



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 27, 2012

The Council of the City of San José convened in Regular Session at 9:37 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Nguyen. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no Staff presentation.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:38 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) San José Police Officers' Association, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-220146; Amount of Money or Other Relief Sought: Motion to compel interest arbitration; (2) San José Police Officers' Association, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-220800; Amount of Money or Other Relief Sought: Motion to compel grievance arbitration; (3) San José Police Officers' Association, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-220795; Amount of Money or Other Relief Sought: Petition for writ of mandate; (4) McDonough, et al. v. City, et al. Names of Parties Involved: City of San José, Dennis Hawkins, in his capacity as City Clerk of the City of San José, Barry Garner, in his capacity as Registrar of Voters of the County of Santa Clara, Karen McDonough, Franco Vado, Roberti Sapien and Clifford G. Hubbard; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV220781; Amount of Money or Other Relief Sought: Petition for writ of mandate; (5) Mulholand, et al. v. City of San José; Names of Parties Involved: Paul Mulholand,

CLOSED SESSION (Cont'd.)

James Unland and Mary Follenweider, Russell Crosby, Mike Moehle, each in his capacity as a fiduciary of the San José Federated City Employees Retirement System and of the City of San José Police and Fire Retirement Plan, City of San José, a municipal entity and Does 1 through 10; The Board of Directors of the San José Police and Fire Retirement Board and the Board of Directors of the City of San José Federated City Employers' Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV219748; Amount of Money or Other Relief Sought: Damages according to proof; (6) Airport Parkway Two, LLC et al. v. City et al; Names of Parties Involved: Opportunity Fund, LLC, Casino M8trix Inc.; Garden City, Inc., Eric Swallow, Peter Lunardi III, Jeanie Lunardi, City of San José, San José Police Department Division of Gaming Control, Richard Teng, San José Police Chief Christopher Moore; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV221225; Amount of Money or Other Relief Sought: Petition for writ of mandate. (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 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

CLOSED SESSION (Cont'd.)

Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:15 a.m. and reconvened to Regular Session at 1:33 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

Wesley Ukulele Band, Wesley United Methodist Church, presented the Invocation. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Nguyen.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to two outstanding volunteers for their dedication to encouraging the civic engagement and education of the residents in the City of San José. (Constant)

Mayor Reed and Council Member Constant recognized and commended Dan and Harriet Roy for their exemplary volunteerism and dedication to the residents of San José.

1.2 Presentation of a proclamation declaring the Month of March 2012 as “National Women’s History Month” in the City of San José. (Herrera/Pyle/Nguyen)

Mayor Reed and Council Members Herrera and Pyle recognized the month of March 2012 as “National Women’s History Month” in the City of San José. Former Mayor Janet Gray Hayes and former Council Members Judy Chirco, Pat Dando, Pat Sausedo, Charlotte Powers, Shirley Lewis and Trixie Johnson were honored and acknowledged for their extraordinary achievements.

1.3 Presentation of a commendation to the National Hispanic University for its 30th anniversary of providing students with access to quality higher education. (Campos/Liccardo)

Mayor Reed and Council Members Campos and Liccardo recognized the National Hispanic University.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Constant 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:

- (a) Regular Minutes of November 1, 2011.**
- (b) Regular Minutes of November 8, 2011.**
- (c) San Jose Diridon Development Authority Minutes of November 8, 2011.**
- (d) Joint/Santa Clara Valley Water District Minutes of November 14, 2011.**
- (e) Regular Minutes of November 15, 2011.**
- (g) Regular Minutes of November 29, 2011.**
- (h) Regular Minutes of December 6, 2011.**
- (i) San José Redevelopment Agency Minutes of December 6, 2011.**

Documents Filed: (1) The Regular Minutes dated November 1, 2011, November 8, 2011, November 15, 2011, November 29, 2011 and December 6, 2011. (2) The San José Diridon Development Authority Minutes dated November 8, 2011. (3) The Joint/Santa Clara Valley Water District Minutes dated November 14, 2011. (4) The San José Redevelopment Agency Minutes dated December 6, 2011.

Action: The Minutes were approved. (10-0-1. Absent: Nguyen.)

