

## MINUTES OF THE CITY COUNCIL

SAN JOSÉ , CALIFORNIA

TUESDAY, NOVEMBER 27, 2012

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

Present: Council Members                      Campos, Herrera, Kalra, Liccardo, Nguyen,  
   Oliverio, Pyle, Rocha.

Absent Council Members                      Chu, Constant; Reed. (Excused)

### STRATEGIC SUPPORT SERVICES

#### 3.2    Accept Labor Negotiations Update.

No report was provided.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:33 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation: Number of matter(s) to be discussed: three (3); (B) Public Employment/Public Employee Evaluation Pursuant to Government Code Section 54957: Title: City Clerk; Name: Dennis Hawkins; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (a) with respect to existing litigation: (1) In re: Lucchesi; Amount of Money or Other Relief Sought: Administrative Appeal; (2) Ralph Larsen & Son, Inc. v. Redevelopment Agency of the City of San José, et al.; Name(s) of Parties(s) Involved: Agency of the City of San José; and Does 1 through 50; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-205972; Amount of Money or Other Relief Sought: Damages According to Proof; (3) Murphy v. City of San José; Names of Parties(s) Involved: Shannon Murphy; Bonnie Jain; Jennifer Craig; Scott Hamilton Bradley; Heirs of the Estate of Wanda Bradley; Margaret Louise Foster; Brandenburg, Staedler & Moore; City of San José, et al.; Court: Superior Court of California, County of Santa Clara; Case No:

## CLOSED SESSION (Cont'd.)

1-12-CV-223515; Amount of Money or Other Relief Sought: Damages according to proof; (4) City of San José, et al. v. BKD Investments, LLC, et al.; Names of Partie(s) Involved: People of the State of California, ex rel., City Attorney of the City of San José and the City of San José; BKD Investments, LLC, a California Limited Liability Company dba Hotel Elan; Pankaj K. Patel, an individual; Sanjay K. Patel, an individual; April Guzman, an individual; and Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-227614; Amount of Money or Other Relief Sought: Permanent Injunction and Final Judgment; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential 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.sanJose.ca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150.

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

(A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (c) with respect to anticipated litigation pertaining to the Successor Agency to the Redevelopment Agency of the City of San José in two (2) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (a) with respect to existing litigation: (1) Ralph Larsen & Son, Inc. v. Redevelopment Agency of the City of San José, et al.; Name(s) of Parties(s) Involved: Agency of the City of San José; and Does 1 through 50; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-205972; Amount of Money or Other Relief Sought: Damages According to Proof.

By unanimous consent, Council recessed from the Closed Session at 11:01 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

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

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

## **INVOCATION**

San José Animal Care and Services Staff, accompanied by adoptable pets from the Center urged community support.

## **PLEDGE OF ALLEGIANCE**

Vice Mayor Nguyen led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Herrera, seconded by Council Member Pyle, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 2.7 deferred to December 4, 2012, Item 2.26 added, and Item 5.2 to be heard immediately following the Consent Calendar. (8-0-3. Absent: Chu, Constant; Reed.)

## CEREMONIAL ITEMS

### 1.1 **Presentation of a plaque to the Great American Litter Pick-Up 2012 winner. (Chu)**

Action: Deferred to December 4, 2012 per District 4.

### 1.2 **Presentation of a commendation to the Santa Clara Valley Science and Engineering Fair Association and the 2012 Winners from San José. (Kalra)**

Action: Deferred to December 4, 2012 per Rules and Open Government Committee Meeting.

### 1.3 **Presentation of a commendation to Isabel Allende in recognition of her support of women worldwide and for her influence as an artist and educator. (Mayor)**

Action: Vice Mayor Nguyen recognized Isabel Allende for her support of women worldwide and for her influence as an artist and educator.

### 1.4 **Presentation of a proclamation declaring November 28, 2012 as “Albanian Independence Day” in the City of San José, in honor of the 100<sup>th</sup> Anniversary of Albanian Independence. (Kalra)**

Action: Vice Mayor Nguyen and Council Member Kalra recognized November 28, 2012 as “Albanian Independence Day” in the City of San José, in honor of the 100th Anniversary of Albanian Independence.

### 1.5 **Presentation of a commendation to the Bridges Academy AVID (Achievement Via Individual Determination) program and participants for their commitment to closing the achievement gap by preparing all students for college and their service to the community (Nguyen)**

Action: Vice Mayor Nguyen presented a commendation to the Bridges Academy AVID program and participants for their achievements and service to the community.

## CONSENT CALENDAR

Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (8-0-3. Absent: Chu, Constant; Reed.)

### 2.1 **Approval of Minutes.**

Action: There were none.

## 2.2 Final Adoption of Ordinances.

- (a) **ORD. NO. 29174** – Amending various Sections of Chapter 3.28 of Title 3 of the San José Municipal Code to clarify the City Charter supersedes the Federated City Employees Retirement Plan in event of conflict, clarify the definition of Tier 2 Member, discontinue the Supplemental Retiree Benefit Reserve, clarify actuarial soundness is determined consistent with the California constitution, and make additional requirements for mandatory Medicare enrollment, to be effective January 1, 2013.

Action: Deferred to December 4, 2012 per Administration.

