

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 22, 2012

The Council of the City of San José convened in Regular Session at 9:32 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chu, Constant, Nguyen, Pyle; Reed.

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

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no Staff presentation.

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 Section 54956.9, Subsection (a) with respect to existing litigation: (1) In re: American Airlines; Names of Parties Involved: AMR Corporation, et al. (dba American Airlines); Court: U.S. Bankruptcy Court, Southern District of New York (Manhattan); Case No: 11-15463-shl; Amount of Money or Other Relief Sought: Chapter 11 Bankruptcy proceedings. (2) Konnick v. Kaiser Foundation Healthplan, Inc., et al; Names of Parties Involved: G. Dragmir, CLPF and George Konnick, Kaiser Foundation Healthplan, Inc., Kaiser Foundation Hospitals, The Permanente Medical Group, Inc., Chandu A. Karadi, Johnson D. Chan, American Medical Response, Inc., Bonnie McPherson, Carlos Garcia, Thomas Cooper, the City of San José dba San José Fire and Rocco Francisco and Does 1-200; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-Cv-200068; Amount of Money or Other Relief Sought: Damages according to proof; (3) Cicala, et al. v. City, et al; Names of Parties Involved: Paul Cicala, Enrico Sagullo and Erick Sanchez, City of San José, Robert Davis; Court: U.S. District Court, Northern District of California; Case No: C08-04032PVT; Amount of Money or Other Relief Sought: Damages according to proof; (4) Chacon v. City, et al; Names of Parties Involved: Luis Chacon, City of San José, San José Police Department, Officer Barthelemy,

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

CLOSED SESSION (Cont'd.)

Officer Grondahl, et al; Court: U.S. District Court, Northern District of California; Case No: CV11-0908HRL; Amount of Money or Other Relief Sought: Damages according to proof; (5) Deisenroth v. City; Court: Superior Court of California, County of Santa Clara; Lorie Deisenroth, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-224197; Amount of Money or Other Relief Sought: Damages according to proof. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter. (C) 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 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. Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

(D) To confer with Legal Counsel pertaining to the Successor Agency of the City of San José pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:25 a.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - All Present.

INVOCATION

Venerable Thich Thong Dat, Maha Vairocana Buddhist Temple presented the Invocation. (District 5)

PLEDGE OF ALLEGIANCE

Mayor Reed accompanied by Third Graders from Rosemary Elementary School led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 1.3 was dropped to be renoticed. (11-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Solar Junction for winning the SunShot Solar Initiative Award from the US Department of Energy and the company's commitment to expand operations in the City of San José. (Chu/Economic Development)**

Mayor Reed, Council Member Chu and Director of Economic Development Kim Welsh recognized and commended Solar Junction for its achievements.

- 1.2 Presentation of a proclamation recognizing the month of May 2012 as "Arthritis Awareness Month" in the City of San José. (Kalra)**

Mayor Reed and Council Member Kalra recognized the month of May 2012 as "Arthritis Awareness Month" in the City of San José.

1.3 Presentation of a commendation to Carmen and Al Castellano of the Castellano Family Foundation for their dedication to continual support of the arts in San José. (Liccardo)

Action: Dropped to be renoticed per Orders of the Day.

1.4 Presentation of a proclamation recognizing the week of May 21 – 28, 2012 as “Affordable Housing Week” in the City of San José. (Mayor/Nguyen/Liccardo)

Mayor Reed, Vice Mayor Nguyen, Council Member Liccardo and Director of Housing Leslye Corsiglia recognized the week of May 21, 2012 through May 28, 2012 as “Affordable Housing Week” in the City of San José

CONSENT CALENDAR

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

2.1 Approval of Minutes.

Action: There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29065 – Amending Title 3 of the San José Municipal Code to add new Chapters 3.54 and 3.56 and to amend Sections 3.36.575, 3.36.1925, 3.36.1930, 3.36.1950, 3.36.2030, and 3.36.2050 of Chapter 3.36 of Title 3 for the purpose of establishing two new trusts pursuant to Section 115 of the Internal Revenue Code related to retiree healthcare benefit funding and payment of retiree health care benefits.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29065 executed on May 11, 2012, submitted by the City Clerk.

Action: Ordinance No. 29065 was adopted. (11-0.)

- (b) **ORD. NO. 29066 – Amending Section 3.52.100 of Chapter 3.52 of Title 3 of the San José Municipal Code to provide that, beginning June 24, 2012, employee contributions for retiree healthcare benefits will be deposited into the Federated City Employees Healthcare Trust, rather than the Federated City Employees Retirement System Medical Benefits Account.**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated May 18, 2012, transmitting information about the Federated Health Care Trust Ordinance. (2) Proof of Publication of the Title of Ordinance No. 29066 executed on May 11, 2012, submitted by the City Clerk.

2.2 (b) Cont'd.)

City Attorney Richard Doyle clarified that the Federated Retire Board approved a motion to request that the City Council agree not to redirect employee contributions from the Internal Revenue Code (IRC) Section 401(h) account to the IRC Section 115 Trust until the Board's tax counsel has responded to certain questions regarding employee contributions to the 115 Trust.

Public Comments: Yolanda Cruz, AFSCME/MEF 101, urged the Council to delay acceptance of the ordinance until all the issues have been addressed to and by the Retirement Board and to the Unions.

City Attorney Richard Doyle and Assistant Director of Economic Development Nanci Klein responded to questions and concerns from Council Member Liccardo.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, Ordinance No. 29066 was adopted. (11-0.)

- (c) **ORD. NO. 29069 – Amending Chapter 9.10 of Title 9 of the San José Municipal Code to amend Section 9.10.1435 to require the franchisee with a commercial solid waste and recyclables franchise based on geographic service districts to pay a source reduction and recycling fee.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29069 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29069 was adopted. (11-0.)

- (d) **ORD. NO. 29070 – Amending Chapter 9.10 of Title 9, and Sections 4.80.3070 and 4.80.3080 of Title 4 of the San José Municipal Code to conform the code to modifications associated with the new commercial solid waste system, and to existing practice for the use of ratepayer revenue in the Integrated Waste Management Fund, effective July 1, 2012.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29070 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29070 was adopted. (11-0.)

