



## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 5, 2012

The Council of the City of San José convened in regular session at 9:01 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Herrera, Kalra, Oliverio.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

Employee Relations Manager Gina Donnelly provided an update of current labor negotiations.

Documents Filed: Letter from Vera Todorov, President, Association of Legal Professionals, dated May 25, 2012, to the Office of Employee Relations regarding Proposed Ground Rules and Request for Information.

### 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 9:32 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation: (1) California Building Industry Association v. City, et al.; Names of Parties Involved: California Building Industry Association, of San José, a California Municipal Corporation, City Council and Mayor of the city, Does 1-200; ; Court: Superior Court of California, County of Santa Clara; Case No.: 1-10-CV167289: Amount of Money or Other Relief Sought: Declaratory Injunctive

## CLOSED SESSION (Cont'd.)

Relief; Vote: 9-2. Noes: Constant, Oliverio; (2) Berg & Berg Enterprises, LLC v. City, et al., Names of Parties Involved: Berg & Berg Enterprises, LLC, City of San José; San José City Council, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV091955: Amount of Money or Other Relief Sought: Damages According to Proof; Vote: 10-1. Noes: Rocha; (3) 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-CV0220781: Amount of Money or Other Relief Sought: Petition for Writ of Mandate; Vote: 11-0; (B) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 – Anticipated Litigation: Number of matter(s) to be discussed: 2; (C) 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'

## **CLOSED SESSION (Cont'd.)**

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; How to obtain a copy of existing contract or MOA: web:<http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:48 a.m. and reconvened to Regular Session at 1:30 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**

Dr. Reverend Bryan Franzen, Westminster Church, provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance, accompanied by students from Easterbrook Discovery School, District 1; Ben Painter Elementary, District 5; and Horace Mann Elementary.

## **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, with Item 9.1 added, and Items 4.2 through 4.7 heard together. (11-0.)

## **CLOSED SESSION REPORT**

City Attorney Doyle disclosed the following Closed Session actions of June 5, 2012:

### **A. Authority to Initiate Litigation:**

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendants, as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

**CLOSED SESSION (Cont'd.)**

**B. City given authority to pursue appellate review, existing litigation pursuant to Government Code Section 54956.9 subsection (a):**

Case Name: California Building Industry Association v. City, et al.

Adverse Parties: California Building Industry Association

Substance of Litigation: Challenge to City's Inclusionary Housing Ordinance.

Council Vote: Ayes: Campos, Chu, Herrera, Kalra, Liccardo, Nguyen, Pyle, Rocha; Reed.

Noes: Constant, Oliverio.

Abstain: None.

Not Present: None.

**C. City given authority to pursue appellate review, existing litigation pursuant to Government Code Section 54956.9 subsection (a):**

Case Name: Berg & Berg Enterprises, LLC v. City, et al.

Adverse Parties: Berg & Berg Enterprises, LLC.

Substance of Litigation: Breach of contract claim.

Council Vote: Ayes: Campos, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Noes: Rocha.

Abstain: None.

Not Present: None.

**D. Existing litigation pursuant to Government Code Section 54956.9 subsection (a); Council unanimously gave the City Attorney authority to draft a letter to the California Supreme Court seeking depublication of the 6th District Court of Appeal decision.**

Case Name: McDonough, et al. v. City, et al.

Adverse Parties: Karen McDonough, Franco Vado, Robert Sapien, Clifford G. Hubbard.

Relief Sought: Petition for Writ of Mandate.

Council Vote: Ayes: Campos, Chu, Constant, Herrera, Kalra, Liccardo, Nguyen, Oliverio, Pyle, Rocha; Reed.

Noes: None.

Abstain: None.

Not Present: None.

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation declaring the week of May 20-26, 2012 as Public Works Week. (Public Works)**

Mayor Reed proclaimed the week of May 20-26, 2012 as Public Works Week.

