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## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 8, 2012

The Council of the City of San José convened in regular session at 9:35 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 9:40 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) In re: Reischl; Amount of Money or Other Relief Sought: Administrative Appeal; (B) to confer with Legal Counsel pursuant to Government Code subsection (b) of Section 54956.9 – Anticipated Litigation (Claim Filed); Claimant: In re: Claim of Truong; City Department: Police; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation: (1) In re Matter of SJPOA v. City of San José; 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; (2) Valdez, et al. v. City, et al.; Francisco Valdez, individually and on behalf of those persons similarly situated; Ricardo Vasquez, individually and on behalf of those persons similarly situated; Daniel

## CLOSED SESSION (Cont'd.)

Martinez, individually and on behalf of those persons similarly situated; Jamil Stubbs, individually and on behalf of those persons similarly situated; City of San José, as a municipal corporation; San José Police Chief Robert Davis, in his individual and official capacity; Officer R. Agaman (#4041) in his individual and official capacity; Officer Martin (#3894) in his individual and official capacity; Officer Rickert (#3734), in his individual and official capacity; Officer Wallace (#3922); in his individual and official capacity; Officer Orlando, in his individual and official capacity; and Does 1 through 2500, as entities of unknown form and unknown capacities; Court: United States District Court, Northern District of California, San José Facility; Case No.: C09-00176 CW; Amount of Money or Other Relief Sought: Damages according to proof; (3) Airport Parkway Two, LLC et al. v. City, et al.; Names of Parties Involved: Airport Parkway Two, LLC; Airport Opportunity Fund, LLC; Casino M8trix Inc.; Garden City, Inc.; Eric Swallow; Peter Lundardi III; Jeanie Lunardi; City of San José; San José Police Department Division of Gaming Control; Richard Teng; San José Police Chief Christopher M. 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; (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

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

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 11:48 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera (1:52 p.m.), Kalra, Liccardo, Oliverio (1:55 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - Nguyen (Excused).

## **INVOCATION**

St. John Vianney School Choir performed "A Tapestry of Justice" for the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Reed, accompanied by 2<sup>nd</sup> graders from Yavneh Day 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 Items 4.2 and 4.3 deferred to 5/15/12. (10-0-1. Absent: Nguyen.)

## **CLOSED SESSION REPORT**

The Closed Session was not completed during the morning session and reconvened following the afternoon Council session.

## **CEREMONIAL ITEMS**

**1.1 Presentation of a proclamation declaring May 5 – 13, 2012 as “National Travel and Tourism Week” in the City of San José. (Constant)**

Mayor Reed, Council Member Constant and Director of Aviation William F. Sherry recognized May 5 – 13, 2012 as “National Travel and Tourism Week” in the City of San José.

**1.2 Presentation of a proclamation declaring May 6 – 10, 2012 as “International Compost Awareness Week” in the City of San José. (Liccardo)**

Mayor Reed and Council Member Liccardo recognized May 6 – 10, 2012 as “International Compost Awareness Week” in the City of San José.

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

Mayor Reed presented the American Council of Engineering Companies Award for the Happy Hollow Park and Zoo Pedestrian Bridge Project to Director of Public Works David Sykes and Acting Director of Parks, Recreation and Neighborhood Services, Julie Edmonds-Mares and Staff.

**1.4 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)**

Mayor Reed and Council Members Chu and Kalra recognized the Month of May 2012 as “Asian Pacific American Heritage Month” in the City of San José.

**1.5 Presentation of a proclamation recognizing the Week of April 29 – May 5, 2012 as “Municipal Clerk’s Week” in the City of San José. (Mayor/City Clerk)**

Mayor Reed and City Clerk Dennis Hawkins, CMC, recognized the Week of April 29 – May 5, 2012 as “Municipal Clerk’s Week” 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. (10-0-1. Absent: Nguyen.)

