor Agency to the Redevelopment Agency of the City of San José Authorizing the Director of Finance and Other Authorized Designees of the City of San José, as Successor Agency, Who Routinely Conduct Investment Management Activity on Behalf of the Successor Agency, To Order the Deposit or Withdrawal of Monies in the Local Agency Investment Fund on Behalf of the Successor Agency”, were adopted. (10-0-1. Absent: Nguyen.)

9.2 **Adopt a resolution of the City Council, acting in its capacity as Successor Agency to the Redevelopment Agency, approving the Recognized Obligation Payment Schedule, which details the obligations of the Successor Agency, in order to comply with the provisions of Section 34169 of the Health and Safety Code. CEQA: Exempt, File No. PP12-008. (Housing/Successor Agency to the Redevelopment Agency)**

Documents Filed: Memorandum from Successor Agency to the Redevelopment Agency Managing Director Richard A. Keit and Director of Housing Leslye Corsiglia, dated February 17, 2012, recommending adoption of a resolution.

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

City Attorney Richard Doyle and City Manager Debra Figone responded to Council Member questions and comments.

Action: On a call for the question, the motion carried unanimously, Successor Agency Resolution No. 7003, entitled: “A Resolution of the Council of the City of San José Acting in Its Capacity as the Successor Agency to the Redevelopment Agency of the City of San José Approving the Recognized Obligation Payment Schedule, Which Details the Obligations of the Successor Agency and the City, As It Relates to the Low and Moderate Housing Fund, In Order to Comply with the Provisions of Section 34169 of the Health and Safety Code”, was adopted. (10-0-1. Absent: Nguyen.)

STRATEGIC SUPPORT SERVICES

- 3.4 Establish a future list of priority policies and ordinances, with items on this list to be moved to the Top Ten list as top priorities are completed between now and August 2012. CEQA: Not a Project, File No. PP10-069(a), staff reports. (City Manager's Office)
(Deferred from 2/14/12 – Item 3.9)**

Documents Filed: (1) Memorandum from Council Members Liccardo, Campos and Kalra, dated February 10, 2012, directing Staff to add Access to Health Food as a Top 10 Priority Policy/Ordinance. (2) Memorandum from Council Member Rocha, dated February 10, 2012, recommending that Council consider the following items among the Top 10 Priorities, Contract Employee Benefits, Regulation of Unattended Donation Boxes and Public Review of New Retail Reuse. (3) Supplemental memorandum from City Manager Debra Figone, dated February 13, 2012, providing Council an updated Attachment A with minor modifications. (4) Supplemental memorandum from City Manager Debra Figone, dated February 23, 2012, providing additional information to Council and an updated Attachment A, reflecting feedback from the City Council Meeting of February 14, 2012. (5) Memorandum from City Manager Debra Figone, dated February 3, 2012, recommending establishing a future list of priority policies and ordinances. (6) Letter and attachments from Ash Pirayou, Rutan Attorneys at Law, dated February 14, 2012, regarding the regulation of unattended donation boxes.

Mayor Reed provided introductory comments and Council discussion ensued.

Council voted to establish a Top Ten List as top priorities and the final tabulation is noted in "Action" below.

Action: Upon motion by Council Member Herrera, seconded by Council Member Oliverio and carried unanimously, the Council approved the following seven items to be moved to the Top Ten List as top priorities, with three more priorities to be voted on and confirmed in August 2012: (1) Access to Healthy Food (Item 1) and Streamline Permit Process for Recurring Farmers Markets on Private Property (Item 22). (2) Regulation of Unattended Donations Boxes (Item 21). (3) Plug-in Requirements for Parking Garages (Item 5). (4) Specials Events Ordinance (Item 7) and Update Downtown Paseo/Plaza Use Guidelines (Item 25). (5) Urban Village Zoning District (Item 15), Formerly Transit Corridor Residential-Align Zoning Standards. (6) Mobile Vending (Item 27). (7) Transportation Innovations to Support High Density Development (Item 28). (8) Item Numbers 9, 12 and 14 were dropped. (10-0-1. Absent: Nguyen.)