2.2 (e) **ORD. NO. 29071 – Granting a commercial solid waste and recyclables collection franchise to Allpoints Roll Off, Inc.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29071 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29071 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

(f) **ORD. NO. 29072 – Granting a commercial solid waste and recyclables collection franchise to Environmental Resource Recovery, Inc. dba Valley Recycling.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29072 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29072 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

(g) **ORD. NO. 29073 – Granting a commercial solid waste and recyclables collection franchise to Ferma Corporation.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29073 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29073 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

(h) **ORD. NO. 29074 – Granting a commercial solid waste and recyclables collection franchise to Greenwaste Recovery, Inc.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29074 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29074 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

(i) **ORD. NO. 29075 – Granting a commercial solid waste and recyclables collection franchise to Greenwaste Recovery, Inc. dba \$99.00 Debris Box Service.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29075 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29075 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- 2.2 (j) **ORD. NO. 29076 – Granting a commercial solid waste and recyclables collection franchise to Guadalupe Rubbish Disposal Co., Inc. dba Guadalupe Recycling and Disposal.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29076 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29076 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- (k) **ORD. NO. 29077 – Granting a commercial solid waste and recyclables collection franchise to Haul-Away Today.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29077 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29077 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- (l) **ORD. NO. 29078 – Granting a commercial solid waste and recyclables collection franchise to Lam Hauling, Inc. dba 7 Days Box.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29078 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29078 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- (m) **ORD. NO. 29079 – Granting a commercial solid waste and recyclables collection franchise to Mission Trail Waste Systems, Inc. dba Recycle West.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29079 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29079 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- (n) **ORD. NO. 29080 – Granting a commercial solid waste and recyclables collection franchise to Jonna corporation, Inc. dba Premier Recycle Company.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29080 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29080 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- 2.2 (o) **ORD. NO. 29081 – Granting a commercial solid waste and recyclables collection franchise to R & D Mendes Enterprises, Inc. dba Accurate Cleaning Systems.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29081 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29081 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- (p) **ORD. NO. 29082 – Granting a commercial solid waste and recyclables collection franchise to Recology South Bay.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29082 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29082 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- (q) **ORD. NO. 29083 – Granting a commercial solid waste and recyclables collection franchise to Republic Services, Inc.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29083 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29083 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- (r) **ORD. NO. 29084 – Granting a commercial solid waste and recyclables collection franchise to Revolution Resource Recovery, LLC.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29084 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29084 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

- (s) **ORD. NO. 29085 – Granting a commercial solid waste and recyclables collection franchise to San Jose Conservation Corps and Charter School dba San Jose Conservation Corps.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29085 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29085 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

2.2 (t) ORD. NO. 29086 – Granting a commercial solid waste and recyclables collection franchise to Universal Recycling Solutions, Inc.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29086 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29086 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

(u) ORD. NO. 29087 – Granting a commercial solid waste and recyclables collection franchise to Waste Connections of California, Inc. dba Greenteam of San Jose.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29087 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29087 was adopted. (11-0.) First Reading: (10-1. Noes: Nguyen.)

2.3 Approval of Council Committee Reports.

Public Comments: David Wall commented on the Rules and Open Government Committee of May 16, 2012.

Action: There was none.

2.4 Mayor and Council Excused Absence Requests.

Action: There was none.

2.5 City Council Travel Reports.

Action: There was none.

2.6 Report from the Council Liaison to the Retirement Boards.

Council Member Constant offered highlights of the Federated Retirement Board Meeting on May 17, 2012.

2.7 Adopt a resolution:

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

- 2.7 (d) **Authorizing the City Manager to execute the sale agreement, and the deed, Grant of Easements, and all other documents necessary to complete the transaction.**

CEQA: Exempt, File No. PP10-009. Council District 7. (Economic Development) (Deferred from 4/24/12 – Item 2.9 and 5/8/12 – Item 2.7)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated April 30, 2012, recommending adoption of a resolution.

Assistant Director of Economic Development Nanci Klein responded to questions from Council Member Liccardo.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76234, entitled: “A Resolution of the Council of the City of San José Amending and Restating Resolution No. 75635 Regarding the Supplemental Retiree Benefit Reserve of the Federated City Employees Retirement Fund, To Suspend the Distribution of Funds from the Reserve Through Fiscal Year 2012-2013”, was adopted. (10-0-1. Absent: Constant.)

- 2.8 **Adopt a resolution authorizing the City Attorney to negotiate and execute a first amendment to the agreement with Renne Sloan Holtzman & Sakai LLP for legal services in connection with labor relations, modifying the scope of services to provide additional legal services and advice, and increasing compensation by \$300,000 for a total amount not to exceed \$550,000, subject to appropriation of funds as recommended separately on the May 22, 2012 City Council Agenda. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney’s Office)**

Action: Deferred to June 05, 2012 per Rules and Open Government Committee.

- 2.9 **Adopt the following 2011-2012 Appropriation amendments in the General Fund:**
(a) **Increase the City-Wide appropriation to the City Attorney’s Office for Fiscal Reform Plan Outside Legal Counsel in the amount of \$550,000; and,**
(b) **Decrease the Fiscal Reform Plan Implementation Earmarked Reserve in the amount of \$550,000.**

CEQA: Not a Project; File No. PP10-067, Appropriation. (City Attorney’s Office / City Manager’s Office)

Action: Deferred to June 05, 2012 per Rules and Open Government Committee.

- 2.10 **Adopt a resolution amending and restating Resolution No. 75635 to continue to suspend supplemental retiree benefit reserve distribution from the Federated City Employees’ Retirement Plan for Fiscal Year 2011-2012 and provide that there shall be no supplemental retiree benefit reserve distribution from the Federated City Employees’ Retirement Plan during Fiscal Year 2012-2013. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy, new or revised. (City Manager’s Office)**

2.10 (Cont'd.)

Action: Resolution No. 76235, entitled: “A Resolution of the Council of the City of San José Amending and Restating Resolution No. 75635 Regarding the Supplemental Retiree Benefit Reserve of the Federated City Employees Retirement Fund, To Suspend the Distribution of Funds from the Reserve Through Fiscal Year 2012-2013”, was adopted. (11-0.)

2.11 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act (WIA) Fund (290):

- (a) Increase the estimate for Earned Revenue by \$60,000.**
- (b) Establish an appropriation to the Office of Economic Development for the Cisco Systems Layoffs Award Grant in the amount of \$60,000.**

CEQA: Not a Project; File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager’s Office)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer Maguire, dated May 4, 2012, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29090, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Workforce Investment Act for the Cisco Systems Layoff Award Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76236, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75872 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2011-2012 To Adjust Revenues in the Workforce Investment Act Fund”, were adopted. (11-0.)