- (b) **ORD. NO. 29176** – Amending Title 20 of the San José Municipal Code by amending Section 20.20.200 of Chapter 20.20, Section 20.30.200 of Chapter 20.30, Section 20.40.200 of Chapter 20.40, Section 20.50.200 of Chapter 20.50, and Sections 20.85.010, 20.85.020 and 20.85.030 of Chapter 20.85, all to amend the height limitations in airport influence areas, to further implement the height policies set forth within the Envision San José 2040 General Plan, and to make other technical, nonsubstantive or formatting changes within those sections of Title 20.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29176 executed on November 9, 2012, submitted by the City Clerk.

Action: Ordinance No. 29176 was adopted. (8-0-3. Absent: Chu, Constant; Reed.)

- (c) **ORD. NO. 29177** – Rezoning certain real property situated on the north side of Coleman Avenue, on a 1.04 gross-acre site, approximately 740 feet easterly of Brokaw Road (1190 Coleman Avenue) to the CIC Combined Industrial/Commercial Zoning District. C12-016

Documents Filed: Proof of Publication of the Title of Ordinance No. 29177 executed on November 9, 2012, submitted by the City Clerk.

Action: Ordinance No. 29177 was adopted. (8-0-3. Absent: Chu, Constant; Reed.)

## 2.3 Approval of Council Committee Reports.

- (a) **Public Safety, Finance and Strategic Support Committee Report of October 18, 2012. (Constant)**
- (b) **Community and Economic Development Committee Report of October 22, 2012. (Herrera)**
- (c) **Ad Hoc Committee on Airport Competitiveness Report of September 28, 2012. (Mayor)**

## 2.3 (Cont'd.)

Documents Filed: (1) The Public Safety, Finance and Strategic Support Committee Report dated October 18, 2012. (2) The Community and Economic Development Report dated October 22, 2012. (3) The Ad Hoc Committee on Airport Competitiveness Report, dated September 28, 2012.

Action: The Committee reports were approved. (8-0-3. Absent: Chu, Constant; Reed.)

## 2.4 Mayor and Council Excused Absence Reports.

- (a) **Request for an excused absence for Council Member Chu from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on November 15, 2012 due to Authorized City Business: League of California Cities Board of Directors Meeting in Sacramento, CA on November 14 – 16, 2012. (Chu)**
- (b) **Request for an excused absence for Council Member Liccardo from the Closed Session, Regular Meeting and Evening Meeting of the City Council on November 27, 2012 due to Authorized City Business: Travel to Washington, D.C. for the Silicon Valley Leadership Group Advocacy Trip as the Metropolitan Transportation Commission's designated representative. (Liccardo)**
- (c) **Request for an excused absence for Council Member Constant from the Regular Meeting of the City Council on October 30, 2012 due to Authorized City Business: Police and Fire Retirement Board Special Meeting on Disabilities. (Constant)**

Documents Filed: (1) Memorandum from Council Member Chu, dated October 31, 2012, requesting an excused absence due to authorized City business. (2) Replacement memorandum from Council Member Liccardo, dated November 27 to November 29, 2012, requesting excused absences due to authorized City business. (3) Memorandum from Council Member Constant, dated November 5, 2012, requesting an excused absence due to authorized City business.

Action: The absences were excused. (8-0-3. Absent: Chu, Constant; Reed.)

## 2.5 City Council Travel Reports.

Documents Filed: Memorandum from Council Member Chu, dated November 26, 2012, providing a report on the League of California Cities Board of Directors Meeting he attended November 15-16, 2012.

Council Member Chu provided a memorandum outlining his participation in the League of California Cities Board of Directors Meeting in Sacramento.

Action: No action required.

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

None provided.

**2.7 Approve an ordinance amending Section 10.32.010 of Chapter 10.32 of Title 10 of the San José Municipal Code to exclude properly trained Airport employees and contract biologists discharging firearms within the perimeter of the airport as part of the Airport's Wildlife Hazard Management Program from the prohibition on discharging firearms within the limits of the City. CEQA: Resolution Nos. 67380 and 71451, File No. PP12-057. (Airport/Police)**

Action: Deferred to December 14, 2012 per Orders of the Day.

**2.8 Adopt a resolution amending the 2012-2013 Adopted Fees and Charges (Resolution No. 72737, as amended) to:**

- (a) Establish an application fee of \$500 for a Foreign Trade Zone Alternative Site Framework Usage Driven Site;
- (b) Establish an operating agreement set-up fee of \$2,500 for a Foreign Trade Zone Alternative Site Framework Usage Driven Site; and
- (c) Establish an annual operating agreement maintenance fee of \$275 for a Foreign Trade Zone Alternative Site Framework Usage Driven Site.

**CEQA: Not a Project, File No. PP10-067(a), Non-Project Specific Funding Mechanism. (Office of Economic Development/City Manager's Office)**

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Welsh and Budget Director Jennifer Maguire, dated November 5, 2012, recommending adoption of a resolution.

Council Member Herrera pulled Item 2.8 to express support and presented questions to Director of Economic Development/Chief Strategist Kim Welsh.

Public Comments: David Wall provided comments on the operating agreement.

Action: Upon motion by Council Member Herrera, seconded by Council Member Pyle and carried unanimously, Resolution No. 76476, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737 As Previously Amended By Resolutions Nos. 73019, 73056, 73242, 73637, 73831, 73879, 73881, 74035, 74047, 74452, 74839, 74841, 74981, 75135, 75334, 75338, 75442, 75502, 75509, 75600, 75610, 75639, 75641, 75684, 75725, 75783, 75863, 75913, 76085, 76230, 76282, And 76397 To Establish Foreign Trade Zone Alternative Site Framework Fees For Economic Development, To Be Effective November 27, 2012", was adopted. (8-0-3. Absent: Chu, Constant; Reed.)