- (f) Closed Session Minutes of November 18, 2011.**

Action: Deferred to April 03, 2012.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29046 – Adding Section 6.84.015 and amending Section 6.84.030 of Chapter 6.84 of Title 6 and amending Section 20.80.900 of Chapter 20.80 and Section 20.100.220 of Chapter 20.100 of Title 20, all of the San José Municipal Code, to modify the general process for making a determination of public convenience and necessity and for processing a conditional use permit for the off-premises sale of alcoholic beverages**

Documents Filed: Proof of Publication of the title of Ordinance No. 29046 executed on March 29, 2012, submitted by the City Clerk.

Action: Ordinance No. 29046 was adopted. (10-0-1. Absent: Nguyen.)

2.3 Approval of Council Committee Reports.

There was no report.

- 2.4 (a) **Request for an excused absence for Council Member Herrera from the Closed Session and Regular Meeting of the City Council on March 20, 2012 due to illness. (Herrera)**
- (b) **Request for an excused absence for Council Member Pyle from the Closed Session and Regular Meeting of the City Council on March 20, 2012 due to illness. (Pyle)**

Documents Filed: (1) Memorandum from Council Member Herrera, dated March 20, 2012, requesting an absence due to illness. (2) Memorandum from Council Member Pyle, dated March 19, 2012, requesting an absence due to illness.

Action: The absences for Council Member Herrera and Council Member Pyle were excused. (10-0-1. Absent: Nguyen.)

2.5 City Council Travel Reports.

There was no report.

2.6 Report from the Council Liaison to the Retirement Boards.

Documents Filed: Memorandum from City Clerk Dennis Hawkins, CMC, dated March 27, 2012, providing links to the Council regarding recent Retirement Board Meetings.

There was no formal presentation.

- 2.7 **Adopt a Resolution establishing the qualifications and procedures for the appointment of a Hearing Officer(s) for the appeals arising from the Local Enforcement Agency and repealing previous resolutions regarding an Independent Hearing Panel. CEQA: This is not defined as a Project under CEQA and is not subject to the California Environmental Quality Act. (Planning, Building and Code Enforcement)**

2.7 (Cont'd.)

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

Action: Resolution No.76169, entitled: "A Resolution of the Council of the City of San José Establishing the Qualifications and Procedures for the Appointment of a Hearing Officer for the Appeals Arising from the Local Enforcement Agency", was adopted. (10-0-1. Absent: Nguyen.)

2.8 **Approve an amendment to extend the term of the Funding Agreement with the Santa Clara Valley Transportation Authority for financial contributions associated with construction of the proposed Julian/St. James Couplet Conversion project to December 31, 2012. CEQA: File Nos. PP02-05-115 and PP08-126. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans Larsen, dated March 6, 2012, recommending approval of an amendment to the funding agreement.

Action: An amendment to extend the term of the Funding Agreement with the Santa Clara Valley Transportation Authority for financial contributions associated with construction of the proposed Julian/St. James Couplet Conversion project to December 31, 2012 was approved. (10-0-1. Absent: Nguyen.)

END OF CONSENT CALENDAR

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **Conduct a public hearing regarding the formation of proposed Maintenance District 24 and at the close of the public hearing, direct the City Clerk to tabulate the property owner ballots and report the results.**
- (b) **If the majority of the votes tabulated are weighted in favor of the proposal:**
- (1) **Adopt a resolution:**
 - (a) **Declaring the ballot tabulation results.**
 - (b) **Approving the engineer's report, base assessment and annual adjustments and forming Maintenance District 24.**
 - (c) **Imposing the assessments on those properties within the district as proposed in the engineer's report.**
 - (2) **Establish a new fund in Maintenance District 24 (The Alameda).**
- CEQA: Exempt, File No. PP10-132. Council District 6. (Public Works/Transportation)**

6.1 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Transportation Hans Larsen and Director of Transportation Hans Larsen, dated March 5, 2012, recommending conducting a public hearing, at close of public hearing direct City Clerk to tabulate the ballots and report the results. (2) The Official Ballot Results of the Assessment Ballot Proceedings of Maintenance District 24, dated March 27, 2012, voting 57.8% against the establishment of the Maintenance District 24.

Mayor Reed opened the public hearing on the formation of Maintenance District 24.

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

Mayor Reed closed the public hearing.