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located on the east side of Morse Street, approximately 320 feet north of McKendrie Street (980 Morse Street), from the R-1-8 Residential Zoning District to the A(PD) Planned Development Zoning District to allow for the development of four single-family detached residences on a 0.61 gross acre site (Barry Swenson Builder, Owner). CEQA: Mitigated Negative Declaration to be adopted. The Planning Commission voted 4-1-2 (Commissioner Platten opposed, Commissioners Yob and Kamkar absent) to recommend that Council approve the proposed Planned Development Rezoning as recommended by staff with an added requirement that at least two (2) of the units have a different architectural style.**
PDC11-010 – District 6
(Deferred from 1/24/12 – Item 11.2)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated January 5, 2012, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC11-010, dated January 5, 2012. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated January 13, 2012, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on December 23, 2011, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: Speaking in opposition to building four homes, with a preference of three homes were Elizabeth Nedred, Mary Ann Smutnak and David Wall.

Mayor Reed closed the public hearing.

Motion: Council Member Oliverio moved approval of the Staff recommendations, with the following amendments: (1) To match the neighborhood, all the windows facing Morse Street as well as the side of the house facing the existing home have divided windows. (2) Allocate traffic fees to Morse Street. Council Member Pyle seconded the motion.

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

11.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and Planning Director was approved, Ordinance No. 29040, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the East Side of Morse Street, Approximately 320 Feet North of McKendrie Street (980 Morse Street) From R-1-8 Single Family Residence District to R-1-8(PD) Planned Development Zoning District”, was passed for publication, as amended: (1) To match the neighborhood, all the windows facing Morse Street as well as the side of the house facing the existing home have divided windows. (2) Allocate traffic fees to Morse Street and CEQA Resolution No. 76156, entitled: “A Resolution of the Council of the City of San José Adopting the Morse Street Homes (980 Morse Street) Mitigated Negative Declaration, For Which An Initial Study Was Prepared, All in Accordance With the California Environmental Quality Act, As Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted. (10-0-1. Absent: Nguyen.)

11.3 **Consideration of an ordinance rezoning the real property located on the north side of Tully Road, approximately 1,200 feet easterly of Senter Road (705 Tully Road, from the IP-Industrial Park Zoning District to the LI-Light Industrial Zoning District to allow light industrial uses on a 3.45 gross acre site (Van Tuyl Family Partnership). SNI: Tully-Senter. CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041, File No. C11-013. C11-013 – District 7**

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C11-013, dated February 3 2012. (2) Proof of Publication of Notice of Public Hearing, executed on February 10, 2012, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: There was no public testimony from the floor.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the recommendation of the Planning Commission and Planning Director was approved, Ordinance No. 29041, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of Tully Road on a 3.45 Gross Acre Site, Approximately 1,200 Feet Easterly of Senter Road (705 Tully Road) To the LI Light Industrial Zoning District”, was passed for publication. (10-0-1. Absent: Nguyen.)

- 11.4 Consideration of an ordinance amending Section 20.70.100 of Chapter 20.70 (Downtown Zoning Districts) of Title 20 of the San José Municipal Code (the Zoning Code) to streamline the permit process for the operation of office and financial services uses within the DG Overlay Area (Downtown Ground-Floor Space) of the DC (Downtown Core) and DC-NT1 (Downtown Code – Neighborhood Transition 1) Zoning Districts. The proposed amendments affect the Downtown Area of the City. CEQA: Reuse of the Envision San José 2040 General Plan Environmental Impact Report. (Planning, Building and Code Enforcement)**

Action: Deferred to March 13, 2012 Afternoon Session per Administration.

