

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 28, 2012

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

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

Absent: Council Members - Constant. (Unexcused); Herrera, Kalra, Liccardo, Oliverio. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no Staff presentation.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:34 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) City, et al. v. County of Santa Clara, 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, Vinod 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 Santa Clara; 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) City v. Gillon dba SAVU Restaurant Group LLC; Names of Parties Involved: City of San José, a municipal corporation, David Akbar as an individual, Manvir Gillon as an individual, David Akbar and Manvir Gillon, a Partnership doing business as SAVU and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV220438; Amount of Money or Other Relief Sought: Damages according to proof. (3) Galvez v. City, et al; Names of Parties Involved: Celine Galvez, City of San José, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-192448; Amount of

CLOSED SESSION (Cont'd.)

Money or Other Relief Sought: Damages according to proof. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in two (2) matters. (C) to confer to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

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

CLOSED SESSION (Cont'd.)

Agency of the City of San José: (1) City, et al. v. County of Santa Clara, 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, Vinod 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 Santa Clara; 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.

By unanimous consent, Council recessed from the Closed Session at 11:35 a.m. and reconvened to Regular Session at 1:36 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Herrera, Kalra, Liccardo, Nguyen, Oliverio (1:40 p.m.), Pyle, Rocha; Reed.

Absent: Council Members - Constant. (Unexcused)

INVOCATION

Reverend Steven Brown, St. Maria Goretti presented the Invocation. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Ceremonial Item 1.4 added to the Agenda. (10-0-1. Absent: Constant.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Sparky Harlan, CEO of the Bill Wilson Center, for being recognized as a Champion of Change by the White House in honor of her work to address homelessness among children and youth. (Mayor) (Deferred from 8/14/12 – Item 1.2)**

Mayor Reed and Council Member Liccardo recognized and commended Sparky Harlan, CEO of the Bill Wilson Center.

1.2 Presentation of a commendation to South Valley YMCA for its commitment to providing continued summer programming emphasizing health, nutrition, and summer learning loss. (Pyle)

Mayor Reed and Council Member Pyle recognized and commended South Valley YMCA.

1.3 Presentation of a commendation to Yuliana Ruiz, a District 4 resident and Good Samaritan, for exemplary courage while performing CPR on a child prior to the arrival of Fire Department Personnel. (Chu)

Mayor Reed and Council Member Chu recognized and commended Yuliana Ruiz for her heroic efforts in saving a ten year old boy.

1.4 Presentation of a commendation to the Latina Coalition of Silicon Valley and recognized August 26, 2012 as “Women’s Equality Day”. (Mayor) (Orders of the Day)

Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Pyle recognized August 26, 2012 as “Women’s Equality Day” in the City of San José and recognized and commended the Latina Coalition of Silicon Valley.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29120 – Amending various sections of Chapter 3.28 and 3.44 of Title 3 of the San José Municipal Code to implement a Tier 2 Pension Plan for new employees of the City of San José in the Federated Employees’ Retirement System.**

Documents Filed: (1) Supplemental memorandum from Deputy City Manager Alex Gurza, providing additional information related to the communications with the Federal City Employees’ Retirement System Board, the Board’s actuary Cheiron, Board Counsel Harvey Leiderman, outside consultants and counsel regarding the Tier 2 Ordinance. (2) Proof of Publication of the Title of Ordinance No. 29120 executed on August 17, 2012, submitted by the City Clerk.

Action: Ordinance No. 29120 was adopted. (10-0-1. Absent: Constant.)

- 2.2 (b) **ORD. NO. 29121 – Rezoning certain real property situated at the westerly terminus of Dixon Landing Road, approximately 3,000 feet west of I-880 and Dixon Landing Road from R-M Multiple Residence and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. PDC07-071**

Documents Filed: (1) Proof of Publication of the Title of Ordinance No. 29121 executed on August 17, 2012, submitted by the City Clerk. (2) Letter from Nicholas Targ, Holland and Knight, dated August 28, 2012, submitting comments and concerns about the proposed rezoning and expansion of the Newby Island Sanitary Landfill.

Public Comments: Jim Piazza, Green Earth Management, expressed opposition and concerns to the proposed rezoning and expansion of the Newby Island Sanitary Landfill.