### **1.2 Presentation of a commendation to the Vietnamese Voluntary Foundation (VIVO) for its 33 years of service of providing comprehensive acculturation, employment, citizenship, health and human support services to more than 100,000 Vietnamese and Southeast Asian Americans; and to Executive Director Diem Ngo, who will retire after 28 years of service. (Chu)**

Mayor Reed and Council Member Chu commended the Vietnamese Voluntary Foundation (VIVO) for its 33 years of service, and to Executive Director Diem Ngo, who will retire after 28 years of service.

### **1.3 Presentation of a commendation to the winners of the 2012 Falcon Naming Contest. (Mayor)**

Mayor Reed presented commendations to the winners of the 2012 Falcon Naming Contest from Ben Painter Elementary and Horace Mann Elementary for the names selected: Hope, Horacio, Thunder and Cobalt.

### **1.4 Presentation of a proclamation recognizing the Week of June 3 – 9, 2012 as “National CPR & AED Awareness Week” in the City of San José. (Kalra)**

Mayor Reed recognized the Week of June 3 – 9, 2012 as “National CPR & AED Awareness Week” in the City of San José. (Kalra)

### **1.5 Presentation of a commendation to Robin Lasser, Adrienne Pao, Brian Taylor and Connie Hwang for their participation in the San José-Ekaterinburg Sister City Photography Exchange and their creation of the book “Seven Days—Sister Cities—Artist Exchange. (Pyle)**

Mayor Reed presented a commendation to Robin Lasser, Adrienne Pao, Brian Taylor and Connie Hwang for their participation in the San José-Ekaterinburg Sister City Photography Exchange.

## STRATEGIC SUPPORT SERVICES

### 3.4 Planning Commission Interviews.

- (a) **Interview applicants for appointment to the Planning Commission**
- (b) **Appoint four (4) members to the Planning Commission.**
- (c) **If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.**

Documents Filed: (1) Memorandum from City Clerk Dennis Hawkins, dated May 25, 2012, regarding Planning Commission Interviews and Appointments. (2) Supplemental Memorandum from City Clerk Dennis Hawkins, dated June 1, 2012, transmitting Conflicts of Interest and Code Compliance reviews. (3) Supplemental memorandum from Director, Planning, Building and Code Enforcement Joseph Horwedel, dated June 1, 2012, providing the attendance record for incumbent Planning Commissioners.

Ten applicants were interviewed by the Council, votes were submitted and results announced by City Clerk Dennis Hawkins.

Action: Dori Yob, Norman Kline, Brian O'Halloran and Matt Kamkar were appointed to the Planning Commission for terms ending June 30, 2016. (11-0.)

## REDEVELOPMENT – SUCCESSOR AGENCY

### 9.1 Amendment to the Reimbursement Agreement with JP Morgan Chase Bank

- (a) **Council, acting as the Successor Agency to the Redevelopment Agency of the City of San José, by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.**
- (b) **Adopt a resolution by the City Council, acting as the Successor Agency to the Redevelopment Agency of the City of San José, authorizing the Executive Officer to negotiate and execute the Fifth Amendment to the Reimbursement Agreements with JP Morgan Chase, Bank NA (“JPMorgan”) with a term for less than one year, with all other terms and conditions previously approved by on May 22, 2012 to remain unchanged.**

Documents Filed: Memorandum from Acting Director of Finance Julia H. Cooper, dated June 1, 2012, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Successor Agency Resolution No. 7010, 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 the Executive Officer to Negotiate and Execute the Fifth Amendment to the Reimbursement Agreements with JP Morgan Chase Bank, NA with a Term for Less than One Year, With All Other Terms and Conditions Previously approved on May 22, 2012 to Remain Unchanged”, was adopted. (11-0.)

## CONSENT CALENDAR

Upon motion by Council Member Constant, seconded by Council Member Pyle 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 Recommendation: Final adoption of ordinances.

- (a) **ORD. NO. 29088** – Amending Title 10 of the San José Municipal Code to add a new chapter relating to social host responsibility to deter the service of alcoholic beverages to and consumption of alcoholic beverages by underage persons at certain gatherings.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29088 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29088 was adopted. (11-0.)

