



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 1, 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.

Public Comments: John Max Reger and Brian Doyle, Association of Legal Professionals (ALP) complained of a lack of communication the City has displayed during the bargaining process.

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 9:40 a.m. to a Closed Session in Room W133 (A) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: Independent Police Auditor; Name: Judge LaDoris Cordell; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation: (1) Dastgah v. City, et al.; Names of Parties Involved: Ali Dastgah, City of San José, San José Police Department, Officer McClure, Officer Solis, Officer Panighetti, Chief Robert Davis, and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV183767; Amount of Money or Other Relief Sought: Damages According to Proof; (C) to confer with Legal

CLOSED SESSION (Cont'd.)

Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation: Number of matter(s) to be discussed: two (2); (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA; (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters; (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3; (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association; (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; How to obtain a copy of existing contract or MOA: web: http://www.sanjoseca.gov/employee_relations/moa.asp; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:35 a.m. and reconvened to Regular Session at 1:34 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

Retired Father William Leininger from the Diocese of San José provided a moment of reflection and offered the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by 2nd graders from Yavneh Day School, led the Pledge of Allegiance.

ORDERS OF THE DAY

The Orders of the Day and the Amended Agenda were approved, with the Adjournment in memory of Michael L. Hackworth deferred to May 8, 2012. (11-0.)

CEREMONIAL ITEMS

1.1 Acceptance of the American Council of Engineering Companies Award for the Happy Hollow Park and Zoo Pedestrian Bridge Project. (Public Works)

Action: Deferred to May 8, 2012 per Rules and Open Government Committee.

1.2 Presentation of a proclamation celebrating the Month of May 2012 as “Asian Pacific American Heritage Month” in the City of San José. (Chu/Nguyen/Kalra)

Action: Deferred to May 8, 2012 per Rules and Open Government Committee.

1.3 Presentation of a proclamation declaring the Month of May 2012 as “Older Americans Month” in the City of San José. (Constant)

Action: Mayor Reed and Council Member Constant recognized the Month of May 2012 as “Older Americans Month” in the City of San José.

1.4 Presentation of a proclamation declaring the Month of May 2012 as “Jewish American Heritage Month” in the City of San José. (Herrera)

Action: Mayor Reed and Council Member Herrera recognized the Month of May 2012 as “Jewish American Heritage Month” 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:

None provided.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29054 – Amending Section 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code to modify provisions regarding the issuance of adjustments to extend the term of previously - approved development permits, to reactivate certain previously - expired development permits, and to make other nonsubstantive language clarifications.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29054 executed on April 20, 2012, submitted by the City Clerk.

Action: Ordinance No. 29054 was adopted. (11-0.)

- (b) **ORD. NO. 29056 – Rezoning certain real property situated at the northwest corner of North First Street and East Taylor Street from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC05-101**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29056 executed on April 20, 2012, submitted by the City Clerk.

Action: Ordinance No. 29056 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Ad Hoc Committee on Airport Competitiveness Report of February 23, 2012.**
(b) **Community and Economic Development Committee Report of March 26, 2012.**
(c) **Transportation and Environment Committee Report of April 2, 2012.**
(d) **Neighborhood Services and Education Committee Report of April 12, 2012.**

Documents Filed: (1) Ad Hoc Committee on Airport Competitiveness Report, dated February 23, 2012. (2) Community and Economic Development Committee Report, dated March 26, 2012. (3) Transportation and Environment Committee Report, dated April 2, 2012. (4) Neighborhood Services and Education Committee Report, dated April 12, 2012.

Public Comments: David Wall provided observations on Committees' activities.

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

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 (a) Accept the report on Request for Proposal for the purchase of a fully hosted Class Registration Electronic Commerce System;

(b) Adopt a resolution authorizing the City Manager to:

(1) Execute an agreement with The Active Network, Inc. (Burnaby, BC Canada) for a fully hosted Recreation Electronic Commerce System (RECS) to include all professional and technical support services, product upgrades, training and on-going product support, for an initial five-year term ending April 30, 2017.

