

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 5, 2013

The Council of the City of San José convened in Regular Session at 9:30 a.m. in the Council Chambers at City Hall.

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

Absent Council Members All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Documents Filed: “Promotion Errors Presentation”, dated March 5, 2013, provided by Jon Max Reger.

Public Comments: Jon Max Reger provided a report on wage disputes.

Action: No labor report was provided.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:33 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) Mulholand, et al. v. City, et al.; Names of Partie(s) Involved: Paul Mulholand, James Unland, and Mary Follenweider; Russell Crosby, Mike Moehle, each in his capacity as a fiduciary of the San José Federated City Employees Retirement System and of the City of San José Police and Fire Retirement Plan, City of San José, a Municipal Entity and Does 1 through 10; the Board of Directors of the San José Police and Fire Retirement Board, and the Board of Directors of the City of San José Federated City Employer’s Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-219748; (2) Montiel v. City, et al; Names of Partie(s) Involved: Jermaine Montiel; Officer M.

CLOSED SESSION (Cont'd.)

Williams, Officer C. Sheppard, Officer Hernandez, Officer Rodriguez, John Doe and Richard Doe, Robert Davis, City of San José; Court: U.S. District Court; Northern Division of California, San José Division; Case No.: C07-05490 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (3) Deisenroth v. City; Names of 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: Damages According to Proof; (4) San José Police Officers' Association v. City, et al.; Names of Partie(s) Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (5) Sapien, et al., v. City of San José, et al., Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (6) Harris, et al. v. City of San José, et al.; Names of Partie(s) Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B; (7) Mukhar, et al. v. City of San José, et al.; Names of Partie(s) Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B; (8) AFSCME, et al., v. City of San José, et al., American Federation of State, County, and Municipal Employees, Local 101, on behalf of its members, City of San José, Debra Figone in her capacity as City Manager of the City of San José, the Board of Administration for the Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (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: 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

CLOSED SESSION (Cont'd.)

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.

By unanimous consent, Council recessed from the Closed Session at 11:20 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.
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Absent Council Members	All Present.
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INVOCATION

Reverend David Bird of Trinity Episcopal Cathedral 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. (11-0.)

CEREMONIAL ITEMS

- 1.1 California Park & Recreation Society Certificate of Recognition to the City of San José for initiating partnerships with other local cities, counties, and universities to plan and host the 2013 California & Pacific Southwest Recreation & Park Training Conference, March 5-8, 2013. (Parks, Recreation and Neighborhood Services)**

Jane Adams, Executive Director of the Park and Recreation Society, provided a Certificate of Recognition to the City of San José and announced its hosting of the 2013 California & Pacific Southwest Recreation & Park Training Conference.

- 1.2 Presentation of a proclamation declaring the Month of March 2013 as “National Women’s History Month” in the City of San José. (Herrera)**

Mayor Reed, Vice Mayor Nguyen and Council Member Herrera recognized the Month of March 2013 as “National Women’s History Month” in the City of San José.

- 1.3 Presentation of a proclamation declaring the Month of March 2013 as “Multiple Myeloma Awareness Month” in the City of San José. (Oliverio)**

Mayor Reed and Council Member Oliverio recognized the Month of March 2013 as “Multiple Myeloma Awareness Month” in the City of San José.

CONSENT CALENDAR

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

- 2.1 Approval of Minutes.**

There were none.

- 2.2 Final adoption of ordinances.**

(a) **ORD. NO. 29217 – Amending Title 20 of the San José Municipal Code (The Zoning Ordinance) to amend: Section 20.70.330 of Chapter 20.70 (Downtown Zoning Regulations); numerous sections of Chapter 20.90 (Parking and Loading); Sections 20.100.1300 and 20.100.1320 of Chapter 20.100 (Administration and Permits); and to add new sections to Chapter 20.200 (Definitions) to add definitions for “Area Development Policy,” “Car-Share,” “Charge or Charging Station,” and “Urban Village,” all to modify parking requirements for certain enumerated uses to further implement the economic development, land use, and transportation policies set forth within the Envision San José 2040 General Plan, and to make other technical, formatting or other nonsubstantive changes within those chapters of said Title 20.**

2.2 (a) **Final adoption of ordinances (Cont'd.)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29217 executed on March 1, 2013, submitted by the City Clerk.