2.12 Adopt a resolution:

- (a) Authorizing an alternative competitive process for the sale of the property at 2123 Quimby Avenue, APN: 491-04-022;**
- (b) Approving an agreement between the City and Yolanda A. Munoz, for sale of the property in the amount of \$140,000; and**
- (c) Authorizing the City Manager or her designee to execute all sales documents and the deed necessary to complete the transaction.**

CEQA: Exempt File No. PP10-016. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated April 30, 2012, recommending adoption of a resolution.

Council Member Liccardo pulled Item 2.12 from the Consent Calendar for clarification.

Assistant Director of Economic Development Nanci Klein responded to Council questions and concerns.

2.12 (Cont'd.)

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, Resolution No. 76237, entitled: “A Resolution of the Council of the City of San José (1) Authorizing an Alternative Competitive Process for the Sale of the Property at 2123 Quimby Avenue, APN: 491-04-022; (2) Approving an Agreement Between the City and Yolanda A. Munoz, For the Sale of the Property in the Amount of \$140,000; and (3) Authorizing the City Manager or Her Designee to Execute All Sales Documents and the Deed Necessary to Complete the Transaction”, was adopted. (10-0-1. Absent: Rocha.)

2.13 Approve an Agreement with W.H.M.H.P. Barnett Family Limited Partnership and L.E.L. a California General Partnership to submeter dwellings at Whispering Hills Mobile Home Park. CEQA: Categorically Exempt, File Number PP12-042. (Environmental Services)

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated April 30, 2012, recommending approval of the agreement.

Action: The agreement with W.H.M.H.P. Barnett Family Limited Partnership and L.E.L. a California General Partnership to submeter dwellings at Whispering Hills Mobile Home Park was approved. (11-0.)

2.14 Approve the Eighth amendment to the Agreement for Consultant Service between the City of San José and R3 Consulting Group, Inc. to provide solid waste consulting services to the Environmental Services Department, extending the term through June 30, 2013. No additional funding is requested for the contract amount, which is not to exceed \$730,000. CEQA: Not a Project, File No. PP10-066, Agreements. (Environmental Services)

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated April 30, 2012, recommending approval of the amendment to the agreement.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, the Eighth amendment to the Agreement for Consultant Service between the City of San José and R3 Consulting Group, Inc. to provide solid waste consulting services to the Environmental Services Department, extending the term through June 30, 2013 was approved. No additional funding is requested for the contract amount, which is not to exceed \$730,000. (11-0.)

- 2.15 Adopt a resolution to support the designation of VTA Cores, Corridors and Station Areas within the City of San José as Priority Development Areas under the Association of Bay Area Governments FOCUS program. CEQA: Envision San José 2040 Final Environmental Impact Report, adopted on November 1, 2011, Resolution No. 76041. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 30, 2012, recommending adoption of a resolution.

Action: Resolution No. 76238, entitled: “A Resolution of the Council of the City of San José Supporting and Authorizing the Designation of the Santa Clara Valley Transportation Authority’s Cores, Corridor and Station Areas Within the City of San José as a Priority Development Area Under the Focus Program”, was adopted. (11-0.)

- 2.16 Approve the first amendment to the master agreement with V&A Consulting Engineers extending the duration from December 12, 2006 to June 30, 2015 for a continuation of ongoing engineering consultant services supporting various City projects, at no additional cost to the City. CEQA: Exempt, File No. PP05-274. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated April 30, 2012, recommending approval of the first amendment to the master agreement.

Action: The first amendment to the master agreement with V&A Consulting Engineers extending the duration from December 12, 2006 to June 30, 2015 for a continuation of ongoing engineering consultant services supporting various City projects, at no additional cost to the City was approved. (11-0.)

- 2.17 Approve a Revocable License and Maintenance Agreement with Metcalf Energy Center, LLC for the purpose of assigning responsibility for maintenance of enhanced landscape improvements within and along Monterey Road, near Blanchard Road. CEQA: Final Staff Assessment issued by the California Energy Commission. Council District 2. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated April 30, 2012, recommending approval of a revocable license and maintenance agreement.

Action: A Revocable License and Maintenance Agreement with Metcalf Energy Center, LLC for the purpose of assigning responsibility for maintenance of enhanced landscape improvements within and along Monterey Road, near Blanchard Road was approved. (11-0.)

2.18 Approval to increase the Fair Swim Center Pump Room Renovation Project Contingency by \$39,000, from \$143,900 to a total amount of \$182,900. CEQA: Exempt, File No. PP11-089. Council District 7. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated April 30, 2012, recommending approval to an increase in the project contingency.

Action: The increase to the Fair Swim Center Pump Room Renovation Project Contingency by \$39,000, from \$143,900 to a total amount of \$182,900, was approved. (11-0.)

2.19 Report on bids and award of a contract for general bridge and pavement maintenance work referred to as “6960 – DOT Pavement General Engineering Contract 2011-2012” to the lowest responsive bidder, Wattis Construction Co., Inc. in the amount of \$200,000. CEQA: Exempt, File No. PP11-102. (Transportation/Public Works)

Documents Filed: Memorandum from Director of Transportation Hans Larsen and Director of Public Works David Sykes, dated April 30, 2012, recommending the award of the contract to the low bidder.

Action: The report on bids and the award of a contract for general bridge and pavement maintenance work referred to as “6960 – DOT Pavement General Engineering Contract 2011-2012” to the lowest responsive bidder, Wattis Construction Co., Inc. in the amount of \$200,000, was approved. (11-0.)

2.20 As recommended by the Transportation and Environment Committee on May 7, 2012, name the pedestrian bridge over the Union Pacific Railroad tracks near Blossom Hill Road in memory of Alexander Arriaga. CEQA: Exempt, File No. PP10-054. (Transportation)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated May 9, 2012, transmitting the recommendations of the Transportation and Environment Committee.

Action: The pedestrian bridge over the Union Pacific Railroad tracks near Blossom Hill Road was named “Alexander Arriaga” in memory of the toddler who lost his life on the railroad tracks. (11-0.)

**2.21 As recommended by the Rules and Open Government Committee on May 9, 2012, deny a Waiver of the Revolving Door Restriction for former Department of Environmental Services employee Eric Rosenblum. (City Clerk)
[Rules Committee referral 5/9/12 – Item G(4)]**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated May 9, 2012, transmitting the recommendations of the Rules and Open Government Committee.