(2) Execute five additional one-year options to renew the agreement subject to the annual appropriation of funds.

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

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated April 9, 2012, recommending adoption of a resolution.

Council Member Rocha pulled Item 2.7 to question why a local company was not chosen for the contract. Parks, Recreation and Neighborhood Services Division Manager Matt Cano explained the cost-effectiveness of the selection.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, the report was accepted, and Resolution No. 76207, entitled: "A Resolution of the Council of the City of San José, Authorizing the City Manager to Execute an Agreement with the Active Network, Inc., for a Fully Hosted Recreation Electronic Commerce System", was adopted. (11-0.)

2.8 Adopt a resolution authorizing the City Manager to:

(a) Execute the third amendment to the Airport Shuttle Bus Services Agreement with ShuttlePort California, LLC (Oak Brook, IL), to change the compensation structure from a cost per hour of operation to a hybrid model that includes a fixed monthly rate plus a cost per hour of operation, for the term March 1, 2012 through February 28, 2013; and adding one six month option to extend the Agreement to no later than August 27, 2013, if required, in the event that additional time is required to complete a Request for Proposal process to evaluate and select a shuttle bus operator after the current agreement terms out.

(b) Exercise the option and to add or reduce the amount of maximum compensation, as required, to reflect market conditions at the Airport, subject to the appropriation of funds.

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

2.8 (Cont'd.)

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated April 9, 2012, recommending adoption of a resolution.

Action: Resolution No. 76208, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Third Amendment to Agreement with Shuttleport California, LLC for Airport Shuttle Bus Services at Norman Y. Mineta San José International Airport", was adopted. (11-0.)

- 2.9 (a) Approve the Future Roots Festival held in Downtown San José, celebrating Asian Pacific American Month, as a City Council sponsored Special Event;**
(b) Approve expending funds and accepting donations from various individuals, businesses or community groups to support the event.
CEQA: Not a Project. (City Clerk)

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

Action: The Future Roots Festival 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.)

- 2.10 (a) Approve the District 2 Silver Creek Skate Night as a City Council sponsored Special Event; and**
(b) Approve expending funds and staff time to support and promote the event.
CEQA: Not a Project. (City Clerk)
(Rules Committee referral 4/25/12)

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated April 25, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 2 Silver Creek Skate Night 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.)

- 2.11 (a) Accept the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters regarding the Minimum Wage Initiative.**
(b) Refer to staff preparation of a report on the effects of the proposed ordinance consistent with California Elections Code Section 9212 to be presented to the Council no later than May 22, 2012.
(c) Agendize for the May 22, 2012 City Council meeting a discussion of the report prepared under Section 9212 and Council action on options consistent with San Jose City Charter, Article 16, Sections 1601 (b) and 1603 (a) (2) and California Elections Code Section 9215:

- 2.11 (c) (1) **Adopt the proposed ordinance as submitted no later than June 1, 2012;**
- (2) **Adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided; or**
- (3) **Adopt a resolution no later than August 10, 2012 calling an election to submit the initiative to the voters at the next General Election on Tuesday, November 6, 2012**

(City Clerk) (Rules Committee referral 4/25/12)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated April 30, 2012, recommending approval of staff's recommendations with modifications. (2) Memorandum from Council Member Rocha, dated April 30, 2012, with recommendations regarding the Minimum Wage Initiative. (3) "Citywide Minimum Wage Laws – an Economic Policy Brief", provided by Council Member Council Member Kalra. (4) Joint memorandum from City Attorney Richard Doyle and City Clerk Dennis Hawkins, dated April 27, 2012, regarding actions related to the Minimum Wage Initiative.