Action: Ordinance No. 29121 was adopted. (10-0-1. Absent: Constant.)

- (c) **ORD. NO. 29122 – Amending Title 20 (The Zoning Code) of the San José Municipal Code by amending Section 20.30.100 of Chapter 20.30, Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50, and Section 20.70.100 of Chapter 20.70, adding a new Part 3.5 entitled “Certified Farmers’ Markets” to Chapter 20.80, and adding a new Section 20.200.185 to Chapter 20.200 and amending Section 20.200.410 of said Chapter 20.200, all to establish land use regulations for Certified Farmers’ Markets, to facilitate a more streamlined process for certain Certified Farmers’ Markets, and to make other technical, nonsubstantive, clarifying changes to said Title 20. District. PDC07-071**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29122 executed on August 17, 2012, submitted by the City Clerk.

Action: Ordinance No. 29122 was adopted. (10-0-1. Absent: Constant.)

- (d) **ORD. NO. 29127 – Rezoning certain real property situated on an approximately 6.08-gross-acre site on the southeast corner of Airport Parkway and Matrix Boulevard (1887 Matrix Boulevard) to the IP(PD) Planned Development Zoning District. PDC12-019**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29127 executed on August 24, 2012, submitted by the City Clerk.

Action: Ordinance No. 29127 was adopted. (10-0-1. Absent: Constant.)

2.3 (a) Transportation and Environment Committee Minutes of August 13, 2012. (Liccardo)

Documents Filed: The Transportation and Environment Committee Report dated August 13, 2012.

Public Comments: David Wall presented comments on the Transportation and Environment Committee Report.

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

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 (a) Approve recommended changes to the City of San José Traffic and Criminal Bail Schedules and direct the City Attorney to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee.

(b) Approve an ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of infractions.

CEQA: Not a Project; PP10-069, Organizational & Administrative activities. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 16, 2012, recommending approval of the changes and an ordinance.

Action: The recommended changes to the City of San José Traffic and Criminal Bail Schedules were approved, the City Attorney was authorized to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee and Ordinance No. 29128, entitled: “An Ordinance of the City of San José Amending 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, Which Lists All Infractions, To Update the List of Infractions”, was passed for publication. (10-0-1. Absent: Constant.)

- 2.8
- (a) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #1 (Fund 377):**
 - (1) **Increase the Beginning Fund Balance by \$497,000.**
 - (2) **Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$497,000.**
 - (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 (Fund 381):**
 - (1) **Increase the Beginning Fund Balance by \$526,000.**
 - (2) **Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$526,000.**
 - (c) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 (Fund 382):**
 - (1) **Increase the Beginning Fund Balance by \$341,000.**
 - (2) **Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$341,000.**
 - (d) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #6 (Fund 384):**
 - (1) **Increase the Beginning Fund Balance by \$637,000.**
 - (2) **Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$637,000.**
 - (e) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #8 (Fund 386):**
 - (1) **Increase the Beginning Fund Balance by \$120,000.**
 - (2) **Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$120,000.**
 - (f) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9 (Fund 388):**
 - (1) **Increase the Beginning Fund Balance by \$804,000.**
 - (2) **Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$804,000.**
 - (g) **Adopt of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 (Fund 389):**
 - (1) **Increase the Beginning Fund Balance by \$562,000.**

- 2.8 (g) (2) **Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by \$562,000.**
- (h) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Neighborhood Security Bond Act Fund:**
- (1) **Increase the Beginning Fund Balance by \$315,000.**
- (2) **Increase the Fire Station–24 Silver Creek/Yerba Buena appropriation to the Fire Department by \$315,000.**

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

Documents Filed: Memorandum from Budget Director Jennifer A. Maguire, dated August 14, 2012, recommending adoption of appropriation ordinance and resolution amendments.

Public Comments: David Wall presented comments about the rebudget of funds from Fiscal Year 2012-2013 to complete projects.

Action: Ordinance No. 29129, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 1 Fund for the Strategic Capital Replacement and Maintenance Needs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76406, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 1”; Ordinance No. 29130, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 4 Fund for the Strategic Capital Replacement and Maintenance Needs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76407, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 4”; Ordinance No. 29131, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5 Fund for the Strategic Capital Replacement and Maintenance Needs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76408, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5”; Ordinance No. 29132, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 6 Fund for the Strategic Capital Replacement and Maintenance

2.8 (Cont'd.)