- (b) **ORD. NO. 29089** – Amending Title 20 of the San José Municipal Code to amend Section 20.40.100 of chapter 20.40 (Commercial Zoning Districts), to amend Section 20.70.100 of Chapter 20.70 (Downtown Zoning Districts), to add a new Part 12.5 to Chapter 20.80 (Specific Use Regulations), to add a new Section 20.200.875 to Chapter 20.200 (Definitions), and rescinding the suspension of the effectiveness of Sections 20.100.1500, 20.100.1510, 20.100.1520, 20.100.1525, and 20.100.220 under Ordinance No. 28991, all in order to establish land use regulations pertaining to Payday Lending Establishments.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29089 executed on May 18, 2012, submitted by the City Clerk.

Action: Ordinance No. 29089 was adopted. (10-1. Noes: Constant.)

- (c) **ORD. NO. 29091** – 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-1-8 Single-Family Residence Zoning District. C12-007

Documents Filed: Proof of Publication of the Title of Ordinance No. 29091 executed on May 25, 2012, submitted by the City Clerk.

Action: Ordinance No. 29091 was adopted. (11-0.)

**2.3 Approval of Council Committee Reports.**

- (a) **Transportation and Environment Committee Report of May 7, 2012. (Liccardo)**
- (b) **Public Safety, Finance and Strategic Support Committee Report of May 17, 2012. (Constant)**

Documents Filed: (1) Transportation and Environment Committee Report dated May 7, 2012. (2) Public Safety, Finance and Strategic Support Committee Report dated May 17, 2012.

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

**2.4 Mayor and Council Excused Absence Requests.**

- (a) **Request for an excused absence for Council Member Constant from the Rules and Open Government Committee Meeting on May 23, 2012, due to a medical procedure. (Constant)**

Documents Filed: Memorandum from Council Member Constant dated May 16, 2012, requesting an excused absence on May 23, 2012 due to a medical procedure.

Action: The requested absence was excused. (11-0.)

**2.5 City Council Travel Reports.**

Action: There were none.

**2.6 Report from the Council Liaison to the Retirement Boards.**

Action: There were none.

- 2.7 Adopt a resolution authorizing the City Manager to apply for federal funding, negotiate, and execute an Other Transaction Agreement with the Transportation Security Administration (TSA) to fund eligible costs for deployment of law enforcement officers (LEOs) at each airport passenger-screening location at the Norman Y. Mineta San José International Airport in excess of the City Manager's contract authority in the estimated amounts of approximately \$1,133,000 per year or approximately \$3,400,000 for the period October 1, 2012 to September 30, 2015. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical damages to the environment. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated May 14, 2012, recommending adoption of a resolution.

**2.7 (Cont'd.)**

Action: Resolution No. 76249, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Apply for Federal Funding, Negotiate and Execute Another Transaction Agreement with the Transportation Security Administration to Fund Eligible Costs for Deployment of Law Enforcement Officers at Each Airport Passenger-Screening Location at the Norman Y. Mineta San José International Airport in Excess of the City Manager’s Contract Authority, in the Estimated Amounts of Approximately \$1.1 Million Per Year or Approximately \$3.4 Million for the Period of October 1, 2012 to September 30, 2015”, was adopted. (11-0.)

**2.8 As recommended by the Public Safety, Finance and Strategic Support Committee on May 17, 2012, accept the review of Fire Department Performance Measures. (City Auditor)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated May 21, 2012, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Herrera and carried unanimously, the audit of the Airport’s Parking Management Agreement as recommended by the Public Safety, Finance and Strategic Support Committee, was accepted (11-0.)

**2.9 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 June 5, 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) (Deferred from 5/22/12 – Item 2.8)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 21, 2012, recommending adoption of a resolution.

Item 2.9 was pulled by Council Member Kalra to register a “no” vote.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried, Resolution No. 76250, entitled: “A Resolution of the Council of the City of San José 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 and Employment Matters”, was adopted. (10-1. Noes: Kalra.)