- 2.9 Approve an ordinance amending Chapter 4.16 of Title 4 of the San José Municipal Code to allow the Director of Finance to determine the disposition of surplus City property of nominal value by any method which the Director determines to be most advantageous to the City; and to provide the Police Chief the authority to determine the disposition of surplus firearms and police service dogs. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)**

Documents Filed: Memorandum from Assistant Director of Finance Julia H. Cooper, dated November 5, 2012, recommending approval of an ordinance.

Action: Ordinance No. 29181, entitled: “An Ordinance of the City of San José Amending Chapter 4.16 of Title 4 of the San José Municipal Code to Amend Section 4.16.260 and Add a New Section 4.16.290 to Provide the Director of Finance Discretion to Determine the Disposition of Surplus Property of Nominal Value and to Delegate Authority to the Police Chief for the Disposition of Police Service Dogs and Police Firearms”, was passed for publication. (8-0-3. Absent: Chu, Constant; Reed.)

- 2.10 Approve a Housing Trust Fund grant of up to \$260,000 to EHC LifeBuilders for the implementation of a San José Downtown Homeless Outreach and Engagement program. CEQA: Not a Project, File No. PP10-066 (e), Agreements/Contracts. (Housing)**

Action: Deferred to December 11, 2012 per Administration.

- 2.11 (a) Approve a Housing Trust Fund grant of up to \$410,000 to the Health Trust for the Destination: Home program to cover specified operating costs;**  
**(b) Approve the following 2012-2013 Appropriation Ordinance amendments in the Housing Trust Fund:**  
**(1) Increase the Destination: Home appropriation by \$10,000; and**  
**(2) Decrease the Ending Fund Balance by \$10,000.**  
**CEQA: Not a project, File No. PP10-066(e), Agreements/Contracts. (Housing/City Manager’s Office)**

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Welsh and Budget Director Jennifer Maguire, dated November 6, 2013, recommending approval of a Housing Trust Fund Grant and related appropriation adjustments.

Action: A Housing Trust Fund grant of up to \$410,000 to the Health Trust for Destination: Home program to cover specified operating costs was approved; Ordinance No. 29178, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Housing Trust Fund for the Destination: Home Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (8-0-3. Absent: Chu, Constant; Reed.)

**2.12 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**

- (a) Establish a city-wide appropriation to the Police Department for the Internet Crimes Against Children State Grant 2012-2013 in the amount of \$100,000;**
- (b) Increase the Earned Revenue Estimate from the State of California by \$100,000.**

**CEQA: Not a Project, File No. PP10-067(b), Appropriation ordinance. (Police/City Manager's Office)**

Documents Filed: Joint memorandum from Chief of Police Chris Moore and Budget Director Jennifer Maguire, dated November 5, 2012, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Public Comments: Mark Trout provided commentary on Child Protective Services and crimes against children.

Action: Ordinance No. 29179, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund for the Internet Crimes Against Children State Grant 2012-2013; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 76478, entitled: "A Resolution of the Council of the City of San José amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the General Fund", were adopted. (8-0-3. Absent: Chu, Constant; Reed.)

**2.13 Recommendation:**

- (a) Adopt a resolution accepting the Fiscal Year 2012 Internet Crimes Against Children Continuation Grant in the amount of \$360,756 and authorize the City Manager to execute the Grant Agreement and all related documents.**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
  - (1) Establish a city-wide appropriation to the Police Department for the Internet Crimes Against Children Continuation Grant 2012 in the amount of \$360,756; and**
  - (2) Increase the Earned Revenue Estimate from the Federal Government by \$360,756.**

**CEQA: Not a Project, File No. PP10-067(b), Appropriation ordinance. (Police/City Manager's Office)**

Documents Filed: (1) Joint memorandum from Chief of Police Chris Moore and Budget Director Jennifer Maguire, dated November 8, 2012, recommending acceptance of a grant and adoption of an appropriation ordinance and funding sources resolution amendments. (2) Letter from Department of Justice Acting Assistant Attorney General, Mary Lou Leary, dated September 28, 2012, approving an application for funding.

## 2.13 (Cont'd.)

Action: Ordinance No. 29180, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund, City-Wide Public Safety for the Internet Crimes Against Children Continuation Grant 2012; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76479, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Accept the Fiscal Year 2012 Office of Juvenile Justice and Delinquency Prevention Internet Crimes Against Children Continuation Grant in the Amount of \$360,756 and Execute the Grant Agreement and all Related Documents”; and Resolution No. 76480, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the General Fund”, were adopted. (8-0-3. Absent: Chu, Constant; Reed.)

## 2.14 **Approve the Second Amendment to the Master Agreement with URS Corporation Americas extending the duration from December 31, 2012 to December 31, 2013 and increasing the amount of compensation by \$25,000, to a total agreement amount of \$525,000, in order for the consultant to complete work on the Watson Park Remediation Project and the Pools Chemical Containment Project. CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design, Study, Research, Inspection. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated November 27, 2012, recommending a second amendment to a Master Agreement for consultant services.

