



## **MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, APRIL 3, 2012**

The Council of the City of San José convened in regular session at 9:31 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - All Present.

### **STRATEGIC SUPPORT SERVICES**

#### **3.2 Accept Labor Negotiations Update.**

None provided.

### **CLOSED SESSION**

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

Absent: Council Members - All Present.

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation: (1) Carruth; Amount of Money or Other Relief Sought: Administrative Appeal; (2) San José Police Officer's Association v. City of San José; Names of Parties Involved: San José Police Officers' Association; City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV220146; Amount of Money or Other Relief Sought: Motion to compel interest arbitration; (3) San José Police Officer's Association v. City of San José; Names of Parties Involved: San José Police Officers' Association; City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV220800; Amount of Money or Other Relief Sought: Motion to compel grievance arbitration; (4) San José Police Officer's Association v. City of San José; Names of Parties Involved: San José

## CLOSED SESSION (Cont'd.)

Police Officers' Association; City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV220795; Amount of Money or Other Relief Sought: Petition for writ of mandate; (5) McDonough, et al. v. City, et al.; Names of Parties Involved: City of San José, Dennis D. Hawkins, in his official 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, Robert Sapien, Clifford G. Hubbard; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV220781; Amount of Money or Other Relief Sought: Writ of mandate; (6) Constant, et al. v. Hawkins, et al., Names of Parties Involved: Peter Constant; Benjamin Roth; Dennis Hawkins, Office of the City Clerk, San José; Barry Garner, Registrar of Voters, County of Santa Clara; Helen Chapman, Pattie Cortese; James Spence; John S. Diquisto; Cay Denis MacKenzie; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV221239; Amount of Money or Other Relief Sought: Petition for writ of mandate; (7) Constant, et al. v. Hawkins, et al., Names of Parties Involved: Peter Constant; Benjamin Roth; Dennis Hawkins, Office of the City Clerk, San José; Barry Garner, Registrar of Voters, County of Santa Clara; Helen Chapman, Pattie Cortese; James Spence; John S. Diquisto; Cay Denis MacKenzie; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV221560; Amount of Money or Other Relief Sought: Petition for writ of mandate; (8) Pina v. City of San José et al.; Names of Parties Involved: Danny Pina; Jean Jimenez, individually and as an officer of the San José Police Department; Allan De La Cruz, individually and as an officer of the San José Police Department, Does 1 through 20; Court: United States District Court, Northern District of California, San José Division: Amount of Money or Other Relief Sought: Damages according to proof; (B) 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

## **CLOSED SESSION (Cont'd.)**

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

By unanimous consent, Council recessed from the Closed Session at 11:51 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

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

Absent: Council Members - All Present.

## **INVOCATION**

Piedmont Middle School Orchestra performed "Dance of the Harlequins" for the Invocation. (District 4)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed, the Piedmont Middle School Orchestra and 3<sup>rd</sup> Graders from Payne Elementary School led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.3 dropped per staff's recommendation. (11-0.)

## CEREMONIAL ITEMS

**1.1 Presentation of a commendation to Kim Trang Nguyen for her many years of service, leadership, and contributions to the City of San José. (Chu)**

Mayor Reed and Council Member Chu commended Kim Trang Nguyen for her many years of service, leadership, and contributions to the City of San José.

**1.2 Presentation of a proclamation declaring the Month of April 2012 as “Month of the Young Child” in the City of San José. (Pyle)**

Mayor Reed and Council Members Pyle and Rocha recognized the Month of April 2012 as “Month of the Young Child” in the City of San José.

## CONSENT CALENDAR

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

**2.1 Approval of minutes:**

- (f) Closed Session Minutes of November 18, 2011.  
[Deferred from 3/27/12 – Item 2.1(f)]**

Documents Filed: Closed Session Minutes dated November 18, 2011.

Action: The Council Minutes were approved. (11-0.)

**2.2 Final adoption of ordinances.**

- (a) ORD. NO. 29047 – Amending Section 20.70.100 of Chapter 20.70 (Downtown Zoning Regulations) of Title 20 (Zoning Code) of the City of San José to allow certain uses in the DG Area (Downtown Ground-Floor Space) when certain enumerated criteria are met.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29047 executed on March 23, 2012, submitted by the City Clerk.

Action: Ordinance No. 29047 was adopted. (11-0.)