Needs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76409, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 6”; Ordinance No. 29133, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 8 Fund for the Strategic Capital Replacement and Maintenance Needs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76410, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 8”; Ordinance No. 29134, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 9 Fund for the Strategic Capital Replacement and Maintenance Needs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76411, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 9”; Ordinance No. 29135, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 10 Fund for the Strategic Capital Replacement and Maintenance Needs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76412, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 10”; Ordinance No. 29136, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Neighborhood Security Bond Fund for the Fire Station 24 – Silver Creek/Yerba Buena Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76413, 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 Neighborhood Security Bond Fund”, were adopted. (10-0-1. Absent: Constant.)

2.9 **Adopt a resolution approving the release of a parcel of unimproved riparian land known as Parcel 3 from the City’s Paseo Senter I deeds of trust, affordability restrictions, and park fee agreement to facilitate the parcel’s dedication to the Santa Clara Valley Water District and authorizing the City Manager to execute all necessary documents. CEQA: Mitigated Negative Declaration, File No. PDC03-057. Council District 7. (Housing)**

2.9 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated August 6, 2012, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated August 23, 2012, clarifying the additional restrictions that need to be released in order to provide the parcel to the Santa Clara Valley Water District and authorization for the City Manager to execute all necessary documents.

Action: Resolution No. 76414, entitled: "A Resolution of the Council of the City of San José Approving the Release of a Parcel of Unimproved Riparian Land To Be Transferred to the Santa Clara Valley Water District from Affordability Restrictions and Deeds of Trust", was adopted. (10-0-1. Absent: Constant.)

2.10 Approve an ordinance to:

- (a) **Amend Chapters 3.48 and 3.50 of Title 3 of the San José Municipal Code ("SJMC") to incorporate the federal Heroes Earnings Assistance Relief Tax Act ("HEART Act") provisions into the City's 457 Deferred Compensation Plan and PTC Plan ("Plans").**
- (b) **Amend Chapter 3.48 of Title 3 of the SJMC to incorporate the Roth 457 option into the City's 457 Deferred Compensation Plan ("Deferred Compensation Plan").**
- (c) **Amend Chapter 3.48 of Title 3 of the SJMC to eliminate the 30-day election requirement and allow benefits to continue to be held under the Deferred Compensation Plan after a severance event.**

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Human Resources)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated August 6, 2012, recommending approval of an ordinance.

Action: Ordinance No. 29137, entitled: "An Ordinance of the City of San José Amending Various Sections of Chapters 3.48 and 3.50 of Title 3 of the San José Municipal Code, the San José Deferred Compensation Plan and PTC Plan, To Comply with the Heroes Earnings Assistance Relief Act for the Deferred Compensation Plan and PTC Plan; Incorporate the Roth 457 Option in the Deferred Compensation Plan; and Eliminate the 30 Day Election Requirement and Allow Benefits to Continue To Be Held in the Deferred Compensation Plan", was passed for publication. (10-0-1. Absent: Constant.)

2.11 Adopt a resolution authorizing the City Manager to:

- (a) **Execute and submit grant applications for two (2) projects under the Safe Routes to School grant program, in the total amount of \$742,992:**
 - (1) **The Bucknall Road Pedestrian and Bicycle Improvement Project in the amount of \$342,992 with no local match.**
 - (2) **The Downing Avenue Pedestrian and Bicycle Improvement Project in the amount of \$400,000 of which \$359,900 is reimbursable under the grant and \$40,100 is part of the required City local match.**

- 2.11 (b) **Make the required assurances to comply with the project applications, deadlines to complete the projects, grant program requirements, and other assurances required by Caltrans as explained in this memorandum.**
- (c) **Accept any grant award(s) and negotiate and execute any documents to effectuate the grant(s), including the authority to negotiate and execute any documents that increase the amount of the grant awarded or local contribution from the City for the projects, subject to the appropriation of funds.**

CEQA: Bucknall Road Sidewalk Improvements - Exempt, File No. PP11-092; Downing Avenue Sidewalk Improvements Project - Exempt, File No. PP12-069. Council Districts 1 and 6. (Transportation)

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen, dated August 6, 2012, recommending adoption of a resolution.