Public Comments: David Wall provided comments on Council Member Liccardo's memorandum of April 30, 2012. Expressing support for the proposed initiative were: Pastor Jethroe Moore II, Larry Yamasaki (SEIU 521), Father Bill Leininger, Elizabeth Guzman, Sergio Jimenez, Diane Fisher, Dr. Scott Myers-Lipton, Poncho Guerara, Michael Cervantes, Emilie Gatfield, John Freesemann (Holy Redeemer Lutheran Church), Matt Savage, Yolanda Cruz (AFSCME-MEF), Gracela Mann, Allison Lasser, Claudia Shope, Bill Guthrie, Carol Garvey, Diep Tang, Debbie Meza (Sacred Heart Community Center), Ben Field (South Bay Labor Council), Victoria Bourdon, Ally Bourdon, Elisa Koff-Ginsborg (Interfaith Council on Economics & Justice), and Diana Crumedy.

Motion: Council Member Liccardo moved approval of the Staff recommendations, with the inclusion of memoranda he cosigned with Council Member Rocha. Council Member Rocha seconded the motion.

Council Member Constant requested to amend the motion to include follow-up staff analysis on potential effects on nonprofits or internship opportunities for college students. The amendment was accepted by Council Members Liccardo and Rocha.

City Attorney Richard Doyle clarified certain charter requirements under the initiative.

Council Member Liccardo further amended the motion to exclude adoption of the ordinance on May 22, 2012, instead employing a more realistic expectation that Staff provide analysis of an alternative proposal to the Council by May 22, 2012. Council Member Rocha accepted the amendment.

2.11 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Staff's recommendations were approved, with the inclusion of recommendations as outlined in Council Member Liccardo and Council Member Rocha's memorandums dated April 30, 2012, excluding Item 2 from Council Member Liccardo's memorandum that the City Manager adopt the ordinance on May 22, 2012, instead employing a more realistic expectation the Staff provide analysis of an alternative proposal to the Council by May 22, 2012, that the Sunshine requirement be waived accordingly, and that Staff follow up with an analysis on potential effects on nonprofits or internship opportunities for college students. (10-0-1. Absent: Constant.)

- 2.12 (a) **Approve the District 8 Jewish American Heritage Month Reception and Senior Health Fair and Walk Events as a City Council sponsored Special Events; and**
(b) **Approve and accept donations from various individuals, businesses, or community groups to support the event.**

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 4/25/12 – Item G(2)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated April 19, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 8 Senior Health Fair and Walk 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.)

STRATEGIC SUPPORT SERVICES

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

The City Manager announced the submission of the City Manager's Proposed Operating Budget for 2012-2013, gave a brief overview and thanked the City's Staff for their dedication and hard work on this project.

Note: Items 3.3 through 3.12 were heard concurrently

- 3.3 **Adopt a resolution approving the terms of an agreement with, or approving the implementation of terms contained in the City's Last, Best and Final Offer to the Association of Building, Mechanical, and Electrical Inspectors (ABMEI). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

3.3 (Cont'd.)

Documents Filed: (1) Memorandum from City Manager Debra Figone, dated April 17, 2012, recommending adoption of a resolution. (2) Supplemental memorandum from City Manager Debra Figone, dated April 27, 2012 (for Items 3.3 – 3.12) providing additional information regarding estimated savings. (3) Statement and Declaration of Conflict of Interest Form from Council Member Constant (for Items 3.3 – 3.12), dated May 1, 2012. (4) Correspondence from Rachel J. Sater, Moscone Emblidge & Sater LLP, dated April 30, 2012, offering proposed resolutions on behalf of the Association of Retired San José Police Officers and Firefighters.

Council Member Constant abstained due to a conflict resulting from employee healthcare interests.

Director of Employee Relations Alex Gurza provided a presentation on the terms of the agreement and implementation of terms.

Public Comments: Speaking in opposition to the City's terms, asserting that the City is not providing documentation for its proposals or treating employees with respect, and asking that further evaluation be done, were: Bob Leininger (Federated Retired Employees Association), Susan Devencenzi, David Wall, Nancy Ostrowski (IFPTE Local 21), Brian Doyle and Vera Todorov (ALP), Jon Max Reger, Laverne Washington (AFSCME CEO), David Printy, Gay Gayle, John Wolfram, Ben Field (SBLC) and Richard McCoy. Speaking in support and encouraging recommendations as outlined, were Pat Sausedo (San José Silicon Valley Chamber of Commerce) and Martha O'Connell.