2.21 (Cont'd.)

Action: A Waiver of the Revolving Door Restriction for former Department of Environmental Services employee Eric Rosenblum, was denied. (11-0.)

2.22 **Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with the San José Conservation Corps to expand the scope of services and include trash removal on all City owned or controlled properties; and authorize the City Manager to negotiate and execute future amendments during the term of the agreement if amendments are with the City Manager's contracting authority as specified in the Municipal Code. CEQA: EIR Resolution No. 71045. (Environmental Services) (Rules Committee referral 5/16/12)**

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated April 30, 2012, recommending adoption of a resolution.

Action: Resolution No. 76239, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement With the San José Conservation Corps to Expand the Scope of Services and Include Trash Removal On All City Owned or Controlled Properties and Authorize the City Manager to Negotiate and Execute Future Amendments During the Term of the Agreement if Amendments are Within the City Manager's Contracting Authority As Specified in the Municipal Code", was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.3 **Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City and Vision Service Plan to provide vision care insurance services to employee, retirees and their dependents at a total cost not to exceed \$3,716,410 for the period of July 1, 2012 to December 31, 2015, subject to the appropriation of funds. CEQA: Not a Project, File No. PP10-066(e) Services that involve no physical changes to the environment. (Human Resources)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated April 30, 2012, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76240, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement with Vision Service Plan for Vision Care Insurance Services for Employees, Retirees and Their Dependents In An Amount Not To Exceed \$3,716,410 for the Period of July 1, 2012 through December 31, 2015", was adopted. (10-0-1. Absent: Rocha.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Recommendation: Adopt a resolution initiating proceedings and setting June 19, 2012 at 1:30 p.m. for a public hearing to order the reorganization of territory designated as Hamilton No. 60, which involves the annexation to the City of San José of approximately 0.44 gross acres of land generally located at the southwest corner of Bascom Avenue and Maywood Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, West Valley Sanitation, County Lighting, and Area No. 01 (Library Services) County Service. CEQA: EIR Resolution No. 76041. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 9, 2012, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on May 11, 2012, submitted by the City Clerk.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, Resolution No. 76241, entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Hamilton No. 60, Described More Particularly Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (11-0.)

- 4.3 Consideration of an ordinance rezoning the real property located on the west side of Ringwood Avenue, approximately 310 feet southerly of McKay Drive (1719 Ringwood Avenue), from the A Agriculture Zoning District to the R-1-8 Single-Family Residence Zoning District (Seet, Ding Shee Trustee Et Al, Owner/Applicant). CEQA: EIR Resolution No. 76041. C12-007 – District 4**

Documents Filed: (1) Report of the Staff Report of the Department of Planning, Building and Code Enforcement on Project File No. C12-007, dated April 25, 2012, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on May 11, 2012, submitted by the City Clerk.

Council Member Liccardo expressed concerns about future assembly uses. Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti responded that if a future owner decided to use the property as a place of worship, that a Conditional Use Permit could be obtained.

Action: Upon motion by Council Member Chu, seconded by Council Member Liccardo and carried, Ordinance No. 29091, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the West Side of Ringwood Avenue, Approximately 310 Feet Southerly of McKay Drive, On A 0.18 Gross Acre Site, to the R-1 Single Family Residence Zoning District”, was passed for publication. (10-1. Noes: Oliverio.)

- 4.4 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Geer House” located on the north side of Coe Avenue, between Riverside Drive and Plaza Drive (795 Coe Avenue), on a 0.45-acre site (City Landmark No. HL11-198 and California Mills Act No. MA11-003).
- (a) Conduct a public hearing and adopt a resolution designating the “Geer House” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
 - (b) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the “Geer House” (Ruthann L. and Robert E. Eaton, Owners) and adopt a resolution approving the contract.

CEQA: Exempt. (Planning, Building and Code Enforcement)

HL11-198/MA11-003 – District 6

Action: Continued to June 05, 2012 per Administration.

- 4.5 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Stiller House” located on the northwest corner of East Saint James Street and North Seventh Street (285 East Saint James Street) on a 0.14-acre site (City Landmark No. HL11-200 and California Mills Act No. MA11-004).

- (a) Conduct a public hearing and adopt a resolution designating the “Stiller House” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the “Stiller House” (Alex V. Waddington, Owner) and adopt a resolution approving the contract.

CEQA: Exempt. (Planning, Building and Code Enforcement)

HL11-200/MA11-004 – District 3

Action: Continued to June 05, 2012 per Administration.

- 4.6 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Cozzens House” located on the northeast corner of Minnesota Avenue and Newport Avenue (1195 Minnesota Avenue) on a 0.28-acre site (City Landmark No. HL11-201 and California Mills Act No. MA11-005).

- (a) Conduct a public hearing and adopt a resolution designating the “Cozzens House” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.
- (b) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the “Cozzens House” (Anthony J and Pauleet A. Ornellas Trustee, Owner) and adopt a resolution approving the contract.

CEQA: Exempt. (Planning, Building and Code Enforcement)

HL11-201/MA11-005 – District 6

Action: Continued to June 05, 2012 per Administration.

4.7 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Samuel and Lila Martin House #1” located on the east side of South Sixth Street, approximately 190 feet south of East Reed Street (641 South Sixth Street), on a 0.12-acre site (City Landmark No. HL11-202 and California Mills Act No. MA11-006).

- (a) Conduct a public hearing and adopt a resolution designating the “Samuel and Lila Martin House #1” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (b) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the “Samuel and Lila Martin House #1” (Craig Shannon, Owner) and adopt a resolution approving the contract.**

**CEQA: Exempt. (Planning, Building and Code Enforcement)
HL11-202/MA11-006 – District 3**

Action: Continued to June 05, 2012 per Administration.

4.8 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Robert Hutchinson House” located on the northwest corner of Reed Street and South Sixth Street (593 South Sixth Street), on a 0.23-acre site (City Landmark No. HL12-203 and California Mills Act No. MA12-001).

- (a) Conduct a public hearing and adopt a resolution designating the “Robert Hutchinson House” as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature.**
- (b) Conduct a public hearing on the Historical Property Contract between the City of San José and the owners of the “Robert Hutchinson House” (Robert W. and Lois M. Stevens, Owner) and adopt a resolution approving the contract.**

**CEQA: Exempt. (Planning, Building and Code Enforcement)
HL12-203/MA12-001 – District 3**

Action: Continued to June 05, 2012 per Administration.