Council Member Rocha pulled Item 2.11 from the Consent Calendar for questions and clarification. Director of Transportation Hans F. Larsen responded to Council Member Rocha.

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, Resolution No. 76415, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit Grant Applications for Two Projects Under the Safe Route to School Grant Program, In the Total Amount of \$742,992 With \$342,992 for the Bucknall Road Pedestrian and Bicycle Improvements Project With No Local Match and \$400,000 for Downing Avenue Pedestrian and Bicycle Improvements Project of Which \$359,900 is Reimbursable Under the Grant and \$40,100 is Part of the Required City's Local Match; To Make the Required Assurances Required by Caltrans; To Accept the Grant(s) If Awarded; and To Negotiate and Execute All Related Documents", was adopted. (10-0-1. Absent: Constant.)

- 2.12 (a) **Adopt a resolution authorizing the City Manager to negotiate and execute:**
- (1) **A Third Amendment to the existing grant agreement between the City and the Metropolitan Transportation Commission (MTC) for the development of the Diridon Station Area Plan to continue and extend the term of the agreement from June 30, 2012 to June 30, 2013, amend the scope of services to eliminate zoning ordinance amendments deliverable, amend the schedule of performances and budget for the deliverables under the agreement, and to ratify prior amendments to the agreement.**
- (2) **A Second Amendment to the existing agreement between the City and Field Paoli Architects to continue and extend the term from June 30, 2012 to June 30, 2013, increase the compensation by up to \$100,000 from \$1,109,000 to an amount not to exceed \$1,209,000, expand the scope of services to prepare the phasing analysis for near-term development in the Diridon Station Area, and amend the schedule of performance and budget for the deliverables under the agreement.**

- 2.12 (a) (3) **Any future amendments deemed necessary by the City Manager to extend the term of the MTC or Field Paoli agreements or revise the scope of services, schedule of performances, or budget for each deliverables to complete the tasks required under the MTC grant agreement and the Diridon Station Area Plan, provided that the amendments do not exceed the maximum compensation approved by the City Council for the agreements.**
- (b) **Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:**
- (1) **Increase the appropriation to the Department of Transportation for the Diridon Station Planning Project by \$100,000;**
- (2) **Decrease the Ending Fund Balance by \$100,000.**
- CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. Council Districts 3 and 6. (Transportation/City Manager’s Office)**

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen and Budget Director Jennifer A. Maguire, dated August 6, 2012, recommending adoption of a resolution and appropriation ordinance amendments.

Action: Resolution No. 76416, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute (1) A Third Amendment to the Grant Agreement Between the City and the Metropolitan Transportation Commission (MTC); (2) A Second Amendment to the Agreement Between the City and Field Paoli Architects (Field Paoli) and (3) Any Future Amendments Deemed Necessary by the City Manager to Extend the Term of the MTC or Field Paoli Agreements or Revise the Scope of Services, Schedule of Performances, Or Budget for Each Deliverables to Complete the Tasks Required, Provided that the Amendments Do Not Exceed the Maximum Compensation Approved by the City Council for the Agreements” and Ordinance No. 29138, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Excise Tax Fund for the Diridon Station Planning Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Constant.)

- 2.13 **Authorize certification and submit the 2011-2012 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act. (Environmental Services)**
[Transportation and Environment Committee referral 8/13/12 – Item D(2)]

Documents Filed: (1) Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 15, 2012, transmitting the recommendations of the Transportation and Environment Committee. (2) Supplemental memorandum from Acting Director of Environmental Services Kerrie Romanow, dated August 16, 2012, transmitting the 2011-2012 Stormwater Permit Annual Report.

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

2.13 (Cont'd.)

Action: The certification was approved and Staff was authorized to submit the 2011-2012 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act. (10-0-1. Absent: Constant.)

**2.14 As referred by the Public Safety, Finance and Strategic Support Committee on August 16, 2012, accept the Fourth Quarter Financial Reports for Fiscal Year 2011 – 2012. (Finance)
[Public Safety, Finance and Strategic Support Committee referral 8/16/12 – Item D(5)]**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 23, 2012, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: The Fourth Quarter Financial Reports for Fiscal Year 2011 – 2012 was accepted. (10-0-1. Absent: Constant.)

