



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 7, 2012

The Council of the City of San José convened in Regular Session at 9:03 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Constant. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Assistant to the City Manager, Office of Employee Relations, Jennifer Schembri provided an update of the Association of Legal Professionals (ALP) proposal.

Documents Filed: Association of Legal Professionals package proposal, proposed memorandum of agreement: July 19, 2012 supplement.

CLOSED SESSION

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

Absent: Council Members - All Present.

Upon motion unanimously adopted, Council recessed at 9:15 a.m. to a Closed Session in Room W133 (A) to discuss City's response to confidential final draft of State Audit pertaining to current and future pension obligations pursuant to Government Code Section 54956.75; (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 with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation: (1) City, et al. v. County of Santa Clara,

CLOSED SESSION (Cont'd.)

et al.; Names of Parties Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vidod K. Sharma, individually, and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara, and Does 1 through 100, inclusive; Court: Superior Court of California, County of Sacramento; Case No.: 34-2012-80001190; Amount of Money or Other Relief Sought: Petition for Peremptory Writ of Mandate and Complaint for Declaratory Relief, Injunctive Relief and Damages; (2) McDonough, et al. v. City, et al.; Names of Parties Involved: City of San José, Dennis D. Hawkins, in his official capacity as City Clerk of the City of San José, Barry Garner, in his capacity as Registrar of Voters of the County of Santa Clara, Karen McDonough, Franco Vado, Robert Sapien, Clifford G. Hubbard; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV220781; Amount of Money or Other Relief Sought: Petition for Writ of Mandate; (3) City v. San José Police Officers' Association, et al.; Names of Parties Involved: City of San José, San José Police Officers' Association; San José Firefighters, IAFF Local 230; Municipal Employees' Federation, AFSCME, Local 101; City Association of Management Personnel, IFPTE, Local 21; Court: U.S. District Court, Northern District of California; Case No.: C12-02904 LHK; Amount of Money or Other Relief Sought: Validation of Measure B; (4) San José Police Officer's Association v. City, et al.; Names of Parties Involved: 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.: 112CV225926; Amount of Money or Other Relief Sought: Declaratory and injunctive Relief; (5) Sapien, et al. v. City of San José, et al., Names of Parties Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone, in her Official Capacity as City Manager of the City of San José, Does 1 through 15, the Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No.: 112CV225926; Amount of Money or Other Relief Sought: Declaratory and injunctive Relief; (6) Deisenroth v. City; Names of Parties 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; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA; (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP; (5) Confidential

CLOSED SESSION (Cont'd.)

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.

By unanimous consent, Council recessed from the Closed Session at 11:45 a.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - Constant. (Excused)

INVOCATION

Pastor Danny Sanchez of Calvary Chapel provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 2.19 deferred to September 18, 2012, and Item 1.4 dropped to be renoticed. (10-0-1. Absent: Constant.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to HACE Scholarship recipient Tiffany Maldonado. (Campos)

Action: Mayor Reed and Council Member Campos presented a commendation to HACE Scholarship recipient Tiffany Maldonado.

1.2 Presentation of a commendation recognizing the Spirit of '45's efforts to honor the legacy of the World War II generation by restoring a spirit of community, can-do attitude, willingness to sacrifice for others, and a sense of national unity in the City of San José. (Chu/Nguyen/Kalra/Herrera)

Action: Mayor Reed, Vice Mayor Nguyen and Council Members Chu, Kalra and Herrera recognized the Spirit of '45's efforts to honor the legacy of the World War II generation.

1.3 Presentation of a commendation to 1590 KLIV commemorating its 20th anniversary and to 95.3 KRTY celebrating its 45th anniversary. (Constant)

Action: Item 1.3 was dropped.

1.4 Presentation of commendations to Steven Beitashour, Chris Wondolowski, Ramiro Corrales, and Justin Morrow of the San José Earthquakes for being named to the 2012 Major League Soccer All-Star squad, and for their contributions and continued commitment to serving our community through excellence both on and off the soccer pitch. (Pyle)

Action: Item dropped per Orders of the Day.

NEIGHBORHOOD SERVICES

- 5.1 (a) Adopt a resolution that authorizes the City Manager to negotiate and execute any necessary agreements required to accept a donation of cash and/or stock valued at up to \$4,000,000 for the Allen at Steinbeck soccer fields project;**
(b) Direct the City Manager to return to Council at a future date to establish appropriation actions for this purpose.

CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Parks, Recreation and Neighborhood Services)

5.1 (Cont'd.)

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

Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares provided an overview of the partnership opportunity.

Public Comment: John Jussen, representing the Almaden Valley Youth Soccer League, offered appreciation for the generous donation.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, Resolution No. 76386, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute any Necessary Agreements Required to Accept a Donation of Cash and/or Stock Valued at Approximately \$4 Million for the Allen at Steinbeck Soccer Fields Project", was adopted. (10-0-1. Absent: Constant.)

CONSENT CALENDAR

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

2.1 Approval of Minutes.

None provided.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29115 – Rezoning certain real property situated at the northwest corner of Curtner and Union Avenues, from the CP Commercial Pedestrian Zoning District to the CN(PD) Planned Development Zoning District. PDC12-001**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29115 executed on June 22, 2012, submitted by the City Clerk.

Action: Ordinance No. 29115 was adopted. (10-0-1. Absent: Constant.)

- (b) **ORD. NO. 29116 – Rezoning certain real property situated on the south side of Barnes Lane, approximately 650 feet west of Almaden Road (1126 Barnes Lane; APN: 583-11-126), to the R-1-2(PD) Planned Development Zoning District. PDC11-020**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29116 executed on June 22, 2012, submitted by the City Clerk.

Action: Ordinance No. 29116 was adopted. (10-0-1. Absent: Constant.)