- (a) **ORD. NO. 29059** – Amending Section 3.36.580 of Part 4 of Chapter 3.36 of Title 3 of the San José Municipal Code to continue suspension of the distribution of funds from the Police and Fire Department Retirement Plan Supplemental Retiree Benefit Reserve through Fiscal Year 2012-2013.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29059 executed on April 27, 2012, submitted by the City Clerk.

Action: Ordinance No. 29059 was adopted. (10-0-1. Absent: Nguyen.)

- (b) **ORD. NO. 29060** – Rezoning certain real property situated on the west side of Meridian Avenue on a 0.66 gross-acre site, approximately 200 feet northerly of W. San Carlos Street (265 Meridian Avenue) to the CP Commercial Pedestrian Zoning District. C12-004

Documents Filed: Proof of Publication of the Title of Ordinance No. 29060 executed on April 27, 2012, submitted by the City Clerk.

Action: Ordinance No. 29060 was adopted. (10-0-1. Absent: Nguyen.)

- (c) **ORD. NO. 29061** – Rezoning certain real property situated on the east side of Meridian Avenue on a 0.17 gross-acre site, approximately 170 feet southerly of Minnesota Avenue (1414 Meridian Avenue) to the CP Commercial Pedestrian Zoning District. C12-005

Documents Filed: Proof of Publication of the Title of Ordinance No. 29061 executed on April 27, 2012, submitted by the City Clerk.

Action: Ordinance No. 29061 was adopted. (10-0-1. Absent: Nguyen.)

- (d) **ORD. NO. 29062** – Rezoning certain real property situated on an approximately 0.72-acre site on the northeast corner of South Bascom Avenue and Fruitdale Avenue (898 South Bascom Avenue) to the CN Commercial Neighborhood Zoning District. C12-002

Documents Filed: Proof of Publication of the Title of Ordinance No. 29062 executed on April 27, 2012, submitted by the City Clerk.

Action: Ordinance No. 29062 was adopted. (10-0-1. Absent: Nguyen.)

### **2.3 Approval of Council Committee Reports.**

- (a) Public Safety, Finance and Strategic Support Committee Report of April 19, 2012. (Constant)**
- (b) Community and Economic Development Committee Report of April 23, 2012. (Herrera)**

Documents Filed: (1) Public Safety, Finance and Strategic Support Committee Report, dated April 19, 2012. (2) Community and Economic Development Committee Report, dated April 23, 2012.

Public Comments: (1) David Wall offered criticism of the South Bay Water Recycling program. (2) Diana Nguyen urged funding for bicycling routes and safety. (3) Sarah Ou expressed support for the Vietnamese Community Health Fair.

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

### **2.4 Mayor and Council Excused Absence Requests.**

None provided.

### **2.5 City Council Travel Reports.**

Council Member Campos reported on his participation in the League of California Cities as a Board Member of the Latino Caucus. Council Member Constant commented on his participation with the League of California Cities Public Safety Committee.

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

None provided.

### **2.7 Adopt a resolution:**

- (a) Declaring the .958 acre of City-owned property near Story Road and Roberts Avenue surplus to the needs of the City;**
- (b) Approving an agreement between the City and Loanie Lam and Lisa Lam, owners of the adjoining property, for the sale of the property in the amount of \$42,000;**
- (c) Approving the Grant of Easements to City for the maintenance and operation of monitoring wells and associated ingress and egress to the sale property; and**
- (d) Authorizing the City Manager to execute the sale agreement, and the deed, Grant of Easements, and all other documents necessary to complete the transaction.**

**CEQA: Exempt, File No. PP10-009. Council District 7. (Economic Development)  
(Deferred from 4/24/12 – Item 2.9)**

Action: Deferred to May 22, 2012 per Administration.

**2.8 Adopt a resolution:**

- (a) **Authorizing an alternative competitive process for the sale of the property at 510 Park Avenue (also known as 525 Lorraine Avenue), APN 259-47-081;**
- (b) **Approving an agreement between the City and D'Arpino Revocable Trust Dated August 23, 1988, for the sale of the property in the amount of \$425,000;**
- (c) **Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction, and ratifying any disclosures or certifications made by the City Manager or her designee regarding the property as required by law.**

**CEQA: Exempt, File No. PP10-044. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated April 16, 2012, recommending adoption of a resolution.

