Council Agenda: 06/18/13 Item No: 2.1(a)



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 08, 2013

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, Kalra, Khamis, Nguyen,

Oliverio, Rocha; Reed.

Absent: Council Members - Herrera, Liccardo. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:32 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) Bernal, et al. v. City, et al. Names of Parties Involved: Mike C. Bernal, Susan R. Bernal, Naneta Bernal, Lilian Bernal Auvinen, Katherine Lira, Diana Bernal-Tuyor, Mike A. Bernal, Gary James Bernal, Domenico Loverde, Tomas J. Martinez, Authur Paul Lira, Jr., Jerimiah Lira, Sommer Kai Espinosa, City of San José and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-116141; Amount of Money or Other Relief Sought: Damages according to proof. (B) to confer to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of

CLOSED SESSION (Cont'd.)

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. Telephone for Employee Relations: 408-535-8150.

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

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

Absent: Council Members - All Present.

INVOCATION

Rev. Samer Youssef, Antiochian Orthodox Church of the Redeemer presented the Invocation. (District 10)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Ceremonial Item 1.3 heard first and Items 2.3(a) and (h) deferred to January 15, 2013. (10-0-1. Absent: Nguyen.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Meyerholz Elementary School for its outstanding achievement in being named a 2012 National Blue Ribbon School. (Constant)

Mayor Reed and Council Member Constant recognized and commended Meyerholz Elementary School.

1.2 Presentation of a commendation to All Nippon Airways (ANA) for its investment of service at Mineta San José International Airport and its commitment to provide 21st century air service to Silicon Valley business and leisure travelers. (Mayor)

Mayor Reed recognized and commended All Nippon Airways for its investment of service and commitment to provide 21st century air service.

1.3 Administer Oaths of Office for newly elected and reelected Council Members. (City Clerk)

Mayor Reed presented introductory remarks. Acting City Clerk Toni J. Taber administered the Oaths of Office to newly elected Council Member Khamis and reelected Council Members Chu, Herrera, Kalra and Oliverio.

1.4 Presentation of a proclamation recognizing the month of January 2013 as "National Mentoring Month" in the City of San José in honor of those who have given their time and effort to help mentor youth in need of guidance. (Campos) (Rules Committee referral 12/19/12)

Mayor Reed and Council Member Campos recognized the month of January 2013 as "National Mentoring Month" in San José.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

There were none.

2.2 Final Adoption of Ordinances:

(a) ORD. NO. 29195 – Amending Chapter 13.32 of Title 13 of the San José Municipal Code to amend Sections 13.32.020, 13.32.070, 13.32.090, 13.32.100, 13.32.110, and 13.32.120, and add Sections 13.32.041 and 13.32.095, and amending Sections 20.100.140, 20.100.220, and 20.100.300 of Chapter 20.100 of Title 20, all to modify the tree removal requirements for single-family residences to streamline the permitting process and to modify the permit recordation requirements for tree removal and certain other permits.

<u>Documents Filed</u>: Proof of Publication of the Title of Ordinance No. 29195 executed on December 21, 2012, submitted by the City Clerk.

Action: Ordinance No. 29195 was adopted. (10-0-1. Absent: Rocha.)

2.3 Approval of Council Committee Reports.

- (b) Rules and Open Government Committee Report of February 1, 2012.
- (c) Rules and Open Government Committee Report of February 15, 2012.
- (d) Rules and Open Government Committee Report of February 22, 2012.
- (e) Rules and Open Government Committee Report of February 29, 2012.
- (f) Rules and Open Government Committee Report of March 7, 2012.
- (g) Rules and Open Government Committee Report of March 14, 2012.
- (i) Rules and Open Government Committee Report of March 28, 2012. (Mayor)

<u>Documents Filed</u>: The Rules and Open Government Committee Reports dated February 1, 2012, February 12, 2012, February 22, 2012, February 29, 2012, March 7, 012, March 14, 2012 and March 28, 2012.

<u>Action</u>: The Rules and Open Government Committee Reports were approved. (10-0-1. Absent: Rocha.)

- (a) Rules and Open Government Committee Report of January 25, 2012.
- (h) Rules and Open Government Committee Report of March 21, 2012. (Mayor)

Action: Deferred to January 15, 2013 per Orders of the Day.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none

2.6 Report from the Council Liaison to the Retirement Boards.

Council Member Constant presented highlights of the Federated Retirement Board Meeting and the Police and Fire Retirement Board Meeting.