## 2.2 (Cont'd.)

- (b) **ORD. NO. 29048** – Rezoning certain real property situated at the north side of River Oaks Parkway, approximately 200 feet east of Research Place, from the IP Industrial Park District to the IP(PD) Planned Development Zoning District. PDC11-018

Documents Filed: Proof of Publication of the Title of Ordinance No. 29048 executed on March 23, 2012, submitted by the City Clerk.

Action: Ordinance No. 29048 was adopted. (11-0.)

- (c) **ORD. NO. 29049** – Approving a Development Agreement with the Irvine Company relative to the development of the River Oaks Multifamily Residential Project on certain real property located in North San José and authorizing the city clerk to execute the Development Agreement and cause the same to be recorded with the Santa Clara County Recorder's Office.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29049 executed on March 23, 2012, submitted by the City Clerk.

Action: Ordinance No. 29049 was adopted. (11-0.)

- (d) **ORD. NO. 29050** – Rezoning certain real property situated at the southeast corner of Almaden Expressway and Chynoweth Avenue, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC10-006

Documents Filed: Proof of Publication of the Title of Ordinance No. 29050 executed on March 23, 2012, submitted by the City Clerk.

Action: Ordinance No. 29050 was adopted. (11-0.)

## 2.3 Approval of Council Committee Reports – none provided.

Public Comments: David Wall spoke in opposition to the South Bay water recycling project, saying he withdraws his support of the reclaimed water project on his sewer service and use charge.

- 2.4 (a) **Request for an excused absence for Council Member Chu from the Regular Meeting of the Neighborhood Services and Education Committee on April 12, 2012 due to Authorized City Business: BART Silicon Valley Santa Clara Valley Transportation Agency's Berryessa Extension Groundbreaking.**

Documents Filed: (1) Memorandum from Council Member Chu, dated March 27, 2012, requesting an excused absence due to authorized City business.

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

**2.5 City Council Travel Reports.**

None provided.

**2.6 Report from the Council Liaison to the Retirement Boards.**

None provided.

**2.7 Approve settlement in the case of *Emily Contreras and Jose Lua, Sr. v. City of San José, et al.*, and authorize the City Attorney to execute a Settlement Agreement and Release with Emily Contreras and Jose Lua, Sr., and their attorney, in the amount of \$200,000. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 22, 2012, recommending approval of a settlement.

Action: The settlement in the case of *Emily Contreras and Jose Lua, Sr. v. City of San José, et al.*, and authorize the City Attorney to execute a Settlement Agreement and Release with Emily Contreras and Jose Lua, Sr., and their attorney, in the amount of \$200,000, was approved. (11-0.)

**2.8 Adopt a resolution of intention to annex territory into Maintenance District 15 (Silver Creek Valley), form new Zone I, annex a portion of the new territory into existing Zone B, and directing the Director of Public Works to create and file an engineer's report. CEQA: Mitigated Negative Declaration, File No. PDC09-010. Council District 8. (Public Works)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated March 12, 2012, recommending adoption of a resolution.

Action: Resolution No. 76181, entitled: "A Resolution of the Council of the City of San José Declaring its Intention to Annex Territory into Maintenance District 15 (Silver Creek Valley), Form Zone 1 (Cadwallader), and Annex Some of the New Territory into Existing Zone B", was adopted. (11-0.)

**2.9 Adopt a resolution of intention to annex territory into Zone A of Maintenance District 19 (River Oaks), and directing the Director of Public Works to create and file an engineer's report. CEQA: North San José Development Policy Update EIR, Resolution No. 72768. Council District 4. (Public Works)**

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated March 12, 2012, recommending adoption of a resolution.

Action: Resolution No. 76182, entitled: "A Resolution of the Council of the City of San José Declaring its Intention to Annex Territory into Maintenance District 19 (River Oaks Area Landscaping)", was adopted. (11-0.)

**2.10 Adopt a resolution authorizing the City Manager to execute an agreement and extensions with Compass Group USA, Inc., Bateman Division, in the amount of \$940,452, for the operation of the Senior Nutrition Program at designated City of San José community centers. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)  
RENUMBERED FROM ITEM 5.1**

Documents Filed: (1) Joint memorandum from Council Members Constant and Herrera, dated March 29, 2012, recommending approval of the resolution with direction. (2) Joint memorandum from Council Members Rocha and Pyle, dated March 29, 2012, recommending approval of the resolution with direction. (3) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated March 12, 2012, recommending adoption of a resolution.