Action: Dropped per Administration.

**2.9 Adopt a resolution:**

- (a) **Declaring 4,313 square feet of vacated street on South Monroe, 300 feet north of Tisch Way surplus to the needs of the City;**
- (b) **Approving an agreement between the City and KB HOME South Bay, Inc., for sale of the property in the amount of \$300,000; and**
- (c) **Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.**

**CEQA: Exempt, File No. PDC10-018. (Economic Development)**

*Note: Renumbered to Item 4.3*

**2.10 Adopt a resolution to authorize the City Manager or her designee to execute a second amendment to the lease with the Huang Family Trust for the use of an additional 138 square feet of office space located at 1671 The Alameda in San José, at an additional rental rate over the initial five year lease term totaling \$10,602.83, and including the installation of additional tenant improvements at a cost to City not to exceed \$4,000. CEQA: Not a Project, File No. PP1-066(f), Lease of equipment or existing office space for the same use. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated April 16, 2012, recommending adoption of a resolution.

Action: Resolution No. 76216, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Second Amendment to the Five-Year Lease with the Huang Family Trust for the Lease of Real Property Located at 1671 the Alameda", was adopted. (10-0-1. Absent: Nguyen.)

- 2.11 Adopt a resolution setting a public hearing on Tuesday, June 12, 2012, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Exempt, File No. PP11-102. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated April 16, 2012, recommending adoption of a resolution.

Action: Resolution No. 76217, entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing for the Approval of a Report of the Director of Finance on the Cost of Unpaid Sidewalk Repairs for June 12, 2012”, was adopted. (10-0-1. Absent: Nguyen.)

- 2.12 (a) Accept invitation from Beijing Sport University to have a speaker at their annual conference held the week of May 10-15, 2012.**  
**(b) Approve travel to China for Suzanne Wolf, Acting Deputy Director of Parks, Recreation and Neighborhood Services (PRNS), as the City of San Jose’s official representative to the Beijing Sport University conference held in Beijing. Source of Funds: The Beijing Sport University will pay for travel and accommodation expenses related to the conference.**

**CEQA: Not a Project, File No. PP10-069(a), Staff reports. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 23, 2012, recommending approval of sponsored travel to China for Suzanne Wolf, Acting Deputy Director of PRNS.

Action: Acceptance of the invitation from Beijing Sport University to provide a speaker for their annual conference with associated travel to China for Suzanne Wolf, Acting Deputy Director of Parks, Recreation and Neighborhood Services (PRNS), as the City of San Jose’s official representative to the Beijing Sport University conference held in Beijing was approved. (10-0-1. Absent: Nguyen.)

- 2.13 Approve a master agreement with CDM Smith, Inc., for engineering consultant services for various sanitary and/or storm sewer projects from the date of execution to June 30, 2015, in an amount not to exceed \$500,000. CEQA: Not a Project, Exempt, File No. PP10-066(d), Consultant services that will have no effect on the environment. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated April 16, 2012, recommending approval of a master agreement.

Action: A master agreement with CDM Smith, Inc., for engineering consultant services for various sanitary and/or storm sewer projects from the date of execution to June 30, 2015, in an amount not to exceed \$500,000, was approved. (10-0-1. Absent: Nguyen.)



- 2.14 (a) **Approve the Contract Change Order No. 78 (CCO No. 78) with Gonsalves and Stronck Construction Company, Inc. for the Seven Trees Community Center and Branch Library, resolving all outstanding issues by making a final payment of additional compensation in the total amount of \$255,681 for a total contract amount of \$27,502,160.**
- (b) **Adopt the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund:**
- (1) **Increase the Seven Trees Community Center – Multi Service project by \$130,000.**
- (2) **Decrease the Ending Fund Balance by \$130,000.**
- (c) **Adopt the following Appropriation Ordinance amendments in the Branch Libraries Bond Fund:**
- (1) **Increase the Seven Trees Branch project by \$16,000.**
- (2) **Decrease the Ending Fund Balance by \$16,000.**

**CEQA: Mitigated Negative Declaration, Resolution No. 73983. Council District 7. (Public Works/City Manager’s Office)**

Documents Filed: Memorandum from Director of Public Works David Sykes and Budget Director Jennifer Maguire, dated April 16, 2012, recommending approval of a contract change order and adoption of appropriation ordinance amendments.