Action: The Second Amendment to the Master Agreement with URS Corporation Americas extending the duration from December 31, 2012 to December 31, 2013 and increasing the amount of compensation by \$25,000, to a total agreement amount of \$525,000, in order for completion of work on the Watson Park Remediation Project and the Pools Chemical Containment Project was approved. (8-0-3. Absent: Chu, Constant; Reed.)

## 2.15 **Adopt a resolution of intention to vacate Chabolla Alley between North San Pedro Street and Terraine Street and set a public hearing on December 18, 2012 at 1:30 p.m. CEQA: Exempt, File No. PP12-090. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated November 5, 2012, recommending adoption of a resolution.

Action: Resolution No. 76481, entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate Chabolla Alley between North San Pedro Street and Terraine Street”, was adopted. (8-0-3. Absent: Chu, Constant; Reed.)

- 2.16 Approve Cooperative Agreement No. 8 between the City and Santa Clara Valley Transportation Authority for the design, construction and reimbursement relating to the public art component of the BART extension to Berryessa, in an amount not to exceed \$480,000, for the term of November 27, 2012 to December 31, 2016. CEQA: EIR Resolution No. 76275. Council District 4. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans Larsen, dated November 27, 2012, recommending approval of a Cooperative Agreement.

Action: Cooperative Agreement No. 8 between the City and Santa Clara Valley Transportation Authority for the design, construction and reimbursement relating to the public art component of the BART extension to Berryessa, in an amount not to exceed \$480,000, for the term of November 27, 2012 to December 31, 2016, was approved. (8-0-3. Absent: Chu, Constant; Reed.)

- 2.17 Report on bids and award of contract for the 2012 ADA Accessibility Ramps Project to the low bidder SpenCon Construction, Inc. in the amount of \$1,510,315 and approval of a 5% contingency in the amount of \$75,516. CEQA: Exempt, File No. PP08-186. (Transportation)**

Documents Filed: (1) Memorandum from Director of Transportation Hans Larsen, dated November 5, 2012, recommending approval of a construction contract.

Due to a conflict of interest, Council Member Liccardo was recused from voting due to living within a 500 block radius of one of the ramps.

Action: Upon motion by Council Member Pyle, seconded by Council Member Herrera and carried unanimously, the report on bids and award of contract for the 2012 ADA Accessibility Ramps Project to the low bidder SpenCon Construction, Inc. in the amount of \$1,510,315, with related contingencies, was approved. (7-0-3-1. Absent: Chu, Constant; Reed. Abstain: Liccardo.)

- 2.18 Approve travel by Mayor Reed to Des Moines, Iowa on November 8 – 9, 2012 to meet with Governor Terry Branstad and the Taxpayers Association of Central Iowa. Source of Funds: Mayor’s Office Fund (airfare to Iowa; return trip will be paid for with personal funds), Taxpayers Association of Central Iowa. (Mayor) [Rules Committee referral 11/7/12 – Item G(2)]**

Documents Filed: Memorandum from Mayor Reed, dated November 8, 2012, requesting authorization to travel to Des Moines, Iowa to meet with Governor Terry Branstad and the Taxpayers Association of Central Iowa.

Council Member Kalra pulled Item 2.18 to register a “no” vote, citing his belief that this trip does not serve the citizens of San José, appears to be politically motivated and should be paid for by the Mayor’s personal funds.

**2.18 (Cont'd.)**

Motion: Council Member Liccardo moved approval of the travel request, citing its importance in broadening the discussion of pension reform. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion failed, since a 6-3 vote would be required; travel by Mayor Reed to Des Moines, Iowa on November 8 – 9, 2012 to meet with Governor Terry Branstad and the Taxpayers Association of Central Iowa was not approved. (5-3-3. Noes: Campos, Kalra, Pyle. Absent: Chu, Constant; Reed.)

**2.19 Approve travel by Council Member Liccardo to Washington, D.C. on November 27 – 29, 2012 to participate in the Silicon Valley Leadership Group Washington, D.C. Advocacy Trip as Metropolitan Transportation Commission’s designated representative. Source of Funds: Metropolitan Transportation Commission. (Liccardo)**

Documents Filed: Replacement memorandum from Council Member Liccardo, dated November 20, 2012, requesting authorization to travel on authorized City business.

Action: The item was dropped per Council Member Liccardo.

**2.20 As recommended by the Rules and Open Government Committee on November 7, 2012:**

- (a) **Approve Operation Prom Dress as a City Council sponsored Special Event;**
- (b) **Approve and accept donations from various individuals, businesses, or community groups to support Operation Prom Dress.**

**CEQA: Not a Project, File No. PP10-066. (City Clerk)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 10, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: Operation Prom Dress as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (8-0-3. Absent: Chu, Constant; Reed.)

**2.21 As recommended by the Neighborhood Services and Education Committee on November 8, 2012, approve the 2012-2013 Neighborhoods Commission Pilot Work Plan. CEQA: Not a Project, File No. PP10-069. (City Manager’s Office) [Neighborhood Services and Education Committee referral 11/8/12 – Item D(7)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 10, 2012, transmitting the recommendations of the Neighborhood Services and Education Committee.

**2.21 (Cont'd.)**

Council Member Herrera pulled Item 2.21 to applaud the work of Staff in the development of the Work Plan.

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

Action: On a call for the question, the motion carried unanimously, the 2012-2013 Neighborhoods Commission Pilot Work Plan, was approved. (8-0-3. Absent: Chu, Constant; Reed.)