2.3 Approval of Council Committee Reports.

- (a) **Airport Competitiveness Committee Report of April 13, 2012. (Mayor)**
- (b) **Airport Competitiveness Committee Report of May 18, 2012. (Mayor)**
- (c) **Neighborhood Services and Education Committee Report of June 14, 2012. (Pyle)**
- (d) **Public Safety, Finance and Strategic Support Committee Report of June 21, 2012. (Constant)**
- (e) **Community and Economic Development Committee Report of June 25, 2012. (Herrera)**

Documents Filed: (1) Airport Competitiveness Committee Report dated April 13, 2012. (2) Airport Competitiveness Committee Report dated May 18, 2012. (3) The Neighborhood Services and Education Committee Report dated June 14, 2012. (4) The Public Safety, Finance and Strategic Support Committee Report dated June 21, 2012. (5) The Community and Economic Development Report dated June 25, 2012.

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

- ### **2.4**
- (a) **Request for excused absences for Council Member Constant from City Council Meetings, Closed and Regular Sessions, and Council Committee Meetings from August 2 – September 30, 2012 due to Medical/Illness. (Constant)**
 - (b) **Request for excused absences for Council Member Constant from the Rules and Open Government Committee Meeting on October 3, 2012, the Police and Fire Department Retirement Board Meeting on October 4, 2012, and the Joint City-County Meeting on October 5, 2012 due to Authorized City Business: 2012 CALAFCO Conference in Monterey, CA. (Constant)**
 - (c) **Request for an excused absence for Council Member Constant from the Regular Meeting of Rules and Open Government Committee on October 24, 2012 due to Authorized City Business: 2012 Chamber of Commerce Annual Study Mission (City-to-City Trip) in San Diego, CA. (Constant)**

Documents Filed: (1) Memorandum from Council Member Constant, dated July 16, 2012, requesting excused absences due to a medical procedure. (2) Memorandum from Council Member Constant, dated July 23, 2012, requesting excused absences due to authorized City business. (3) Memorandum from Council Member Constant, dated July 19, 2012, requesting excused absences due to authorized City business.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Adopt a resolution declaring the results of the June 5, 2012 Municipal Election pursuant to Elections Code Section 15400. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated July 26, 2012, recommending adoption of a resolution.

Council Member Rocha pulled Item 2.7 with questions regarding recounts. City Clerk Dennis Hawkins provided an update of the Registrar's most recent recount provisions.

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, Resolution No. 76370, entitled: "A Resolution of the Council of the City of San José Reciting that a Regular Municipal Election and Special Municipal Election was Held in the City of San Jose on Tuesday, June 5, 2012; Stating the Offices to be Filled at the Election and Confirming the Passage of Measure B; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Names of the Persons and Offices Voted For, the Name of the Measure Voted For, the Number of Votes Given at Each Precinct to Each Person and the Measure; and Finding and Declaring Who Received the Highest Number of Votes of the Votes Cast and that Measure B Received a Majority of the Votes Cast", was adopted. (10-0-1. Absent: Constant.)

2.8 Adopt a resolution authorizing the City Manager to negotiate and execute an agreement for the purchase of a storm drain easement to serve the City-owned Ford and Monterey Family affordable housing project site from the State of California, to accept the easement on behalf of the City, and to negotiate and execute any other documents related to the needed storm drain easement. CEQA: Mitigated Negative Declaration, File No. PDC09-022. District 2. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated July 16, 2012, recommending adoption of a resolution.

Action: Resolution No. 76371, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement for the Purchase of a Storm Drain Easement from the State of California to Serve the City of San José-Owned Ford and Monterey Affordable Housing Project Site", was adopted. (10-0-1. Absent: Constant.)

- 2.9 Approve travel by Independent Police Auditor, Judge LaDoris Cordell, for a business-related trip to Washington, D.C. from July 19 – 20, 2012 to meet with Tony West, Acting Associate Attorney General to seek federal funding to equip all law enforcement officers in Santa Clara County with on-officer cameras. Source of Funds: San José Police Department. (Independent Police Auditor)**

Documents Filed: Memorandum from Independent Police Auditor, Judge LaDoris Cordell, dated July 11, 2012, requesting approval of IPA business travel.

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

- 2.10 Approve an agreement with San José State University for cost sharing associated with joint operations of the Dr. Martin Luther King, Jr. Library for fiscal year 2012-2013, and adopt a resolution authorizing the City Manager to exercise four renewable option terms through fiscal year 2016-2017 at an amount not to exceed \$200,000 per fiscal year pursuant to adopted operating budgets. CEQA: Not a Project, File No. PP10-066(a), Agreements and contracts for purchase of supplies, equipment and professional services with no changes in the physical environment. (Library)**

Documents Filed: Memorandum from Library Department Interim Director Anne Cain, dated July 16, 2012, recommending adoption of a resolution.

Action: An agreement was approved with San José State University for cost sharing associated with joint operations of the Dr. Martin Luther King, Jr. Library for fiscal year 2012-2013; and Resolution No. 76372, authorizing the City Manager to exercise four renewable option terms through fiscal year 2016-2017 at an amount not to exceed \$200,000 per fiscal year pursuant to adopted operating budgets was adopted. (10-0-1. Absent: Constant.)

2.11 Adopt a resolution:

- (a) Preliminarily approving the Engineer's Report for Annexation Area No. 1 and formation of Zone I (Cadwallader) to Maintenance District 15 (Silver Creek Valley).**
- (b) Setting the Public Meeting to be held on September 18, 2012 at 1:30 p.m.**
- (c) Setting the Public Hearing and tabulation of property owner ballots for October 30, 2012 at 1:30 p.m.**
- (d) Directing the notice of said meeting, hearing and ballots be mailed to the property owners in district.**

CEQA: Mitigated Negative Declaration, File No. PDC09-010. Council District 8. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated July 16, 2012, recommending adoption of a resolution.

