



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 25, 2014

The Council of the City of San José convened in Regular Session at 9:43 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Constant. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Action: No report was given.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:43 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation, claim not filed; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (d)(1) with respect to existing litigation; (1) City v. RossDrulisCusenbery Architecture, Inc., et al.; Names of Partie(s) Involved: City of San José, Rosdruliscusenbery Architecture, Inc., aka Michael Ross Charles Drulis Architects & Planners, a purported California corporation; and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-237767; Amount of Money or Other Relief Sought: Damages According to Proof; (2) San José Police Officer's Association v. City, et al.; Names of Partie(s) Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case

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

CLOSED SESSION (Cont'd.)

No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (3) San José Retired Employees Association, et al. v. City, et al.; Names of Partie(s) Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Navarro, City of San José Does 1 through 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (4) Sapien, et al. v. City of San José, et al., Names of Partie(s) Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1 through 15, the board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (5) Harris, et al. v. City of San José, et al.; Names of Partie(s) Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone, in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B; (6) Mukhar, et al., v. City of San José, et al.; Names of Partie(s) Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone, in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B; (7) AFSCME, et al. v. City of San José, et al., Names of Partie(s) Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone, in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B;. (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 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: City of San José –

CLOSED SESSION (Cont'd.)

Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Benefit & Compensation Summary - City of San José and City Association of Management Personnel Agreement; (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/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:10 a.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu (1:43 p.m.), Herrera, Liccardo, Nguyen, Oliverio, Rocha.

Absent: Council Members - Constant, Kalra, Khamis; Reed. (Excused)

INVOCATION

George Psarras performed a monologue from his role as Mozart in the play *Amadeus*, currently being performed by City Lights Theater Company.

PLEDGE OF ALLEGIANCE

Vice Mayor Nguyen led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved (7-0-4. Absent: Constant, Kalra, Khamis; Reed)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation to Jack Aiello, SF Bay Area Myeloma Support Group Leader, recognizing March as “Myeloma Awareness Month.” (Oliverio)

Vice Mayor Nguyen and Council Member Oliverio acknowledged Jack Aiello, SF Bay Area Myeloma Support Group Leader, and recognized March as “Myeloma Awareness Month.”

CONSENT CALENDAR

Upon motion by Council Member Herrera, seconded by Council Member Oliverio and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

2.1 Approval of Minutes.

None provided.

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Reports.

- (a) Transportation and Environment Committee Report of March 3, 2014. (Liccardo)**
- (b) Rules and Open Government Committee Report of March 5, 2014. (Mayor)**
- (c) Rules and Open Government Committee Report of February 26, 2014. (Mayor)**

Documents Filed: (1) Transportation and Environment Committee Report dated March 3, 2014. (2) Rules and Open Government Committee Reports dated March 5, 2014 and February 26, 2014.

Action: The Committee reports were accepted. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Adopt a resolution authorizing the City Manager to negotiate and execute the aquatic operating agreements with Maki Swim School, Sparkle Swim School, Los Gatos and Saratoga Recreation, West Coast Aquatics and California Sports Center to extend for one additional year through April 2015. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhoods Services)

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated March 25, 2014, recommending adoption of a resolution.

Action: Resolution No. 76946, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to the Aquatic Operating Agreements with Maki Swim School, Sparkle Swim School, Los Gatos and Saratoga (“LGS”) Recreation, West Coast Aquatics, and California Sports Center to Extend for One Additional Year Through April 2015”, was adopted. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

2.8 As recommended by the Rules and Open Government Committee on March 12, 2014:

- (a) Approve the Cesar Chavez Red Carpet Film Premier event as a City Council sponsored Special Event and approve the expenditure of City funds; and**
- (b) Approve the allowance of donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Campos)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 12, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Cesar Chavez Day Red Carpet Film Premier event as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

- 2.9 Approve travel by Mayor Reed to Washington, D.C. on March 25 – 27, 2014 to attend the Silicon Valley Leadership Group’s Annual Washington, D.C. trip and to meet members of Congress and the Obama Administration. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated March 10, 2014, requesting authorization to travel due to authorized City business.

