

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 12, 2013

The Council of the City of San José convened in Regular Session at 9:33 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Constant. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Public Comments: Glenn Schwarzback and Vera Todorov, both representing Association of Legal Professionals (ALP) criticized the negotiating team for a lack of communication.

Action: No report was provided. No action was necessary.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:37 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (a) of Section 54956.9 with respect to existing litigation: (1) Chahal v. City of San José, Bach Thai Tran; Names of Partie(s) Involved: Lakhbir Singh Chahal; Baljit Chahal, City of San José, Bach Thai Tran; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-199202; (2) Bernal et al. v. City. et al.; Names of Partie(s) Involved: Mike C. Bernal; Susan R. Bernal; Nanetta Bernal; Lilian Bernal Auvinen; Katherine Lira; Diana Bernal-Tuyor; Mike A. Bernal; Gary James Bernal; Domenico Loverde; Thomas J. Martinez; Arthur Paul Lira, Jr.; Jeremiah Lira; Sommer Kai Espinosa; Lucia A. Bernal; Guillermo Espinosa; City of San José and Does 1 through 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; (3) Deisenroth v. City; Names of

CLOSED SESSION (Cont'd.)

Partie(s) Involved: Lorie Deisenroth, City of San José; Court: Santa Clara County Superior Court; Case No.: 1-12-CV-224197; Amount of Money or Other Relief Sought: (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors 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: City of San José – Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Benefit & Compensation Summary - City of San José and City Association of Management Personnel Agreement; (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.; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:23 a.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - Constant (Excused).

INVOCATION

Pastor Dana Bainbridge of First Christian Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing the Week of March 11-15, 2013 as "Science Fair Week" in the City of San José. (Mayor/Campos)

Mayor Reed and Council Member Campos recognized the Week of March 11-15, 2013 as "Science Fair Week" in the City of San José.

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that the San Jose Minimum Wage Ordinance took effect March 11, 2013, and announced that the Vietnam War Memorial dedication will be held on March 30, 2013. She also thanked those who successfully organized and participated in the memorial for the fallen Santa Cruz Police Officers.

CONSENT CALENDAR

Upon motion by Vice Mayor Nguyen, 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: Constant.)

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29212 – Amending Section 4.46.036 of Chapter 4.46 and Section 4.47.089 of Chapter 4.47 of Title 4 of the San José Municipal Code to expand the Suspension Program for the collection of a portion of construction taxes on Downtown High Rise Developments.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29212 executed on March 1, 2013, submitted by the City Clerk.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen, and carried, Ordinance No. 29212 was adopted. (9-1-1. Noes: Kalra. Absent: Constant.)

First Reading: (10-1. Noes: Kalra.)

- (b) **ORD. NO. 29214 – Rezoning certain real property situated at the southwest corner of William Street and South 8th Street from the CN Commercial Neighborhood and R-M Multiple Residence Zoning Districts to the A(PD) Planned Development Zoning District. PDC09-019**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29214 executed on March 1, 2013, submitted by the City Clerk.

Action: Ordinance No. 29214 was adopted. (10-0-1. Absent: Constant.)

- (c) **ORD. NO. 29215 – Rezoning certain real property situated at the northwest corner of Margaret Street and South 13th Street (681 South 13th Street, APN 472-22-087) to the R-1-8(PD) Planned Development Zoning District. PDC13-002**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29215 executed on March 1, 2013, submitted by the City Clerk.

Action: Ordinance No. 29215 was adopted. (10-0-1. Absent: Constant.)

2.2 (Cont'd.)

- (d) **ORD. NO. 29216 – Rezoning certain real property situated on the east side of San Felipe Road and west side of Livery Lane, approximately 650 feet southerly of Running Springs Road, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC11-021**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29216 executed on March 1, 2013, submitted by the City Clerk.

Action: Ordinance No. 29216 was adopted. (10-0-1. Absent: Constant.)