2.7 Authorize travel for City Manager Debra Figone to Las Vegas, Nevada, on January 24-26, 2013, to participate in the Large Cities Executive Forum. Source of Funds: City Manager's Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069, Administrative Activities. (City Manager's Office)

<u>Documents Filed</u>: Memorandum from City Manager Debra Figone, dated December 3, 2012, requesting approval of travel.

Action: The travel for City Manager Debra Figone was approved. (10-0-1. Absent: Rocha.)

2.8 Approve the consultant master agreements with A-N West, Inc. and MTH Engineers, a Joint Venture, and AECOM Technical Services, Inc., for consultant services, including engineering services for design of storm pump stations, from the date of execution through December 31, 2015, in a total amount not to exceed \$500,000 for each master agreement. CEQA: Not a Project, File No. PP10-066(d), Contracts for professional services. (Public Works)

<u>Documents Filed</u>: Memorandum from Director of Public Works David Sykes, dated December 10, 2012, recommending approval of the master agreements.

<u>Action</u>: The consultant master agreements with A-N West, Inc. and MTH Engineers, a Joint Venture, and AECOM Technical Services, Inc., for consultant services, including engineering services for design of storm pump stations, from the date of execution through December 31, 2015, in a total amount not to exceed \$500,000 for each master agreement, were approved. (10-0-1. Absent: Rocha.)

- 2.9 As recommended by the Rules and Open Government Committee on December 19, 2012:
 - (a) Approve the North San José Development Update and Noble Dog Park Community Meetings as City-sponsored Special Events.
 - (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (City Clerk)

2.9 (Cont'd.)

<u>Documents Filed</u>: Memorandum from Acting City Clerk Toni Taber, CMC, dated December 20, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The North San José Development Update and Noble Dog Park Community Meetings as City-sponsored Special Events was approved and acceptance of donations from various individuals, businesses, or community groups to support the event, was authorized. (10-0-1. Absent: Rocha.)

END OF CONSENT CALENDER

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that the start of the Fiscal Year 2013-2014 budget process has begun and that a memorandum was circulated to the Council providing direction on preparing budget proposals and other pertinent budget information.

3.3 As recommended by the Public Safety, Finance and Strategic Support Committee on November 15, 2012, accept the audit of staffing reductions. (City Auditor)

<u>Documents Filed</u>: (1) Memorandum from Council Member Rocha, dated January 7, 2013, recommending acceptance of the audit with additional actions. (2) Memorandum from Acting City Clerk Toni Taber, CMC, dated December 20, 2012, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon W. Erickson presented the Report on the Audit of Staffing Reductions.

City Manager Debra Figone pointed out that acceptance of the Audit today does not provide direction to Staff to meet and confer on any of the items in the Auditor's recommendations. City Manager Figone added that discussion with the City Council in Closed Session was critical to undertake at this time given the many issues to work through with the eleven bargaining units.

<u>Motion</u>: Council Member Rocha moved approval of his memorandum dated January 7, 2013, accepting the Audit of Staffing Reductions, including the additional actions as described in his memorandum. Council Member Campos seconded the motion.

City Auditor Sharon W. Erickson, City Manager Debra Figone and Deputy City Manager Alex Gurza responded to Council questions and concerns.

3.3 (Cont'd.)

<u>Substitute Motion</u>: Council Member Oliverio moved approval to accept the Audit of Staffing Reductions, with Staff to return to Council with the City Manager comments as stated previously. Council Member Herrera seconded the motion.

Council Member Kalra expressed opposition to the substitute motion and was in full support to the memorandum from Council Member Rocha.

<u>Action</u>: On a call for the question, the substitute motion carried, the Audit of Staffing Reductions was accepted, including City Manager's comments. (6-5. Noes: Campos, Chu, Kalra, Nguyen, Rocha.)

3.4 Accept the 2012 Service Efforts and Accomplishments Report. (City Auditor)

<u>Action</u>: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Item 3.4 was deferred to January 15, 2013. (11-0.)