City Clerk Dennis D. Hawkins, CMC, read the results of the tabulation of thirty two property owners of Maintenance District 24 with a total of \$35,895.54 in assessments representing 42.2% of the voters that returned ballots in support of the levy of assessments. City Clerk Hawkins continued that there were twenty five property owners with a total of \$49,103.14 in assessments representing 57.8% of the votes in opposition to the levy of assessments.

City Clerk Dennis D. Hawkins, CMC asserted that the City Council may not impose the assessment.

Director of Public Works David Sykes, City Manager Debra Figone and Deputy Director for Transportation Planning Projects Manuel Pineda responded to Council questions and concerns. Discussion ensued.

There was no Council action.

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone offered highlights of Moody's Credit Rating Services and pointed out that an information memorandum to the City Council will follow shortly.

City Manager Figone recognized and commended Library Director Jane Light for her fifteen years of exemplary service to the City of San José.

3.3 Report on Request for Proposal for Landscape Management and Maintenance Services for the Public Right-of-way Locations in the General Fund and Special District Landscape Areas and adopt a resolution authorizing the City Manager to:

- (a) Execute an agreement with City II Enterprises, Inc. doing business as FloraTerra Landscaping Management (San José, CA) for Landscape Management and Maintenance Services for the Public Right-of-way Locations in three General Fund and three Special District landscape areas, for an initial two-year term ending March 31, 2014 for a cumulative total amount not to exceed \$1,042,960.**
- (b) Execute five one-year options to renew the agreement, subject to the appropriation of funds.**
- (c) Execute amendments as required to add or delete service area locations, or change service levels due to budget constraints, subject to the appropriation of funds.**

CEQA: Categorically Exempt, File No. PP12-034. (Finance)

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Rocha, dated March 23, 2012, recommending approval of the Staff recommendations with further direction as described in “Action” below. (2) Memorandum from Acting Director of Finance Julia H. Cooper, dated March 5, 2012, recommending adoption of a resolution.

Motion: Council Member Rocha moved approval of the Staff recommendations and the memorandum he cosigned with Mayor Reed, dated March 23, 2012, with direction to Staff to agendize a discussion to the full Council within *60 days (in lieu of 30 days)*. Council Member Constant seconded the motion.

Assistant City Manager Edward K. Shikada and Assistant City Attorney Ed Moran responded to Council questions.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Member Rocha, dated March 23, 2012, was approved, as follows: (1) A Resolution was adopted authorizing the City Manager to execute an agreement with City II Enterprises, Inc.. (2) Approval of the contract extensions was deferred and the City Manager was directed to bring any extensions before the Council before they are exercised. (3) Staff was directed to agendize a discussion to the full Council within *60 days (in lieu of 30 days)*, of minimum expectations for outsourcing contracts which should include the preliminary work load and legal feasibility work that Staff provided to the Rules and Open Government Committee at the February 8, 2012 meeting; Resolution No. 76170, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with City II Enterprises, Inc. DBA FloraTerra Landscaping Management for Landscape Management and Maintenance Services for the Public Right of Way Locations in Three General Fund and Three Special District Landscape Areas”, was adopted, as amended. (10-0-1. Absent: Nguyen.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Adopt a Resolution to accomplish all of the following:

- (a) Extend until August 31, 2012 the time to work with the City of Campbell on an alternative reorganization proposal for the Cambrian No. 36 pocket area.
- (b) Continue to express support for consideration by the Santa Clara County Local Agency Formation Commission (LAFCO) of the City of Campbell's actions to annex the Cambrian No. 36 county pocket including LAFCO consideration of detachment of the Central Park Drive, Oak Park Lane and Highland Park Lane areas from the City of San Jose.
- (c) Authorize the Director of Planning, Building and Code Enforcement to take certain actions to facilitate the alternative reorganization of the Cambrian No. 36 pocket area pursued by the City of Campbell or, alternatively, to recommence the City's Cambrian No. 36 reorganization.

CEQA: San José 2040 General Plan Final EIR, Resolution No. 76041. District 9. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 12, 2012, recommending adoption of a resolution.

Motion: Council Member Rocha moved approved of the Staff recommendations. Council Member Constant seconded the motion.

A short discussion ensued.