Action: Contract Change Order No. 78 with Gonsalves and Stronck Construction Company, Inc. for the Seven Trees Community Center and Branch Library with related contingencies was approved; Ordinance No. 29063, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Parks and Recreation Bond Projects Fund for the Seven Trees Community Center – Multi-Service Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Ordinance No. 29064, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Branch Libraries Bond Projects Fund for the Seven Trees Branch Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Nguyen.)

- 2.15 **Adopt a resolution supporting the receipt of grant funds for Citywide bicycle projects:**
- (a) **Authorizing the City Manager, or designee, to submit a request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2012-2013 Transportation Development Act, Article 3 (TDA3) State grant funding in the amount of \$640,126;**
- (b) **Making the required findings by MTC as explained in the memorandum to Council for the acceptance of TDA3 grant funding; and**
- (c) **Accepting any grant funding from MTC and authorizing the City Manager to negotiate and execute any grant documents to effectuate the grant.**

**CEQA: Exempt, File No. PP10-078. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated April 16, 2012, recommending adoption of a resolution.

**2.15 (Cont'd.)**

Action: Resolution No. 76218, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Submit an Application to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2012-2013 Transportation Development Act, Article 3 (TDA 3) Grant Funding in an Amount Not to Exceed \$640,126 and to Negotiate and Execute any Documents Necessary to Effectuate the Grant”, was adopted. (10-0-1. Absent: Nguyen.)

**2.16 Adopt a resolution in accordance with California Streets and Highway Code Section 32665 to suspend the Parking Authority of the City of San José. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans Larsen, dated May 8, 2012, recommending adoption of a resolution.

Action: Resolution No. 76219, entitled: “A Resolution of the Council of the City of San José Suspending the Parking Authority of the City of San José”, was adopted. (10-0-1. Absent: Nguyen.)

**2.17 Approve travel by Council Member Constant to Nashville, TN on July 19 – 21, 2012 to attend the Annual National League of Cities Public Safety and Crime Prevention Steering Committee meeting. Source of Funds: Mayor & Council Travel Fund. (Constant)**

Documents Filed: Memorandum from Council Member Constant, dated April 30, 2012, requesting authorization to travel.

Action: The travel request was approved. (10-0-1. Absent: Nguyen.)

**2.18 (a) Approve the Visit from the Mayor of Suwon City, Korea as a City Council sponsored Special Event; and  
(b) Approve and accept donations from various individuals, businesses or community groups to support the event.  
CEQA: Not a Project. (Constant)**

Documents Filed: Memorandum from Council Member Constant, dated April 26, 2012, recommending approval of a City-sponsored event.

Action: A Visit from the Mayor of Suwon City, Korea and approval and acceptance of donations from various individuals, businesses or community groups to support the event was approved. (10-0-1. Absent: Nguyen.)

- 2.19 (a) Approve the District 1 Korean Flag Raising Event as a City Council sponsored Special Event; and**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**  
**CEQA: Not a Project. (Constant)**

Documents Filed: Memorandum from Council Member Constant, dated April 26, 2012, recommending approval of a City-sponsored event.

Action: The District 1 Korean Flag Raising 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. (10-0-1. Absent: Nguyen.)

- 2.20 As recommended by the Rules and Open Government Committee on May 5, 2012, approve a support position for AB 2382 (Gordon) Department of Transportation: Innovation District Demonstration Project. (City Manager's Office)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated May 3, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: As recommended by the Rules and Open Government Committee on May 5, 2012, a support position for AB 2382 (Gordon) Department of Transportation: Innovation District Demonstration Project, was approved. (10-0-1. Absent: Nguyen.)