2.3 **Approval of Council Committee Reports.**

- (a) **Rules and Open Government Committee Report of January 16, 2013. (Mayor)**
- (b) **Rules and Open Government Committee Report of February 6, 2013. (Mayor)**
- (c) **Rules and Open Government Committee Report of February 13, 2013. (Mayor)**
- (e) **Public Safety, Finance and Strategic Support Committee Report of February 21, 2013. (Constant)**
- (f) **Community and Economic Development Committee Report of February 25, 2013. (Herrera)**
- (g) **Rules and Open Government Committee Report of February 27, 2013. (Mayor)**
- (h) **Rules and Open Government Committee Report of January 9, 2013. (Mayor)**

Documents Filed: (1) Rules and Open Government Committee Reports dated January 9, 16, February 6, 13 and 27, 2013. (2) Community and Economic Development Committee Report dated February 25, 2013. (3) Public Safety, Finance and Strategic Support Committee Report dated February 21, 2013.

Action: The Council Committee Reports were approved. (10-0-1. Absent: Constant.)

- (d) **Rules and Open Government Committee Report of February 20, 2013. (Mayor)**

Item 2.3(d) was pulled by Council Member Chu.

Motion: Council Member Chu moved approval of the Rules and Open Government Committee Report of February 20, 2013, with the recommendation that Item G3, adopting a resolution to support the Food and Drug Administration's regulation of menthol and flavored tobacco products, be agendized for action by the City Council at the next Council meeting. The motion was seconded by Council Member Kalra.

2.3 (d) (Cont'd.)

Mayor Reed suggested that agendization of this item be postponed until the drafting process is complete. Director, Intergovernmental Relations Betsy Shotwell recommended that the item be given more than a one-week turnaround in order to thoroughly vet the issue.

Public Comments: Speaking in support of adopting a resolution to support the Food and Drug Administration's regulation of menthol and flavored tobacco products, were: Dennis Acha (Breathe California), Patsy Ann Cortez, (Menthol Flavored Tobacco Prevention Project), Jason Wilson and Pastor Jeff Moore (NAACP).

Council discussion followed, and April 9, 2013 was discussed as a realistic timeframe to return to Council with this item.

Action: On a call for the question, the motion carried, and the Rules and Open Government Committee Report of February 20, 2013, was approved, with Item G3, recommending a resolution be adopted supporting the Food and Drug Administration's regulation of menthol and flavored tobacco products, to be agendized for action by the City Council on April 9, 2013. (8-2-1. Noes: Khamis, Oliverio. Absent: Constant.)

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.

There were none.

2.7 Adopt a resolution authorizing the City Manager to Submit a Foreign Trade Zone Alternative Site Framework Application to the Foreign Trade Zones Board of the U.S. Department of Commerce to expand the City of San José service area. CEQA: Not a Project, File No.PP10-067(a), Non-Project Specific Funding Mechanism. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated February 19, 2013, recommending adoption of a resolution.

Council Member Herrera pulled Item 2.7 to note the importance of its role in the creation of providing jobs in the City of San José.

2.7 (Cont'd.)

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76570, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Foreign Trade Zone Alternative Site Framework Application to the Foreign Trade Zones Board of the U.S. Department of Commerce to Expand the City Service Area”, was adopted. (10-0-1. Absent: Constant.)

2.8 Approve a First Amendment to the agreement between the City of San José and 1stACT Silicon Valley to reimburse 1stACT Silicon Valley in the amount of \$17,916 for electroliers installed as part of the construction of recreational improvements to Parque de los Pobladores and South First Street between Williams Street and Reed Street. CEQA: Exempt, File No. PP12-037. Council District 3. (Economic Development/Parks, Recreation and Neighborhood Services)

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated February 21, 2013, recommending approval of a first amendment to an agreement.

Action: A First Amendment to the agreement between the City of San José and 1stACT Silicon Valley to reimburse 1stACT Silicon Valley in the amount of \$17,916 for electroliers installed as part of the construction of recreational improvements to Parque de los Pobladores and South First Street between Williams Street and Reed Street, was approved. (10-0-1. Absent: Constant.)