**2.10 Adopt the following 2011-2012 Appropriation Ordinance 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) (Deferred from 5/22/12 – Item 2.9)**

Documents Filed: Joint memorandum from City Attorney Richard Doyle and Budget Director Jennifer Maguire, dated May 21, 2012, recommending adoption of appropriation ordinance amendments.

Item 2.10 was pulled by Council Member Kalra to register a "no" vote.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried, Ordinance No. 29094, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the Fiscal Reform Plan Outside Legal Counsel Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-1. Noes: Kalra.)

**2.11 Approval to Set Public Hearings on the Business Improvement Districts**

- (a) Preliminary approval of the report as filed by the Hotel Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2012-2013, and set June 19, 2012 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. (Economic Development)**
- (b) Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2012-2013, and set June 19, 2012 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (c) Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution to levy the annual assessment for Fiscal Year 2012-2013, and set June 19, 2012 at 1:30 pm as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP03-05-165. Council District 3. (Economic Development)**

Documents Filed: (1) Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, dated May 14, 2012, recommending approval of the 2012-2013 Budget Report and adoption of resolutions. (2) Three (3) Proofs of Publication of Notices of Public Hearings, each executed on June 8, 2012, submitted by the City Clerk.

## **2.11 Approval to Set Public Hearings on the Business Improvement Districts (Cont'd.)**

Action: Resolution No. 76251, entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2012-2013 in the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”; Resolution No. 76252, entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2012-2013 in the Japantown Business Improvement District Pursuant to the and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”; and Resolution No. 76253, entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2012-2013 in the Downtown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”, were adopted. (11-0.)

## **2.12 Adopt a resolution authorizing the City Manager to negotiate and execute agreements with Goodwill of Silicon Valley, The Salvation Army and HOPE Services for recycling and reuse services for a term from July 1, 2011, through June 30, 2012, with a total maximum annual compensation for the period through June 30, 2012, not to exceed \$249,323 for Goodwill of Silicon Valley; \$88,109 for the Salvation Army; and \$4,340 for HOPE Services. CEQA: Not a Project, File No.PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)**

Documents Filed: Memorandum from Environmental Services Department Director Kerrie Romanow dated May 14, 2012, recommending adoption of a resolution.

Action: Resolution No. 76254, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements with Goodwill of Silicon Valley, the Salvation Army and Hope Services for Recycling and Reuse Services for a Term from July 1, 2011 through June 30, 2012”, was adopted. (11-0.)

## **2.13 Approve an agreement with the Bay Area Stormwater Management Agencies Association for reimbursement to the City up to \$475,000 for design and construction costs incurred for the installation of a hydrodynamic separator device to treat stormwater in the Leo Avenue drainage area of San José for the retroactive term July 1, 2011 through December 31, 2014. CEQA: Addendum to Mitigated Negative Declaration, File No. PP11-098. Council District 7. (Environmental Services)**

Documents Filed: Memorandum from Environmental Services Department Director Kerrie Romanow dated May 14, 2012, recommending approval of an agreement.

**2.13 (Cont'd.)**

Action: An Agreement with the Bay Area Stormwater Management Agencies Association for reimbursement to the City up to \$475,000 for design and construction costs incurred for the installation of a hydrodynamic separator device to treat stormwater in the Leo Avenue drainage area of San José for the retroactive term July 1, 2011 through December 31, 2014 was approved. (11-0.)

**2.14 Adopt a resolution authorizing the City Manager to:**

- (a) Negotiate and execute the Fourth Amendment to the Agreement for Mobile Identification Interface Services with Mobizent LLC of in Edison, New Jersey (previously 3i Infotech Corporation) to update the Phase 4 scope of services to include additional security requirements and increase compensation by \$49,575 for a revised not-to-exceed amount of \$406,483 in order to complete Phase 4; and**
- (b) Execute change orders and amendments to cover any unanticipated changes to the scope of work, not to exceed the current appropriation of \$590,152.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)**

Documents Filed: Memorandum from Assistant Director of Finance Julia H. Cooper dated May 14, 2012, recommending adoption of a resolution.