Action: On a call for the question, the motion carried, Resolution No. 76171, entitled: "A Resolution of the Council of the City of San José Further Extending to August 31, 2012 The Period of Time for City to Continue to Work with the City of Campbell Regarding Options for an Alternative Reorganization of that Certain Territory Previously Designated as Cambrian No. 36, Expressing Support for the City of Campbell's Efforts to Pursue an Alternative Reorganization of the Cambrian No. 36 Pocket Area and Authorizing the Director of Planning, Building and Code Enforcement to Sign Applications or Other Documents That May be Required or Requested by the Santa Clara County Local Agency Formation Commission to Indicate City's Support For Or To Facilitate the City of Campbell's Reorganization Proposal for the Cambrian No. 36 Pocket Area, Or, In the Alternative, Directing the Director to Reinitiate a Reorganization of the Cambrian No. 36 Pocket Area, As Appropriate", was adopted. (9-1-1. Noes: Oliverio. Absent: Nguyen.)

- 4.2 (a) **Hold a public hearing on a Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan (ConPlan) to reserve up to \$3,700,000 of Home Investment Partnership Program (HOME) funds to supplement the City's NSP2 Home Acquisition and Rehabilitation Program; and**
- (b) **Adopt a resolution to approve the Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan.**

CEQA: Not a Project, File No.PP10-069 (a), Annual Report. Specific development projects that are funded as a result of the Consolidated Action Plan are subject to project-specific CEQA clearance. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated March 5, 2012, recommending holding a public hearing and adoption of a resolution. (2) Statement and Declaration of Conflict of Interest Form from Council Member Kalra, dated March 27, 2012, expressing a conflict of interest because the Housing Trust is part of the Consortium. (3) Proofs of Publications of Notices of Public Hearings, executed on February 24, 2012, submitted by the City Clerk.

Mayor Reed opened the public hearing on the Consolidated Annual Action Plan.

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

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

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

Director of Housing Leslye Corsiglia responded to Council questions.

City Attorney Richard Doyle clarified that Council Member Kalra abstained from voting because the Housing Trust is part of the Consortium.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76172, entitled: "A Resolution of the Council of the City of San José Approving the Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan to Reserve Home Funds for Neighborhood Stabilization Program 2 Home Acquisition Activities", was adopted. (8-2-1. Absent: Chu, Nguyen. Abstained: Kalra.)

- 4.3 (a) **Adopt a resolution:**
- (1) **Amending and superseding Resolution No. 76008 adopted on September 27, 2011;**
 - (2) **Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as "City of San José Multifamily Housing Revenue Note (1st and Rosemary Family Apartments), Series 2012C" in an aggregate principal amount not to exceed \$35,500,000 (the "Series 2012C Note").**

- 4.3 (a) (3) Approving a loan of Series 2012C Note proceeds to 1st and Rosemary Family Housing, L.P., a California limited partnership created by ROEM 1st and Rosemary Family, LLC, to finance the construction of the 1st and Rosemary Apartments located at 60 East Rosemary Street in San José.
- (4) Approving in substantially final form the Borrower Loan Agreement, Funding Loan Agreement, Assignment of Deed of Trust, and Regulatory Agreement and Declaration of Restrictive Covenants (collectively, the “Series 2012C Documents”).
- (5) Authorizing and directing the City Manager, Acting Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2012C Documents and other related Series 2012C Note documents as necessary.
- (b) Take the following actions with respect to the 1st and Rosemary Senior Apartments Project (“Senior Project”):
- (1) Adopt a resolution:
- (a) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (1st and Rosemary Senior Apartments), Series 2012D” in an aggregate principal amount not to exceed \$15,500,000 (the “Series 2012D Note”).
- (b) Approving a loan of Series 2012D Note proceeds to 1st and Rosemary Senior Housing, L.P., a California limited partnership created by ROEM 1st and Rosemary Senior, LLC, to finance the construction of the 1st and Rosemary Senior Apartments located at 1290 N. First Street, at the corner of Rosemary Street in San José.
- (c) Approving in substantially final form the Borrower Loan Agreement, Funding Loan Agreement, Assignment of Deed of Trust, and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2012D Documents”).
- (d) Authorizing and directing the City Manager, Acting Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2012D Documents and other related Series 2012D Note documents as necessary.
- (2) Adopt a resolution in connection with the City’s existing loan for the Senior Project approving the conversion of a funded acquisition loan in the amount of \$3,700,000 to a construction/permanent loan of up to \$3,700,000 for the Senior Project.