2.9 Adopt a resolution authorizing a reimbursement in the amount of \$38,995.14 to the Vineyard Park Owners Association for water service payments erroneously made for Vineyard Lake from August 1, 2008 to August 10, 2012. CEQA: Not a Project, File No. PP10-066. Council District: 8. (Transportation)

Documents Filed: City Council Action Request submitted by Director of Transportation Hans Larsen, dated March 12, 2013, recommending adoption of a resolution.

Action: Resolution No. 76571, entitled: “A Resolution of the Council of the City of San José Authorizing Reimbursement in the Amount of \$38,995.14 to the Vineyard Park Owners Association for Water Service Payments Erroneously Made for Vineyard Lake from August 1, 2008 to August 10, 2012”, was adopted. (10-0-1. Absent: Constant.)

- 2.10 (a) Approve a funding agreement to receive a fair-share contribution from the City of Santa Clara in the amount of \$427,875 for the widening and improvement of Montague Expressway between Orchard Drive and River Oaks Parkway and for intersection improvements at North First Street and Montague Expressway.**
- (b) Adopt the following Appropriation Ordinance Amendments in the Construction Excise Tax Fund:**
- (1) Increase the Earned Revenue estimate in the amount of \$427,875; and**
 - (2) Increase the Ending Fund Balance in the amount of \$427,875.**
- CEQA: Negative Declaration, Resolution No. 75696. Council District 4. (Transportation/City Manager's Office)**

Documents Filed: Joint memorandum from Director of Transportation Hans Larsen and Budget Director Jennifer Maguire, dated February 19, 2013, recommending approval of a funding agreement and adoption of an appropriation ordinance.

Action: A funding agreement to receive a fair-share contribution from the City of Santa Clara in the amount of \$427,875 for the widening and improvement of Montague Expressway between Orchard Drive and River Oaks Parkway and for intersection improvements at North First Street and Montague Expressway, was approved, and Ordinance No. 29222, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction and Excise Tax Fund Increasing the Earned Revenue Estimate; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0-1. Absent: Constant.)

- 2.11 Approve travel by Council Member Campos to Los Angeles, CA on March 21 – 22, 2013 to attend the Water Education for Latino Leaders (WELLS) Conference. Source of Funds: Water Education for Latino Leader/District 5 Council Fund. (Campos)**

Documents Filed: Memorandum from Council Member Campos, dated February 27, 2013, requesting approval to travel on City related business.

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

- 2.12 As recommended by the Rules and Open Government Committee on March 6, 2013, approve the following appointments to the Deferred Compensation Advisory Committee for four year terms ending March 1, 2017:**
- (a) Appoint Darren Wallace as the representative nominated by the San José Firefighters, Local 230 (IAFF);**
 - (b) David Woolsey as the representative nominated by the San José Police Officers Association (SJPOA); and**

- 2.12 (c) Pascal Roubineau as the representative nominated by the “trades organizations” consisting of Association of Building, Mechanical & Electrical Inspectors (ABMEI), International Union of Operating Engineers, Local 3 (OE#3), and International Brotherhood of Electrical Workers (IBEW) to the Deferred Compensation Advisory Committee for four year terms ending March 1, 2017.
(City Manager’s Office)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 7, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Appointments of Darren Wallace, David Woolsey and Pascal Roubineau to the Deferred Compensation Advisory Committee for four year terms ending March 1, 2017, were approved. (10-0-1. Absent: Constant.)

- 2.13 As recommended by the Rules and Open Government Committee on March 6, 2013, approve the appointments of Jeff Burrill, President and CEO of Pangenera, LLC, dba Panera Bread, and George Massoud, CEO and Founder of IntraServe Systes, to serve as private sector representatives on the work2future Board of Directors.
(Mayor)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 7, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Appointments of Jeff Burrill, President and CEO of Pangenera, LLC, dba Panera Bread, and George Massoud, CEO and Founder of IntraServe Systes, to serve as private sector representatives on the work2future Board of Directors, were approved. (10-0-1. Absent: Constant.)

- 2.14 As recommended by the Rules and Open Government Committee on March 6, 2013:**

- (a) Approve the District 10 Great American Litter Pick-Up Event as a City Council-Sponsored Special Event; and**
 - (b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.**
- CEQA: Not a Project. (Khamis)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 7, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Great American Litter Pick-Up Event 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: Constant.)