Action: Resolution No. 76255, 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 for Mobile Identification Interface Services with Mobizent LLC”, was adopted. (11-0.)

**2.15 As recommended by the Public Safety, Finance and Strategic Support Committee on May 17, 2012:**

- (a) Accept the Third Quarter Financial Reports for Fiscal Year 2011-2012;**
- (b) Adopt a resolution authorizing the Director of Finance to write off uncollectible debts in an amount up to \$541,974.74.**

**CEQA: Not a Project. (Finance)**

**[Public Safety, Finance and Strategic Support Committee referral 5/17/12 – Item D(2)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated May 21, 2012 transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Council Member Liccardo pulled Item 2.15 for discussion.

**2.15 (Cont'd.)**

Public Comments: James Anthony (CCPC) and Preston Conley questioned the effectiveness of the City's collection of business taxes, specifically for medical cannabis collectives, and asked what enforcement measures the City Attorney is taking.

Motion: Council Member Liccardo moved approval of the Staff recommendations with direction as indicated below in Action. Council Member Herrera seconded the motion.

Council discussion continued with Assistant City Attorney Ed Moran offering clarification on the payment of business taxes as outlined in the Municipal Code.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76256, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Write off Uncollectible Accounts", was adopted, with direction to Staff to provide an analysis of changing the municipal code to ensure that staff has the tools needed to seek an injunction or otherwise close establishments that are not paying their business tax, including the possibility of exercising nuisance remedies. (11-0.)

- 2.16 (a) Adopt a resolution authorizing the City Manager to negotiate and execute:**
- (1) An agreement with the County of Santa Clara to accept program funds from the County for 2011 Emergency Management Performance Grant funding for the Fire Department in the amount of \$133,685.**
  - (2) Additional amendments to the agreement and all related documents without further City Council action, other than appropriation of funds.**
- (b) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund for Fiscal Year 2011-2012:**
- (1) Increase the Estimate for Earned Revenue from the Federal Government by \$117,685; and,**
  - (2) Establish a city-wide appropriation to the Fire Department for the 2011 Emergency Management Performance Grant (EMPG) in the amount of \$117,685.**

**CEQA: Not a Project, File No. PP10-066(g), Agreement and Contracts for 2011 EMPG Grant Agreement. (Fire/City Manager's Office)**

Documents Filed: Joint memorandum from Fire Chief William McDonald and Budget Director Jennifer Maguire, dated May 14, 2012, recommending adoption of a resolution, an appropriation ordinance and funding sources resolution amendments.

Council Member Pyle pulled Item 2.16 to express gratitude to Alex Fraser who volunteers countless hours developing the Emergency Management Performance Grant.

**2.16 (Cont'd.)**

Action: Upon motion by Council Member Pyle , seconded by Council Member Herrera and carried unanimously, Ordinance No. 29095, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28928 to Appropriate Monies in the General Fund for the 2011 Emergency Management Performance Grant (EMPG); and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76257, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the County of Santa Clara to Accept Program Funds for 2011 Emergency Management Performance Grant Funding”, Resolution No. 76258 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 General Fund”, were adopted. (10-0-1. Absent: Oliverio.)

**2.17 As recommended by the Public Safety, Finance and Strategic Support Committee on May 17, 2012, accept the Team San José Quarterly 2011-2012 Performance and Incentive Measure Report. (Team San José)  
[Public Safety, Finance and Strategic Support Committee referral 5/17/12 – Item D(6)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated May 21, 2012, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Council Member Constant pulled Item 2.17 to bring attention to the improved performance of Team San José.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Team San José Quarterly 2011-2012 Performance and Incentive Measure Report was accepted. (10-0-1. Absent: Oliverio.)

**2.18 Approve the Twelfth Amendment to the Parking Lot Lease Agreement between the City of San José and Boston Properties (dba BP Almaden Associates, LLP) for the Almaden/Woz Parking Lot, to extend the term of the lease from July 1, 2012 to June 30, 2017, in the amount of \$34,000 per month for the first three years and \$35,020 per month for the remaining two years, for a maximum amount of \$2,064,480 over the five year extended term. CEQA: Statutorily exempt, File No. PP10-067(a), CEQA Guidelines Section No. 15273 – Rates, Tolls, Fares, Charges. (Transportation)**

Documents Filed: City Council Action Request provided by Director of Transportation Hans Larsen, dated June 5, 2012, recommending approval of a lease agreement.