**2.22 As recommended by the Rules and Open Government Committee on November 14, 2012, approve the Proposed 2013-2014 City Budget Calendar the Budget Study Session Schedule. CEQA: Not a Project, File No. PP10-069. (City Manager's Office)  
[Rules Committee referral 11/14/12 – Item D(1)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 14, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Proposed 2013-2014 City Budget Calendar the Budget Study Session Schedule was approved. (8-0-3. Absent: Chu, Constant; Reed.)

**2.23 As recommended by the Rules and Open Government Committee on November 14, 2012:**

- (a) Approve the Sikh Awareness Month Reception as a City Council sponsored Special Event; and**
- (b) Approve expending funds and accept donations from various individuals, businesses, or community groups to support Operation Prom Dress.**

**CEQA: Not a Project, File No. PP10-066. (Kalra)  
[Rules Committee referral 11/14/12 – Item G(2)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 14, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Sikh Awareness Month as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (8-0-3. Absent: Chu, Constant; Reed.)

**2.24 As recommended by the Rules and Open Government Committee on November 14, 2012:**

- (a) Approve the Coyote Valley Celebration Event as a City Council sponsored Special Event; and**
- (b) Approve expending funds and accept donations from various individuals, businesses, or community groups to support Operation Prom Dress.**

**CEQA: Not a Project, File No. PP10-066. (Kalra)**

**[Rules Committee referral 11/14/12 – Item G(3)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 14, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Coyote Valley Celebration Event as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (8-0-3. Absent: Chu, Constant; Reed.)

**2.25 As recommended by the Rules and Open Government Committee on November 14, 2012, authorize the City Clerk to expend \$10,000 in payment of a reward for assistance in the arrest and conviction of the perpetrator of a violent crime. CEQA: Not a Project, File No. PP10-069, City organizational and administrative activities. (City Clerk)**

**[Rules Committee referral 11/14/12 – Item G(6)]**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 14, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Action: Authorization by the City Clerk to expend \$10,000 in payment of a reward for assistance in the arrest and conviction of the perpetrator of a violent crime, was approved. (8-0-3. Absent: Chu, Constant; Reed.)

**2.26 (a) Approve travel by Mayor Reed to Washington, D.C. on November 28, 2012 to participate in the Silicon Valley Leadership Group’s Annual Washington, D.C. Advocacy Trip. Source of Funds: Mayor’s Office Funds. (Mayor)**

**(b) Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on November 28, 2012 due to Authorized City Business: Silicon Valley Leadership Group Annual Washington, D.C. Advocacy Trip. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated November 21, 2012, requesting excused absences and authorization to travel on City-related business.

Action: The travel request and excused absences were approved. (8-0-3. Absent: Chu, Constant; Reed.)

**END OF CONSENT CALENDAR**

## NEIGHBORHOOD SERVICES

### 5.2 As recommended by the Neighborhood Services and Education Committee on November 8, 2012:

- (a) Accept the Community Center Reuse Update Report.
- (b) Adopt a resolution adding the Capitol Park Neighborhood Center and Spartan Keyes Neighborhood Center to the Community Center Reuse list and revising Council Policy 7-12 to extend the temporary suspension of the competitive solicitation process for unique services through Fiscal Year 2012-2013.

**CEQA: Not a Project, File No. PP10-068. (Parks, Recreation and Neighborhood Services)**

**[Neighborhood Services and Education Committee referral 11/8/12 – Item D(2)]**

Documents Filed: (1) Memorandum from City Clerk Dennis Hawkins, dated November 10, 2012, transmitting the recommendations of the Neighborhood Services and Education Committee. (2) Memorandum from Council Member Campos, dated February 27, 2012, accepting Staff's recommendations with amendments.

Motion: Council Member Rocha moved approval of the Staff recommendations with direction that an assessment be included as indicated below in "Action". Council Member Pyle seconded the motion.

Deputy Director Parks, Recreation and Neighborhood Services, Suzanne Wolf, offered clarification on the selection of service providers.

Council Member Liccardo requested to amend the motion to include leases with nonprofits that may be expiring, as noted below in "Action", as well as inclusion of Council Member Campos' memorandum, dated February 27, 2013. The amendment to the motion was accepted by Council Members Rocha and Pyle.

Public Comments: David Wall offered support to Council Member Rocha's position.

Action: On a call for the question and carried unanimously, Resolution No. 76495, entitled: "A Resolution of the Council of the City of San José Approving Revisions to Council Policy 7-12 Relating to Reuse of Community Centers", was adopted, with direction to staff to do a financial assessment for inclusion in one of the next budget study sessions, including some indication when various leases with nonprofits may be expiring for availability to other non-profits, and with the recommendation as outlined in Council Member Campos' memorandum of February 27, 2012 recommending the addition of Capitol Park Neighborhood Center to the Community Center Reuse list with Asian American Community Services as the service provider. (8-0-3. Absent: Chu, Constant; Reed.)

## STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone offered comments on the recruitment of a new Chief of Police for the City of San José.

### 3.3 Approve an Ordinance amending Title 3 of the San José Municipal Code to amend various sections of Chapter 3.28 and to add a new Chapter 3.49 for the purposed of establishing an option between the Tier 2 Defined Benefit plan and a Defined Contribution 401(a) Plan that excludes participation in retiree healthcare, for Unclassified Executive Management and Professional Employees (Unit 99) who are hired on or after January 20, 2013. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Action: Deferred to December 4, 2012 per Administration.