2.11 (Cont'd.)

Action: Resolution No. 76373, entitled: "A Resolution of the Council of the City of San José Preliminarily Approving the Engineer's Report for the Proposed Annexation of New Territory into Maintenance District 15 (Silver Creek Valley) and Taking Certain Other Actions Preliminary to the Approval of Such Annexation of New Territory into Maintenance District 15", was adopted. (10-0-1. Absent: Constant.)

2.12 Adopt a resolution:

- (a) **Preliminarily approving the Engineer's Report for Annexation Area 1 to Maintenance District 19 (River Oaks Area Landscaping).**
- (b) **Setting the Public Meeting to be held on September 18, 2012 at 1:30 p.m.**
- (c) **Setting the Public Hearing and tabulation of property owner ballots for October 30, 2012 at 1:30 p.m.**
- (d) **Directing the notice of said meeting, hearing and ballots be mailed to the property owners in district.**

CEQA: North San José Development Policy Update EIR, Resolution No. 72768. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated July 16, 2012, recommending adoption of a resolution.

Action: Resolution No. 76374, entitled: "A Resolution of the Council of the City of San José Preliminarily Approving the Engineer's Report for the Proposed Annexation of New Territory into Maintenance District 19 (River Oaks Area Landscaping) and Taking Certain Other Actions Preliminary to the Approval of Such Annexation of New Territory into Maintenance District 19", was adopted. (10-0-1. Absent: Constant.)

2.13 Adopt a resolution:

- (a) **Approving the Willow Glen Community Benefit and Improvement District Annual Report for Fiscal Year 2012-2013 as filed or modified by Council.**
- (b) **Confirming the individual assessments as proposed or modified by Council.**
- (c) **Directing the City to pay the assessment on City-owned property within the district in the amount of approximately \$9,069.**
- (d) **Directing the Acting Director of Finance to deliver the assessment roll to the County for collection with the property taxes.**

CEQA: Not a Project, File No. PP10-069(a), Annual Reports. Council District 6. (Public Works)

Documents Filed: Memorandum from Acting Director of Public Works David Sykes, dated July 16, 2012, recommending adoption of a resolution.

2.13 (Cont'd.)

Action: Resolution No. 76376, entitled: “A Resolution of the Council of the City of San José Approving Willow Glen Community Benefit and Improvement District Annual Report For Fiscal Year 2012-2013 as Filed or Modified by the City Council; Confirming the Individual Assessments as Proposed or Modified by the City Council, including the Assessment on City Owned Property of Approximately \$9,069; Directing that the City Assessment Payment Be Made; and Directing the Director of Finance to Deliver the Assessment Roll to the County of Santa Clara for Collection with the Property Taxes”, was adopted. (10-0-1. Absent: Constant.)

2.14 Approve an increase in the project contingency for the Monterey Road Resurfacing and Rehabilitation Project from five percent to ten percent for an increase from \$134,167 to \$268,334. CEQA: Exempt, File No. PP11-035. Council District 2. (Transportation)

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated July 16, 2012, recommending approval of the Monterey Road resurfacing and rehabilitation project.

Action: An increase in the project contingency for the Monterey Road Resurfacing and Rehabilitation Project from five percent to ten percent for an increase from \$134,167 to \$268,334 was approved. (10-0-1. Absent: Constant.)

2.15 Approve travel by Council Member Constant to San Diego, CA on October 24 – 26, 2012 to participate in the San José/Silicon Valley Chamber of Commerce Study Mission (City-to-City Trip). Source of Funds: Mayor and Council Travel Fund.

Documents Filed: Memorandum from Council Member Constant, dated July 25, 2012, requesting authorization to travel.

Council Member Rocha pulled Item 2.15 to question travel funding. Mayor Reed responded that a special travel fund was being used in this instance.

Action: Upon motion by Council Member Rocha, seconded by Council Member Pyle and carried unanimously, the travel request was approved. (10-0-1. Absent: Constant.)

2.16 Approve travel by Council Member Chu to Boston, Massachusetts on November 27 – December 1, 2012 to attend the National League of Cities Congress of Cities and Exposition 2012. Source of Funds: Mayor and Council Travel Fund. (Chu)

Documents Filed: Memorandum from Council Member Chu, dated July 27, 2012, requesting authorization to travel.

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

- 2.17 (a) Approve the District 4 River Oaks Ribbon Cutting and Resource Fair as a City-sponsored Special Event; and**
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated July 31, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 4 River Oaks Ribbon Cutting and Resource Fair as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Constant.)

- 2.18 Report on bids and award of contract for the 2012 Slurry Seal Project to the low bidder, Graham Contractors, Inc. in the amount of \$1,139,413.50 and approval of a five percent contingency in the amount of \$56,970.68. CEQA: Exempt, File No. PP11-035. (Transportation)**

Note: Renumbered from Item 6.1

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated July 16, 2012, recommending award of a contract for the 2012 Slurry Seal Project.

Action: The report on bids and award of contract for the 2012 Slurry Seal Project to the low bidder, Graham Contractors, Inc. in the amount of \$1,139,413.50 with related contingencies, was approved. (10-0-1. Absent: Constant.)

- 2.19 Approve a master agreement with RMC Water and Environment to develop a Master Plan for the South Bay Water Recycling Program for a total compensation not-to exceed amount of \$2,400,000, and for a term upon execution of the agreement through June 30, 2014. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase of professional services. (Environmental Services)**

Note: Renumbered from Item 7.1

Action: Deferred to September 18, 12 per Orders of the Day.