2.15 As referred by the Public Safety, Finance and Strategic Support Committee on August 16, 2012, accept the Annual Review and adopt a resolution approving the proposed amendments to the City Council Policy 1-12, the City’s Investment Policy, to reflect recent changes to the Federal Reserve Bank’s Primary Dealer List. (Finance)

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 23, 2012, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: The Annual Review was accepted and Resolution No. 76418, entitled: “A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 1-12, The City of San José Investment Policy”, was adopted. (10-0-1. Absent: Constant.)

**2.16 As referred by the Public Safety, Finance and Strategic Support Committee on August 16, 2012, accept the Team San José Quarterly Performance and Incentive Measure Report. (Team San José)
[Public Safety, Finance and Strategic Support Committee referral 8/16/12 – Item D(10)]**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 23, 2012, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

2.16 (Cont'd.)

Michael Mulcahy, Chair of the Board, offered the report on Team San José and presented a short video on the Civic Center.

William Sherry, Chief Executive Officer, Team San José, responded to Council questions and concerns.

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

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

2.17 **As recommended by the Rules and Open Government Committee on August 22, 2012, appoint Fabiola Czech, Market Human Resources Manager of Walmart Stores Incorporated in San Jose, California, to serve as a private-sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (Mayor)** **[Rules Committee referral 8/22/12 – Item F(1)(a)]**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 23, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Mayor Reed referred to his memorandum dated August 14, 2012 and recommended the appointment of Fabiola Czech to serve as a private-sector representative on the Silicon Valley Workforce Investment Network Board of Directors.

Council Member Kalra expressed opposition to the recommendation of the appointment citing that Walmart was not a good employer of women.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried, Fabiola Czech, Market Human Resources Manager of Walmart Stores Incorporated in San Jose, California, was appointed to serve as a private-sector representative on the Silicon Valley Workforce Investment Network Board of Directors as required by law. (6-4-1. Noes: Campos, Kalra, Pyle, Rocha. Absent: Constant.)

2.18 **As recommended by the Rules and Open Government Committee on August 22, 2012, approve the recommended City positions for five resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in San Diego, California on September 5 – 7, 2012. (City Manager's Office)**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 23, 2012, transmitting the recommendations of the Rules and Open Government Committee.

2.18 (Cont'd.)

Action: The recommended City positions for five resolutions to be considered at the Annual League of California Cities Conference to be held in San Diego, California on September 5 – 7, 2012, were approved. (10-0-1. Absent: Constant.)

2.19 As recommended by the Rules and Open Government Committee on August 22, 2012, approve the guiding principles for legislative advocacy and investment strategies on the State's forthcoming Cap-and-Trade program. (City Manager's Office)

[Rules Committee referral 8/22/12 – Item G(3)]

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 23, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Director of Transportation Hans F. Larsen responded to questions from Council Member Rocha.

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

Action: Upon motion by Council Member Rocha, seconded by Council Member Campos and carried unanimously, the guiding principles for legislative advocacy and investment strategies on the State's forthcoming Cap-and-Trade program, was approved. (9-0-2. Absent: Chu, Constant.)

2.20 As recommended by the Rules and Open Government Committee on August 22, 2012:

- (a) Approve the District 6 Outside Movie Night as a City Council sponsored Special Event.**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

CEQA: Not a Project. (City Manager's Office)

[Rules Committee referral 8/22/12 – Item G(4)]

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 23, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 6 Outside Movie Night as a City Council sponsored Special Event was approved and donations were authorized to be accepted from various individuals, businesses, or community groups to support the event. (10-0-1. Absent: Constant.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that the Library Department received a \$250,000 grant from the David and Lucile Packard Foundation for the Smart Start San José Program.

3.3 Approve the response to the Santa Clara County Civil Grand Jury Report entitled “An Analysis of Pension and Other Post Employment Benefits”. CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memoranda. (City Manager’s Office)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated August 14, 2012, recommending approval of the response.

City Manager Debra Figone offered introductory comments and responded to Council questions.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the response to the Santa Clara County Civil Grand Jury Report entitled “An Analysis of Pension and Other Post Employment Benefits”, was approved. (10-0-1. Absent: Constant.)