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Hold a Tax Equity and Fiscal Responsibility Act public hearing for the issuance of up to \$27,000,000 in tax-exempt private-activity bonds by the California Statewide Communities Development Authority ("CSCDA") for the new construction of ROEM Development Corporation's proposed 103 unit Ajisai Apartments located at Seventh and Taylor Streets by ROEM Development Corporation.
- (b) Hold a Tax Equity and Fiscal Responsibility Act public hearing for the issuance of up to \$24,000,000 of tax-exempt private-activity bonds by CSCDA for the new construction of ROEM Development Corporation's proposed 106 unit Orvieto B Apartments located at the corner of Montecito Vista Drive and Montecito Vista Way by ROEM Development Corporation;
- (c) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CSCDA in a principal amount not to exceed \$27,000,000 to be used by ROEM Development Corporation to finance the Ajisai Apartments and pay certain expenses incurred in connection with the issuance of the bonds.
- (d) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CSCDA in a principal amount not to exceed \$24,000,000 to be used to finance the Orvieto B Apartments and pay certain expenses incurred in connection with the issuance of funds.

**CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. Council Districts 3 and 7. (Finance/Housing)**

Documents Filed: (1) Joint memorandum from Assistant Director of Finance Julia H. Cooper and Director of Housing Leslye Corsiglia, dated November 6, 2012, regarding TEFRA hearings and adoption of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on November 6, 2012, submitted by the City Clerk

#### 4.1 (Cont'd.)

Mayor Reed opened the public hearing.

Public Comments: David Wall advised a moratorium on issuing tax exempt bonds.

Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, Resolution No. 76477, entitled: “A Resolution of the Council of the City of San José Holding a TEFRA Hearing regarding the Issuance of Tax Exempt Debt by the California Statewide Communities Development Authority for the Construction of Multifamily Housing Located at 7<sup>th</sup> and Taylor Streets (the Ajisai Apartments Affordable Housing Project)”; and Resolution No. 76482, entitled: “A Resolution of the Council of the City of San José Holding a TEFRA Hearing regarding the Issuance of Tax Exempt Debt by the California Statewide Communities Development Authority for the Construction of Multifamily Housing Located at Montecito Vista Drive and Montecito Vista Way (the Orvieto B Apartments Affordable Housing Project)”, were adopted. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

#### 4.2 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Burns House” located at 255 North 5<sup>th</sup> Street (City Landmark No. HL12-204 and California Mills Act No. MA12-004).

- (a) Conduct a public hearing and adopt a resolution designating the “Burns 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 “Burns House” (Steve Cohen, dba Mojmir Properties, LLC, owner) and adopt a resolution approving the contract.

**The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Burns House” at 255 North 5<sup>th</sup> Street (3-0-1-1, Abatecola absent and Cohen recused). SNI: 13<sup>th</sup> Street. CEQA: Exempt. (Planning, Building and Code Enforcement)  
HL12-204/MA12-004 – District 3**

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary José ph Horwedel, dated November 12, 2012, recommending adoption of resolutions. (2). Proof of Publication of Notice of Public Hearing, executed on October 19, 2012, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: David Wall commented that he was happy to see so many properties being named historic landmarks.

Mayor Reed closed the public hearing.

#### 4.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Kalra, and carried unanimously, Resolution No. 76483, 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 Burns House, Located at 255 North Fifth Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest of Value of a Historic Nature”; and Resolution No. 76484, entitled: “A Resolution of the Council of the City of San José Approving a Historic Preservation Agreement with Steve Cohen, DBA Mojmir Properties, LLC, for the Burns House (City Landmark No. HL12-204) Located at 255 North Fifth Street”, were adopted. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

#### 4.3 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Caputo House” located at 494 South Cypress Avenue (City Landmark No. HL12-205 and California Mills Act No. MA12-005).

- (a) Conduct a public hearing and adopt a resolution designating the “Caputo 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 “Caputo House” (Krista Van Laan, Owner) and adopt a resolution approving the contract.

**The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Caputo House” at 494 S. Cypress Avenue (5-0). CEQA: Exempt. (Planning, Building and Code Enforcement)**

#### **HL12-205/MA12-005 – District 1**

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary José ph Horwedel, dated November 12, 2012, recommending adoption of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on October 19, 2012, submitted by the City Clerk

Public Comments: 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 Liccardo, seconded by Council Member Kalra, and carried unanimously, Resolution No. 76485, 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 Caputo House, Located at 494 South Cypress Avenue, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest of Value of a Historic Nature”; and Resolution No. 76486, entitled: “A Resolution of the Council of the City of San José Approving a Historic Preservation Agreement with Krista Van Laan, for the Caputo House (City Landmark No. HL12-205) Located at 494 South Cypress Avenue”, were adopted. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

**4.4 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Croft House” located at 1305 Martin Avenue (City Landmark No. HL12-206 and California Mills Act No. MA12-006).**

- (a) Conduct a public hearing and adopt a resolution designating the “Croft 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 “Croft House” (Michael Brandeberry, Owner) and adopt a resolution approving the contract.**

**The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Croft House” at 1305 Martin Avenue (5-0). CEQA: Exempt. (Planning, Building and Code Enforcement)**

**HL12-206/MA12-006 – District 6**

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary José ph Horwedel, dated November 12, 2012, recommending adoption of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on October 19, 2012, submitted by the City Clerk.