- 2.20 (a) **Adopt a resolution to ratify the City’s on-line acceptance on July 23, 2012 of the 2011 SAFER Grant in the amount of \$8,623,206.**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund in fiscal year 2012-2013:**
- (1) **Increase the Personal Services appropriation to the Fire Department in the amount of \$2,796,585;**
 - (2) **Increase the Non-Personal/Equipment appropriation to the Fire Department in the amount of \$139,802;**
 - (3) **Increase the Earmarked Reserve: Staffing for Adequate Fire and Emergency Response Grant by \$300,000; and**
 - (4) **Increase the estimate for Revenue from the Federal Government by \$3,236,387.**
- (c) **Approve the following position additions to the Fire Department effective August 19, 2012:**
- (1) **6.0 Fire Captains to the Fire Department,**
 - (2) **7.0 Fire Engineers to the Fire Department, and**
 - (3) **14.0 Firefighters to the Fire Department.**

CEQA: Not a Project, PP10-066, Agreement/Contracts. (Fire/City Manager’s Office)

Note: Renumbered from Item 8.1

Documents Filed: Joint memorandum from Fire Chief William McDonald and Budget Director Jennifer Maguire, dated July 25, 2012, recommending adoption of a resolution to ratify acceptance of the SAFER Grant, adoption of appropriation ordinance and funding sources resolution amendments and approval of position additions to the Fire Department.

Action: Ordinance No. 29117, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund for the Personal Services to the Fire Department, for the Non-Personal/Equipment to the Fire Department, and for the Earmarked Reserve: Staffing for Adequate Fire and Emergency Response Grant (SAFER); and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76376, entitled: “A Resolution of the Council of the City of San José Ratifying the City Manager’s Acceptance of U.S. Department of Homeland Security / Federal Emergency Management Agency Grant Funding in the Amount of \$8,623,206 Under the 2011 Staffing for Adequate Fire and Emergency Response (Safer) Program to Restore 27 Firefighter Positions”; and Resolution No. 76377 entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the General Fund”, were adopted, and additional positions to the Fire Department effective August 19, 2012, were approved. (10-0-1. Absent: Constant.)

- 2.21 (a) Appoint Doug Feece as the At-Large Representative and Kelly Hattley as the Private Off-Street Parking Facility Representative to the Downtown Parking Board. (Liccardo)**
- (b) Appoint Darren Wallace as the Fire Representative and Dave Woolsey as the Police Representative to the Deferred Compensation Advisory Committee for the remainder of the four-year terms ending on March 1, 2013. (City Manager's Office)**

[Rules Committee referral 8/1/12 – Items F(1)(a) and F(1)(b)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 2, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: Appointments of Doug Feece as the At-Large Representative and Kelly Hattley as the Private Off-Street Parking Facility Representative to the Downtown Parking Board were approved; Darren Wallace as the Fire Representative and Dave Woolsey as the Police Representative to the Deferred Compensation Advisory Committee for the remainder of the four-year terms ending on March 1, 2013, were approved. (10-0-1. Absent: Constant.)

- 2.22 As recommended by the Rules and Open Government Committee on August 1, 2012, direct the City Manager or designee to negotiate and execute a Joint Use Park Agreement with the Santa Clara Unified School District on the Agnews East site in North San José. (Mayor/Chu)**

[Rules Committee referral 8/1/12 – Item G(6)]

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 2, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano pulled Item 2.22 to provide replacement language for the resolution as indicated below.

Action: Upon motion by Council Member Chu, seconded by Council Member Pyle and carried unanimously, Resolution No. 76378, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Negotiate and Execute a Non-Binding Memorandum of Understanding With Santa Clara Unified School District on the Agnews East Site in North San José”, was adopted, with modifications as recommended by Staff, to “adopt a resolution authorizing the City Manager to negotiate and execute a memorandum of understanding with the Santa Clara Unified School District setting forth the framework for a future partnership between the City and District for the possible acquisition and use of the Agnews site in North San José and to return to the City Council for approval of a Joint Use Agreement at a later date once the final terms of joint use agreement have been negotiated”. (10-0-1. Absent: Constant.)

- 2.23 As recommended by the Rules and Open Government Committee on August 1, 2012, approve the proposed designation of Council Member Pete Constant as the alternate voting delegate at the September 7, 2012 Annual Business Meeting for the League of California Cities. (City Manager's Office)
[Rules Committee referral 8/1/12 – Item G(7)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 2, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: Designation of Council Member Constant as the Alternate Voting Delegate at the September 7, 2012 Annual Business Meeting for the League of California Cities, was approved. (10-0-1. Absent: Constant.)

- 2.24 (a) Approve the San José Jazz Festival 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.**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 2, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The San José Jazz Festival Flag Raising as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Constant.)

- 2.25 (a) Approve the National Night Out as a City Council sponsored Special Event; and
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 2, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: National Night Out as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Constant.)

- 2.26 (a) **Approve the District 8 Day in the Park Festival as a City Council sponsored Special Event; and**
- (b) **Approve and accept donations from various individuals, businesses, or community groups to support the event.**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated August 2, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: District 8 Day in the Park Festival as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Constant.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

The City Manager provided an overview of the City Manager’s Office accomplishments throughout July.

