

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, MARCH 26, 2013**

The Council of the City of San José convened in Regular Session at 9:10 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Constant, 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 9:11 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation 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) In re: Claim of Tapia; Amount of Money or Other Relief Sought: Administrative Appeal. (2) In re: Claim of Greenfield; Amount of Money or Other Relief Sought: Administrative Appeal. (3) Hammond v. City, et al; Names of Parties Involved: Che Hammond, City of San José, Officer Tessler (4169), Sgt. Matchett (3302) and Does 1 – 40; Case No: 1-10-CV-171204; Amount of Money or Other Relief Sought: Damages according to proof. (4) Kerkeles v. City of San José, et al. Names of Parties Involved: Michael Kerkeles, a.k.a. Michael Kerk, City of San José, Matthew Christian and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV103523; Amount of Money or Other Relief Sought: Damages according to proof. (5) Stand for San José, et al. v. City, et al. Names of Parties Involved: Stand for San José and Eileen Hannan, City of San José, City Council of the City of San José, Redevelopment Agency of the City of San José, Diridon Development Authority; Court: Santa Clara County Superior Court; Case No: 1-11-CV-214196;

## CLOSED SESSION (Cont'd.)

Amount of Money or Other Relief Sought: Injunctive relief. (6) Ted Smith v. City, et al; Names of Parties Involved: Ted Smith, City of San José, a municipal entity, San José Redevelopment Agency, a municipal entity, Harry Mavrogenes, in his official capacity as Executive Director of the San José Redevelopment Agency, Mayor Chuck Reed, in his official capacity as Mayor of the City of San José, Pete Constant, in his official capacity as Council Member of the City of San José, Ash Kalra, in his official capacity as Council Member of the City of San José, Pierluigi Oliverio, in his official capacity as Council Member of the City of San José, Madison Nguyen, in her official capacity as Council Member of the City of San José, Rose Herrera, in her official capacity as Council Member of the City of San José, Judy Chirco, in her official capacity as Council Member of the City of San José, Kansan Chu, in his official capacity as Council Member of the City of San José, Nora Campos, in her official capacity as Council Member of the City of San José, Nancy Pyle, in her official capacity as Council Member of the City of San José, and Does 1 – 20; Court: Santa Clara County Superior Court; Case No: 1-09-CV-150427; Amount of Money or Other Relief Sought: Damages according to proof. (7) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Case No: SF-CE-900-M. (8) AFSCME v. City of San José; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State California Public Employees Relations Board; Case No: SF-CE-924-M. (9) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State California Public Employees Relations Board; Case No: SF-CE-969-M. (10) IFPTE Local 21, AFL-CIO v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers, City of San José; Court: State California Public Employees Relations Board; Case No: SF-CE-966-M. (11) San José Police Officers' Association v. City, et al. Names of Parties 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 No: 112CV225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (12) Sapien, et al. v. City of San José, et al. Names of Parties Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity a City Manager of the City of San José, Does 1 – 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: 112CV225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) Harris, et al. v. City of San José, et al; Names of Parties 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 – 15; Court: Superior Court of California, County of Santa Clara; Case No: 112CV226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (14) Mukhar, et al. v. City of San José, et al. Names of Parties 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

## CLOSED SESSION (Cont'd.)

1975 Federated City Employees' Retirement Plan, Does 1 – 15; Court: Superior Court of California, County of Santa Clara; Case No: 112CV226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (15) AFSCME, et al. v. City of San José, et al; Names of Parties 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 Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 112CV225928; 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 (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.

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

(D) to confer with Legal Counsel pertaining to the Successor Agency to the Redevelopment Agency of the City of San José with respect to initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code in one (1) matter to be discussed.

By unanimous consent, Council recessed from the Closed Session at 11:10 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

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

Absent: Council Members - All Present.

## **INVOCATION**

Grupo Folklórico Yolotli Guerrerense Mission presented the Invocation. (District 3)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, the Orders of Day and the Amended Agenda were approved, Ceremonial Item 1.4 was added and Item 4.5 was dropped to be renoticed. (11-0.)

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a commendation to San José Police Sergeant Frederick Kotto for his courageous actions in responding to a robbery on BART while off-duty. (City Manager)**

Mayor Reed, City Manager Debra Figone and Acting Chief of Police Larry Esquivel recognized and commended San José Police Sergeant Frederick Kotto.

### **1.2 Presentation of a proclamation declaring April 1, 2013 as “Assyrian New Year” in the City of San José. (Khamis)**

Mayor Reed and Council Member Khamis recognized April 1, 2013 as “Assyrian New Year” in San José.

**1.3 Presentation of a commendation to Gay Patin Brasher for dedicating her past 47 years to educating children. (Khamis)**

Mayor Reed and Council Member Khamis recognized and commended Gay Patin Brasher for her outstanding dedication.

**1.4 Presentation of a proclamation recognized Lord Mayor O Muiri and the Delegation from Dublin for “Irish Week” in the City of San José. (Mayor/Liccardo) (Orders of the Day)**

Mayor Reed and Council Member Liccardo presented poems of local San José poet laureates to Lord Mayor O Muiri and the Dublin Delegation. Lord Mayor O Muiri presented a piece of “twin shaped” bog oak from Midlands, Ireland to Mayor Reed signifying the “Sister City” relationship.