- 2.21 As recommended by the Rules and Open Government Committee on May 5, 2012, approve a support position for SB 568 (Lowenthal) Recycling: Polystyrene Food Containers. (City Manager's Office)**  
**[Rules Committee referral 5/2/12 – Item G(4)]**

Documents Filed: (1) Memorandum from City Clerk Dennis Hawkins, dated May 3, 2012, transmitting the recommendations of the Rules and Open Government Committee. (2) Supplemental memorandum from Environmental Services Department Director Kerrie Romanow dated May 4, 2012, providing additional information in response to questions raised at the May 2, 2012 Rules Committee meeting.

Council Member Constant pulled item 2.21 to advise that he would not be supporting SB 568.

Action: Upon motion by Council Member Pyle and seconded by Council Member Herrera and carried, a support position for SB 568 (Lowenthal) Recycling: Polystyrene Food Containers, was approved. (9-1-1. Noes: Constant. Absent: Nguyen.)

**2.22 As recommended by the Rules and Open Government Committee on May 5, 2012, re-affirm a position in opposition to AB 2231 (Fuentes) Sidewalks: Repairs. (City Manager's Office)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated May 3, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Constant and Council Member Campos pulled item 2.22 to advise that they would not be supporting AB 2231.

Action: Upon motion by Council Member Pyle and seconded by Council Member Herrera and carried, a support position for AB 2231 (Fuentes) Sidewalks: Repairs, was approved. (8-2-1. Noes: Campos, Constant. Absent: Nguyen.)

**2.23 As recommended by the Rules and Open Government Committee on May 5, 2012:**  
**(a) Approve the Vietnamese Community Health Resource Fair as a City-sponsored Special Event; and**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**  
**CEQA: Not a Project. (City Clerk)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated May 3, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Chu offered his appreciation to Don Cortese's office for their part in organizing the Vietnamese Community Health Resource Fair.

Action: The Vietnamese Community Health Resource Fair 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. (10-0-1. Absent: Nguyen.)

**END OF CONSENT CALENDAR**

**STRATEGIC SUPPORT SERVICES**

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

City Manager Debra Figone thanked Public Safety staff for its efforts during this weekend's Cinco de Mayo festivities and honored three employees garnering prestigious awards from the community: Leslye Corsiglia, Kim Walesh and Jennifer Maguire. City Manager Figone introduced Anne Cain, Acting Director of the Library.

- 3.3 (a) Consider an ordinance amending Title 3 of the San José Municipal Code to add new Chapter 3.54 and 3.56, and to amend Sections 3.36.575, 3.36.1925, 3.36.1930, 3.36.2030 and 3.36.2050 for the purposes of establishing a new trust pursuant to Section 115 of the Internal Revenue Code related to retiree health care benefit funding and payment of retiree health care benefits for the Police and Fire Retirement Plan.**
- (b) Consider an ordinance amending Section 3.52.100 of Chapter 3.52 of Title 3 of the San José Municipal Code to provide that, beginning June 24, 2012, employee contributions for retiree healthcare benefits will be deposited into the Federated City Employees Healthcare Trust, rather than the Federated City Employees Retirement System medical benefits account.**

**CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)**

Documents Filed: (1) Memoranda from City Attorney Richard Doyle dated April 26, 2012 and May 1, 2012, recommending ordinances be passed for publication. (2) Letter from Vera Todorov, President, Association of Legal Professionals, to Gina Donnelly, Office of Employee Relations, dated May 8, 2012, requesting the City meet and confer over the ordinance in question and requesting to negotiate the entire contract due to expire at the end of the fiscal year.

Public Comments: LaVerne Washington (AFSCME) argued that bargaining units were never consulted about setting up a Federated city employee's health care trust and that they deserve to weigh in on this decision through the meet-and-confer process.