Public Comments: 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 Liccardo, seconded by Council Member Kalra, and carried unanimously, Resolution No. 76487, 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 Croft House, Located at 1305 Martin Avenue, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest of Value of a Historic Nature”; and Resolution No. 76488, entitled: “A Resolution of the Council of the City of San José Approving a Historic Preservation Agreement with Michael Brandeberry and Christina Brandeberry for the Croft House (City Landmark No. HL12-206) Located at 1305 Martin Avenue”, were adopted. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

**4.5 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Ruddick Triplex” located at 499 East Reed Street (City Landmark No. HL12-207 and California Mills Act No. MA12-007).**

- (a) Conduct a public hearing and adopt a resolution designating the “Ruddick Triplex” 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 “Ruddick Triplex” (Carol Cobb, Owner) and adopt a resolution approving the contract.**

**The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Ruddick Triplex” at 499 E. Reed Street (5-0). SNI: University. CEQA: Exempt. (Planning, Building and Code Enforcement)**

**HL12-207/MA12-007 – District 3**

#### 4.5 (Cont'd.)

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary José ph Horwedel, dated November 12, 2012, recommending adoption of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on October 19, 2012, submitted by the City Clerk.

Public Comments: 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 Liccardo, seconded by Council Member Kalra, and carried unanimously, Resolution No. 76489, 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 Ruddick Triplex, Located at 499 East Reed Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest of Value of a Historic Nature”; and Resolution No. 76490, entitled: “A Resolution of the Council of the City of San José Approving a Historic Preservation Agreement with Carol Cobb for the Ruddick Triplex (City Landmark No. HL12-207) Located at 499 East Reed Street”, were adopted. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

#### 4.6 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Pomeroy House” located at 225 Sequoia Avenue (City Landmark No. HL12-208 and California Mills Act No. MA12-008).

- (a) Conduct a public hearing and adopt a resolution designating the “Pomeroy 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 “Pomeroy House” (Deborah Arant and Richard Nieset, Owners) and adopt a resolution approving the contract.

The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation and Historic Property Contract for the “Pomeroy House” at 225 Sequoia Avenue (5-0). CEQA: Exempt. (Planning, Building and Code Enforcement)

#### HL12-208/MA12-008 – District 6

Documents Filed: (1) Memorandum from Historic Landmarks Commission Secretary José ph Horwedel, dated November 12, 2012, recommending adoption of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on October 19, 2012, submitted by the City Clerk.

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

#### 4.6 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Kalra, and carried unanimously, Resolution No. 76491, 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 Pomeroy House, Located at 225 Sequoia Avenue, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest of Value of a Historic Nature”; and Resolution No. 76492, entitled: “A Resolution of the Council of the City of San José Approving a Historic Preservation Agreement with Deborah Arant and Richard Nieset for the Pomeroy House (City Landmark No. HL12-208) Located at 225 Sequoia Avenue”, were adopted. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

#### 4.7 **Consideration of an ordinance rezoning the real property located at/on the southwest corner of Saratoga Avenue and Kiely Boulevard (403 Saratoga Avenue) from CG Commercial General Zoning District to the CN Commercial Neighborhood Zoning District (Lopina Michael A Trustees et al, Owner). CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041. (Planning, Building and Code Enforcement)** **C12-021 – District 1**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C12-021, dated November 6, 2012, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on November 9, 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 Planning Commission was approved, and Ordinance No. 29182, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Saratoga Avenue and Kiely Boulevard (408 Saratoga Avenue) to the CN-Commercial Neighborhood Zoning District”, was passed for publication. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

- 4.8 (a) **Conduct a public hearing in accordance with City Council Policy 7-2 on the renaming of the San José Civic Auditorium in exchange for a five-year sponsorship and naming rights agreement with City National Bank in the net amount of \$870,000 to the City of San José.**

Action: Item 4.8(a) was dropped per Administration.

- (b) **Adopt a resolution:**
- (1) **Authorizing the City Manager to negotiate and execute any required agreements or amendments to existing agreements with City National Bank, Team San José, Front Row Marketing Services, L.P., or Nederlander Concerts San José, LLC, for naming rights at the San José Civic Auditorium and sponsorship rights at the Center for the Performing Arts, for a period of five years and total fee of \$1.2 million with a net amount of \$870,000 to the City of San José, with these funds specifically dedicated to the San José Civic Auditorium and Center for the Performing Arts marketing and capital needs to support the activation and long-term use of these venues; and**
  - (2) **Delegating the authority to approve the renaming of the San José Civic Auditorium to the City Manager.**

**CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts. (Economic Development)**

Documents Filed: Memorandum from City Clerk Dennis Hawkins, dated November 14, 2012, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Liccardo offered appreciation to Director of Aviation William F. Sherry for his efforts on this project.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle, and carried unanimously, Resolution No. 76493, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Negotiate and Execute any Required Agreements or Amendments to Existing Agreements with City National Bank, Team San José, Front Row Marketing Services, L.P., or Nederlander Concerts San José, LLC, for Naming Rights at the San José Civic Auditorium and Sponsorship Rights at the Center for the Performing Arts, for a Period of Five Years and Total Fee of \$1.2 Million with a New Amount of \$870,000 to the City of San José, with these Funds Specifically Dedicated to the San José Civic Auditorium and Center for the Performing Arts Marketing and Capital Needs to Support the Activation and Long-Term Use of these Venues; and (2) Delegating the Authority to Approve the Renaming of the San José Civic Auditorium to the City Manager", was adopted. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

## NEIGHBORHOOD SERVICES

- 5.1 Adopt a resolution that authorizes the City Manager to negotiate and execute an agreement with the San José Unified School District that provides for the City to access District property for the design, construction, operation, maintenance and joint use of an artificial turf soccer field and support amenities including parking, restroom and storage, lighting, fencing, and an optional second artificial turf sports field with lighting and fencing at Allen at Steinbeck Middle School. The term of the Agreement is for a period of 25 years from the date of full execution plus the number of months necessary for the term to end on the following June 30th. CEQA: Exempt, File No. PP12-088. Council District 10. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated November 6, 2012, recommending adoption of a resolution.