CEQA: EIR Resolution No. 72768 and Addendum thereto, File No. PDC07-101. Council District 3. SNI: Rincon De Los Esteros. (Housing/Finance)

Action: Deferred to April 03, 2012 per Rules and Open Government Committee.

REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Take the following actions:

- (a) **The City Council acting as the legislative body of the Successor Agency to the Redevelopment Agency of the City of San José adopt a resolution:**
 - (1) **Transferring, effective February 1, 2012, the housing functions and the housing assets of the former Redevelopment Agency of the City of San José known as Mayfair Court, Rosemary Family and Rosemary Senior, to the City of San José in order to effectuate the election made by the City on January 24, 2012, pursuant to Resolution No. 76128, to retain such housing functions and assets as provided under the provisions of AB X1 26.**
 - (2) **Authorizing the Executive Officer or designee the authority to execute any and all documentation necessary to effectuate such transfer to the City.**
- (b) **The City Council adopt a resolution:**
 - (1) **Accepting and assuming acting on behalf of the City of San José, effective February 1, 2012, the housing functions and the housing assets of the former Redevelopment Agency of the City of San José known as Mayfair Court, Rosemary Family and Rosemary Senior from the Successor Agency to the Redevelopment Agency of the City of San José in order to effectuate the election made by the City on January 24, 2012, pursuant to Resolution No. 76128, to retain such housing functions and assets as provided under the provisions of AB X1 26.**
 - (2) **Authorizing the Director of Housing or designee the authority to execute any and all additional documentation necessary to effectuate such transfer to the City.**

CEQA: Exempt, File No. PP12-008. (City Attorney’s Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 23, 2012, recommending transfer and acceptance of Housing Assets.

Action: Upon motion by Council Member Herrera, seconded by Council Member Constant and carried unanimously, Successor Agency Resolution No. 7004, 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: (1) Transferring, Effective February 1, 2012, The Housing Functions and the Certain Housing Assets of the Former Redevelopment Agency of the City of San José Known as Mayfair Court, Rosemary Family and Rosemary Senior, To the City of San José in Order to Effectuate the Election Made By the City on January 24, 2012, Pursuant to Resolution No. 76128, To Retain Such Housing Functions and Assets as Provided Under the Provisions of AB X126, and (2) Authorizing the Executive Officer or Designee to Execute Any and All Documentation Necessary to Effectuate Such Transfer to the City” and Resolution No. 76173, entitled: “A Resolution of the Council of the City of San José (A) Accepting and Assuming the Housing Functions and Certain Housing Assets of the Former

9.1 (Action Cont'd.)

Redevelopment Agency of the City of San José from the Successor Agency to the Redevelopment Agency of the City of San José in Order to Effectuate the Election Made by the City on January 24, 2012, Pursuant To Resolution No. 76128, To Retain Such Housing Functions and Assets, and (B) Authorizing the Director of Housing or Designee the Authority to Execute Any and All Additional Documentation Necessary to Effectuate Such Transfer to the City”, were adopted. (9-0-2. Absent: Chu, Nguyen.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.4 (a) Adopt a resolution in connection with the issuance of Multifamily Housing Revenue Bonds:**
- (1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds in two series designated as “City of San José Multifamily Housing Revenue Bond (Mayfair Court Apartments), Series 2012B-1 and Series 2012B-2” in an aggregate principal amount not to exceed \$22,000,000 (collectively, the “Bonds”).**
 - (2) Approving a loan of Bond proceeds to San Jose Pacific Associates, LP, a California Limited Partnership created by Pacific West Communities, Inc. and USA Multifamily Development, Inc., to finance the construction of the Mayfair Court Apartments located at 65 McCreery Avenue in San José (the “Project”).**
 - (3) Approving in substantially final form an Indenture of Trust, a Loan Agreement and Regulatory Agreement and Declaration of Restrictive Covenants (the “Documents”).**
 - (4) Authorizing and directing the City Manager, Acting Director of Finance, and Director of Housing, or their designees, to execute and, deliver these Documents and other related Bond documents as necessary.**
- (b) Adopt a resolution in connection with the City’s existing loan for the Project (the “City Loan”):**
- (1) Approving the payment of the annual Bond monitoring fee of approximately \$27,500 in two parts: (i) \$7,500 to be paid on par with the Bond debt service and (ii) the remaining amount of the fee, \$20,000, to be paid as a permitted expense after debt service.**
 - (2) Approving an increase in affordability targeting for 14 units in the Project currently restricted to households with incomes no greater than 50% of Area Median Income (“AMI”) to households with incomes no greater than 40% of AMI.**
 - (3) Approving the capitalization of up to \$926,000 in acquisition interest accrued on the City Loan and up to \$626,362 in anticipated construction period interest.**