Action: Ordinance No. 29217 was adopted. (11-0.)

- (b) **ORD. NO. 29218** – Amending Title 20 of the San José Municipal Code (The Zoning Ordinance) to amend: Section 20.10.060 of Chapter 20. 10 (General Provisions and Zoning Districts) to add the CIC-Combined Industrial Commercial and the TEC-Transit Employment Center Zoning Districts; Section 20.20.100 of Chapter 20.20 (Open Space & Agricultural Zoning Districts) to allow Certified Farmers’ Markets in the A-Agriculture and OS-Open Space Zoning Districts; Sections 20.40.100, 20.40.200, 20.40.230 and 20.40.400 of Chapter 20.40 (Commercial Zoning Districts) to allow wholesale auto dealers with no on-site storage as a permitted use in commercial zoning districts, to reduce minimum required setbacks for commercial zoning districts, and to clarify incidental auto-repair uses; Section 20.50.010 of Chapter 20.50 to create the TEC-Transit Employment Center Zoning District category, Sections 20.50.100 and 20.50.200 of Chapter 20.50 to add more flexibility for the development of specific commercial and industrial uses in the industrial zoning districts including, but not limited to creating the TEC-Transit Employment Center Zoning District enumerated uses and development standards, adding off-site sale of alcoholic beverages as a conditional use incidental to a winery/brewery or distillery and clarifying incidental auto-repair uses; Sections 20.80.710 and 20.80.720 of Part 9 of Chapter 20.80 (Home Occupations) to allow cottage food operations as home occupations within residential zoning districts and Section 20.80.1400 of Chapter 20.80 to amend provisions for outdoor private property special events; Section 20.120.110 of Chapter 20.120 (Zoning Changes and Amendments) to add the TEC Zoning District as a conforming district; Chapter 20.150 (Nonconforming Uses) by deleting Section 20.150.330 (Amortization – Incidental Dancing and Music); and Chapter 20.200 (Definitions) to add new sections to add definitions of “Banquet Facility,” and “Cottage Food Operation,” and to amend Section 20.200.700 of Chapter 20.200 to amend the definition of “Lot Line”; all to further implement the economic development, land use, and transportation policies set forth within the Envision San José 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29218 executed on March 1, 2013, submitted by the City Clerk.

2.2 Final adoption of ordinances (Cont'd.)

Public Comments: David Wall offered criticism of the Ordinances in question and their potential impact on neighborhoods..

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29218 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) Airport Competitiveness Committee Report of January 22, 2013. (Mayor)**
- (b) Rules and Open Government Committee Report of June 6, 2012. (Mayor)**
- (c) Rules and Open Government Committee Report of June 13, 2012. (Mayor)**
- (d) Rules and Open Government Committee Report of September 5, 2012. (Mayor)**
- (e) Rules and Open Government Committee Report of September 12, 2012. (Mayor)**
- (f) Rules and Open Government Committee Report of September 19, 2012. (Mayor)**
- (g) Rules and Open Government Committee Report of September 26, 2012. (Mayor)**
- (h) Community and Economic Development Committee Report of January 28, 2013. (Herrera)**
- (i) Transportation and Environment Committee Report of February 4, 2013. (Liccardo)**

Documents Filed: (1) Airport Competitiveness Committee Report dated January 22, 2013. (2) Rules and Open Government Committee Reports dated June 6, 13, September 5, 12, 19, and 26, 2012. (3) Community and Economic Development Committee Report dated January 28, 2013. (4) Transportation and Environment Committee Report dated February 4, 2013.

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

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

- 2.7 (a) **Approve travel by Council Member Constant to Washington, D.C. on March 19 – 21, 2013 to participate in the Silicon Valley Leadership Group’s Annual Washington, D.C. Advocacy Trip. Source of Funds: District 1 Office Budget. (Constant)**
- (b) **Request for an excused absence for Council Member Constant from the Closed Session and Regular City Council Meeting on March 19, 2013, the Regular Meeting of the Rules and Open Government Committee on March 20, 2013, and the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on March 21, 2013 due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Constant)**

Documents Filed: Memoranda from Council Member Constant, both dated February 25, 2013, requesting an excused absence and authorization to travel on City business.