3.6 Approve discontinuing the City's in-house service delivery model for Recycle Plus Billing and Customer Service; choose not to implement the Public Private Competition Policy; and continue to evaluate two alternative service delivery options with a final recommendation to be brought forward to Council in Spring 2013. CEQA: Not a Project, File No. PP10-069(a), City organizational and administrative activities. (Environmental Services/Finance)

<u>Action</u>: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Item 3.6 was deferred to January 15, 2013. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 (a) Adopt a resolution adopting the Mitigated Negative Declaration and the associated Mitigation Monitoring Plan and Report Program prepared for the Rocketship Tamien Public School #8 and Joint Use Area (File No. PP12-091) as having been completed in compliance with the California Environmental Quality Act reflecting the City's independent judgment and analysis.
 - (b) Adopt a resolution:
 - (1) Declaring 26,528 square feet of real property on Goodyear Street adjacent to Lick Avenue (near the Tamien Transit Station) surplus to the needs of the City of San José.
 - Approving a Purchase and Sale Agreement and Escrow Instruction between the City of San José and Launchpad Development Company for the sale of approximately 26,528 square feet of real property in the amount of \$848,896 to facilitate the construction of Rocketship Tamien Public School #8.

- 4.2 (b) (3) Authorizing the City Manager to negotiate and execute a Joint Use Agreement between the City of San José, Launchpad Development Nine, LLC, and Rocketship Education for the use of approximately 34,545 square feet of real property for the construction and joint use of recreational improvements and a parking lot associated with the development of Rocketship Tamien Public School #8 for a term of 33 years and in the amount of \$651,104.
 - (4) Authorizing the City Manager or her designee to execute the sale agreement, and to negotiate and execute the quitclaim deed and all other documents necessary to complete the various transactions with Launchpad Development Company, Launchpad Development Nine LLC, and Rocketship Education to facilitate development of the Rocketship Tamien Public School # 8.

CEQA: Mitigated Negative Declaration to be adopted, File No. PP12-091. Council District 3. (Parks, Recreation and Neighborhood Services/Planning, Building Code Enforcement/ Economic Development)

Documents Filed: (1) Memorandum from Mayor Reed and Vice Mayor Nguyen, dated January 4, 2013, recommending approval of the Staff recommendations with direction to the City Manager, as described in "Action". (2) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Economic Development/Chief Strategist Kim Walesh, dated December 10, 2012, recommending adoption of resolutions. (3) Supplemental memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated January 4, 2013, providing additional information of certain terms and conditions in the agreement. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated January 8, 2013, addressing comments received on the Mitigated Negative Declaration for Rocketship and the Joint Use Area. (5) Statement and Declaration of Conflict of Interest Form from Council Member Liccardo, dated August 28, 2013, indicating that he shares living expenses with an employee of the Rocketship Foundation. (6) Email from Frederick Ferrer, Chief Executive Officer, The Health Trust, dated January 7, 2013, expressing support to facilitate the development of a Rocketship School at the Tamien site.

Mayor Reed presented opening comments.

Council Member Liccardo abstained from participating in the discussion and voting due to a conflict of interest, and stated that he shares living expenses with an employee of the Rocketship Foundation.

Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares provided opening remarks. Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano presented the report. Director of Planning, Building and Code Enforcement Joseph Horwedel presented comments.

4.2 (Cont'd.)

Erik Schoenauer, representing Rocketship Foundation/Launchpad Development Company, spoke to the merits of the project. Jessica Garcia-Kohl, Director of Community Development, provided comments on the students and the application process for students to attend a Rocketship School.

<u>Public Comments</u>: Expressing support to the Staff recommendations and to facilitate the development of a Rocketship School at the Tamien site, expressing opposition, stating a need for a middle school, setting aside money for traffic concerns and urging the Council to listen to the neighborhood concerns were: Barbara Hansen, People Acting in Community Together (PACT); Mary Guzman, Dane Caldwell-Holden, San José Unified School District; Brett Bymaster, Angela Bymaster, Matt Hammer, Innovate Public Schools; Jesus Hernandez, Arcelia Ramirez, Myrna Martinez, Jose Tellez, Juan Torres, Yazmin Ballesteros, Beatrix Perez, Aurelia Sanchez, Marlen Monroy, Arielia Patron, Julian Lopez, Tony Traback, Graciek Leon, Maria Marcelo, Carmen, Michael Bueno, John Glover, Maria Serrano, Miguel Burciaga, Juan Carlos Martinez, Blanca Carbaja, Krystine Ngo, Natalie McGee, Joe Lucerro, Daniella Martinez, Sylvia Rios, Maria Coelho, Jose Telles, and Don Gagliardi, Soccer Silicon Valley.

Mayor Reed and Council Members Constant and Khamis provided meeting disclosures.