3.4 Adopt a resolution to approve an agreement between the City and the San José Fire Fighters, IAFF Local 230, for the period of August 28, 2012 to June 30, 2013, regarding a Pilot Program for Special Operations Premium Pay for secondary Hazardous Incident Team and Urban Search and Rescue Company. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated August 13, 2012, recommending adoption of a resolution.

City Manager Debra Figone provided introductory comments.

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

Fire Chief William McDonald and City Manager Debra Figone responded to Council questions and concerns.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried, Resolution No. 76419, entitled: “A Resolution of the Council of the City of San José Approve an Agreement Between the City and the San José Fire Fighters, IAFF Local 230, Regarding a Pilot Program for Special Operations Premium Pay for Secondary Hazardous Incident Team and Urban Search and Rescue Company”, was adopted. (8-1-2. Noes: Oliverio. Absent: Campos, Constant.)

- 3.5 (a) **Hold a Tax Equity and Fiscal Responsibility Act (“TEFRA”) Hearing for the issuance of \$12,000,000 of tax-exempt 501(c)(3) revenue bonds by California Municipal Finance Authority (“CMFA”) for the Rocketship Seven – Alma Academy Elementary School Project located 198 West Alma Avenue, San José, California.**
- (b) **Adopt a resolution approving the issuance of tax-exempt revenue bonds by CMFA in an aggregate principal amount not to exceed \$12,000,000 to (1) finance and refinance the acquisition, construction, improvements and equipping of certain charter school educational facilities to be known as Rocketship Seven – Alma Academy Elementary School; (2) pay certain expenses incurred in connection with the issuance of the bonds; and (3) fund all or a portion of a reserve fund deposit and capitalized interest.**

CEQA: Not a Project. File No. PP10-069(a), Organizational and administrative activities. Council District 7. (Finance)

Documents Filed: (1) Memorandum from Acting Director of Finance Julia H. Cooper, dated August 6, 2012, recommending that a Tax Equity and Fiscal Responsibility Act Hearing be held and adoption of a resolution. (2) Statement and Declaration of Conflict of Interest Form from Council Member Liccardo, dated August 28, 2012, stating that he shares living expenses with his fiancée, an employee of Rocketship Foundation.

Council Member Liccardo abstained from participating in the discussion and voting, because he shares living expenses with his fiancée, an employee of Rocketship Foundation.

Mayor Reed opened the Tax Equity and Fiscal Responsibility Act Hearing.

Public Comments: Aurelia Sanchez expressed concern that Rocketship competes with the public schools. David Wall agreed with Ms. Sanchez.

Mayor Reed closed the Tax Equity and Fiscal Responsibility Act Hearing.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, Resolution No. 76420, entitled: “A Resolution of the Council of the City of San José Approving the Issuance of the California Municipal Finance Authority Tax Exempt Revenue Bonds in an Aggregate Principal Amount Not To Exceed \$12,000,000, For the Purpose of Financing and Refinancing Facilities To Be Known as Rocketship Seven Alma Elementary School and Certain Other Matters Relating Thereto”, was adopted. (9-0-1-1. Absent: Constant. Abstained: Liccardo.)

- 3.6 **Approve an ordinance to amend Chapters 3.28 of Title 3 of the San Jose Municipal Code, the 1975 Federated Employees Retirement Plan, and 3.36 of Title 3, the 1961 Police and Fire Department Retirement Plan, to add Sections 3.28.115 and 3.66.325, respectively, regarding the role of the Boards of Administration in personnel matters. CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Manager’s Office/City Attorney's Office) (Rules Committee referral 8/22/12)**

3.6 (Cont'd.)

Documents Filed: Memorandum from City Manager Debra Figone, dated August 24, 2012, recommending approval of an ordinance.

City Manager Debra Figone presented introductory remarks.

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

City Attorney Richard Doyle read minor changes into the record and responded to Council questions.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29139, entitled: "An Ordinance of the City of San José To Amend Chapters 3.28, The 1975 Federated Employees Retirement Plan and 3.36, The 1961 Police and Fire Department Retirement Plan, of the San José Municipal Code To Add Sections 3.28.115 and 3.36.325, Respectively, Regarding the Role of the Boards of Administration in Personnel Matters", was passed for publication. (10-0-1. Absent: Constant.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **Approve the response to the Santa Clara County Civil Grand Jury Report entitled "Veterans Memorial Restoration: Preserving History and Restoring Pride". CEQA: Not a Project, File No.PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, dated August 6, 2012, recommending approval of the response.