- 11.5 Consideration of an ordinance amending Section 20.40.100 of Chapter 20.40 (Commercial Zoning Districts) and Section 20.50.100 of Chapter 20.50 (Industrial Zoning Districts), all of Title 20 of the San José Municipal Code (the Zoning Code), in order to allow more flexibility for the development of specific commercial and industrial uses in the CIC, IP, LI and HI Zoning Districts, including: deletion of medical clinic/out-patient facility as an enumerated use and deletion of an outdated reference to Part 13.6 related to leasing of passenger vehicles in the CP, CP, CN and CG districts and addition of public elementary and secondary schools as a permitted use in the CIC, IP, LI and HI districts, addition of private elementary and secondary schools as a conditional use in the CIC district, addition of drinking establishments interior to a winery or brewery as a conditional use in the CIC, IP, LI and HI districts, the enumeration of wineries and breweries as a permitted use in the CIC, IP, LI and HI districts, the addition of Hospitals/ in-patient facilities as a conditional use in the CIC and IP districts, the addition of vehicle sales as a conditional use in the CIC and LI districts, and the addition of sale of vehicle parts as a permitted use in the CIC district and as a permitted use or special use in the LI district depending upon the size of the retail sales area. All proposed amendments have Citywide implications in all City Council Districts and in all Strong Neighborhoods Initiative areas. CEQA: Reuse of the Envision San José 2040 General Plan Environmental Impact Report. The Planning Commission voted 6-0-1 (Commissioner Cahan absent) to recommend the City Council approve the ordinance changes outlined in this memorandum to amend Title 20 of the San José Municipal Code to streamline industrial and commercial development activities. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated February 6, 2012, stating that the Planning Commission would hear this project on February 22, 2012. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated February 23, 2012, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on February 10, 2012, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: There was no public testimony from the floor.

11.5 (Cont'd.)

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the recommendation of the Planning Commission and Planning Director was approved, Ordinance No. 29042, entitled: “An Ordinance of the City of San José Amending Section 20.40.100 of Chapter 20.40 (Commercial Zoning Districts) and Section 20.50.100 of Chapter 20.50 (Industrial Zoning Districts), All of Title 20 of the San José Municipal Code (The Zoning Code), To Delete Outdated References and To Allow More Flexibility for the Development of Specific Commercial and Industrial Uses in Certain Industrial Districts, Including: Deletion of Medical Clinic/ Out-Patient Facility as an Enumerated Use and Deletion of an Outdated Reference to Part 13.6 of Chapter 20.80 Related to Leasing of Passenger Vehicles and Addition of Public and Private Elementary and Secondary Schools as a Conditional Use in Certain Districts, Addition of Drinking Establishments in Conjunction With A Winery or Brewery As A Conditional Use in Certain Districts, The Enumeration of Wineries and Breweries As A Permitted Use in Certain Districts, The Addition of Hospitals/In-Patient Facilities As A Conditional Use in Certain Districts, The Addition of Vehicle Sales As A Conditional Use in Certain Districts, The Addition of Sale of Vehicle Parts Conforming To Specifically Identified Criteria As A Permitted or Special Use in Certain Districts and the Addition of Miniwarehouse/Ministorage As A Permitted Use In Certain Districts”, was passed for publication. (10-0-1. Absent: Nguyen.)

11.6 **Consideration of an ordinance amending Chapter 6.84 of Title 6 of the San José Municipal Code to add a new Section 6.84.015 and to amend Section 6.84.030 and amendments to Chapters 20.80 and 20.100 of Title 20 of the San José Municipal Code to amend Sections 20.80.900 and 20.100.220, all to modify the general process for making a City-wide determination of public convenience and necessity and to modify the conditional use permit process in connection with the off-sale of alcoholic beverages. The proposed amendments have Citywide implications in all City Council Districts and in all Strong Neighborhoods Initiative areas. CEQA: Exempt, File No. PP12-016. (Planning, Building and Code Enforcement)**

Action: Deferred to March 13, 2012 Afternoon Session per Administration.

OPEN FORUM

David Wall thanked Council Member Liccardo for notifying residents of property changes in District 3 and provided various comments about the Convention Center.

ADJOURNMENT

The Council of the City of San José was adjourned at 8:24 p.m. in memory of Catholic missionary and social justice icon Father Donald McDonnell, who passed away on February 20, 2012, and who dedicated his life to service to the Catholic Church and to his community. (Mayor)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC
City Clerk

/smd 02-28-12 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.