Employee Relations Manager Gina Donnelly responded to questions from Council.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29065, entitled: "An Ordinance of the City of San José Amending Title 3 of the San José Municipal Code to Add New Chapters 3.54 and 3.56 and to Amend Sections 3.36.575, 3.36.1925, 3.36.1930, 3.36.1950, 3.36.2030 and 3.36.2050 of Chapter 3.36 of Title 3 for the Purpose of Establishing Two New Trusts Pursuant to Section 115 of the Internal Revenue Code Related to Retiree Healthcare Benefit Funding and Payment of Retiree Healthcare Benefits", and Ordinance No. 29066, entitled: "An Ordinance of the City of San José Amending Section 3.52.100 of Title 3 of the San José Municipal Code to Provide that, Beginning June 24, 2012, Employee Contributions for Retiree Healthcare Benefits Will Be Deposited Into the Federated City Employees Healthcare Trust, Rather Than the Federated City Employees Retirement System Medical Benefits Account", were passed for publication. (10-0-1. Absent: Nguyen.)

**3.4 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)  
(Deferred from 5/1/12 – Item 3.14)**

Documents Filed: Memorandum from City Manager Debra Figone, dated April 9, 2012, recommending adoption of a Statement of Policy and Questions related to the selection of a new City Librarian.

City Manager Debra Figone opened the floor for input from Council, providing direction on the selection process for the vacant City Librarian position and to comply with City Charter provisions. Council discussion followed.

Motion: Council Member Liccardo moved approval of the statement and questions with one inclusion as noted below in “Action”. The motion was seconded by Council Member Pyle.

Action: On a call for the question, the motion carried unanimously, 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 was adopted, with suggested change to include ‘experience in use of technology and ideas around innovative use of technology’. (10-0-1. Absent: Nguyen.)

**3.5 Approve support for SB 1220 – Housing Opportunity and Market Stabilization (HOMes) Trust Fund. (Housing)**

Documents Filed: (1) City Council Action Request approved by Director of Housing Leslye Corsiglia, dated May 8, 2012, recommending a position of support. (2) Supplemental memorandum from City Attorney Richard Doyle, dated March 8, 2012, confirming that the new fee is subject to Proposition 26 tax provisions.

Public Comments: David Wall expressed opposition, citing “... a fee of \$75 would be imposed on the recordation of all real estate documents...” and his opinion that it is a ‘horrible real estate tax’.

City Attorney Richard Doyle clarified aspects of the bill regarding fees imposed.

Council Member Constant expressed opposition to SB 1220, citing that these fees will escalate for the average citizen due to the fees for recording documents.

Director of Housing Leslye Corsiglia responded to additional comments and questions.

Action: Upon motion by Council Member Liccardo and seconded by Council Member Pyle and carried, a support position for SB 1220 – Housing Opportunity and Market Stabilization (HOMes) Trust Fund. was approved. (9-1-1. Noes: Constant. Absent: Nguyen.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with 1<sup>st</sup> ACT Silicon Valley to design and construct the expansion and renovation of Parque de los Pobladores with a City contribution of up to \$98,000; and**
- (b) **Adopt a resolution approving the closure of First Street between Williams Street and Reed Street in accordance with California Vehicle Code Section 21101(a)(1) on the ground that, that portion of First Street is no longer needed for vehicular traffic.**
- (c) **Adopt Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 3 (Fund 380):**
- (1) **Establish the Parque de los Pobladores Pavement-to-Plaza project to the Parks, Recreation and Neighborhood Services Department for \$78,000; and**
- (2) **Decrease the Ending Fund Balance by \$78,000**

**CEQA: Exempt, File No. PP12-037. (Economic Development/Public Works/Transportation/Parks, Recreation and Neighborhood Services/City Manager's Office)**

Action: Deferred to May 15, 2012 per Administration.

- 4.2 **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) (Deferred from 5/1/12 – Item 4.3)**

Documents Filed: Memorandum from Mayor Reed, dated May 7, 2012, recommending Items 4.2 and 4.3 be deferred to the May 15, 2012 Council Meeting rather than be dropped as originally recommended at the May 2, 2012 Rules and Open Government Committee Meeting.