- 2.15 As recommended by the Rules and Open Government Committee on March 6, 2013, accept the Santa Clara Valley Water District's (SCVWD) FY 2014 – Joint Advocacy Federal Projects in the City of San José's jurisdiction and approve the City's mutual request for funds through the funding process. (City Manager's Office/ Environmental Services)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 7, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Santa Clara Valley Water District's (SCVWD) FY 2014 – Joint Advocacy Federal Projects in the City of San José's jurisdiction and approve the City's mutual request for funds through the funding process, was approved. (10-0-1. Absent: Constant.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 Adopt a statement of Policy and City Council Questions related to the selection of a prospective Director of Human Resources 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)**

Documents Filed: Memorandum from City Manager Debra Figone, dated February 27, 2013, recommending adoption of a statement of Policy.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, a statement of Policy and City Council Questions related to the selection of a prospective Director of Human Resources as described in the staff memorandum, in compliance with City Charter Section 411.1, was adopted. (10-0-1. Absent: Constant.)

- 3.4 Conduct a Public Hearing on the FY 2013-2014 Mayor's March Budget Message. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated March 8, 2013, providing the Budget Message for Fiscal Year 2013-2014.

Mayor Reed outlined the process regarding the proposed budget and gave an overview of past actions taken and perceived budget priorities, and he expressed hopeful optimism for continued improvement in the City's fiscal condition.

3.4 (Cont'd.)

Mayor Reed opened the public hearing.

Public Comment: (1) Aurelia Sanchez expressed concerns about the enforcement of the marijuana sales tax and cultivation in residential areas. (2) Maria Fernandez, Community Budget Working Group, expressed an urgency to restore services. (3) David Wall provided suggestions in dealing with homeless encampments.

Mayor Reed closed the public hearing, concluding that Council will take action on March 26, 2013.

Action: No action required.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution authoring the City Manager to execute the following agreements:**
- (a) An Incentive Agreement between the City of San José and Samsung Semiconductor, Inc. outlining the City and State incentives to be provided to Samsung in coordination with the development of the proposed Research and Development (R&D) Center in North San José;**
 - (b) A Capital Equipment and Assistance Agreement with Samsung Semiconductor, Inc., in which the City will provide an amount not to exceed \$500,000 for the acquisition of production and assembly equipment to be installed at Samsung Semiconductor's new R&D facility in San José; and**
 - (c) Utility Users Tax Reimbursement Agreement with Samsung Semiconductor, Inc., that will provide funding in an amount equal to 50% of the City's 5% of net new utility user taxes received from Samsung Semiconductor for 10 consecutive years in an amount not to exceed \$500,000.**

CEQA: Statutorily Exempt, File No. PP10-066(a), Equipment Acquisition. Council District 4. (Economic Development)

Action: Deferred to March 19, 2013 per Rules and Open Government Committee

- 4.2 Accept report and provide direction on responses to questions posed at the November 13, 2012 study session on housing needs and strategies. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (Housing)**

Documents Filed: (1) Joint memorandum from Mayor Reed, Vice Mayor Nguyen, Council Members Rocha and Liccardo, dated March 8, 2013, expressing support to the staff report with additional recommendations regarding development of a work plan. (2) Memorandum from Council Member Chu, dated March 7, 2013, expressing support to the staff report with additional recommendations. (3) Memorandum from Director of Housing Leslye Corsiglia, dated February 28, 2013, providing a report on a housing needs and strategies study session. (4) Letter from Linda Mandolini, President, Eden Housing, dated

4.2 (Cont'd.)

March 11, 2013, expressing the importance of providing affordable housing and consideration of the Nexus Study. (5) Letter from Leah Toeniskoetter, Director, SPUR, dated March 12, 2013, supporting continued creation of affordable housing. (6) Email correspondence dated March 11, 2013, from Herv and Karla Hodgson, offering support to the proposal from Mayor Reed, Vice Mayor Nguyen, and Council Members Rocha and Liccardo; and (7) Email correspondence dated March 11, 2013, from Crisand Giles, Executive Director, South Bay BIA, voicing opposition to using impact fees to fund affordable housing programs.