The Mayor gave an overview of "why we are here".

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

Director of Employee Relations Alex Gurza responded to questions and comments.

Substitute Motion: Council Member Rocha moved approval that action be deferred to June 12, 2012. Council Member Kalra seconded the motion.

Council Members Liccardo and Herrera expressed support for the original motion.

Director of Employee Relations Alex Gurza responded to further questions from Council, and discussion followed.

Council Members Pyle and Campos expressed support for the substitute motion, and Council Member Chu responded that employees should have further opportunities to voice their opinions and he would reluctantly support the substitute motion, but definitely not support the original motion.

3.3 (Cont'd.)

Mayor Reed said that he felt the Council should move today on this matter, therefore he could not support the substitute motion. Council Member Oliverio offered that any delay would not reflect the will of the voters when they voted in favor of Measure W.

Deputy Director Employee Relations Gina Donnelley responded to questions from Council, and City Attorney Richard Doyle and City Manager Debra Figone provided further clarification. Council discussion followed.

On a call for the question, the substitute motion failed. (5-5-0-1. Noes: Herrera, Liccardo, Nguyen, Oliverio; Reed. Abstain: Constant.)

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

3.4 Adopt a resolution:

(a) **To approve the terms of an agreement with, or approve the implementation of terms contained in the City's Last, Best and Final Offer to the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041 and 042.**

(b) **To approve the terms of an agreement with, or approve the implementation of terms contained in the City's Last, Best and Final Offer to the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043.**

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

3.5 Adopt a resolution approving the terms of an agreement with, or approving the implementation of terms contained in the City's Last, Best and Final Offer to the Association of Legal Professionals of San Jose (ALP). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

- 3.6 Adopt a resolution approving the terms of an agreement with, or approving the implementation of terms contained in the City's Last, Best and Final Offer to the Association of Maintenance Supervisory Personnel, International Federation of Professional and Technical Engineers, Local 21 (AMSP). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

- 3.7 Adopt a resolution approving the terms of an agreement with, or approving the implementation of terms contained in the City's Last, Best and Final Offer to the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21 (CAMP). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

- 3.8 Adopt a resolution approving the terms of an agreement with, or approving the implementation of terms contained in the City's Last, Best and Final Offer to the International Brotherhood of Electrical Workers, Local No. 332 (IBEW). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

- 3.9 Adopt a resolution approving the terms of an agreement with, or approving the implementation of terms contained in the City's Last, Best and Final Offer to the International Union of Operating Engineers, Local No. 3 (OE3). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

- 3.10 Adopt a resolution approving the terms of an agreement with, or approving the implementation of terms contained in the City's Last, Best and Final Offer to the Municipal Employees' Federation, AFSCME, Local No. 101 (MEF). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

- 3.11 Adopt a resolution approving the terms of an agreement with, or approving the implementation of terms contained in the City's Last, Best and Final Offer to the Confidential Employees' Organization, AFSCME, Local No. 101 (CEO). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

- 3.12 Adopt a resolution approving benefit changes for executive management and professional employees in Unit 99 and other unrepresented employees (Units 81/82). (City Manager's Office)**

Action: On a call for the question, the original motion failed. No action was taken, with this item to return to Rules and Open Government Committee after June 5, 2012. (5-5-0-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Abstain: Constant).

- 3.13 Accept staff report on Annual Summary of Upcoming Labor Negotiations. CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Debra Figone, dated April 17, 2012, recommending acceptance of the staff report.

Deputy Director Employee Relations Gina Donnelly provided a presentation.