Item 2.10 was pulled by Council Member Rocha to address concerns and refer to the memorandum he co-authored with Council Member Pyle. Acting Deputy Director of Parks, Recreation and Neighborhood Services Suzanne Wolf responded to questions, and Council discussion ensued.

Motion: Council Member Rocha moved approval of the memorandum he co-authored with Council Member Pyle, including direction provided by the March 29, 2012 memorandum cosigned by Council Members Constant and Herrera. Council Member Herrera seconded the motion.

Public Comments: David Wall offered appreciation for the senior programs, but commented about the lack of transportation and fact that many seniors have to set up their own chairs and tables.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76183, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Compass Group USA, Inc., Bateman Division, in the Amount Not to Exceed \$940,452, for the Operation of the Senior Nutrition Program at Designated City of San José Community Centers”, was adopted, the staff’s recommendation was approved, and the joint memorandum from Council Members Rocha and Pyle and from Council Members Herrera and Constant, both dated March 29, 2012, were accepted, with staff to report back to the Neighborhood Services and Education Committee in the Fall with an update on program performance. (11-0.)

- 2.11 Approve a refund of construction taxes in the amount of \$349,427.68 paid under the incorrect rate by Novo Construction, Inc. for a project located at 6001 America Center Drive and direction to the Director of Finance to make payment in accordance with the instructions in the refund claim. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. Council District 4. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated March 26, 2012, recommending approval of a refund of construction taxes.

Action: A refund of construction taxes paid under the incorrect rate by Novo Construction, Inc. with direction to the Director of Finance to make payment in accordance with the instructions in the refund claim was approved. (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on March 28, 2012:**

- (a) Approve the Beautiful Day “Project Restoration” as a City Council sponsored Special Event; and**
- (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.**

**CEQA: Exempt. (City Clerk)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated March 28, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: Beautiful Day “Project Restoration” as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.13 As recommended by the Rules and Open Government Committee on March 28, 2012:**

- (a) Approve the Great American Litter Pick-up as a City Council sponsored Special Event; and**
- (b) Approve and accepting donations from various individuals, businesses, or community groups to support the event.**

**CEQA: Exempt. (City Clerk)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated March 28, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: “Great American Litter Pick-Up” as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

**END OF CONSENT CALENDAR**



## TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) **Adopt a resolution establishing Minimum Standards for general aviation facilities on the west side of the Norman Y. Mineta San José International Airport;**
- (b) **Accept the key terms and conditions to be used in the Request For Proposals process for a new fixed base operator leasehold to be developed on the west side of the Airport.**
- (c) **Adopt a RFP-first approach for West Side general aviation that would have a second, new full-service FBO operational in late 2014 (estimated).**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP12-001. (Airport)  
(Deferred from 3/13/12 – Item 6.1 and Continued from 3/20/12 – Item 6.1)**

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members, Herrera, Pyle and Liccardo, dated March 16, 2012, recommending approval of staff recommendations with modifications. (2) Memorandum from Council Member Rocha, dated March 19, 2012, with modified direction. (3) Memorandum from Council Member Liccardo, dated March 29, 2012, recommending approval of staff recommendations with modifications. (4) Memorandum from Director of Aviation William F. Sherry, dated February 21, 2012, recommending adoption of a resolution and acceptance of conditions to be used in the Request for Proposals process. (5) Supplemental memorandum from Director of Aviation William F. Sherry, dated March 2, 2012, providing additional options for RFP issuance for West Side development. (6) Correspondence from Terri Balandra received March 29, 2012, providing concerns and a “Q & A” for “Environmental Planning for California Airports”. (7) Letter from Joan R. Gallo, Hopkins & Carley, dated March 13, 2012, regarding “AvBase Minimum Standards”. (8) Letter from Louis T. Pepper, Chief Executive Officer, Atlantic, dated March 27, 2012. (9) Letter to Joan R. Gallo, from Sr. Deputy City Attorney Kevin Fisher, dated March 15, 2012, regarding issues raised in her letter of March 6, 2012. (10) Letter from Scott Soper representing the College Park Neighborhood Association, dated April 3, 2012, expressing disapproval with the plan.

Director of Aviation William F. Sherry provided a brief overview of Staff’s recommendations.

Council Member Pyle provided meeting disclosures.