- 3.3 (a) **Adopt a resolution of the City Council calling and giving notice of the submission to the electors of the City of San Jose, a Special Municipal Election to be held on November 6, 2012, to submit to the electors of the City of San José the following measure:**

MEASURE ____
Minimum Wage

Shall an ordinance be adopted that (1) requires (a) under certain circumstances, payment of minimum wages in San José at \$10 per hour with an annual increase, if any, based on the Consumer Price Index beginning January 1, 2014; (b) City enforcement through fines, penalties, civil actions, or revocation or suspension of permits or licenses; and (c) voter approval of substantive changes to the ordinance; and (2) allows private enforcement through civil actions?	YES	
	NO	

- (b) **Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the Sample Ballot pursuant to Elections Code Section 12111.**
- (c) **Council discussion and consideration of permitting any member or members of the Council to file a written argument pursuant to Elections Code Section 9282.**
- (d) **Council discussion and consideration of permitting rebuttal arguments pursuant to Elections Code Section 9285. If rebuttal arguments are permitted, Council discussion and consideration of permitting any member or members of the City Council to submit a rebuttal argument.(City Clerk/City Attorney)**

3.3 (Cont'd.)

Documents Filed: (1) Joint memorandum from Council Member Rocha, Liccardo and Kalra, dated August 3, 2012, providing recommendations for rebuttal arguments for the Minimum Wage Initiative. (2) Replacement memorandum from City Attorney Richard Doyle, dated August 2, 2012, recommending adoption of a resolution.

Mayor Reed left the meeting at 2:20 p.m. to attend a meeting and was replaced by Vice Mayor Nguyen. Mayor Reed returned at 2:52 pm.

Public Comments: Reverend Nancy Palmer Jones spoke in favor of allowing rebuttal arguments on sample ballots. Ross Signorino reflected on how it will affect the cost of living index and its effect on the City. Speaking in support of the Minimum Wage Initiative, were: Dr. Scott Myers-Lipton (Faculty Adviser, CAFÉ J, San José State University), Sandy Perry (Deliverance Ministry), Bill Leininger (Interfaith Council for Social Justice), Emilie Gatfield, Greg Miller, Fred Hirsch, Peggy Elwell, Dom Payne, Matt Savage, Shelley Floyd Jr. (San José NAACP), Carol Garvey (DAWN), Samantha Seng, Mike Casas, Annie Sayo (NAFCON), Robert Sigala, Ronnel Corre, Almaz Negash, Victoria Bourdon, Jamilya Heshimo and Claudia Shope. Martha O'Connell expressed opposition to the initiative as written.

Motion: Council Member Kalra moved approval of the memorandum he cosigned with Council Members Rocha and Liccardo dated August 3, 2012 with modification to the wording as indicated below. Council Member Rocha seconded the motion.

Council discussion followed, and City Clerk Dennis Hawkins responded to questions from Council regarding the option of including full text in the ballot book. Council Member Oliverio recommended the need for consistency.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76379, entitled: "A Resolution of the Council of the City of San José Calling and Giving Notice of the Submission to the Electors of the City of San José, at a Special Municipal Election to be Held on November 6, 2012, an Initiative to Enact an Ordinance Requiring Under Certain Circumstances Payment of Minimum Wage of \$10 Per Hour In San José", was adopted, with modifications as follows:

Shall an ordinance be adopted that (1) requires (a) under certain circumstances , payment of minimum wages in San José at \$10 per hour with an annual increase, if any, based on the Consumer Price Index beginning January 1, 2014; (b) City enforcement through fines, penalties, civil actions, or revocation or suspension of permits or licenses; and (c) voter approval of substantive changes to the ordinance; and (2) allows private enforcement through civil actions?	YES	
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3.3 Actions Related to the Minimum Wage Initiative (Cont'd.)

And with the full text of the proposed ordinance to *not* be printed in the Sample Ballot; written arguments pursuant to Elections Code Section 9282 to be allowed, and rebuttal arguments to be permitted in the Voter’s Sample Ballot pursuant to Elections Code Section 9285. (10-0-1. Absent: Constant.)

3.4 Actions Related to the Cardroom Gambling Initiative.

- (a) **Accept the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters qualifying the Cardroom Initiative;**
- (b) **Accept the report on effects of the proposed ordinance as prepared by staff consistent with California Elections Code Section 9212;**
- (c) **Adopt a resolution of the City Council calling and giving notice of the submission to the electors of the City of San Jose, a Special Municipal Election to be held on November 6, 2012, to submit to the electors of the City of San José the following measure:**

MEASURE ____

Cardroom Gambling

Shall gambling be expanded by amending the Municipal Code to (1) allow the maximum number of Card Tables in San José to increase from 98 to 128 on January 1, 2013 and from 128 to 158 on January 1, 2014; (2) allow Cardrooms to offer any form of gambling lawful in California after July 1, 2012, without additional voter approval; and (3) require San José to review rules for additional permissible gambling?	YES	
	NO	

Documents Filed: (1) Memorandum from Mayor Reed, dated August 3, 2012, providing recommended changes to the ballot question. (2) Joint memorandum from Council Members Kalra and Chu, dated August 3, 2012, accepting the report with recommendations. (3) Memorandum from Council Member Liccardo, dated August 6, 2012, providing additional recommendations regarding actions related to the Cardroom Gambling Initiative. (4) Joint memorandum from City Clerk Dennis Hawkins, City Attorney Richard Doyle and City Manager Debra Figone, dated July 27, 2012, providing a report on the effects of the proposed initiative ordinance affecting the operation of the City’s card rooms. (5) Joint memorandum from City Attorney Richard Doyle and City Clerk Dennis Hawkins, dated July 27, 2012, recommending actions related to the card room initiative. (6) Supplemental memorandum from City Attorney Richard Doyle and City Clerk Dennis Hawkins, dated August 3, 2012, supplementing information in the original memorandum dated July 27, 2012. (7) Email correspondence from Rich De La Rosa and Sean Kali-rai, Forest Consulting, LLC, received August 6, 2012, in response to the memorandum co-written by Council Member Kalra and Council Member Chu, dated August 3, 2012.