Public Comments: Brian Doyle indicated discrepancies in the City Manager's memorandum regarding negotiations held with the Association of Legal Professional's (ALP) bargaining unit and the City's unwillingness to negotiate. Jon Max Reger spoke of a breakdown in communications. Vera Todorov advised that bargaining with no numbers is no bargaining at all, and voiced that no numbers have been received in spite of numerous requests. She also asked that all communications to the Council on labor related items be placed on OER's website consistent with Sunshine Reform

Deputy Director Employee Relations Gina Donnelly responded to Ms. Todorov's comments, saying that she was not aware of any outstanding requests for information.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Annual Summary of Upcoming Labor Negotiations report was approved. (11-0.)

- 3.14 Adopt a statement of Policy and City Council Questions related to the selection of a new City Librarian as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Action: Deferred to May 8, 2012 per Rules and Open Government Committee.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Hold a final public hearing regarding the approval of the City's 2012-2013 Consolidated Annual Action Plan (ConPlan) and take public comment.**
- (b) **Adopt the 2012-2013 Consolidated Annual Action Plan, including the FY 2012-2013 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program.**
- (c) **Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capital agreements and contracts not requiring CEQA/NEPA review and to negotiate all capital project agreements and contracts, including any amendments or modifications, for the expenditure of CDBG, ESG, HOME and HOPWA funds on behalf of the City, and after CEQA/NEPA review and City Council approval, to execute all documents.**
- (d) **Authorize the Housing Department to submit the 2012-2013 Consolidated Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD).**

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 April 9, 2012, recommending approval of the Consolidated Annual Action Plan. (2) Supplemental report from Director of Housing Leslye Corsiglia, dated April 26, 2012, providing public comments received to-date and proposed changes to the draft document. (3) Second supplemental report from Director of Housing Leslye Corsiglia, dated April 30, 2012, providing corrections to HOME budget entries. (4) Statement and Declaration of Conflict of Interest Form from Council Member Kalra, dated May 3, 2012. (5) Letter from Housing & Community Development Advisory Commission Chair, Brian Darrow, dated April 25, 2012, expressing the Commission's support. (6) Proof of Publication of Notice(s) of Public Hearing, executed on March 23, 2012, submitted by the City Clerk.

Council Members Kalra was recused from voting due to a conflict of interest since he serves on the Housing Trust Board of Directors.

Mayor Reed opened the public hearing.

Public Comment: Kevin Zwick, representing the Housing Trust offered strong support of the Consolidated Annual Action Plan and thanked the staff and the Council for all the public outreach that was generated.

Mayor Reed closed the public hearing.

4.1 (Cont'd.)

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle, and carried unanimously, the 2012-2013 Consolidated Annual Action Plan, including funding recommendations as outlined, was approved; Resolution No. 76209, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute all Non-Capital Agreements and Contracts not Requiring CEQA/NEPA Review and to Negotiate All Capital Agreements and Contracts, Including Any Amendments or Modifications, and After CEQA/NEPA Review and City Council Approval, to Execute All Documents”, was adopted; and authorization for the Housing Department to submit the 2012-2013 Consolidated Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD) was approved. (9-0-1-1. Absent: Constant. Abstain: Kalra.)

4.2 **Adopt a resolution approving the Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan (ConPlan) and authorizing the Director of Housing, on behalf of the City, to:**

- (a) Submit the Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD);**
- (b) Accept a second allotment of FY 2011-2012 federal Emergency Solutions Grant (ESG) funds in the amount of \$248,315;**
- (c) Negotiate and execute with HUD all agreements and documents for the expenditure of these funds;**
- (d) Utilize \$26,644 of unallocated funds from the City’s first allotment of FY 2011-2012 ESG Funds; and**
- (e) Negotiate and execute with subrecipient agencies all non-capital agreements and contracts not requiring CEQA/NEPA review.**

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 April 9, 2012, recommending adoption of a resolution. (2) Supplemental report from Director of Housing Leslye Corsiglia, dated April 27, 2012, providing public comments received to-date since the Substantial Amendment’s release in March.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle, and carried unanimously, Resolution No. 76210, entitled: “A Resolution of the Council of the City of San José Authorizing the Housing Department to Accept a Second Allotment of Federal Fiscal Year 2011-2012 Emergency Solutions Grant Funds and Related Actions”, was adopted. (10-0-1. Absent: Constant.)