Director of Housing Leslye Corsiglia, Policy Development Officer Wayne Chen and Assistant Director of Housing Jacky Morales-Ferrand offered a staff presentation on Housing Needs & Strategies.

Public Comments: Expressing a need for community collaboration, for developing new strategies, offering comments on authorizing a Nexus study, and offering personal accounts, members of the public included: Jennifer Loving (Destination Home), Evette Lara, Michelle Flores, Israel Lara and Monica Garza (Star of David Ministry); Jenny Niklaus (EHC Life Builders), Louis Chicoine (Abode Services), Sparky Harlan (Bill Wilson Center), Katy Espinoza-Howard (Housing Authority SCC), Brian Greenborg (Inn Vision); Julia Burkhead (Community Technology Alliance), Dana Bainbridge (First Christian Church), Evelyn Stivers (Non-Profit Housing Association), Keri Lung (Mid Pen Housing Corp.), Shannon Brown and Eileen Richardson (Downtown Streets Team); Rich Kizzo, Tina Marsalis, Tony Valladao, Jolene Jones, Poncho Guerrada and Lydia Guel (Sacred Heart); Kevin Zwick (Housing Trust of Santa Clara County), Brian Darrow, Christi Wong and Sandy Perry (CHAM Affordable Housing), Joshua Howard (California Apartment Association), Ross Signorino and Gail Osmer (Colonial Manor). John Davis suggested consequences and a “Bill of Rights” for the homeless, and David Wall spoke on the burden to the taxpayers of San José.

Extensive Council discussion followed.

Motion: Council Member Liccardo moved approval of the memorandum he coauthored with Mayor Reed, Vice Mayor Nguyen and Council Member Rocha. Vice Mayor Nguyen seconded the motion.

Council Member Rocha requested to amend the motion to request the Department of Finance create some continuing source to bond off of, such as bonding against potential development fees. Council Member Liccardo and Vice Mayor Nguyen accepted the amendment.

Director of Planning, Building and Code Enforcement Joseph Horwedel and Director, Intergovernmental Relations Betsy Shotwell responded to questions.

Requests by Council Member Campos and Council Member Khamis to bifurcate the memorandum were declined by the maker of the motion.

4.2 (Cont'd.)

Council Member Chu requested to amend the motion to request that staff return during the budget process with an analysis of how to prioritize special needs' groups, such as those that are displaced by domestic violence and military veterans. Council Member Liccardo and Vice Mayor Nguyen accepted the amendment.

Council Member Oliverio requested to amend the motion, requesting that an analysis be made regarding funding for relocation for individuals if needed. Council Member Liccardo and Vice Mayor Nguyen accepted the amendment.

Motion: On a call for the question and carried unanimously, the report was accepted regarding Council questions posed at the November 13, 2012 study session on housing needs and strategies, with further direction to Staff to (1) Explore a possible bond issue with Finance regarding creating some continuing source to bond off of, such as bonding against potential development fees; (2) Return during the budget process with an analysis of how to prioritize special needs' groups, such as those that are displaced by domestic violence and military veterans; (3) Provide an analysis of allowing an option of funding for relocation, if that best serves an individuals' needs. (10-0-1. Absent: Constant.)