**2.18 (Cont'd.)**

Action: The Twelfth Amendment to the Parking Lot Lease Agreement between the City of San José and Boston Properties (dba BP Almaden Associates, LLP) for the Almaden/Woz Parking Lot, with related contingencies, was accepted. (11-0.)

- 2.19 (a) Approve travel by Mayor Reed to Sacramento, California on Wednesday, May 23, 2012 to attend the Silicon Valley Leadership Group's Sacramento Advocacy Trip as one of the City's designated representatives. Source of Funds: Mayor's Office.**
- (b) Request for an excused absence for Mayor Reed from the May 23, 2012 Rules and Open Government Committee Meeting. Reason: Authorized City Business.**

Documents Filed: Memorandum from Mayor Reed, dated May 22, 2012, requesting approval of travel and an excused absence to join the Silicon Valley Leadership Group in Sacramento.

Action: The request to travel and excused absence were approved. (11-0.)

- 2.20 Approve travel by Council Member Campos to Orlando, Florida on June 21 – June 23, 2012 to attend the National Association of Latino Elected Officials Conference. Source of Funds: District 5 Funds. (Campos)**

Documents Filed: Memorandum from Council Member Campos requesting approval of travel to attend the National Association of Latino Elected Officials (NALEO) conference.

Action: The request to travel was approved. (11-0.)

- 2.21 Reappoint Keith Ian Graham and Andres Quintero to the Airport Commission. (Chu) (Rules Committee Referral 05/30/12)**

Documents Filed: Memorandum from Council Member Chu, dated May 30, 2012, recommending reappointments to the Airport Commission.

Action: The reappointments of Keith Ian Graham and Andres Quintero to the Airport Commission were approved. (11-0.)

- 2.22 As recommended by the Rules and Open Government Committee on May 30, 2012:**
- (a) Reappoint Richard Holden and Jessica Zenk to the Arts Commission. (Liccardo)**
  - (b) Appoint Peter Allen and Tina Morrill to the Arts Commission. (Liccardo)**
  - (c) Reappoint Karl Vidt to the Disability Advisory Commission. (Pyle)**
  - (d) Appoint Emma Elijas and Earl Mizuguchi to the Disability Advisory Commission. (Pyle)**
  - (e) Appoint Sam Pandey to the Housing and Community Development Advisory Commission. (Nguyen)**
  - (f) Appoint Abraham Thompson to the Human Rights Commission. (Chu)**
  - (g) Reappoint Bob Levy to the Parks and Recreation Commission. (Pyle)**
  - (h) Appoint Rudy Flores and Brian Quint to the Parks and Recreation Commission. (Pyle)**
  - (i) Appoint Arash Shokouhbakhsh to the Small Business Development Commission. (Chu)**
  - (j) Appoint Darrold Wagner to the Traffic Appeals Commission. (Nguyen)**
  - (k) Reappoint Patrick Hall, Judith (Marie) Hayter, Joyce Rabourn, and Nancy Williamson to the Senior Citizens Commission. (Constant)**

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

Action: Appointments and Reappointments to Boards, Commissions and Committees as recommended by the Rules and Open Government Committee meeting on May 30, 2012, were approved. (11-0.)

- 2.23 As recommended by the Rules and Open Government Committee on May 30, 2012, adopt a support position for AB 1939 (Pan) – Dog Licensing: Issuance: Puppy Licensing. (City Manager’s Office)**

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

Action: A support position for AB 1939 (Pan) – Dog Licensing: Issuance: Puppy Licensing, as recommended by the Rules and Open Government Committee on May 30, 2012, was adopted. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

- 3.3 Recommendation: Accept staff report and provide staff direction on next steps regarding compensated time off in City living wage contracts. CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Informational Memos that involve no approvals of any city actions. (Public Works)**

Action: Deferred to June 12, 2012 Per Rules and Open Government Committee.