4.9 Conduct a public hearing on the Historical Property Contract (California Mills Act No. MA12-002) between the City of San José and the owners of the “W. Prussia Building,” located on the west side of South First Street, approximately 100 feet northerly of West San Salvador Street (371-387 South First Street), on a 0.21-acre site (City Landmark No. HL01-130) (Vic Rodriguez Properties, LLC, Owner) and adopt a resolution approving the contract. CEQA: Exempt. (Planning, Building and Code Enforcement)

MA12-002 – District 3

Action: Continued to June 05, 2012 per Administration.

- 4.10 Conduct a public hearing on the Historical Property Contract (California Mills Act No. MA12-003) between the City of San José and the owners of the “Rucker Mansion,” located on the east side of South Third Street, approximately 90 feet southerly of East San Salvador Street (418 South Third Street), on a 0.22-acre site (City Landmark No. HL01-133) (Thang Do, Owner) and adopt a resolution approving the contract. CEQA: Exempt. (Planning, Building and Code Enforcement)
MA12-003 – District 3**

Action: Continued to June 05, 2012 per Administration.

NEIGHBORHOOD SERVICES

- 5.1 Approve the Memorandum of Understanding (MOU) between the City of San José and Launchpad Development Company, a California 501(c)(3) non-profit Corporation, setting forth the framework for:**
- (a) The possible sale of approximately 20,000 square feet of City owned property located near the Tamien Caltrain Station for the development of an elementary charter school to be operated by Rocketship Education, a California 501(c)(3) non-profit corporation.**
 - (b) Development of a children’s play area, picnic shelter and a parking lot on a portion of the adjacent City owned property to be constructed and maintained by the school operator, and jointly used by both parties.**
- CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding, Council District 3. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Pyle and Rocha, dated May 18, 2012, recommending approval of the Staff recommendations. (2) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 30, 2012, recommending approval of the Memorandum of Understanding. (3) Statement and Declaration of Conflict of Interest Form, from Council Member Liccardo, dated May 22, 2012, stating that his fiancée works for Rocketship Education.

Council Member Liccardo recused himself from participating in the voting and discussion on this item due to a conflict of interest.

Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano presented introductory remarks.

Mayor Reed and Council Member Pyle provided meeting disclosures.

Vice Mayor Nguyen and Council Member Campos expressed comments.

Public Comments: Erik Schoennauer, representing Launchpad and Rocketship, expressed support to the Staff recommendations.

5.1 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Rocha and carried unanimously, the Memorandum of Understanding (MOU) between the City of San José and Launchpad Development Company, a California 501(c)(3) non-profit Corporation was approved, including, setting forth the framework for: (1) The possible sale of approximately 20,000 square feet of City owned property located near the Tamien Caltrain Station for the development of an elementary charter school to be operated by Rocketship Education, a California 501(c)(3) non-profit corporation. (2) Development of a children's play area, picnic shelter and a parking lot on a portion of the adjacent City owned property to be constructed and maintained by the school operator, and jointly used by both parties. (10-0-0-1. Abstained: Liccardo.)

5.2 (a) Adopt a resolution to:

- (1) Clarify that the City's prevailing wage policy does not apply to the construction of park improvements that are wholly donated to the City.
- (2) Memorialize and consolidate into one resolution certain exclusions from the requirement to pay prevailing wages under the City's prevailing wage policy.
- (3) Repeal previous resolutions or portions thereof setting forth the exclusions incorporated into this resolution.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City of San Jose and the San Jose Vietnam War Memorial Foundation, Inc. for the design, fabrication, installation, and maintenance of a monument honoring the individuals from San Jose who lost their lives in the Vietnam War, to be located at Confluence Point in the Guadalupe River Park, at no cost to the City.

CEQA: Exempt, File No. PP11-081. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated May 21, 2012, recommending approval of the Staff recommendations. (2) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 9, 2012, recommending adoption of resolutions.

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

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, Resolution No. 76242, entitled: "A Resolution of the Council of the City of San José To Do the Following: (1) Clarify that the City's Prevailing Wage Policy Does Not Apply to the Construction of Park Improvements That Are Wholly Donated to the City, (2) Memorialize and Consolidate Into One Resolution Certain Exclusions from the Requirement to Pay Prevailing Wages Under the City's Prevailing Wage Policy, and (3) Repeal Previous Resolutions or Portions Thereof Setting

5.2 (Action Cont'd.)

Forth the Exclusions Incorporated into This Resolution and Resolution No. 76243, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With the San José Vietnam War Memorial Foundation, Inc. for a Monument Honoring Individuals from San José Who Lost Their Lives in the Vietnam War, To Be Located at Confluence Point in the Guadalupe Park”, were adopted. (11-0.)

5.4 Adopt a resolution amending City Council Policy 7-8 on Long-Term Use of City Parklands for Private Enterprise Purposes to:

- (a) **Broaden the definition of “Agreements for Recreational Purposes” to include improvements to parklands that enhance the recreational use of the park by providing a necessary element of that use, such as supplying power or other utilities.**
- (b) **Modify the restriction on allowable compensation under early termination to remove the constraint that the compensation amount be restricted to the lesser of the unrealized amortization of the capital investment or the fair market value.**

CEQA: Not a Project, File No. PP10-068 (b), Municipal Code or Policy. (Environmental Services/Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Acting Director of Environmental Services Kerrie Romanow and Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 30, 2012, recommending adoption of a resolution.

Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares presented introductory remarks.