4.3 Consideration of an ordinance amending Title 23 of the San José Municipal Code (The Sign Code) as follows:

- (a) Amend Chapter 23.02, Part 1, Definitions, to revise Section 23.02.480 Safety or Directional Sign;
- (b) Amend various Sections of Chapter 23.02, Part 2, General Provisions, including to revise Section 23.02.110, Signage At Service Stations, to allow signs required by The Business & Professions Code Section 13531 to be Programmable Electronic Signs;
- (c) Amend various Sections of Chapter 23.02, Part 4, Permits and Procedures, including to amend Section 23.02.1310, Exemption From Permit, to allow only Non-Programmable Electronic Signs to be Exempt From A Permit;
- (d) Amend various Sections of Chapter 23.04 Part 1, CO, CP, CN, CG, IP, LI, And HI Commercial And Industrial Zoning Districts And Neighborhood Business Districts, including to amend Section 23.04.020, Attached Signs, to add Safety Or Directional Sign For Public Parking Garages as Programmable Electronic Signs; and amend Section 23.04.030, Free Standing Signs, to add Safety Or Directional Sign for Public Parking Garages as Programmable Electronic Signs;
- (e) Amend various Sections Of Chapter 23.04 Part 2, Downtown Sign Zone, including to amend Types Of Signs Section 23.04.120 to allow Flat-Mounted Signs to be placed no higher than sixty (60) feet above grade on wholly nonresidential buildings at least one hundred forty (140) feet in height above grade; and add Safety Or Directional Sign for Public Parking Garages as Programmable Electronic Signs;

4.3 (Cont'd.)

- (f) **Amend various Sections of Chapter 23.04 Part 2.5, Urban Mixed Use Development Sign Zone, including to amend Section 23.04.156, Types Of Signs, to Add Safety or Directional Sign for Public Parking Garages as Programmable Electronic Signs;**
- (g) **Make other non-substantive, ministerial, technical, or typographical changes to various sections of said Chapters 23.02 and 23.04 of Title 23 of The San Jose Municipal Code.**

CEQA: Negative Declaration, File No. PP10-111, and Addendum thereto, File No. PP13-015. (Planning, Building and Code Enforcement)

Documents Filed: (1) Joint memorandum from Vice Mayor Nguyen and Council Member Constant, dated March 8, 2013, recommending actions related to amending the Sign Code. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated February 21, 2013, recommending consideration of an ordinance.

Director of Planning, Building and Code Enforcement Joseph Horwedel, provided an overview of actions recommended related to amending Title 23, the Sign Code.

Public Comments: (1) Bob Kieve offered support to the recommendations provided in the March 8, 2013 memorandum of Vice Mayor Nguyen and Council Member Constant. (2) David Wall spoke about electronic billboards.

Motion: Vice Mayor Nguyen moved approval of the memorandum she co-signed with Council Member Constant. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29223, entitled: "An Ordinance of the City of San José Amending Several Sections of Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code to Amend the Definition of a Safety or Directional Sign, to Provide for Signage at Service Stations Pursuant to California Business and Professions Code Section 13531 and to Allow Such Signs to be Programmable Electronic Signs, to Clarify that only Signs that are not Programmable Electronic Signs may be Exempt from the Permit Requirements Set Forth in Section 23.02.1310, to Provide for Safety or Directional Signs for Public Parking Garages and Allow Such Signs to Be Programmable Electronic Signs, to Allow Flat-Mounted Signs to be Placed No Higher Than 60 Feet Above Grade on Buildings Over 140 Feet in Height in the Downtown Sign Zone that Contain Wholly Nonresidential Uses, and to Make Other Clarifying, Ministerial, Technical, Typographical or Other Nonsubstantive Changes to Said Chapters of Title 23", was passed for publication, with direction as provided in the memorandum cosigned by Vice Mayor Nguyen and Council Member Constant dated March 8, 2013, to add a zoning amendment that includes minimum requirements for brightness and size for permanent storefront signage within the Downtown and other commercial sign zones of the City, for any new or expanding business, and direct Staff to return to the Rules and Open Government Committee after 30 days with a progress report. (10-0-1. Absent: Constant.)

PUBLIC SAFETY SERVICES

8.1 Emergency Correction to the Federal Asset Forfeiture Fund.

- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.**
- (b) Adopt the following Appropriation Ordinance amendments in the General Fund effective retroactively to March 8, 2013:**
 - (1) Decrease the Police Department’s Personal Services Appropriation by \$66,238.**
- (c) Adopt the following Appropriation Ordinance amendments in the State Asset Forfeiture Fund effective retroactively to March 8, 2013:**
 - (1) Increase the Transfer to the Federal Drug Forfeiture Fund by \$12,529, and**
 - (2) Decrease the Unrestricted Ending Fund Balance by \$12,529.**
- (d) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Federal Asset Forfeiture Fund effective retroactively to March 8, 2013:**
 - (1) Increase the Unrestricted Ending Fund Balance by \$78,767, and**
 - (2) Increase the estimate for Transfers by \$78,767.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Police/City Manager’s Office) (Orders of the Day)