## COMMUNITY & ECONOMIC DEVELOPMENT

*Note: 4.1 – 4.7 heard concurrently.*

- 4.1 Recommendation: 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**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL11-198 and MA11-003, dated April 24, 2012, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated May 11, 2012, transmitting the Historic Landmarks Commission recommendation. (3) Corrected Proof of Publication of Notice of Public Hearing, executed on April 20, 2012, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, the recommendation of the Historic Landmarks Commission and the Historic Landmarks Commission Secretary was approved, and Resolution No. 76259, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Geer House, Located at 795 Coe Avenue, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”; and Resolution No. 76260, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Ruthann Eaton and Robert Eaton for the Geer House, 795 Coe Avenue (City Landmark No. HL11-198),” was adopted. (11-0.)

- 4.2 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**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL11-200 and MA11-004, dated April 26, 2012, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated May 10, 2012, transmitting the Historic Landmarks Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on April 20, 2012 submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, the recommendation of the Historic Landmarks Commission and the Historic Landmarks Commission Secretary was approved, and Resolution No. 76261, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Stiller House, Located at 285 East St. James Street,, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”; and Resolution No. 76262, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Alex Vaz Waddington for the Stiller House Located at 285 East St. James Street (City Landmark No. HL11-200),”was adopted. (11-0.)

- 4.3 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**

#### 4.3 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL11-201 and MA11-005, dated April 25, 2012, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated May 11, 2012, transmitting the Historic Landmarks Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on April 20, 2012 submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, the recommendation of the Historic Landmarks Commission and the Historic Landmarks Commission Secretary was approved, and Resolution No. 76263, entitled: "A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Cozzens House, Located at 1195 Minnesota Avenue, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature"; and Resolution No. 76264, entitled: "A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Paulette Ornellas and Anthony Ornellas for the Cozzens House Located at 1195 Minnesota Avenue (City Landmark No. HL11-201)," was adopted. (11-0.)

#### 4.4 **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**

**(Continued from 5/22/12 – Item 4.7)**

#### 4.4 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL11-202 and MA11-006, dated April 26, 2012, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated May 11, 2012, transmitting the Historic Landmarks Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on April 20, 2012 submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, the recommendation of the Historic Landmarks Commission and the Historic Landmarks Commission Secretary was approved, and Resolution No. 76265, entitled: "A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Samuel and Lila Martin House #1, Located at 641 South Sixth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature"; and Resolution No. 76266, entitled: "A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Craig Shannon for the Samuel and Lila Martin House #1, Located at 641 South Sixth Street (City Landmark No. HL11-202)," were adopted. (11-0.)

#### 4.5 **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**

**(Continued from 5/22/12 – Item 4.8)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL11-203 and MA12-001, dated April 26, 2012, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated May 11, 2012, transmitting the Historic Landmarks Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on April 20, 2012 submitted by the City Clerk.

#### 4.5 (Cont'd.)

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, the recommendation of the Historic Landmarks Commission and the Historic Landmarks Commission Secretary was approved, and Resolution No. 76267, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Robert Hutchinson House, Located at 593 South Sixth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”; and Resolution No. 76268, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Robert Stevens and Lois Stevens for the Robert Hutchinson House, Located at 593 South Sixth Street (City Landmark No. HL11-203),” was adopted. (11-0.)

#### 4.6 **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) (Thang Do, Owner) and adopt a resolution approving the contract. CEQA: Exempt. (Planning, Building and Code Enforcement) MA12-002 – District 3 (Continued from 5/22/12 – Item 4.9)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL01-130 and MA12-002, dated April 25, 2012, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated May 11, 2012, transmitting the Historic Landmarks Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on April 20, 2012 submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera, and carried unanimously, the recommendation of the Historic Landmarks Commission and the Historic Landmarks Commission Secretary was approved, and Resolution No. 76269, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Thang Do for the W. Prussia House Located at 371-387 South First Street, (City Landmark No. HL01-130),” was adopted. (11-0.)