Motion: Council Member Pyle moved approval of the memorandum cosigned by Mayor Reed and Council Members, Herrera, Pyle and Liccardo, dated March 16, 2012 and with revisions as indicated below in “Action”. Council Member Herrera seconded the motion.

Council Member Rocha expressed that all alternatives and impact on the community have not been thoroughly assessed, and he could not support the motion.

## 6.2 (Cont'd.)

Public Comments: Joan Gallo referred to the letter provided from AvBase San José LLC and spoke in support of broadening the RFP. Speaking to the issue of the curfew, noise pollution and impact to the community were: Terry Balandra, Scott Soper, Karita Hummer, John Allen, Robert Harmussen and Roland LeBrun. Eric Hietak offered support, citing this as a unique opportunity to make an investment in the community. David Wall offered that this RFP indicates flawed economic calculations.

Action: On a call for the question, the motion carried, Resolution No. 76189, entitled: “A Resolution of the Council of the City of San José Approving Minimum Standards for the Development of Lands on the West Side of the Norman Y. Mineta San José International Airport”, was adopted, with acceptance of the memorandum from Mayor Reed, Council Members Herrera, Pyle and Liccardo, dated March 16, 2012 and the memorandum from Council Member Liccardo, dated March 29, 2012, with further direction that the City Council give authority to the City Manager to amend the minimum standards, to respond to airport conditions and in consultation as necessary with existing airport tenants and prospective tenants who respond to the West Side development RFP in the future. A recommendation was approved for the project to be brought before the ad hoc committee by May, an RFP drafted for stakeholder input/feedback in June, with a final RFP to be released to the market in August. 2012. (6-5. Noes: Campos, Chu, Kalra, Oliverio, Rocha.)

### 6.1 **Accept the report on the Request for Proposal for Airport Parking Operation and Management Services at the Norman Y. Mineta San José International Airport and adopt a resolution authorizing City Manager to:**

- (a) **Execute an agreement with Ampco System Parking, Inc., doing business as Ampco AirPark (Los Angeles, CA) for Airport Parking Operations and Management and in-lot Parking Shuttle Services at the Norman Y. Mineta San José International Airport for an initial three year term, in an amount not-to-exceed \$13,801,420, subject to annual appropriations of funds.**
- (b) **Execute amendments to the agreement to increase the not-to-exceed compensation amount during the initial three year term due to changing business conditions, subject to the appropriation of funds.**
- (c) **Execute five one-year options to renew the agreement, subject to the appropriation of funds.**

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

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated March 12, 2012, recommending acceptance of the RFP.

Director of Aviation William F. Sherry provided a brief overview of Staff's recommendations.

## 6.1 (Cont'd.)

Public Comments: David Wall suggested creating a hybrid parking control model at the airport.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Resolution No. 76188, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Ampco System Parking, Inc. DBA Ampco Airpark for Airport Parking Operations and Management and In-Lot Parking Shuttle Services at the Norman Y. Mineta San José International Airport", was adopted. (10-0-1. Absent: Constant.)

Council Member Constant left the meeting at 4:13 p.m.

## STRATEGIC SUPPORT SERVICES

### 3.1 Report of the City Manager, Debra Figone (Verbal Report) None provided.

### 3.3 As recommended by the Rules and Open Government Committee on March 7, 2012, approve a support position for SB 1220 (DeSaulnier and Steinberg) – Housing Opportunity Trust Fund Act of 2012. (City Manager's Office)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated April 2, 2012, recommending the item be dropped from the agenda.

Action: Dropped per Orders of the Day.

### 3.4 As recommended by the Rules and Open Government Committee on March 28, 2012, adopt a resolution amending the Rules for the Conduct of City Council and City Council Committee Meetings and superseding Resolution No. 75246. CEQA: Not a Project. (City Attorney's Office/City Clerk)

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated March 28, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: Ross Signorino commented on disclosures and urged greater transparency.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 76184, entitled: "A Resolution of the Council of the City of San José Amending the Rules for the Conduct of its Meetings, Superseding Resolution No. 75246", was adopted. (10-0-1. Absent: Constant.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Hold a public hearing on the draft 2012-2013 Consolidated Annual Action Plan, as required by the U.S. Department of Housing and Urban Development, in order to receive federal housing and community development funding, and announce that as of March 29, 2012, the draft Consolidated Annual Action Plan has been available to the public for review and comment. CEQA: Not a Project, File No.PP10-069(a), Annual Report. Specific development projects that are funded as a result of the Consolidated Annual Action Plan are subject to project-specific CEQA clearance. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated March 12, 2012, recommending approval of the draft 2012-2013 plan. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated March 29, 2012, providing the draft document, "Draft 2012-2013 Consolidated Annual Action Plan". (3) Statement and Declaration of Conflict of Interest Form, dated April 3, 2012, provided by Council Member Kalra. (4) Proof of Publication of Notice of Public Hearing, executed on March 23, 2012, submitted by the City Clerk.