4.3 Conduct a public hearing and adopt a resolution to vacate a portion of S. Monroe Street, 300 feet north of Tisch Way. CEQA: Mitigated Negative Declaration, File No. PDC10-018. Council District 6. (Public Works)

Motion: Council Member Oliverio moved deferral of this item due to the uncertainty of the easement. Council Member Liccardo seconded the motion.

Director of Public Works David Sykes responded to Council's questions.

Action: On a call for the question, the motion carried unanimously, and this item was deferred until staff can provide an update on the status of potential office space to be built on the property. (10-0-1. Absent: Constant.)

NEIGHBORHOOD SERVICES

5.1 Accept this Park Trust Fund annual report for fiscal year 2010-2011. CEQA: Not a Project, File No. PP10-069(a), Annual Reports and Assessments. (Parks, Recreation and Neighborhood Services)

Action: Deferred to May 8, 2012 per Rules and Open Government Committee.

**5.2 Accept this report regarding the on-going administration of graffiti eradication activities. CEQA: Not a Project, File No. PP10-069, Staff Report. (Parks, Recreation and Neighborhood Services)
(Deferred from 4/24/12 – Item 5.1)**

Documents Filed: (1) Joint memorandum from Council Members Campos, Chu and Kalra, dated May 1, 2012, recommending acceptance of Staff's report with modifications. (2) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 19, 2012, recommending acceptance of the report.

City Manager Debra Figone provided an introduction and dismissed what she deemed unfounded criticism made in a recent television expose. An overview of the City's graffiti abatement services was provided by Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and Parks, Recreation and Neighborhood Services Acting Assistant Director Angel Rios.

Motion: Council Member Campos moved approval of the Staff's recommendations with modifications as outlined in the memorandum he cosigned with Council Members Chu and Kalra. Council Member Pyle seconded the motion.

Mayor Reed indicated that there is no budget request at this time.

5.2 (Cont'd.)

Public Comments: Expressing support for the anti-graffiti program, acknowledging its effectiveness and overall satisfaction, were Tina Morrill, Eric Hon (GroundWerx), Darryl Ospring (Coyote Creek Neighborhood Association), Aurelia Sanchez, John Allen (College Park Neighborhood Association), and Ben Field (South Bay Labor Council).

Substitute Motion: Council Member Oliverio moved approval of the Staff report as it was written, with no further direction. Council Member Herrera seconded the motion.

Mayor Reed offered support for the substitute motion, saying we are getting better service at lower cost, so there's no need for us to limit the staffing to City employees.

On a call for the question, the substitute motion failed. (5-5-1. Noes: Campos, Chu, Kalra, Pyle, Rocha. Absent: Constant.)

Council discussion ensued.

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

Final Motion: Council Member Herrera moved approval of the report with direction to Staff as indicated below, in Action. Council Member Oliverio seconded the motion.

Action: On a call for the question, the final motion carried, and Staff's recommendation to accept the report regarding the on-going administration of graffiti eradication activities was approved, with Council to be kept informed of the program's performance through tracking by the Graffiti Services Review Committee in conjunction with the Parks and Recreations Committee and the Department of Parks, Recreation and Neighborhood Services. (8-2-1. Noes: Campos, Kalra. Absent: Constant.)

REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Adopt a resolution by the City Council, acting in its capacity as the Successor Agency of the Redevelopment Agency of the City of San Jose, approving a strategy and process for the disposition of real property assets of the Successor Agency and directing staff to present the Disposition Strategy to the Oversight Board for approval. (Rules Committee referral 4/18/12)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Rocha and Liccardo, dated April 27, 2012, recommending approval of the real estate asset disposition strategy with additional Statements of Council Intent. (2) Memorandum from Council Member Oliverio, dated April 26, 2012, regarding the Billy DeFrank building.