**4.7 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) (Vic Rodriguez Properties, LLC, Owner) and adopt a resolution approving the contract. CEQA: Exempt. (Planning, Building and Code Enforcement)**

**MA12-003 – District 3 (Continued from 5/22/12 – Item 4.10)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL01-133 and MA12-003, dated April 25, 2012, recommending approval. (2) Memorandum from Historic Landmarks Commission Secretary Joseph Horwedel, dated May 11, 2012, transmitting the Historic Landmarks Commission recommendation to disapprove the contract until the owner demonstrates good maintenance of the property. (3) Proof of Publication of Notice of Public Hearing, executed on April 20, 2012 submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: Steve Cohen, representing the West of 4<sup>th</sup> Street Neighborhood Group, expressed concerns that the property upkeep has been substandard and that the Rucker Mansion is not deserving of a historical property contract.

Mayor Reed closed the public hearing.

Discussion followed, with Assistant Director of Planning and Code Enforcement Laurel Prevetti providing additional information on the Mills Act and the monitoring of property upkeep.

Motion: Council Member Liccardo moved approval of the proposed contract, with staff directed to provide diligent monitoring of the property as indicated below in “Action”. The motion was seconded by Council Member Herrera.

Action: On a call for the question, and carried unanimously, the contract between the City of San José and the owners of the Rucker Mansion was approved, and Resolution No. 76270, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Victoriano Rodriguez for the Rucker Mansion Located at 418 South Third Street, (City Landmark No. HL01-130),” was adopted, with staff directed to accelerate the monitoring of upkeep and condition of property. (11-0.)

**4.8 Consideration of an ordinance rezoning the real property located on the north side of Story Road, approximately 150 feet westerly of McCreery Avenue (1841 Story Road) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District to allow commercial uses and facilitate the reconstruction of a fast food restaurant and drive-through use on a 0.73 gross acre site (Richard R. Anderson, Deborah M. Anderson, and Jeffery M. Filice, trustees, owners). SNI: East Valley/680 Communities. CEQA: Re-use of Envision of San José 2040 General Plan Final EIR.  
C12-008 – District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C12-008, submitted April 3, 2012, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on April 20, 2012, submitted by the City Clerk. (3) Proof of Publication of Notice of Public Hearing, executed on May 11, 2012, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Nguyen, and carried unanimously, the Staff recommendation was approved, and Ordinance No. 29096, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Story Road, Approximately 150 Feet Westerly of McCreery Avenue (1841 Story Road) from CP Commercial Pedestrian Zoning district to CN Commercial Neighborhood Zoning District”, was passed for publication. (11-0.)

## **ENVIRONMENTAL & UTILITY SERVICES**

**7.1 Report on bids and award of contract for the 6875-El Dorado and Gold Street Storm Sewer Improvement (Re-bid) Project to the low bidder, Mountain Cascade, Inc., in the amount of \$1,249,250, and approval of a contingency in the amount of \$125,000. CEQA: Exempt, File No. PP11-036, dated May 17, 2011. Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 14, 2012, recommending approval of a construction contract.

Action: Upon motion by Council Member Chu, seconded by Vice Mayor Nguyen and carried unanimously, the Report on bids and award of contract for the 6875-El Dorado and Gold Street Storm Sewer Improvement (Re-bid) Project to the low bidder, Mountain Cascade, Inc., in the amount of \$1,249,250 with related contingencies, was approved. (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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9987	W. Side of Baypointe Parkway, approx. 370 feet north of Tasman	4	Fairfield Baypointe LLC	163 1 Lots / 183 Units	MFA	Approve

**OPEN FORUM**

David Wall suggested the City enforce liens on property collected during homeless encampment clean-ups and recommended enforcing regulations curtailing vagrancy, trespassing and criminal neglect of City property.

**ADJOURNMENT**

The Council of the City of San José adjourned at 4:45 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC  
City Clerk

rmk/6-5-12MIN