Director of Cultural Affairs Kerry Adams Hapner and Art Director Barbara Goldstein responded to Council questions.

Motion: Council Member Herrera moved approval of the Staff recommendations with direction to Staff to explore options for directional signage for the Memorial. Council Member Liccardo seconded the motion.

Discussion ensued.

Action: On a call for the question, the motion carried unanimously, the response to the Santa Clara County Civil Grand Jury Report entitled "Veterans Memorial Restoration: Preserving History and Restoring Pride" was approved. Staff was directed to explore options for directional signage for the Memorial. (10-0-1. Absent: Constant.)

4.2 Adopt a resolution of the City Council in connection with the issuance of multifamily housing revenue bonds:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds, Series 2012E (La Moraga Apartments)” in an aggregate principal amount not to exceed \$52,440,000 (the “Bonds”).**
- (b) Approving a loan of bond proceeds to La Moraga San José, L.P, a California limited partnership created by St. Anton Capital to finance the construction of the La Moraga Apartments located at the corner of Charlotte Drive and Raleigh Road in San José (the “Project”).**
- (c) Approving in substantially final form an Indenture of Trust, a Loan Agreement and Regulatory Agreement and Declaration of Restrictive Covenants (the “Documents”).**
- (d) Authorizing and directing the City Manager, Acting Director of Finance, Acting Assistant Director of Finance, Acting Treasury Division Manager, Acting Debt Administrator, and Director of Housing, or their designees, to execute and, deliver these Documents and other related Bond documents as necessary;**
- (e) Approving an exception to the bond monitoring fees to be charged under the Policy for the Issuance of the Multifamily Housing Revenue Bonds.**

CEQA: EIR resolution 72768 adopted June 21, 2005, File No. PDC07-101. Council District 2. (Housing/Finance)

Documents Filed: (1) Memorandum from Acting Director of Finance Julia H. Cooper and Director of Housing Leslye Corsiglia, dated August 6, 2012, recommending adoption of a resolution. (2) Supplemental memorandum from Acting Director of Finance Julia H. Cooper and Director of Housing Leslye Corsiglia, dated August 23, 2012, adding (e) to the recommendation as described above in Item 4.2.

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

Mayor Reed pointed out that Staff added Item 4.2(e) to the recommendations.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, Resolution No. 76421, entitled: “A Resolution of the Council of the City of San José, California Authorizing the Issuance, Sale and Delivery of Multifamily Housing Revenue Bonds in an Aggregate Principal Amount Not To Exceed \$52,440,000 For the Purpose of Making a Loan to Provide Financing for La Moraga Apartments; Determining and Prescribing Certain Matters Relating Thereto; and Approving and Authorizing Related Actions and the Execution and Delivery of Related Documents”, was adopted. (9-0-2. Absent: Constant, Oliverio.)

- 4.3 Adopt a resolution approving a funding commitment of up to \$300,000 to MidPen Donner Associates, L.P. for a predevelopment loan for the planned 102-unit Donner Lofts Apartments, an affordable rental project to be located at 156 E. St. John Street, to be made available to extremely low-income (“ELI”), and very low-income (“VLI”) households. CEQA: Resolution No. 68839. Council District 3. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated August 6, 2012, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76422, entitled: “A Resolution of the Council of the City of San José Approving a Funding Commitment to MidPen Donner Associates, L.P. for a Predevelopment Loan for the Donner Lofts Apartments”, was adopted. (9-0-2. Absent: Constant, Oliverio.)

- 4.4 Conduct an Administrative Hearing and consider an Appeal of the Planning Commission’s decision to deny a Conditional Use Permit to allow the off-sale of alcohol and 24-hour use for an existing gas station and approve the conversion of 938 square feet of vending use to a retail mini-market on a .39-gross-acre site, in the CP Commercial Pedestrian Zoning District. Located at the southwest corner of Woodard Road and Union Avenue (3707 Union Avenue) (BMZ Investment, Owner). CEQA: Exempt.
CP11-059 – District 9
(Continued from 6/19/12 – Item 11.5 and 8/21/12 – Item 11.2)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 3, 2012, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP11-059, dated March 9, 2012, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 12, 2012, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on June 1, 2012, submitted by the City Clerk.