Action: The travel request was approved. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

- 2.10 As recommended by the Rules and Open Government Committee on March 19, 2014:**

- (a) Approve the Cesar E. Chavez Red Commemorative March scheduled for March 29, 2014 as a City Council sponsored Special Event and approve the expenditure of City funds; and**
- (b) Approve the allowance of donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Campos)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 19, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Cesar Chavez Day Commemorative March as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.1 Report of the City Manager, Edward Shikada (Verbal Report).**

City Manager Ed Shikada announced that San José has been honored with the GFOA Distinguished Budget Presentation Award, the highest form of recognition for excellence in governmental budgeting from the Government Finance Officers Association. He also announced that he will be presenting the Pride of San José Award to City employees that have distinguished themselves and their teams.

3.3 Adopt a resolution to:

- (a) Approve an agreement between the City of San José and the Municipal Employees' Federation, AFSCME Local 101 to implement a Pilot Program regarding the calculation of overtime for classifications in the Public Safety Dispatcher class series effective the beginning of the pay period after City Council approval;**
- (b) Approve an agreement between the City of San José and the Municipal Employees' Federation, AFSCME Local 101 to roll the Holiday-In-Lieu premium pay into base pay and provide employees in the classifications in the Public Safety Dispatcher class series with an approximately three percent (3%) special base pay increase effective the beginning of the pay period after City Council approval; and**
- (c) Amend the City of San José Pay Plan effective the beginning of the pay period after City Council approval, to roll the Holiday-In-Lieu premium pay into base pay and provide employees in the classifications in the Public Safety Dispatcher class series with an approximately three percent 3% special base pay increase, which collectively results in increasing by approximately nine and one-half percent (9.5%) the top and bottom of the salary range for classifications in the Public Safety Dispatcher class series.**

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated March 12, 2014, recommending adoption of a resolution.

City Manager, Edward K. Shikada provided an overview of the agreement, and Deputy City Manager Alex Gurza responded to questions from Council.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Resolution No. 76947, entitled: "A Resolution of the Council of the City of San José Approving Agreements between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 (MEF), and Amending the City of San José Pay Plan", was adopted. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 As recommended by Community and Economic Development Committee on February 24, 2014, accept the update on the implementation of North San José Area Development Policy. CEQA: North San José Development Policies Update EIR, Resolution No. 72768 and Addenda thereto. Council Districts 3 and 4. (Planning, Building and Code Enforcement/Economic Development/Transportation) [Community and Economic Development Committee referral 2/24/14 – D(2)] (Deferred from 3/11/14 – Item 4.5)**

Action: Deferred to April 8, 2014 per Administration.

PUBLIC SAFETY SERVICES

- 8.1**
- (a) Approve the proposed 2013-2015 Spending Plan for the Supplemental Law Enforcement Services (SLES) Grant for \$1,570,447, and authorize the Chief of Police to amend the Spending Plan in conformity to the budget priorities set out in this Memorandum in the event State SLES Grant payments are less or more than expected;**
 - (b) Approve the revised 2012-2014 SLES Grant reallocating from Project #1 and Project #3 to Project #2 to purchase Taser devices, portable radios, flashlights, training and furniture;**
 - (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the SLES Fund:**
 - (1) Increase the Earned Revenue estimate by \$751,682;**
 - (2) Establish an appropriation to the Police Department for the SLES Grant 2013-2015 for \$468,354; and**
 - (3) Increase the existing SLES Grant 2012-2014 appropriation to the Police Department in the amount of \$283,328.**

CEQA: Not a Project, File No. PP10-066(a), Cooperative Purchase of Supplies, Equipment and Professional Services with no changes to the physical environment. (Police/City Manager)