CEQA: Mitigated Negative Declaration and addenda thereto; File No. PDC04-088. Council District 5. SNI: Mayfair. (Housing/Finance)

4.4 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Campos, dated March 26, 2012, recommending approval of the Staff recommendations. (2) Memorandum from Director of Housing Leslye Corsiglia and Acting Director of Finance Julia H. Cooper, dated March 8, 2012, recommending adoption of resolutions.

Action: Upon motion by Council Member Campos, seconded by Council Member Constant and carried unanimously, Resolution No. 76174, entitled: "A Resolution of the Council of the City of San José, California, Authorizing the Issuance, Sale and Delivery of Multifamily Housing Revenue Bonds in a Principal Amount Not To Exceed 22,000,000 For the Purpose of Making Loan to Provide Financing for Mayfair Court Apartments; Determining and Prescribing Certain Matters Relating Thereto and Approving and Authorizing Related Actions and the Execution and Delivery of Related Documents" and Resolution No. 76175, entitled: "A Resolution of the Council of the City of San José Approving the Payment of the Annual Bond Monitoring Fee, Approving an Increase in Affordability for 14 Units and Approving the Capitalization of Interest on the City Loan", were adopted. (9-0-2. Absent: Chu, Nguyen.)

TRANSPORTATION & AVIATION SERVICES

6.2 As recommended by the Transportation and Environment Committee on March 5, 2012, accept the status report, and:

- (a) Approve the designation of a "Priority Street Network" representing approximately 400 miles of the City's street system as the priority for near-term pavement maintenance activities based on the criterion set forth in the Envision 2040 policies related to Grand Boulevards and Main Streets, economic development, transit and bicycle corridors, traffic volumes, and major roadways in residential areas.
- (b) Direct staff to continue to pursue opportunities to facilitate increased funding for pavement maintenance to secure a total funding investment of \$100 million annually, by considering the following:
 - (1) Evaluation of a possible San José parcel tax, bond measure and/or sales tax to substantially address pavement maintenance funding needs.
 - (2) Evaluate extending and amending the current ½-cent sales tax for transportation in Santa Clara County, allowing use of funds for local pavement maintenance consistent with many other counties in California.
 - (3) Advocate for timely approval of a new Federal transportation bill that increases overall investment for transportation and with support for local pavement maintenance.

CEQA: Not a Project, File No. PP10-069(a). (Transportation)

6.2 (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Dennis Hawkins, CMC, dated March, 14, 2012, transmitting the recommendation of the Transportation and Environment Committee.

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

Public Comments: Jerry Mungai spoke in opposition to the Staff recommendations.

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

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the Staff report was accepted and the designation of a "Priority Street Network" representing approximately 400 miles of the City's street system as the priority for near-term pavement maintenance activities based on the criterion set forth in the Envision 2040 policies related to Grand Boulevards and Main Streets, economic development, transit and bicycle corridors, traffic volumes, and major roadways in residential areas was approved and Staff was directed to continue to pursue opportunities to facilitate increased funding for pavement maintenance to secure a total funding investment of \$100 million annually (see recommendation above for full description). (10-0-1. Absent: Nguyen.)