<u>Motion</u>: Vice Mayor Nguyen moved approval of the memorandum she cosigned with Mayor Reed, accepting the Staff recommendations with direction to the City Manager as described in "Action". Council Member Constant seconded the motion.

City Attorney Richard Doyle, Director of Planning, Building and Code Enforcement Joseph Horwedel, Assistant Director of Economic Development Nanci Klein, Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano and Assistant Director of Public Works Harry Freitas responded to Council questions and concerns.

Council Members Rocha and Campos expressed opposition to the motion on the floor.

Extensive Council discussion ensued.

Action: On a call for the question, the motion carried, the memorandum from Mayor Reed and Vice Mayor Nguyen, dated January 4, 2013, was approved, approving the Staff recommendations in Item 4.2, with the City Manager directed to: (1) Allocate the proceeds from the sale of the City property towards future development of Tamien Park in its entirety. (2) Complete the masterplan and estimated project cost schedule for Tamien Park and return to Council for approval of the conceptual design in Fall of 2013. Resolution No. 76529, entitled: "A Resolution of the Council of the City of San José Adopting the Rocketship Tamien (Rocketship #8) Mitigated Negative Declaration, For Which an Initial Study Was Prepared, All in Accordance With the California Environmental Quality Act, As Amended, and Adopting a Related Mitigation Monitoring and Reporting Program" and Resolution No. 76530, entitled: "A Resolution of the

4.2 (Action Cont'd.)

Council of the City of San José Declaring Certain City Owned Property Located on Goodyear Street Adjacent to Lick Avenue (Near Tamien Transit Station) as Surplus to the Needs of the City, Approving a Purchase and Sale Agreement for the Sale of Approximately 26,528 Square Feet of Real Property, Authorizing the City Manager To Negotiate and Execute a Joint Use Agreement for the Development and Joint Use of Recreational Improvements and a Parking Lot on Approximately 34,545 Square Feet of Real Property and Authorizing the City Manager to Execute the Purchase and Sale Agreement and Negotiate and Executer a Quitclaim Deed and All Other Documents Necessary to Complete the Various Transactions with Launchpad Development Company, Launchpad Development Nine LLC and Rocketship Education to Facilitate Development of the Rocketship Tamien Public School #8", were adopted. (6-4-0-1. Noes: Campos, Chu, Kalra, Rocha. Abstain: Liccardo.)

STRATEGIC SUPPORT SERVICES

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

<u>Documents Filed</u>: Memorandum from City Manager Debra Figone, dated December 21, 2012, recommending adoption of the Statement of Policy and City Council Questions.

<u>Motion</u>: Council Member Rocha moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

Mayor Reed and Council Members Liccardo and Campos requested to amend the motion to add four more questions, as described below in "Action". The amendments were accepted by Council Members Rocha and Herrera.

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 prospective Police Chief as described in the staff memorandum, in compliance with City Charter Section 411.1, was adopted, with the following additional questions added: (1) What has been your experience of using analytics to improve police effectiveness and what are your plans for the San José Police Department? (2) With routine shortfalls and funding, what are some of best ideas you are seeing in other Cities' departments to provide policing more efficiently and what kind of innovative solutions have you led in your own department? (3) How do you plan to promote diversity within the department? (9-0-2. Absent: Chu, Constant.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Approve an agreement with Whispers Inc, dba Whispers Café & Creperie for the lease of real property located at 150 S. 2nd Street for the purpose of operating a restaurant with the following annual rent: Year 1 - \$70,980; Year 2 - \$110,526; Year 3 - \$116,610; Year 4 - \$122,694; Year 5 - \$128,778; Year 6 -\$133,422; Year 7 - \$137,425; Year 8 - \$141,548; Year 9 - \$145,794; Year 10 - \$150,168 for a total compensation to the City of approximately \$1,257,944 during the initial 10-year term. CEQA: Exempt, File No. PP10-095. Council District 3. (Economic Development)

<u>Documents Filed</u>: Replacement memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated January 4, 2013, recommending approval of an agreement and transmitting the renegotiated changes on February 1, 2013.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, an agreement with Whispers Inc, dba Whispers Café & Creperie for the lease of real property located at 150 S. 2nd Street for the purpose of operating a restaurant with the following annual rent: Year 1 - \$70,980; Year 2 - \$110,526; Year 3 - \$116,610; Year 4 - \$122,694; Year 5 - \$128,778; Year 6 -\$133,422; Year 7 - \$137,425; Year 8 - \$141,548; Year 9 - \$145,794; Year 10 - \$150,168 for a total compensation to the City of approximately \$1,257,944 during the initial 10-year term, was approved. (9-0-2. Absent: Chu, Constant.)