Parks, Recreation and Neighborhood Services Division Manager Matt Cano provided a presentation on the shortage of sports fields.

Council Member Pyle offered gratitude for the generosity of the donor and to the hard-working staff.

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, Resolution No. 76494, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the San José Unified School District for the Construction and Joint Use of One Soccer Field, with the Option to Construct and Use a Second Soccer Field, at Allen at Steinbeck School”, was adopted. (7-0-4. Absent: Chu, Constant, Rocha; Reed.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 Recommendation: As recommended by the Transportation and Environment Committee on November 5, 2012, accept the staff report and presentation on the Automated Transit Network (ATN) Feasibility Study. (Transportation) [Transportation and Environment Committee referral 11/5/12 – Item D(5)]**

Action: Deferred to December 4, 2012 per Rules and Open Government Committee.

## **PUBLIC HEARINGS**

- 11.1 Consideration of an ordinance rezoning the real property located at/on the east side of Monterey Road, approximately 300 feet southerly of East Alma Avenue on Monterey Road, to allow a third drive through use for a previously approved shopping center (carwash for gas station). CEQA: FEIR for Sun Garden Project, Resolution No. 75929.  
PDC12-023 – District 7**

Action: Deferred to December 4, 2012 per Rules and Open Government Committee

- 11.2 Consideration of an ordinance rezoning the real property located at 6782 and 6790 San Felipe Road from the R-1-1 Single-Family Residence District to the A(PD) Planned Development Zoning District to allow for the development of up to 4 single-family detached residential units on a 2.14 gross acre site (DAL Properties LLC/Mark Lazzarini, Owner). CEQA: Mitigated Negative Declaration, Resolution to be adopted.  
PDC11-012 – District 8**

Action: Deferred to December 4, 2012 per Rules and Open Government Committee

- 11.3 (a) Conduct an ADMINISTRATIVE HEARING and consider an Appeal of the Planning Director's adoption of the Mitigated Negative Declaration (MND) for the proposed project, The Harker School, File No. PD12-027, a Planned Development Permit to allow redevelopment of the existing 7.7 acre former Santa Clara County Children's Shelter campus including demolition of two existing 4,800 square foot buildings, construction of a new 17,500 square foot multi-purpose building, a 2,500 square foot accessory structure, and other site improvements for a private elementary school for up to 600 pre-Kindergarten through fifth grade students. In addition, consider adoption of a resolution to uphold the Planning Director's adoption of the Mitigated Negative Declaration and certify that:**
- (1) The City Council has read and considered the Mitigated Negative Declaration;**
  - (2) The Mitigated Negative Declaration has been completed in compliance with the California Environmental Quality Act (CEQA);**
  - (3) On the basis of the whole of the administrative record that there is no substantial evidence that the project will have a significant effect on the environment;**
  - (4) The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of San José; and**
  - (5) The Director of Planning, Building and Code Enforcement shall transmit copies of the Mitigated Negative Declaration to any other decision-making body of the City of San José for the project.**

- 11.3 (b) Conduct an ADMINISTRATIVE HEARING and consider an Appeal of the Planning Director’s decision to approve a Planned Development Permit for The Harker School project, File No. PD12-027, and consider adoption of a resolution approving this Planned Development Permit.**

**CEQA: Mitigated Negative Declaration, Resolution to be adopted..  
PD12-027 – District 9**

Action: Deferred to December 4, 2012 per Rules and Open Government Committee

**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>
9951	South side of Paula Street, approximately 200 feet west of Race Street	6	Rockwell Homes, Inc	8 Lots / 8 Units	SFD	Approve
10028	East side of Boynton Avenue, approximately 150 feet North of Underwood Drive	1	Hammond and Sophia Ku	5 Lots / 4 Units	SFA	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9951	South side of Paula Street, approximately 200 feet west of Race Street	6	Rockwell Homes, Inc	8 Lots / 8 Units	SFD

## **OPEN FORUM**

- (1) David Wall commented on the potential for rainfall on the water pollution control plant and the discharge of effluent into the Bay.
- (2) Mark Trout spoke on crimes against children.
- (3) Jeff Bedolla offered insights on the Emory Street vacation.
- (4) Aaron Wilkins, representing Computers for a Cause, introduced his non-profit organization and urged the City of San José to consider refurbishing and redistributing electronic waste with his organization.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 2:45 p.m. in memory of Judith Ann (Fieber) Henderson, a resident of San José for over 40 years, a former staff member for District 2 Council Woman Judy Stabile from 1985 to 1993, and an avid supporter of preserving historic buildings throughout San José . (Pyle)

Minutes Recorded, Prepared and Respectfully Submitted by,

Dennis Hawkins, CMC  
City Clerk

rmk/11-27-11MIN