9.1 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Successor Agency Resolution No. 7006, 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 a Strategy and process for the Disposition of Real Property Assets of the Successor Agency and Directing Staff to Present the Disposition Strategy to the Oversight Board for Approval”, was adopted. (10-0-1. Absent: Constant.)

9.2 Adopt a resolution by the City Council, acting in its capacity as the Successor Agency of the Redevelopment Agency of the City of San Jose:

- (a) **Approving the amendment to the Purchase and Sale Agreement for 193 East Santa Clara Street with Brandenburg Properties, LLC and Green Valley Corporation, among other things, extending the close of escrow date to May 31, 2012; and directing staff to place the Successor Agency owned property located at 193 East Santa Clara Street for sale through a solicitation process if escrow is not closed with Brandenburg Properties, LLC and Green Valley Corporation by May 31, 2012.**
 - (b) **Directing staff to present the items to the Oversight Board for approval. (Rules Committee referral 4/18/12)**
- Successor Agency Resolution No. 7007 adopted.**

Documents Filed: Joint memorandum from Successor Agency Managing Director Richard Keit dated April 23, 2012 recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Successor Agency Resolution No. 7007, 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) Approving an Amendment to the Purchase and Sale Agreement for the Sale of Real Property Located at 193 East Santa Clara Street with Brandenburg Properties, LLC and Green Valley Corporation, to, Among Other Things, Extend the Close of Escrow Date to May 31, 2012; and Direct Staff to Place the Successor Agency Owned Property for Sale Through a Solicitation Process if Escrow is not Closed by Buyer by May 31, 2012; and (2) Directing Staff to Present the Items to the Oversight Board for Approval”, was adopted. (10-0-1. Absent: Constant.)

9.3 Adopt resolutions:

- (a) **By the City Council, acting in its capacity as the Successor Agency of the Redevelopment Agency of the City of San José, approving the Administrative Budget for July – December 2012 and directing staff to present the six-month Administrative Budget to the Oversight Board for adoption.**
- (b) **By the City Council approving the July – December 2012 Administrative Budget. (Rules Committee referral 4/18/12)**

9.3 (Cont'd.)

Documents Filed: Joint memorandum from Successor Agency Managing Director Richard Keit dated April 23, 2012 recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76214, entitled: “A Resolution of the Council of the City of San José Acting in its Capacity as the City Council for the City of San Jose, Approving the Administrative Budget of the Successor Agency for July – December 2012”, and Successor Agency Resolution No. 7008, 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 Administrative Budget of the Successor Agency for July – December 2012; and Directing Staff to Present it to the Oversight Board for Approval”, were approved. (10-0-1. Absent: Constant.)

9.4 Adopt a resolution by the City Council, as the code reviewing body pursuant to the California Political Reform Act, approving the Conflict of Interest Code for the Successor Agency to the Redevelopment Agency of the City of San José. (Rules Committee referral 4/18/12)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated April 18, 2012, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76215, entitled: “A Resolution of the Council of the City of San José, as the Code Reviewing Body Pursuant to the California Political Reform Act, Approving the Conflict of Interest Code for the Successor Agency to the Redevelopment Agency of the City of San José and the Oversight Board of the Successor Agency”, was adopted. (10-0-1. Absent: Constant.)

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>
10086	W Side of North 1 st Street approximately 450 feet south of Rios Robles	4	WTI, Inc.	3 Lots / 271 Units	MFA	Approve

OPEN FORUM

- (1) Darryl Ospring, representing the Coyote Creek Neighborhood Association and CCNA Pride Association expressed appreciation on behalf of residents of Coyote Creek for making San José one of the best large cities in our nation.
- (2) Matthew Knight recommended building factories alongside the area of railroad tracks between Monterey Highway and 7th Street to curb the blighted conditions and create jobs.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:51 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

rmk/5-1-12MIN