3.4 Actions Related to the Cardroom Gambling Initiative (Cont'd.)

Public Comments: Dr. Jorge Wong, Kelly Chau, Patricia Ramos and Iris Dinh, representing Asian Americans for Community Involvement (AACI) Problem Gambling Alliance, shared findings, resources and prevention services all available through the Alliance. Ross Signorino expressed his views on card rooms and legalized gambling.

Motion: Council Member Liccardo moved approval of his memorandum dated August 6, 2012, Mayor Reed’s memorandum dated August 3, 2012 and the joint memorandum from Council Members Kalra and Chu, dated August 3, 2012, with changes as indicated below in “Action”. A requirement for full text or rebuttal arguments was not recommended for inclusion in the proposed ordinance. The motion was seconded by Council Member Kalra.

Vice Mayor Nguyen requested to amend the motion, to include opposing arguments in the Sample Ballot other than those provided by Council Members Liccardo and Chu if presented and to include urging of AACI funding for problem gambling resources and services. Council Members Liccardo and Kalra approved the amendment.

MEASURE _____
Cardroom *Gaming*

Shall gambling be expanded by amending the Municipal Code to (1) allow the maximum number of Card Tables <i>at San José’s two cardrooms to increase by 30</i> on January 1, 2013 and <i>by an additional 30 on</i> January 1, 2014; (2) allow Cardrooms to offer any form of <i>gaming</i> lawful in California after July 1, 2012, without additional voter approval; and (3) require San José to review rules for additional permissible <i>gaming</i> ?	YES	
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- (d) **Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the Sample Ballot pursuant to Elections Code Section 12111.**
- (e) **Council discussion and consideration of permitting any member or members of the Council to file a written argument pursuant to Elections Code Section 9282.**
- (f) **Council discussion and consideration of permitting rebuttal arguments pursuant to Elections Code Section 9285. If rebuttal arguments are permitted, Council discussion and consideration of permitting any member or members of the City Council to submit a rebuttal argument.**

Action: On a call for the question, the motion carried unanimously, Resolution No. 76381, entitled: “A Resolution of the Council of the City of San José Calling and Giving Notice of the Submission to the Electors of the City of San Jose, at a Special Municipal Election to be Held on November 6, 2012, an Initiative to Expand Gambling in San Jose by Amending the Municipal Code”, was adopted, with the full text of the proposed ordinance to *not* be printed and no rebuttal arguments to be printed in the Voter’s Sample Ballot. (10-0-1. Absent: Constant.)

3.7 (a) Adopt a resolution:

- (1) **Setting the following Sewer Service and Use Charge rates for 2012-2013, effective July 1, 2012. The recommendation for 2012-2013 is to maintain the same rates adopted for 2011-2012.**

<u>Category</u>	<u>2012-2013 Monthly Rates</u>
Single Family Residential	\$33.83
Multi-Family Residential	\$19.35 per unit
Mobile Home	\$19.39 per unit
Non-Monitored Commercial and Industrial	See Attachment A
Monitored Industrial	See Attachment A

- (2) **Setting the following for Storm Sewer Service Charge rates for 2012-2013, effective July 1, 2012. The recommendation for 2012-2013 is to maintain the same rates adopted for 2011-2012.**

<u>Category</u>	<u>2012-2013 Monthly Rates</u>
Single Family Residential and Duplex	\$7.87 per unit
Mobile Home	\$3.94 per unit
Residential Condominium	\$4.30 per unit
Large Multi-Family Residential (5 or more Units)	\$4.30 per unit
Small Multi-Family Residential (3-4 Units)	\$14.95 per unit
Commercial, Institutional, and Industrial	See Attachment B

- (b) **Hold a public hearing on the Sewer Service and Use Charges and Storm Sewer Service Charges report filed by the Director of Finance with the City Clerk's Office and adopt a resolution to approve the placement of recommended charges on the 2012-2013 Santa Clara County assessment roll, with such modifications as the City Council may make based on public hearing testimony.**

CEQA: Not a Project, File No. PP10-069(a) City Organizational & Administrative Activities. (Finance/Environmental Services)

Documents Filed: Memorandum from Director Environmental Services Department Kerrie Romanow and Director of Finance Julia H. Cooper, dated July 16, 2012, recommending conducting a public hearing and adoption of resolutions.

Mayor Reed opened the public hearing.

Public Comments: David Wall raised concerns regarding how storm sewer service charges are calculated.

Mayor Reed closed the public hearing.

3.7 (Cont'd.)

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 76382, entitled: “A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges for Fiscal Year 2012 – 2013,” and Resolution No. 76383, entitled: “A Resolution of the Council of the City of San José Confirming the Approval of the Annual Report for Fiscal Year 2012-2013 of the Director of Finance on Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges, and Confirming the Approval of the Placement of Charges as set Forth therein on the 2012-2013 Tax Roll,” were adopted. (10-0-1. Absent: Constant.)

3.8 **Adopt a resolution establishing the FY 2012-13 property tax levy on all taxable property within the City of San José for the purpose of funding the City’s general obligation bonded indebtedness and pay the related administration fee to the County. CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism. (Finance)**

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated July 23, 2012, recommending adoption of a resolution.