Documents Filed: Joint memorandum from Acting Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated March 3, 2014, recommending approval of the proposed Spending Plan, SLES Grant reallocation and adoption of Appropriation Ordinance and Funding Sources Resolution Amendments Appropriation Ordinance and Funding Sources Resolution Amendments.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29395, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Supplemental Law Enforcement Services (SLES) Fund for the SLES Grant 2012-2014 and the SLES Grant 2013-2015; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 76948, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76677 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2013-2014 to Adjust Revenues in the Supplemental Law Enforcement Services (SLES) Fund”, were adopted. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) Authorizing, subject to the approval of the Oversight Board of the Successor Agency (the "Oversight Board") and State Department of Finance ("DOF"), the execution and delivery, in substantially final form, of a First Amendment to the Amended and Restated Reimbursement Agreement (the "First Amendment") with JPMorgan Chase Bank, NA ("JPMorgan") to extend the terms of the letters of credit (the "Letters of Credit") relating to the (1) Redevelopment Agency of the City of San José Merged Area Redevelopment Project Revenue Bonds, 1996 Series A and 1996 Series B (collectively, "1996 Bonds") and (2) Redevelopment Agency of the City of San José Merged Area Redevelopment Project Taxable Revenue Bonds, Series 2003 A (Subordinate Tax Allocation) and Redevelopment Agency of the City of San José Merged Area Redevelopment Project Revenue Bonds, 2003 Series B (Subordinate Tax Allocation (collectively, "2003 Bonds"), and making other changes relating to the assets held by JPMorgan to secure payment of the Letters of Credit;
- (b) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of an Amended and Restated Letter Agreement regarding fees and charges for the Letters of Credit provided by JPMorgan under the Reimbursement Agreement in the amount of 2.55% of the aggregate outstanding face amounts of the Letters of Credit, assuming that two of the three ratings assigned by Fitch, Moody's or Standard & Poor's on the senior lien Redevelopment Agency of the City of San José Merged Area Redevelopment Project Tax Allocation Bonds are not withdrawn, suspended or otherwise become unavailable;
- (c) Authorizing the Executive Officer, Chief Financial Officer of the Successor Agency, or their designee, to take any actions and execute any and all documents necessary to complete this transaction; and
- (d) Authorizing the Executive Officer, Chief Financial Officer of the Successor Agency, or their designee, to take any actions and execute any and all documents necessary to extend and amend this agreement at expiration, provided the fees and charges for the Letters of Credit provided by JPMorgan are equivalent to the existing agreement (2.55%) or better.

CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts (Finance/Successor Agency)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated March 10, 2014, recommending adoption of a resolution.

Vice Mayor Nguyen offered opening comments, and Director of Finance Julia H. Cooper provided a presentation on the JPMorgan Letters of Credit terms and recommendations.

Council discussion followed.

9.1 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Successor Agency Resolution No. 7027, entitled “A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Authorizing the Executive Officer and Chief Financial Officer to Execute and Deliver, in Substantially Final Form, the First Amendment to the Amended and Restated Reimbursement Agreement and an Amended and Restated Fee Letter Agreement with JPMorgan Chase Bank, N.A. with a Term of Three Years in Order to Extend the Terms of the Letters of Credit Relating to the Redevelopment Agency of the City of San José Merged Area Redevelopment Project Taxable Revenue Bonds (Subordinate Tax Allocation), Series 2003A and 2003B, and the Redevelopment Agency of the City of San José Merged Area Redevelopment Project Revenue Bonds (Subordinate Tax Allocation), Aeries 1996A and series 1996B, and to Take Any Actions and Execute Any and All Documents Necessary to Complete This Transaction; and Authorizing the Executive Officer, Chief Financial Officer or Their Designee to Take Any Actions and Execute Any and All Documents Necessary to Extend and Amend the Agreements at Expiration”, was adopted. (7-0-4. Absent: Constant, Kalra, Khamis; Reed.)

OPEN FORUM

S.K. Kohli spoke to the many merits of the City of San José and offered accolades to its Civic leaders.

ADJOURNMENT

The Council of the City of San José adjourned at 2:02 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/3-25-14MIN