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

Public Comments: David Wall presented comments.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council Member Rocha.

4.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 76423, entitled: “A Resolution of the Council of the City of San José Approving a Request for a Conditional Use Permit to Allow 24-Hour Operation of a Gasoline Station and Associated Convenience Retail Sales and Conversion of a 983 Square Foot Vending and Associated Uses to Convenience Store Uses at an Existing Gasoline Service Station on a 0.39 Gross Acre Site at the Southwest Corner of Woodard Road and Union Avenue (3707 Union Avenue) in San José”, was adopted, as amended. Resolution No. 76405 was not used. (9-0-2. Absent: Constant, Oliverio.)

TRANSPORTATION & AVIATION SERVICES

6.1 Report on bids and take appropriate action based on the evaluation of bids for the 2012 Street Resurfacing Project. CEQA: Exempt, File No. PP11-035. (Transportation)

Documents Filed: (1) Memorandum from Director of Transportation Hans F. Larsen, dated August 6, 2012, recommending taking appropriate action based on the evaluation of bids. (2) Supplemental memorandum from Director of Transportation Hans F. Larsen and Director of Public Works David Sykes, dated August 22, 2012, transmitting additional information regarding the bids received, analysis of the bids and budget reference. (3) Supplemental memorandum from Director of Transportation Hans F. Larsen and Director of Public Works David Sykes, dated August 27, 2012, transmitting additional information concerning a bid protest.

Director of Transportation Hans F. Larsen provided comments and responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the report on bids was approve and Staff was directed to take appropriate action based on the evaluation of bids for the 2012 Street Resurfacing Project. (10-0-1. Absent: Constant.)

PUBLIC SAFETY SERVICES

8.1 Approve the response to the Santa Clara County Civil Grand Jury Report entitled “Continuity in Fire Service Delivery.” CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/ Information Memos. (City Manager’s Office) (Rules Committee referral 8/22/12)

Documents Filed: Memorandum from Fire Chief William L. McDonald, dated August 20, 2012, recommending approval of the response.

8.1 (Cont'd.)

Public Comments: David Wall provided comments to the response to the Santa Clara County Civil Grand Jury Report.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Pyle and carried unanimously, the response to the Santa Clara County Civil Grand Jury Report entitled "Continuity in Fire Service Delivery", was approved. (10-0-1. Absent: Constant.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 **Adopt a resolution by the City Council acting in its capacity as the Successor Agency to the Redevelopment Agency Board approving the Recognized Obligation Payment Schedules (ROPS) for July 1 - December 31, 2012 (ROPS 2) and January 1 – June 31, 2013 (ROPS 3).
(Deferred from 8/21/12 – Item 9.2)**

Action: Deferred to September 11, 2012 per Administration.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **As referred by the Public Safety, Finance and Strategic Support Committee on August 16, 2012, accept the Environmental Services Department Audit. (City Auditor)
[Public Safety, Finance and Strategic Support Committee referral 8/16/12 – Item D(8)]**

Documents Filed: Memorandum from City Clerk Dennis D. Hawkins, CMC, dated August 23, 2012, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon W. Erickson presented the Environmental Services Department Audit. Acting Director of Environmental Services Kerrie Romanow expressed comments to the Report of the City Auditor.

Council discussion ensued.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Environmental Services Department Audit from the Office of the City Auditor was accepted. (9-0-2. Absent: Constant, Kalra.)

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>
10122	N/S Camden Ave, approx. 300'E of Pas Los Cerritos	10	Edenbridge Capital Partners, LP	10 Lots / 8 Units	SFD	Approve

OPEN FORUM

- (1) Mark Trout presented his own religious points of view.
- (2) Greg Kerekes expressed concern about the future of burrowing owls in San José and urged the Council to protect the remaining owls and dedicate land in North San José for their preservation and our enjoyment.
- (3) David Wall continued with comments and details about the Water Pollution Control Plant.

ADJOURNMENT

The Council of the City of San José was adjourned at 4:45 p.m. in memory of San José Fire Department Captain Jose Martinez, who passed away on August 10, 2012 at the age of 41. (Kalra/Pyle)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC
City Clerk

smd/08-28-12 MIN

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