Acting Assistant Director of Finance Arne Andrews responded to questions from Council.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 76384, entitled: “A Resolution of the Council of the City of San José Establishing the Fiscal Year 2012-2013 Property Tax Levy for the City’s General Obligation Bond Indebtedness”, was adopted. (10-0-1. Absent: Constant.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **Consideration of an ordinance rezoning the real property located at the westerly terminus of Dixon Landing Road, approximately 3,000 feet west of I-880 and Dixon Landing Road (1601 Dixon Landing Road) from R-M Multiple Residence and A(PD) Planned Development Zoning Districts to A(PD) Planned Development Zoning District to allow a landfill, recyclables processing, composting, and other related uses at an existing landfill and materials recovery facility (Newby Island Sanitary Landfill and Recyclery), to increase the maximum height of the landfill from 150 feet to 245 feet, and to increase the landfill capacity by 15.12 million cubic yards on a 352 gross acre site (International Disposal Corporation of California, Owner). CEQA: EIR Resolution to be considered for adoption. Planning Commission recommends approval (4-0-2-1 commissioners Bit-Badal and Abelite absent, Commissioner Yob recused). PDC07-071 – District 4**

Action: Deferred to August 14, 2012 per Administration.

**4.2 Consideration of an ordinance rezoning the real property located at the southeast corner of Winchester and Stevens Creek Boulevard (3090 Olsen Drive) to the A(PD) Planned Development Zoning District to allow for the full build out of the entire development site, commonly known as Santana Row, to include an additional 228,200 square feet of office space, 46,458 square feet of restaurant space, 35,139 of retail space, and 456 residential units over the current built condition, on a 40.78 gross acre site (FRIT/San Jose Town & Country Village LLC, Owner). CEQA: Mitigated Negative Declaration to be considered for adoption.
PDC12-009 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC12-009, dated July 16, 2012, recommending approval. (2) Memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated July 26, 2012, transmitting the Planning Commission recommendation. (3) Supplemental memorandum from Assistant Director of Planning and Code Enforcement Laurel Prevetti, dated August 1, 2012, providing additional comments received, including Staff's responses. (4) Letter from Andrew L. Faber, Berliner Cohen Attorneys at Law, dated July 31, 2012, representing the applicant, regarding rezoning concerns. (5) Letter from Joan R. Gallo, Hopkins & Carley Law Corporation, dated August 3, 2012, on behalf of Phil and Peggy Koen. (6) Email correspondence from Lynn Lally, dated August 4, 2012, providing concerns and recommendations. (7) Proofs of Publication of Notices of Public Hearing, executed on July 10, 2012 and July 18, 2012, submitted by the City Clerk.

Assistant Director of Planning and Code Enforcement Laurel Prevetti provided a presentation on the rezoning project.

Motion: Council Member Oliverio moved approval of the Staff's recommendations. The motion was seconded by Council Member Herrera.

Mayor Reed opened the public hearing.

Public Comments: Jan Sweetnam, Federal Realty, representing the applicant, offered support to the project. Peggy and Phil Koen, representing the Villa Cornet Home Owner's Association, Douglas Lessard, representing Belmont Village Senior Living Center, Douglas Aikins, Santana Row Homeowner Association, and David Wall expressed concerns regarding noise, traffic, safety and quality of life should this area be rezoned as proposed.

Jan Sweetnam of Federal Realty countered the public's concerns to the rezoning.

Mayor Reed closed the public hearing.

Planning and Code Enforcement staff responded to questions from Council and offered further clarification. Extensive Council discussion followed.

4.2 (Cont'd.)

Council Member Campos provided meeting disclosures.

Action: On a call for the question, the motion carried unanimously, and the recommendation of the Planning Commission and Planning Director was approved, with Ordinance No. 29118, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Winchester and Stevens Creek Boulevards (Commonly Referred to as Santana Row), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District”, was passed for publication; and Resolution No. 76385, entitled: “A Resolution of the Council of the City of San José adopting the Santana Row Planned Development Rezoning and Office Building Mitigated Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted. (10-0-1. Absent: Constant.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Report on bids and award of contract for the 2012 Slurry Seal Project to the low bidder, Graham Contractors, Inc. in the amount of \$1,139,413.50 and approval of a five percent contingency in the amount of \$56,970.68. CEQA: Exempt, File No. PP11-035. (Transportation)**

Note: Renumbered to Item 2.18

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Approve a master agreement with RMC Water and Environment to develop a Master Plan for the South Bay Water Recycling Program for a total compensation not-to exceed amount of \$2,400,000, and for a term upon execution of the agreement through June 30, 2014. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase of professional services. (Environmental Services)**

Note: Renumbered to Item 2.19

PUBLIC SAFETY SERVICES

- 8.1**
- (a) Adopt a resolution to ratify the City’s on-line acceptance on July 23, 2012 of the 2011 SAFER Grant in the amount of \$8,623,206.**
 - (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund in fiscal year 2012-2013:**
 - (1) Increase the Personal Services appropriation to the Fire Department in the amount of \$2,796,585;**
 - (2) Increase the Non-Personal/Equipment appropriation to the Fire Department in the amount of \$139,802;**
 - (3) Increase the Earmarked Reserve: Staffing for Adequate Fire and Emergency Response Grant by \$300,000; and**
 - (4) Increase the estimate for Revenue from the Federal Government by \$3,236,387.**
 - (c) Approve the following position additions to the Fire Department effective August 19, 2012:**
 - (1) 6.0 Fire Captains to the Fire Department,**
 - (2) 7.0 Fire Engineers to the Fire Department, and**
 - (3) 14.0 Firefighters to the Fire Department.**

CEQA: Not a Project, PP10-066, Agreement/Contracts. (Fire/City Manager’s Office)

Note: Renumbered to Item 2.20

- 8.2**
- Adopt a resolution authorizing the City Manager to apply for a grant from the Federal Emergency Management Agency/Department of Homeland Security for funding to hire 27 Firefighters positions that were eliminated in prior years. CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Fire)**

Documents Filed: Memorandum from Fire Chief William McDonald, dated July 23, 2012, recommending adoption of a resolution.

Fire Chief William McDonald and San José Police Chief Chris Moore responded to questions from Council.