Motion: Council Member Liccardo moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano responded to Council questions.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76244, entitled: “A Resolution of the Council of the City of San José Revising Council Policy 7-8, Long Term Use of City Parklands for Private Enterprise Purposes, To: (1) Authorize Improvements to Parklands that Enhance the Recreational Use of the Park by Providing a Necessary Element of That Use, Such As Supplying Power or Other Utilities, and (2) Modify the Manner of Compensation Authorized for Early Termination of Long Term Agreements by the City”, was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **Adopt a resolution authorizing the City Manager to execute the following two agreements together with other documents necessary to complete the transaction:**
- (1) **First Amendment to the Restated Lease between the City of San José and Penske Truck Leasing Co., LP terminating the remainder of the lease term for 14 compressed natural gas (CNG) shuttle buses (Fleet A) and sale to San José with San José's payment to Penske in the amount not to exceed \$4,407,508.**
 - (2) **Purchase Agreement between the City of San José and the City and County of San Francisco for the sale of Airport Shuttle Bus Fleet A for a total sales price of \$3,400,000.**
- (b) **Adopt the following 2011-2012 Appropriation Ordinance and Funding Sources Resolution amendments in the Airport Revenue Fund:**
- (1) **Increase the estimate for Earned Revenue by \$3,400,000.**
 - (2) **Increase the Reserve – Per Master Trust Agreement by \$3,400,000.**

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport/Finance/City Manager's Office)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E., Acting Director of Finance Julia H. Cooper and Budget Director Jennifer Maguire, dated April 30, 2012, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously, Resolution No. 76245, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a First Amendment to the Restated Lease with Penske Truck Leasing Company, LP Terminating the Remainder of the Lease Term for 14 Compressed Natural Gas Airport Shuttle Buses and Sale to City In An Amount Not To Exceed \$4.4 Million and Purchase Agreement with the City and County of San Francisco for the Sale of 14 Compressed Natural Gas Airport Shuttle Buses for a Total Sale of \$3.4 Million"; Ordinance No. 29092, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Airport Revenue Fund for the Reserve, Per Master Trust Agreement; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 76246, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 75872 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2011-2012 To Adjust Revenues in the Airport Revenue Fund", were adopted. (11-0.)

- 6.2 **As recommended by the Transportation and Environment Committee on May 7, 2012, accept the status report on current implementation of the adaptive LED streetlight conversion program and provide input to staff on policy options for future conversion efforts. (Transportation)**
[Transportation and Environment Committee referral 5/7/12 – Item D(2)]

6.2 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Liccardo and Rocha, dated May 18, 2012, recommending acceptance of the Staff report and prioritization of conversion effort, with additions. (2) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated May 9, 2012, transmitting the recommendations of the Transportation and Environment Committee.

Director of Transportation Hans Larsen offered the report.

Council Member Rocha moved approval of the memorandum he cosigned with Mayor Reed and Council Member Liccardo, dated May 18, 2012. Council Member Herrera seconded the motion.

Mayor Reed presented comments.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Members Liccardo and Rocha, dated May 18, 2012, recommending acceptance of the Staff report and affirming Staff's prioritization of conversion effort as discussed at the Transportation and Environment Committee with the following changes: (1) Continue efforts to combine the Streetlight Conversion Program with the Building Retrofit/Energy Efficiency efforts for City buildings. (2) Develop an RFQ/RFP designed to select a partner from the list of ESCO's (Energy Service Company) approved to operate in California that clearly states the following objectives of the program: (a) Replace all City streetlights with programmable, controllable, energy-efficient LED's. (b) Retrofit city buildings to improve energy efficiency and reduce operational costs. (c) Finance the entire package of improvements in order for loan repayment to come solely from the energy savings that are guaranteed by the partner. (d) Form a working group from pertinent City departments and the City Attorney's Office. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Convention and Cultural Affairs Fund.

- (a) Increase the Non-Personal/Equipment appropriation by \$2,600,000;
 - (b) Increase the estimate for Earned Revenue by \$3,100,000; and
 - (c) Increase the Ending Fund Balance by \$500,000.
- (City Manager's Office)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer Maguire, dated May 8, 2012, recommending adoption of appropriation ordinance and funding sources resolution amendments.

4.1 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29093, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the Convention and Cultural Affairs Fund for the Non Personal/Equipment Appropriation; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76247, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 75872 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2011-2012 To Adjust Revenues in the Convention and Cultural Affairs Fund”, were adopted. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

9.1 It is recommended that the City Council, acting as the Successor Agency to the Redevelopment Agency of the City of San José, adopt a resolution to:

- (a) Authorize, subject to the approval of the Oversight Board, the execution and delivery of a Fifth Amendment to Reimbursement Agreements in substantially final form with JPMorgan Chase Bank, NA (“JPMorgan”), to extend the terms of the letters of credit relating to the Redevelopment Agency of the City of San José Merged Area Redevelopment Project Taxable Revenue Bonds (Subordinate Tax Allocation), Series 2003A and 2003B (collectively, "2003 Bonds") and the Redevelopment Agency of the City of San José Merged Area Redevelopment Project Revenue Bonds (Subordinate Tax Allocation), Series 1996A and Series 1996B (collectively, "1996 Bonds");
- (b) Authorize, subject to the approval of the Oversight Board, the execution and delivery of a Letter Agreement regarding fees and charges for the various letters of credit in substantially final form provided by JPMorgan under the Fifth Amendment to Reimbursement Agreements for the 1996 Bonds and the 2003 Bonds in the amount of 2.25% of the aggregate outstanding amounts of the letters of credit, depending on the underlying ratings of the Redevelopment Agency of the City of San José (the “Agency”);
- (c) Authorize the Executive Officer of the Successor Agency to the Redevelopment Agency of the City of San José (“Successor Agency”) or her designee to take any actions and execute any and all documents necessary to complete this transaction.

CEQA: Not a Project, File No. PP10-066, Agreements/Contracts (New or Amended).

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated April 30, 2012, recommending adoption of a resolution.

Acting Director of Finance Julia H. Cooper presented introductory comments.

Motion: Council Member Liccardo moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

A brief discussion followed.

9.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Successor Agency Resolution No. 7009, entitled: “A Resolution of the Council of the City of San José Acting in Its Capacity as the Successor Agency to the Redevelopment Agency of the City of San José: Authorizing, Subject to the Approval of the Oversight Board, The Execution and Delivery of a Fifth Amendment to Reimbursement Agreements in Substantially Final Form with JP Morgan Chase Bank, NA Relating to the Agency’s Merged Area Redevelopment Project Taxable Revenue Bonds, Series 2003A and 2003B, and the Agency’s Merged Area Redevelopment Project Revenue Bonds Series 1996A and Series 1996B; Authorizing Subject to the Approval of the Oversight Board, The Execution and Delivery of a Letter Agreement in Substantially Final Form Provided by JP Morgan Under the Fifth Amendment to Reimbursement Agreements; and Authorizing the Executive Officer of the Successor Agency or Her Designee to Take Any Actions and Execute Any and All Documents Necessary to Complete This Action”, was adopted. (11-0.)