Action: Deferred to May 15, 2012 per Orders of the Day.

**4.3 Adopt a resolution:**

- (a) Declaring 4,313 square feet of vacated street on South Monroe, 300 feet north of Tisch Way surplus to the needs of the City;**
- (b) Approving an agreement between the City and KB HOME South Bay, Inc., for sale of the property in the amount of \$300,000; and**
- (c) Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.**

**CEQA: Exempt, File No. PDC10-018. (Economic Development)**

*Renumbered from Item 2.9*

Documents Filed: Memorandum from Mayor Reed, dated May 7, 2012, recommending Items 4.2 and 4.3 be deferred to the May 15, 2012 Council Meeting rather than be dropped as originally recommended at the May 2, 2012 Rules and Open Government Committee Meeting.

Action: Deferred to May 15, 2012 per Orders of the Day.

## **NEIGHBORHOOD SERVICES**

**5.1 Conduct a public hearing and consider the adoption of a resolution to be effective on August 1, 2012 to:**

- (a) Set forth the new Schedule of Parkland Fees charged pursuant to the San José Municipal Code Chapters 14.25 (“Park Impact Ordinance”) and 19.38 (“Parkland Dedication Ordinance”) to reflect the 2011 Residential Land Value Study and the updated 2010 Census data;**
- (b) Amend Section 2.B of Resolution No. 73587, as amended, to set the parkland fees for Downtown High-Rise Units at fifty percent (50%) of the rate of the most current land values adopted by the City of San José for Multi-Family 5+ in the Downtown; and**
- (c) Authorize the City Manager to determine the applicable parkland fees for any residential units in the City of San José that are not included in the Schedule of Parkland Fees based on the nearest MLS zones.**

**CEQA: Not a Project, File No. PP10-067(a), Adjustments to fees, rates, and charges. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 16, 2012, recommending adoption of a resolution.

Parks, Recreation and Neighborhood Services Division Manager Matt Cano noted a correction to the memorandum dated April 16, 2012, rather than ‘fees have decreased in 12 of the 14 areas’, it should accurately read ‘four of the 14 areas’, but the rest of the memorandum is correct in its analysis.



**5.1 (Cont'd.)**

Mayor Reed opened the public hearing.

Public Comment: David Wall expressed opposition to giving developers of high density living places a reduction in park land fees, and that developers are paying less than their fair share.

Mayor Reed closed the public hearing.

Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares responded to questions from Council.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle, and carried unanimously, Resolution No. 76220, entitled: "A Resolution of the Council of the City of San José Setting Forth the Schedule of Parkland Fees Charged Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code to Reflect the 2011 Residential Land Value Study, Amend Section 2.B of Exhibit B of Resolution No. 73587, as Amended, and Setting the Parkland Fees Charged for High-rise Multi-Family Residential Projects of Twelve (12) Stories or More Located in the Downtown Core at Fifty Percent (50%) of the Applicable Parkland Fees for Multi-Family 5+ Units in the Downtown Area", was adopted. (10-0-1. Absent: Nguyen.)

**5.2 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) (Deferred from 5/1/12 – Item 5.1)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 17, 2012, recommending acceptance of the Park Trust Fund Annual Report.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the Park Trust Fund annual report for fiscal year 2010-2011 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>
10096	Southwest corner of N. Capitol Avenue & Baton Rouge Drive	4	Warmington Celadon Associates, LLC	7 Lots / 46 Units	Multi-Family Attached	Approve

## **OPEN FORUM**

David Wall suggested a review of death benefits allowed police officers' families and thanked the fire department for their heroism.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 2:55 p.m. in memory of Michael L. Hackworth, a Silicon Valley entrepreneur and philanthropist, who passed away on April 21, 2012 at the age of 71. (Constant)

## **RECESS/RECONVENE**

By unanimous consent, Council reconvened to the Closed Session at 3:15 p.m. in the Council Chambers.

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

Absent: Council Members - Nguyen (Excused)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC  
City Clerk

rmk/5-8-2012MIN