Council Member Kalra recused himself from discussion of the Housing Consolidation Plan due to his service on the Board of Directors for Housing Trust of Santa Clara County.

Director of Housing Leslye Corsiglia provided an overview of the Consolidation Plan.

Mayor Reed opened the public hearing.

Public Comment: Michele Schroeder (Senior Adults Legal Assistance) and Colleen Hudgen expressed the need for continued CDBG funding to fund senior programs. David Wall questioned use of housing funds.

Mayor Reed closed the public hearing.

Action: No action required.

- 4.2 Conduct a public hearing and consider an ordinance amending Section 20.100.500 of Chapter 20.100 (Administration and Permits) of Title 20 of the San José Municipal Code (the Zoning Code) to extend the period for the Director of Planning to reactivate certain expired Development Permits and to extend certain Development Permits for a discrete period of time and make other related clarifying changes. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Action: Continued to April 17, 2012 per Administration.

- 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”);**
  - (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”) and;**
  - (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 1<sup>st</sup> 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; and**

#### 4.3 (Cont'd.)

- (b) (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)  
(Deferred from 3/27/12 – Item 4.3)**

Documents Filed: (1) Joint memorandum from Director of Housing Leslye Corsiglia and Acting Director of Finance Julia H. Cooper, dated March 8, 2012, recommending adoption of resolutions. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, and Acting Director of Finance Julia H. Cooper, dated March 28, 2012, providing an updated status of financing details.

Public Comments: David Wall advised the City is incurring unnecessary debt and suggested it is contrary to the Green Vision Plan.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried, Resolution No. 76185, entitled: "A Resolution of the Council of the City of San José, Authorizing the Execution and Delivery of a Multifamily Housing Revenue Note, and the Loan of the Proceeds thereof for the Financing of the 1<sup>st</sup> and Rosemary Family Apartments; and Approving Other Related Documents and Actions"; Resolution No. 76186, entitled: "A Resolution of the Council of the City of San José, Authorizing the Execution and Delivery of a Multifamily Housing Revenue Note, and the Loan of the Proceeds Thereof for the Financing of the 1<sup>st</sup> and Rosemary Senior Apartments; and Approving Other Related Documents and Actions"; and Resolution No. 76187, entitled: "A Resolution of the Council of the City of San José, Approving the Conversion of a Funded Acquisition Loan with 1<sup>st</sup> and Rosemary Senior Housing, L.P., in the Amount of \$3,700,000 to a Construction/Permanent Loan of up to \$3,700,000 for the 1<sup>st</sup> and Rosemary Senior Apartments Project", were adopted. (9-1-1. Noes: Oliverio. Absent: Constant.)

## NEIGHBORHOOD SERVICES

- 5.1 **Adopt a resolution authorizing the City Manager to execute an agreement and extensions with Compass Group USA, Inc., Bateman Division, in the amount of \$940,452, for the operation of the Senior Nutrition Program at designated City of San José community centers. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)  
*See Item 2.10 for action.***

- 5.2 Approve an ordinance amending Chapter 9.44 of Title 9 of the San José Municipal Code to regulate outdoor smoking. CEQA: Exempt; File No. PP12-010. (City Attorney's Office)**

Action: Deferred to April 10, 2012 per Rules and Open Government Committee

## **PUBLIC SAFETY SERVICES**

- 8.1 As recommended by the Public Safety, Finance and Strategic Support Committee on March 15, 2012, accept the Audit of Police Department Secondary Employment. (City Auditor)  
[Public Safety, Finance and Strategic Support referral 3/15/12 – Item D(5)]**

Action: Deferred to April 10, 2012 per Rules and Open Government Committee

## **OPEN FORUM**

David Wall questioned how the City may proportionate the cost of the South Bay water recycling program back to all individual property owners.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 4:34 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC  
City Clerk

rmk/4/3-2012MIN