NEIGHBORHOOD SERVICES

- 5.3 (a) **Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the Roman Catholic Welfare Association of San José, Inc., a non-profit corporation (Archbishop Mitty High School) for the funding, renovation, operation, maintenance, and joint use of John Mise Park with the following terms:**
- (1) **Term of thirteen years with an automatic extension if Archbishop Mitty High School complies with all terms of the agreement for twelve years for a possible term of twenty-five years.**
 - (2) **Financial contribution in the amount of up to \$3,500,000 from City and up to \$375,000 from Archbishop Mitty High School for renovation of the sports field.**
 - (3) **In-kind contribution from Archbishop Mitty High School for park maintenance in exchange for exclusive use of the sports field and parking spaces during certain hours.**
 - (4) **Financial contribution of up to \$175,000 from Archbishop Mitty High School for replacement of the artificial turf for the sports field.**

Documents Filed: (1) Memorandum from Council Member Constant, dated May 11, 2012, recommending acceptance of the Staff recommendations, with further direction to Staff. (2) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 30, 2012, recommending adoption of a resolution and requesting direction for imposing liquidated damages for prevailing wage violations. (3) Supplemental memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 16, 2012, requesting the removal of recommendation (b) from the April 30, 2012 memorandum to the Mayor and

5.3 (Cont'd.)

Documents Filed: (Cont'd.)

City Council regarding the John Mise Park Project. (4) Memorandum from Council Member Constant, dated May 17, 2012, transmitting the petition of approximately one thousand and forty four signatures objecting to the renovation of the sports field at John Mise Park. (5) Five letters from members of the public all dated May 22, 2012, commenting on the John Mise Park Project Renovation.

Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, Planning, Building and Code Enforcement Senior Planner Andrew Crabtree and Deputy Director of Parks, Recreation and Neighborhood Services presented the report and responded to Council questions and concerns.

Motion: Council Member Constant moved approval of his memorandum, dated May 11, 2012, accepting the Staff recommendation, with further direction to Staff and dropping Item (b) from the Staff recommendations. Council Member Liccardo seconded the motion.

Public Comments: Speaking in opposition to the John Mise Park Project Renovation were Jim Goerrina, Harry Gingeresky, Cheryl Gingeresky, Pat Pizzo, Bernadette Crowe, Maureen Lopez, Mary Mathew, Dr. Sara Reddy, Ranjan Mathew, Mandy Hedrick, Mia Hedrick, Scott Hedrick, Hoi Aing Poon, AJ, Lorraine Priscaro, Dhanya Jayagopal, Jeyanthi Sundararajan, Susan Antonietti, Mani Jayaraman, Chan Wong, Jayagopal and Catherine P. Kelly.

Bill Bruns, Athena Chow, Benget Jelane and Shawna Nixon also presented comments.

Extensive Council discussion followed.

Council Member Herrera requested that Staff continue to have ongoing dialogue with the community and consider plans for future opportunities for other uses in the park.

Action: On a call for the question, the motion carried, the memorandum from Council Member Constant, dated May 11, 2012, was approved: (1) The Staff recommendations were accepted to proceed with an agreement with the Roman Catholic Welfare Association of San José (Archbishop Mitty High School) for the funding, renovation, operation, maintenance and joint use of John Mise Park. (2) Staff was directed to include installation of neutral-color fencing, such as green or black, around the perimeter of the artificial turf field, rather than galvanized steel, to insure that the fence has a minimal impact on the aesthetics of the park; Resolution No. 76248, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Roman Catholic Welfare Association of San José, Inc., A Nonprofit Corporation (Archbishop Mitty High School) for the Funding, Renovation, Operation, Maintenance and Joint Use of John Mise Park with the Following Terms:

5.3 (Action Cont'd.)

(1) Term of Thirteen Years With an Automatic Extension if Archbishop Mitty High School Complies with All Terms of the Agreement for Twelve Years for a Possible Term of Twenty Five Years; (2) Financial Contribution in the Amount of Up to \$3,500,000 from City and Up to \$375,000 from Archbishop Mitty High School for Renovation of the Sports Field; (3) In Kind Contribution from Archbishop Mitty High School for Park Maintenance in Exchange for Exclusive Use of the Sports Field and Parking Spaces During Certain Hours, and (4) Financial Contribution of Up to \$175,000 from Archbishop Mitty High School for Replacement of the Artificial Turf for the Sports Field”, was adopted. Staff was directed to continue with ongoing dialogue with the community and consider plans for future opportunities for other uses in the park. (9-2. Noes: Chu, Kalra.)

(b) Provide direction on how to respond to concerns that Archbishop Mitty High School has raised regarding the City’s contractual provision imposing liquidated damages for prevailing wage violations.

**CEQA: Categorically Exempt, File No, PP12-021. Council District 1. (Parks, Recreation and Neighborhood Services)
(Deferred from 5/15/12 – Item 5.1)**

Action: Item 5.3(b) was dropped.

STRATEGIC SUPPORT SERVICES

- 3.4 (a) **Accept the report on effects of the proposed ordinance as prepared by staff consistent with California Elections Code Section 9212; and**
- (b) **Discuss the report and consider future action on the following options consistent with San Jose City Charter, Article 16, Sections 1601 (b) and 1603 (a) (2) and California Elections Code Section 9215:**
- (1) **Adopt the proposed ordinance as submitted no later than June 1, 2012; or**
 - (2) **Adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided; or**
 - (3) **Adopt a resolution no later than August 10, 2012 calling an election to submit the initiative to the voters at the next General Election on Tuesday, November 6, 2012.**

(City Clerk)

(Referred from 5/1/12 – Item 2.11)

3.4 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated May 21, 2012, recommending approval of the Staff recommendations to place the initiative on the ballot for November and allow the voters to decide whether or not to impose significant new costs on small businesses. (2) Memorandum from Council Member Liccardo, dated April 30, 2012, recommending approval of the Staff recommendations with modifications. (3) Memorandum from Council Member Rocha, dated April 30, 2012, recommending further Staff direction. (4) Memorandum from City Attorney Richard Doyle and City Clerk Dennis D. Hawkins, CMC, dated April 27, 2013, transmitting the recommendations of the Rules and Open Government Committee on April 25, 2012. (5) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated May 18, 2012, recommending acceptance of the report under Section 9212, California Elections Code and adoption an ordinance or a resolution upon final Council action. (6) Supplemental memorandum from City Manager Debra Figone, dated May 18, 2012, recommending additional the allowance of additional time for Council consideration relating to the City Clerk's Section 9212 impartial report on the Minimum Wage Initiative setting a later election date. (7) Staff presentation dated May 22, 2012 describing the Minimum Wage Initiative. (8) Remarks from Joseph J. Sabia, Assistant Professor of Economics, San Diego University, dated May 22, 2012, regarding the Minimum Wage Initiative. (9) Policy Brief from the Employment Policies Institute, dated May 2012, regarding the impact of a \$10.00 minimum wage in San José. (10) Sixty eight written testimonies from the public all dated May 22, 2012, in support to placing for the Minimum Wage Initiative on the November ballot and/or adopt the Minimum Wage ordinance today