- 6.3
- (a) **Approve a sub-recipient grant agreement with the Association of Bay Area Governments in the amount of \$121,140, with a local match requirement of \$534,394, for the purchase and installation of up to 23 electric vehicle charging stations in the City of San José under the Bay Area Electric Vehicle Corridor Project.**
 - (b) **Approve the existing Master Services Subscription Agreement for a term through December 31, 2013, between City and Coulomb Technologies that allows the City to connect additional electric vehicle charging stations to the Coulomb wireless network for a session authorization fee of \$0.50 per session and a session processing fee of 7.5% per session that may be adjusted by Coulomb with 180 days notice, and give the City the flexibility to remotely monitor and set rates for public use of the electric vehicle charging stations.**
 - (c) **Adopt a resolution authorizing the City Manager:**
 - (1) **To negotiate and execute any necessary agreements to ratify the acceptance of 26 electric vehicle charging stations, at no cost to the City, from Coulomb Technologies (Coulomb) already installed in the City of San José under the ChargePoint America Program partially funded by the US Department of Energy and the California Energy Commission.**

- 6.3 (c) (2) To negotiate and execute a reimbursement agreement with Coulomb in the amount not to exceed \$100,000 to reimburse the City for the cost of installing 26 electric vehicle charging stations under the ChargePoint America Program.
- (3) To negotiate and execute purchase orders to add additional electric vehicle charging stations to the Coulomb wireless network under the Master Services Subscription Agreement during the term of the master agreement.
- (d) Adopt a resolution to repeal Resolution No. 76047 and set forth the Master Parking Rate Schedule to authorize the City Manager to set and adjust the rate of up to five dollars (\$5) an hour for use of the electric vehicle charging stations.
- (e) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund for 2011-2012:
- (1) Establish a City-Wide appropriation for the Department of Public Works for the ChargePoint America Electric Vehicle Infrastructure Project in the amount of \$63,500.
- (2) Establish a City-Wide appropriation for the Department of Public Works for the Bay Area Electric Vehicle Corridor Project in the amount of \$121,140.
- (3) Increase the Estimate for Other Revenue by \$63,500.
- (4) Increase the Estimate for Revenue from the State of California by \$121,140.

CEQA: The chargers installed downtown through the ChargePoint America and Bay Area EV Corridor programs are covered by the Downtown Strategic Plan EIR, Resolution Number 72767; the chargers installed at the Environmental Innovation Center are covered by the Mitigated Negative Declaration issued for that project, File No. PPO 9-138; the Master Subscription Agreement is Not a Project, File No. PP10-066 (a), Purchase Order/Cooperative Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment; and the Master Parking Rate Resolution is Statutorily Exempt, File No. PP10-067 (a) Increase or Adjustment to Fees, Rates and Fares. Council District 3. (Transportation/Public Works/City Manager’s Office)

Documents Filed: Memorandum from Director of Transportation Hans Larsen, Director of Public Works David Sykes and Budget Director Jennifer Maguire, dated February 21, 2012, recommending approval of a sub-recipient grant agreement, existing master services subscription agreement, adoption of resolution and appropriation ordinance and funding sources resolution amendments.

Motion: Council Member Liccardo moved approval of the Staff recommendations as described in “Action”. Council Member Herrera seconded the motion.

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

6.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, a sub-recipient grant agreement with the Association of Bay Area Governments in the amount of \$121,140, with a local match requirement of \$534,394, for the purchase and installation of up to 23 electric vehicle charging stations in the City of San José under the Bay Area Electric Vehicle Corridor Project and the existing Master Services Subscription Agreement for a term through December 31, 2013, between City and Coulomb Technologies that allows the City to connect additional electric vehicle charging stations to the Coulomb wireless network for a session authorization fee of \$0.50 per session and a session processing fee of 7.5% per session that may be adjusted by Coulomb with 180 days notice, and give the City the flexibility to remotely monitor and set rates for public use of the electric vehicle charging stations were approved, Resolution No. 76176, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager (1) To Negotiate and Execute Any Necessary Agreements to Ratify the Acceptance of 26 Electric Vehicle Charging Stations, At No Cost to the City, From Coulomb Technologies (Coulomb) Already Installed in the City of San José Under the ChargePoint America Program Partially Funded by the U.S. Department of Energy and the California Energy Commission (CEC), (2) To Negotiate and Execute a Reimbursement Agreement With Coulomb in the Amount Not To Exceed \$100,000 To Reimburse the City for the Cost of Installing 26 Electric Vehicle Charging Stations Under the ChargePoint America Program, and (3) To Negotiate and Execute Purchase Orders to Add Additional Electric Vehicle Charging Stations to the Coulomb Wireless Network Under the Master Services Subscription Agreement During the Term of the Master Agreement”; Resolution No. 76177, entitled: “A Resolution of the Council of the City of San José Setting Forth the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities to Authorize the City Manager to Set and Adjust the Rate for the Use of Electric Vehicle Charging Stations and To Repeal Resolution No. 76047 Effective on the Date Adopted by the City Council; Ordinance No. 29051, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund, Citywide – Strategic Support for the ChargePoint America Electric Vehicle Infrastructure Project and for the Bay Area Electric Vehicle Corridor Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76178, 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. (9-0-2. Absent: Nguyen, Rocha.)