Action: The absence was excused and the travel request was approved. (11-0.)

- 2.8 **Reappoint Guadalupe Rodriguez to the Human Rights Commission to a term expiring June 30, 2013. (City Clerk)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated February 26, 2013, recommending a reappointment to the Human Rights Commission.

Action: The reappointment of Guadalupe Rodriguez to the Human Rights Commission to a term expiring June 30, 2013 was approved. (11-0.)

- 2.9 **As recommended by the Rules and Open Government Committee on February 27, 2013:**

- (a) **Approve the Cesar Chavez Day Flag Raising as a City Council sponsored Special Event; and**
- (b) **Approve expending funds and accept donations from various individuals, businesses, or community groups to support the event.**

CEQA: Not a Project. (Campos)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated February 27, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Cesar Chavez Day 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. (11-0.)

STRATEGIC SUPPORT SERVICES

- 3.3 (a) **Approve an ordinance retroactively extending the Business Tax Amnesty and Business Improvement District (“BID”) Assessment Amnesty Programs from March 29, 2013 up through and including May 31, 2013;**
- (b) **Approve an ordinance amending Chapter 4.76 of Title 4 of the San José Municipal Code to add a new Section 4.76.748 to exempt police officers and reserve police officers engaged in secondary employment while in their police uniforms from the City's Business Tax and providing for the exemption from payment of the Business Tax and Business Tax Exemption Processing Fee to apply retroactively to January 1, 2009.**

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

Documents Filed: Memorandum from City Attorney Richard Doyle, dated February 21, 2013, recommending approval of ordinances.

Director of Finance Julia H. Cooper and Assistant City Attorney Ed Moran responded to questions from Council.

Public Comments: David Wall suggested that these actions be made permanent.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, Ordinance No. 29219, entitled: “An Ordinance of the City of San José Retroactively Extending the Business Tax Amnesty and Business Improvement District Assessment Amnesty Programs (Ordinance Nos. 29166 and 29167, Respectively) from March 29, 2013 up through and including May 31, 2013”; and Ordinance No. 29220, entitled: “A Resolution of the Council of the City of San José Amending Chapter 4.76 of Title 4 of the San José Municipal Code to Add a New Section 4.76.748 to Exempt San José Police Officers and Reserve Officers Engaged in Secondary Employment while in their Police Uniforms from the City's Business Tax and Providing for the Exemption from Payment of the Business Tax and Business Tax Exemption Processing Fee to Apply Retroactively to January 1, 2009”, were passed for publication. (11-0.)

- 3.4 **As recommended by the Public Safety, Finance and Strategic Support Committee on February 21, 2013, accept the audit of the Office of Economic Development's Performance Measures. (City Auditor)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated February 27, 2013, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon Erickson provided a presentation on the Office of Economic Development's Performance Measures, and she and Director of Economic Development/Chief Strategist Kim Walesh responded to questions from Council.

3.4 (Cont'd.)

Public Comments: David Wall recommended that the Office of Economic Developments' analyses be incorporated into their performance measures, and Jim Piazza complained that small businesses are not getting their fair share.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the audit of the Office of Economic Development's Performance Measures, as recommended by the Public Safety, Finance and Strategic Support Committee, was accepted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (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. (Economic Development)

Action: Deferred to March 12, 2013 per Administration.

- 4.2 (a) **Conduct a Tax Equity and Fiscal Responsibility (TEFRA) Act Hearing for the issuance of \$24,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Municipal Finance Authority ("CMFA").**
- (b) **Adopt a resolution approving the issuance of tax-exempt revenue bonds, by the CMFA in an aggregate principal amount not to exceed \$24,000,000 to:**
- (1) **Finance and refinance the acquisition, construction, improvements, and equipping of certain charter school educational facilities to be known as Rocketship Tamien Public School #8 and Rocketship Sylvandale Academy.**
 - (2) **Pay certain expenses incurred in connection with the issuance of the bonds.**
 - (3) **Fund all or a portion of a reserve fund deposit and capitalized interest.**

CEQA: Not a Project, File No. PP10-069(a), Organizational and Administrative activities. (Finance)

Action: Dropped per Administration.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Adopt a resolution:

- (a) **Authorizing the City Manager to execute a master agreement with HKA Enterprises, Inc., to provide temporary staffing of Plant Operators and Plant Mechanics for the San José/Santa Clara Water Pollution Control Plant, for the term beginning March 1, 2013 through March 1, 2014, for an amount not to exceed \$1,200,000, subject to the appropriation of funds.**
- (b) **Authorizing the City Manager to exercise up to four additional one-year options to extend the term of the Agreement through March 1, 2018, subject to the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Environmental Services)

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated February 13, 2013, recommending adoption of a resolution. (2) Supplemental memorandum from Environmental Services Director Kerrie Romanow, dated March 1, 2013, providing additional information on temporary staffing.

Public Comment: David Wall offered criticism of the Water Treatment Plant's operations and the City Manager's office.

Council Member Kalra expressed criticism of the agreement, stating that the extra money should be used to retain and attract City employees rather than providing profit to a private entity at taxpayer's expense. Council Member Campos questioned the benefits that are offered the temporary staffing.

Environmental Services Director Kerrie Romanow responded to questions from Staff, countering that the temporary staffing is only a bridge, and Staff is working on options to address compensation issues.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried, Resolution No. 76568, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with HKA Enterprises, Inc., to Provide Temporary Staffing at the Water Pollution Control Plant", was adopted. (8-3. Noes: Campos, Chu, Kalra.)

- ### 7.2
- (a) **Adopt a resolution authorizing the City Manager to accept a California Proposition 84 Stormwater Grant in the amount of \$1,804,308 to fund the design and construction of the Martha Gardens Green Alley and Park Avenue Green Avenue pilot projects and to negotiate and execute a grant agreement with the State Water Resources Control Board and all related documents necessary to effectuate the grant**
 - (b) **Adopt the following Appropriation Ordinance amendments in the Storm Sewer Capital Fund:**

7.2 (Cont'd.)

- (b) (1) **Eliminate the Reserve for Martha Gardens Alley Way Project in the amount of \$800,000;**
- (2) **Establish an appropriation to the Public Works Department for the Martha Gardens Green Alley project in the amount of \$393,000;**
- (3) **Establish an appropriation to the Public Works Department for the Park Avenue Green Avenue project in the amount of \$347,000; and**
- (4) **Increase the Ending Fund Balance by \$60,000.**

CEQA: Exempt, Existing Facilities, Replacement or Reconstruction, and Minor Alterations to Land, File No. PP12-011 (Martha Gardens Green Alleys Pilot Project) and File No. PP12-012 (Park Avenue Green Avenue Pilot Project). (Environmental Services/City Manager's Office)

Documents Filed: (1) Joint memorandum from Environmental Services Director Kerrie Romanow, Director of Public Works David Sykes and Budget Director Jennifer Maguire, dated February 14, 2013, recommending adoption of a resolution and appropriation ordinance amendments. (2) Memorandum from Council Member Liccardo dated March 1, 2013, offering support to staffs' recommendations.

Public Comments: David Wall, Gay Gale, Aurelia Sanchez and Tony May expressed support for the project.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, Resolution No. 76569, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager, or Designee, to Accept a Proposition 84 Storm Water Grant in the Amount of \$1,804,308 to Fund the Design and Construction of the Park Avenue Green Avenue and Martha Gardens Green Alley Pilot Projects and to Negotiate and Execute a Grant Agreement with the California State Water Resources Control Board and all Related Documents Necessary to Effectuate the Grant", and Ordinance No. 29221, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Storm Sewer Capital Fund for the Martha Gardens Green Alley Project and for the Park Avenue Green Avenue Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 **As recommended by the Transportation and Environment Committee on February 4, 2013, accept the staff report and presentation on proposed funding strategy to fully address the City's pavement maintenance needs consisting of the following concurrent elements:**
 - (a) **Coordinate with the Santa Clara Valley Transportation Authority ("VTA") to pursue a potential ballot measure to "extend and amend" the VTA's countywide transportation sales tax program to include major street sealing and rehabilitation;**

- 6.1 (b) Pursue City funding from new General Fund revenues raised through a potential City ballot measure;
- (c) Pursue City funding from a potential ballot measure for a street repair bond program; and
- (d) Support State legislation allowing ballot measures to increase tax revenues for local transportation purposes to be approved 55% voter approval instead of the current 2/3rds threshold.