- 4.3 Conduct a public hearing and adopt a resolution:
 - (a) Overruling any and all objections to the 2013-2014 Hazardous Vegetation Commencement Report.
 - (b) Directing the Santa Clara County Department of Agriculture and Resource Management to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, File No. PP08-245. (Planning, Building and Code Enforcement)

<u>Documents Filed</u>: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated December 17, 2012, recommending adoption of a resolution.

<u>Public Comments</u>: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

4.3 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, <u>Resolution No. 76531</u>, entitled: "A Resolution of the Council of the City of San José Overruling Objections to the 2013-2014 Hazardous Vegetation Commencement Report and Directing the Santa Clara County Department of Agriculture and Resource Management to Abate the Seasonal and/or Recurrent Public Nuisances on Those Properties Identified in the Report Pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and Weed Abatement Agreement Between the City of San José and the County of Santa Clara", was adopted. (9-0-2. Absent: Chu, Constant.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Approve the following actions to establish a San José Curb Café pilot program:
 - (a) Approve an ordinance amending various sections of Part 1 of Chapter 13.36 of Title 13 relating to encroachment permits upon public right of way and Part 12 of Chapter 20.100 of Title 20 of the San José Municipal Code relating to the permitting of sidewalk cafés.
 - (b) Adopt a resolution implementing guidelines for a pilot program to authorize up to five Curb Cafés within a one year period.

CEQA: Exempt 15304(b), File No. PP12-103. (Transportation/Public Works)

<u>Documents Filed</u>: (1) Memorandum from Council Member Liccardo, dated January 7, 2013, recommending approval of the Staff recommendations with direction to the City Manager as described in "Action". (2) Memorandum from Director of Transportation Hans F. Larsen and Director of Public Works David Sykes, dated December 10, 2012, recommending approval of an ordinance and a resolution.

<u>Motion</u>: Council Member Khamis moved approval of the Staff recommendations. Council Member Liccardo seconded the motion.

Council Member Liccardo requested to amend the motion to include his memorandum dated January 7, 2013, recommending approval of the Staff recommendations, including direction to the City Manager. Council Member Khamis accepted the amendment.

<u>Public Comments</u>: Jorge Sanchez, Chacho's, expressed support to establishing a San José Curb Café Pilot Program.

Director of Transportation Hans F. Larsen responded to Council questions and concerns.

6.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29196, entitled: "An Ordinance of the City of San José Amending Various Sections of Part 1 of Chapter 13.36 of Title 13 and Part 12 of Chapter 20.100 of Title 20 of the San José Municipal Code Relating to the Permitting of Curb Cafes", was passed for publication and Resolution No. 76532, entitled: "A Resolution of the Council of the City of San José Adopting Guidelines for the San José Curb Café Pilot Program", was adopted. The memorandum from Council Member Liccardo, dated January 7, 2013, was approved, approving the Staff recommendations with the following condition: The City Manager directed to create a single fee and approval process for "curb cafés", integrating -- by no later than through the June 2013 budget process in the annual Statement of Fees and Charges -- the Public Works-related construction fee with the Planning-related "outdoor dining" use fee. (11-0.)

REDEVELOPMENT SUCCESSOR AGENCY

- 9.1 Approve the Purchase and Sale Agreements for the following Successor Agency owned properties:
 - (a) 193 East Santa Clara Street to Symphony Development for a purchase price in the amount of \$4,250,000.
 - (b) 1171 Mesa Drive to Alok Damireddy for a purchase price in the amount of \$225,000.
 - (c) 5647 Gallup Dive to Alok Damireddy for a purchase price in the amount of \$228,000.
 - (d) 88 East San Fernando Street (Central Place Parking Garage) to Next Ventures, LLC for a purchase price in the amount of \$446,016.71.

(Successor Agency)

(Deferred from 12/18/12 – Item 9.2)

Action: Deferred to January 15, 2013 per Administration.

OPEN FORUM

Jose Medeiros expressed his concerns about being homeless, a victim of identity theft and home foreclosure fraud

ADJOURNMENT

The Council of the City of San José was adjourned at 6:57 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC Acting City Clerk

smd/12-18-12 MIN

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