Documents Filed: Joint Memorandum from Acting Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated March 8, 2013, regarding emergency correction to the Federal Asset Forfeiture Fund.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously Ordinance No. 29224, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund Decreasing the Police Department’s Personal Services, and Providing that this Ordinance Shall Become Effective Retroactively to March 8, 2013”; Ordinance No. 29225, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the State Asset Forfeiture Fund Transferring Funds to the Federal Drug Forfeiture Fund; and Providing that this Ordinance Shall Become Effective Retroactively to March 8, 2013”; Ordinance No. 29226, “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Federal Asset Forfeiture Fund Increasing the Unrestricted Ending Fund Balance and Increasing the Estimate for Transfers, and Providing that this Ordinance Shall Become Effective Retroactively to March 8, 2013” and Resolution No. 76572, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the Federal Asset Forfeiture Fund, Effective Retroactively to March 8, 2013”, were adopted. (10-0-1. Absent: Constant.)

STRATEGIC SUPPORT SERVICES

3.5 Consideration of adoption of a resolution in support of immigration reform. (Campos/Rocha)

Documents Filed: (1) Joint memorandum from Council Member Campos and Council Member Rocha, dated February 21, 2013, recommending Council agendize a resolution relating to immigration reform. (2) Letter from Carl Guardino, President and CEO, Silicon Valley Leadership Group, dated March 11, 2013, offering support to the proposed resolution. (3) Letter from Jaime Alvarado, Executive Director, SOMOS Mayfair, dated March 12, 2013, offering support to the proposed resolution. (4) Email from Drina Collins, received March 12, 2013, offering support of the resolution.

Public Comments: Offering support to the adoption of a resolution in support of immigration reform were Maria Noel Fernandez (Working Partnerships USA), Jasmin Segura (SIREN), Dennis Raj (South Bay Labor Council), Perla Flores (Community Solutions Consortium), Ross Signorino, Pam Gudino, Lauren Jacobs (SEIU) and Jo Kenny. Jeff Bedolla questioned how this issue got to Council, and David Wall contested the issue as ‘harboring illegal aliens’.

Motion: Council Member Campos moved approval of the memorandum he cosigned with Council Member Rocha. Council Member Rocha seconded the motion.

Council Member Khamis requested to amend the motion to reflect the inclusion of a reference reforming the current green card and H-1B visa system. The amendment was accepted by Council Members Campos and Rocha.

Action: On a call for the question, the motion carried, Resolution No. 76573, entitled: “A Resolution of the Council of the City of San José Urging the 113th Congress to Swiftly Enact Comprehensive Immigration Reform that Includes the Following Elements: (1) A Plan for Providing a Clear, Fair and Affordable Path to Citizenship for Undocumented Immigrant Who Are Currently Residing in the United States, (2) the Reformation of the Visa System so that Families May Stay and be Together Both During and After the Process and Workers are Offered Permanent Resident Status or Portable Visas Which Will Provide Certainty and Mobility Meet the Needs of a Growing and Innovative Workforce and Also Recognizes the Aspiration of Immigrants to Build a Better Life, Better Businesses and Thus a Better Community, City and Country with their Contributions, (3) Prioritizing Immigrant Integration into Our Communities and City so that They May Contribute at a Higher Level than Currently Possible Given the Discrimination and Legal Ramifications that They Face Under the Current System, and (4) Respect for the Due Process of Everyone in the United States”, was adopted, with the inclusion of a reference to reforming the current Green Card and H-1B visa system to allow Silicon Valley’s driving industries to compete successfully for global talent and meet workforce demands. (8-1-2. Noes: Oliverio. Absent: Chu, Constant.)

OPEN FORUM

1. David Wall offered criticism of actions taken at today's Council meeting.
2. Ross Signorino commented on the spread of graffiti in the City of San José.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:45 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

**Toni J. Taber, CMC
Acting City Clerk**

rmk/3-12-13MIN