Documents Filed: (1) Joint memorandum from Vice Mayor Nguyen and Council Member Campos, dated February 28, 2013, accepting the staffs' recommendations with amendments. (2) Memorandum from Council Member Rocha, dated March 1, 2013, accepting the staffs' recommendations with amendments. (3) Memorandum from Council Member Herrera, dated March 1, 2013, accepting the staffs' recommendations with amendments. (4) Memorandum from Council Member Khamis, dated March 1, 2013, accepting the staffs' recommendations with amendments. (5) Memorandum from Acting City Clerk Toni Taber, dated February 14, 2013, providing recommendations from the Transportation and Environment Committee. (6) Letter from Valley Transportation Authority General Manager, Michael T. Burns, dated March 5, 2013, providing recommendations. (7) Twenty-one (21) email messages from members of the public regarding the City's maintenance paving needs.

Assistant City Manager Ed Shikada offered an overview of the recommendations, and Director of Transportation Hans Larsen and Director, Intergovernmental Relations Betsy Shotwell followed with a staff report.

Mayor Reed provided a presentation: "A Decade of Understanding Street Maintenance Needs", and Council discussion followed.

Motion: Vice Mayor Nguyen moved approval of the staffs' recommendations with the inclusion of the memorandum she co-authored with Council Member Campos, dated February 28, 2013. Council Member Campos seconded the motion.

Council Member Rocha requested an amendment to the motion to include the memoranda from he and Council Member Herrera, both dated March 1, 2013. Vice Mayor Nguyen and Council Member Campos accepted the amendment to the motion.

Council Member Constant recommended that the motion be bifurcated into two parts, since he has an opposing opinion of Item (d). Vice Mayor Nguyen and Council Member Campos accepted the bifurcation.

Council Member Liccardo requested an amendment to the motion, asking that an option for extending the tax by a set time (30 years) be removed until a better approach is determined. Vice Mayor Nguyen and Council Member Campos accepted the amendment to the motion.

6.1 (Cont'd.)

Public Comments: (1) Ken Kelly offered that any tax increases would be unwelcome, and neighborhoods should be included in the discussion. (2) Robert Sandoval (West Evergreen Neighborhood Association) offered support to Vice Mayor Nguyen's recommendations. (3) David Wall criticized the misuse of dedicated funds. (4) Aaron Neighbour (Silicon Valley Tax Payers Association) offered criticism of the staffs' recommendations.

Item 6.1 was bifurcated into the following two Sections (1) and (2) to separate the section which addresses increasing tax revenues for local transportation purposes to be approved with 55% voter approval instead of the current 2/3rds threshold.

Section #1 Action: On a call for the question and carried unanimously, recommendation was approved, which includes amendments as outlined in the memorandum from Vice Mayor Nguyen and Council Member Campos, items (a) through (c), dated February 28, 2013, by the memorandum from Council Member Herrera, dated March 1, 2013, and the memorandum from Council Member Rocha, dated March 1, 2013, with the intention that staff return to Council with detailed information for revenue measures under consideration for strategizing prior to the next election cycle, and that the option for extending the tax by a set time (30 years) be removed until a better approach is determined. (11-0.)

Section #2 Action: On a call for the question and carried, recommendation referring to item (d) was approved, including direction to Staff to report back to Council with an update on the likelihood of State legislation moving in the 2013-14 session to allow ballot measures to increase tax revenues for local transportation purposes to be approved with 55% voter approval instead of the current 2/3rds threshold by April 2013. (9-0. Noes: Constant, Khamis.)

OPEN FORUM

- (1) Council Member Rocha recommended bringing forth the February 27, 2013 Rules and Open Government meeting minutes for approval at the March 12, 2013 Council meeting for cross-referencing, so the item addressed at Rules on that date regarding immigration reform can be brought before Council on March 12, 2013.
- (2) David Wall expressed appreciation to the San Jose Police Department and offered comments regarding immigration reform.
- (3) Andy Diaz expressed concerns regarding the City's ability to attract quality employees for its core services.

ADOURNMENT

The Council of the City of San José adjourned at 4:26 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
Acting City Clerk

rmk/3-05-13MIN