City Clerk Dennis D. Hawkins, CMC presented the report on the minimum wage initiative. Assistant City Manager Edward K. Shikada provided closing comments. Director of Economic Development/Chief Strategist Kim Welsh and Director of Public Works David Sykes were present.

Public Comments: The following speakers presented their comments, support and opposition to the Staff recommendations for the proposed initiative on minimum wage being placed on the ballot for November and allowing the voters to decide whether or not to impose significant new costs on small businesses.

Joseph J. Sabia, Professor, San Diego State University, Matt Savage, Sergeant Michael Cervantes (The Veterans of America), Bob Shibata (Mt. Eden Floral Company), Raleigh Johnston, Josiah M., Diana Crumeda, Andrea Harris (Jewish Community Relations Council), Elaine Harris (Working Partnerships), Patricia Martinez-Roach (East Side Union High School), Annette Nagataru, Lydia Guel, Alberto Sanchez, Matt King, Raul Sanchez, Lorena Sanchez, Yancy Rivera, Allison Lasser, Ricky Alexander, Poncho Guevara (Sacred Heart Community Service), Gil Villagran, Ana, Alex Guberman, Sabuhi Siddique (Interfaith Council on Economic Justice), Carol Stephenson, Veronica Arendano, Steve Kline, Ato Walker, Pastor Jethroe Moore Jr. (NAACP), Daniel Zapien, Oscar Flores (Silicon Valley DeBug), Harsh Ghai, Briann Li, Brad Giannoccaro, Mike Casas (San José City College Student Union), Lisa Sallaz, Samya Abdela (De Anza College), Carolyn Straub, Antonio Decastro, Enrique Bognot, Misty Taylor

3.4 (Cont'd.)

Public Comments: (Cont'd.)

Claudia Shope, Janila Heshima, Nicky Gonzales Yuen, Tony Alexander, Ross Gomez, Annette Diaz, James Duran (Hispanic Chamber of Commerce), Scott Knies (San José Downtown Association), Saul Gonzales, Patrick Quyo, Elisha St. Laurent (Café-J), Jamila Heshima, Sylvia Allegretto, Victoria Bourdon, Dr. Scott Myers-Lipton, Ryan Serene, Doug Jones (SEIU United Healthcare Workers), Reverend Dana Bainbridge (First Christian Church), Shilpa Gogri, Mahesh Gogri, Karan Gogri (Jack in the Box), Rosa De Leon (Californians for Justice), Greg Miller, Angus Teter, Diane Fisher, Wayne Spalding, Reverend Tom Coop (Santa Teresa Hills Presbyterian Church), Kara Mooneyham, Jo Kenny, Christy Wong, Donna Furuta, Reverend Reginald Swilley, Reverend Carol Breen, Richard Hobbs, Jill Malone, Caroline Campo, Stephen Hicken (Catholic Charities), Bill Wallow, Anna Schlotz, Misty Tanner, Rhonda Lakatos, Ana Maria Candela, Joseph Rosas, Joann Pham, Ben Pacho, Tom Linebarger, Fred Hirsh, Bob Brownstein, Janis Schneider, Judy Chirco, Clarence Madrilejos, Lucila Ortiz, Colin Cohen, Larry Yamasaki, Steven Herrera, Stanley Taylor, Neil Collins, Susan Long, David Gonzales, Alexandria Dorian (Emile's Restaurant), Suresh Dixit (Teamster Local 665), Matt Sutton (California Restaurant Association), Martha O'Connell, Aurelia Sanchez, Tanzeer Ahmed, Richard Kaliska, David Camp (Yard House Restaurants), Matt Mahood, Pat Sausedo (San José Silicon Valley Chamber of Commerce), Sandy Perry (CHAM), Ron Patterson (KFC/Taco Bell/Long John Silver's/A&W), Jim Beglin (KFC), Carl San Miguel, Gail Chandler, Ross Signorino, Jerry Mungai, Joshua Barousse and Steven Rodgers.

Council Member Constant presented comments and stated that the residents and the businesses of San José must be able to be involved in the process.

Motion: Council Member Constant moved approval of the Staff recommendations, including placing the initiative on the November 2012 ballot. Council Member Liccardo seconded the motion.

Council discussion followed.

Substitute Motion: Council Member Kalra moved approval to adopt the ordinance today, May 22, 2012 and to be effective in September 2012. Council Member Campos seconded the motion.

Extensive Council discussion ensued.

On a call for the question, the substitute motion failed. (3-8. Noes: Constant, Herrera, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.)

Discussion returned to the original motion.

3.4 (Cont'd.)

Council Member Liccardo requested to amend the original motion to add direction to Staff to analyze the impact of modifications of this policy as identified on Page 12 of the Staff Report (Section 9212) on the impacts of variations on employment and living standards of the working poor and to return to Council before the end of the fiscal year. Council Member Constant accepted the amendment.

Action: On a call for the question, the original motion carried unanimously, the Staff report was accepted with a resolution to be adopted no later than August 10, 2012 calling for an election to submit the initiative to the voters at the next General Election on Tuesday, November 6, 2012. Staff was directed to analyze the impact of modifications of this policy as identified on Page 12 of the Staff Report (Section 9212) on the impacts of variations on employment and living standards of the working poor and to return to Council before the end of the fiscal year. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10126	So of E Williams/ W of 22nd	3	Watt Companies	1 / 67	SFA

OPEN FORUM

Ross Signorino congratulated local law enforcement for the arrest of a 21 year old suspect in connection with the disappearance of the Morgan Hill teen Sierra La Mar.

ADJOURNMENT

The Council of the City of San José was adjourned at 8:27 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk
smd/05-22-12 MIN

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