Public Comments: David Wall addressed long-range financial planning for safety services.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, Resolution No. 76387, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Apply to the U.S. Department of Homeland Security / Federal Emergency Management Agency for Grant Funding Under the 2012 Staffing for Adequate Fire and Emergency Response (SAFER) Program to Restore 27 Firefighter Positions”, was adopted. (9-0-2. Absent: Constant, Liccardo.)

3.5 Accept this report on the Administration’s initial prioritization of selected General Fund service restorations by department to baseline January 1, 2011 service levels. (City Manager)

Documents Filed: Presentation “Restoration of Selected General Fund Services to January 1, 2011 Levels: Initial Prioritization”.

The presentation for Item 3.5 was provided by Chief Deputy General Counsel Patricia Deignan.

Motion: Council Member Rocha moved approval that Item 3.5 be postponed one week. Council Member Oliverio seconded the motion.

Action: On a call for the question, the motion carried unanimously, Item 3.5 was deferred to August 14, 2012. (10-0-1. Absent: Constant.)

- 3.6 (a) Council discussion of survey results for potential November ballot revenue measures including consideration of a one-half percent retail sales and use tax measure (recommended), and a general obligation bond measure for street infrastructure (not recommended); and**
- (b) If the Council wishes to proceed with the Retail Sales and Use Tax Measure, adoption of a resolution of the City Council calling and giving notice, on its own motion, a Special Municipal Election to be held on November 6, 2012, to submit to the electors of the City of San José the following measure:**

**MEASURE ____
San José Sales Tax**

In order to provide funding for City services such as police, fire, emergency response, street maintenance, pothole repair, parks, libraries, and youth and senior programs, shall an ordinance be adopted to enact a ½% retail sales and use tax in San José, for a period of 15 years, subject to existing independent financial audits, with all revenue controlled by the City?	YES	
	NO	

- (c) Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the sample ballot pursuant to Elections Code Section 12111.**
- (d) Council discussion and consideration of adopting provisions to permit any member or members of the City Council to submit arguments, pursuant to Elections Code Section 9282.**
- (e) Council discussion and consideration of adopting provisions to permit rebuttal arguments, pursuant to Elections Code Section 9285, and if rebuttal arguments are permitted, then permitting any member or members of the City Council to submit a rebuttal argument.**

3.6 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Pyle, dated August 6, 2012, proposing options for the retail sales and use tax measure. (2) Memorandum from Assistant City Manager Ed Shikada, dated July 24, 2012, offering recommendations regarding Retail Sales and Use Tax & General Obligation Bond Ballot Measures. (3) Supplemental memorandum from Assistant to the City Manager, Ashwini Kantak, dated August 1, 2012, reporting on the July 2012 telephone survey findings. (4) Supplemental memorandum from City Clerk Dennis Hawkins, dated August 3, 2012, providing information regarding election costs and procedures. (5) Correspondence from Denelle Fedor, James Macfarlane, and Bill and Judie Paparotti, dated August 6, 2012, offering concerns regarding placing the proposed sales tax measure on the ballot.

David Metz, Fairbank, Maslin, Maullin, Metz & Associates, provided the survey results.

Public Comments: David Wall spoke in opposition to the alternative and renewable fuel and vehicle technology program.

Motion: Speaking in support of placing the measure on the ballot, urging the restoration of City services and citing the measure as a means of easing the City's fiscal problems, were: Emilie Gatfield, Robert Sapien, Trixie Johnson, Daniel Luna (Cheap Squad LLC), Merle Kahn (Law Offices of Daniel Shanfield), Bob Leininger, Yolanda Cruz (AFSCME), and Ben Field (South Bay Labor Council). Martha O'Connell and Pat Sausedo (SJSV Chamber of Commerce) expressed opposition. David Wall suggested a 'regime change' and recommended the measure be placed on the ballot.

Motion: Council Member Pyle moved approval of her memorandum of August 6, 2012. Council Member Campos seconded the motion.

Council Member Rocha requested an amendment to the motion, proposing the retail sales and use tax be set for a period of nine, rather than 15, years. Council Members Pyle and Campos accepted the amendment to the motion.

Mayor Reed questioned the strength of the measure and suggested that pension reform should be underway before putting a measure of this type before the voters. Vice Mayor Nguyen and Council Member Herrera agreed that the timing is not right. Council Member Liccardo commented that there are too many other tax measures on the ballot and no one would be willing to commit their resources to push this.

Action: On a call for the question, the motion failed, the Sales Tax Measure would not be placed on the November 2012 ballot. (5-5-1. Noes: Herrera, Liccardo, Nguyen, Oliverio; Reed. Absent: Constant.)

REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Adopt resolutions:

- (a) **By the City Council, acting in its capacity as the Successor Agency of the Redevelopment Agency of the City of San José, approving the Administrative Budget for January-June 2013 and directing staff to present it to the Oversight Board for approval.**
- (b) **By the City Council approving the January-June 2013 Administrative Budget.**

Action: Deferred to August 21, 2012 per Administration.

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>
10057	W/S Cadwallader 500' S/O Prunetree Lane	6	Rockwell Homes, Inc.	8 Lots / 8 Units	SFDR

OPEN FORUM

Documents Filed: Letter from Linda Skarpelos, dated August 7, 2012, asking that the Mise Sports Field be relocated to a larger park where it can be property secured.

- (1) Chuck Johnson suggested banning disposable lighters.
- (2) Mark Trout offered religious viewpoints.
- (3) David Wall offered ideas for reducing noise complaints, expressed safety concerns for the City and offered criticism of the South Bay Water Recycling Program.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:24 p.m. in memory of the victims of the tragic mass shooting inside the Sikh Temple of Wisconsin, on the morning of Sunday, August 5, 2012 in Oak Creek, Wisconsin. (Herrera)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

rmk/08-07-12MIN