- 6.4 (a) **Approve the Second Amendment to the Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Capitol Expressway Light Rail Pedestrian Improvements Project to provide additional services and increase the City’s compensation in the amount of \$175,000 for a total contract amount not to exceed \$634,225, subject to the appropriation of funds.**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute any future amendments to the agreement, to add services to be provided by the City, extend the agreement term or increase the City’s compensation, at no cost to the City, subject to the appropriation of funds.**

- 6.4 (c) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in 2011-2012 in the Construction Excise Tax Fund:**
- (1) **Increase the appropriation to the Department of Transportation for the Capitol Expressway Light Rail Pedestrian Improvements project by \$175,000.**
 - (2) **Increase the estimate for Earned Revenue by \$175,000.**

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. Council Districts 5 and 8. SNI Area: Five Wounds/Brookwood Terrace, Gateway East, Mayfair, East Valley/680 Communities. (Public Works/City Manager's Office)

Documents Filed: (1) Memorandum from Council Members Campos and Herrera, dated March 23, 2012, recommending approval of the Staff recommendations. (2) Memorandum from Director of Public Works David Sykes and Budget Director Jennifer Maguire, dated March 5, 2012, recommending approval of the second amendment to the agreement, adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Motion: Council Member Herrera moved approval of the memorandum she cosigned with Council Member Campos, dated March 23, 2012, approving the Staff recommendations. Council Member Liccardo seconded the motion.

Council Member Herrera presented comments on the motion.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Members Campos and Herrera, dated March 23, 2012, was approved, approving the Staff recommendations, Resolution No. 76179, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Any Future Amendments to the Agreement with the Santa Clara Valley Transportation Authority (VTA) for the Capitol Expressway Light Rail Pedestrian Improvements Project To Add Services To Be Provided by the City, Extend the Agreement Term, Or Increase the City's Compensation, At No Cost to the City, Subject to the Appropriation of Funds"; Ordinance No. 29052, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Construction Excise Tax Fund for the Capitol Expressway Light Rail Pedestrian Improvements Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 76180, 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 Construction Excise Tax Fund", were adopted. (10-0-1. Absent: Nguyen.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Report on bids and award of contract for the Myrtle Avenue Sanitary Sewer Improvements Project to the low bidder, Mountain Cascade, Inc., in the amount of \$1,109,135, and approval of a contingency in the amount of \$110,000. CEQA: Exempt, File No. PP11-088, dated October 12, 2011. Council District 9. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated March 5, 2012, recommending award of the contract.

Action: Upon motion by Council Member Rocha, seconded by Council Member Oliverio and carried unanimously, the award of contract for the Myrtle Avenue Sanitary Sewer Improvements Project to the low bidder, Mountain Cascade, Inc., in the amount of \$1,109,135, with related contingency, was approved. (10-0-1. Absent: Nguyen.)

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>
10010	SE corner of Zanker Rd/River Oaks Pkwy	4	The Irvine Company, LLC	6 Lots / 1750 Units	MFA/ Retail	Approve
10107	N/E corner of N. Capitol Ave and Sierra Road	4	Trumark Companies		23 Lots / 94 Units	MFA
10108	N/E corner of Hillsdale Ave and Yucca Ave	9	Taylor Morrison, LLC		62 Lots / 51 Units	SFD

ADJOURNMENT

The Council of City of San José was adjourned at 3:42 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis D. Hawkins, CMC
City Clerk
/smd 03-27-12 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.