**CONSENT CALENDAR**

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

**2.1 Approval of Minutes.**

There were none.

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 29223 – Amending several sections of Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code to amend the definition of a safety or directional sign, to provide for signage at service stations pursuant to California Business and Professions Code Section 13531 and to allow such signs to be programmable electronic signs, to clarify that only signs that are not programmable electronic signs may be exempt from the permit requirements set forth in Section 23.02.1310, to provide for safety or directional signs for public parking garages and allow such signs to be programmable electronic signs, to allow flat-mounted signs to be placed no higher than 60 feet above grade on buildings over 140 feet in height in the Downtown Sign Zone that contain wholly nonresidential uses, and to make other clarifying, ministerial, technical, typographical or other nonsubstantive changes to said chapters of Title 23.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29223 executed on March 15, 2013, submitted by the City Clerk.

Action: Ordinance No. 29223 was adopted. (10-0-1. Absent: Liccardo.)

### **2.3 Approval of Council Committee Reports.**

- (a) **Rules and Open Government Committee Report of October 3, 2012.**
- (b) **Rules and Open Government Committee Report of October 10, 2012.**
- (c) **Rules and Open Government Committee Report of October 17, 2012.**
- (d) **Rules and Open Government Committee Report of October 24, 2012.**
- (e) **Rules and Open Government Committee Report of October 31, 2012.  
(Mayor)**
- (f) **Transportation and Environment Committee Report of March 4, 2013.  
(Liccardo)**
- (g) **Rules and Open Government Committee Report of March 6, 2013. (Mayor)**
- (h) **Rules and Open Government Committee Report of January 23, 2013.  
(Mayor)**

Action: Renumbered to Item 3.6. See Item 3.6 for action.

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

There were none.

### **2.5 City Council Travel Reports.**

Council Member Constant provided details of his trip to the National League of California Cities and the Silicon Valley Leadership Group's Washington, D.C. Advocacy Trip he attended with Mayor Reed and Council Member Liccardo.

Mayor Reed and Council Member Liccardo offered highlights of the Silicon Valley Leadership Group's Washington, D.C. Advocacy Trip where they met with U.S. Senate and House leaders, as well as key administration officials.

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

There were none.

### **2.7 Adopt a resolution authorizing the City Manager to:**

- (a) **Execute an agreement with Michael Gritzuk, P.E. to provide executive program advisor services for the San José/Santa Clara Water Pollution Control Plant Capital Improvement Program from the date of execution to June 30, 2014 in an amount not to exceed \$345,000, and to provide for up to four one-year options to extend the term through June 30, 2018, subject to appropriation of funds.**
- (b) **Execute amendments as required to adjust the compensation consistent with negotiated rates for each option term, subject to the appropriation of funds.**

**CEQA: Not a Project, File No.PP10-066(a), Agreements and contracts for professional services. (Environmental Services/Public Works)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow and Director of Public Works David Sykes, dated March 4, 2013,

recommending adoption of a resolution.

**2.7 (Cont'd.)**

Action: Resolution No. 76578, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Michael Gritzuk, P.E. and Amendments to Compensation for Option Terms, To Provide Executive Program Manager Advisor Services for the San José/Santa Clara Water Pollution Control Plant Capital Improvement Program”, was adopted. (10-0-1. Absent: Liccardo.)

**2.8 As recommended by the Transportation and Environment Committee on March 4, 2013, accept the staff report:**

- (a) Approve identifying the San José/Santa Clara Water Pollution Control Plant (Plant) as the San José – Santa Clara Regional Wastewater Facility in future communications and public outreach regarding this facility.**
- (b) Approve a corresponding logo for the Plant’s proposed new name, San José – Santa Clara Regional Wastewater Facility, for use in future communications and public outreach.**

**CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Environmental Services)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated March 13, 2013, transmitting the recommendations of the Transportation and Environment Committee.

Action: The Staff report was accepted. (10-0-1. Absent: Liccardo.)

**2.9 Adopt a resolution setting a public hearing on Tuesday, May 14, 2013, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated March 4, 2013, recommending adoption of a resolution.

Action: Resolution No. 76579, entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing for the Approval of a Report of the Director of Finance on the Cost of Unpaid Sidewalk Repairs for May 14, 2013”, was adopted. (10-0-1. Absent: Liccardo.)

**2.10 Authorize the City Manager to amend Open Purchase Order 47025 with Harris Blade Rental, Inc. (Livermore, CA) to increase compensation by \$60,000, for a revised not-to-exceed total amount of \$300,000, for the term ending March 31, 2013. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Purchase of Supplies. (Finance)**

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated March 13, 2013, recommending authorization for the City Manager to increase compensation.

## 2.10 (Cont'd.)

Action: The City Manager was authorized to amend Open Purchase Order 47025 with Harris Blade Rental, Inc. (Livermore, CA) to increase compensation by \$60,000, for a revised not-to-exceed total amount of \$300,000, for the term ending March 31, 2013. (10-0-1. Absent: Liccardo.)

## 2.11 **Approve the Fourth Amendment to the Agreement with AmeriNational Community Services, Inc., increasing the amount of the agreement by \$50,000, from \$250,000 to \$300,000, and extending the term from June 30, 2013 to September 30, 2013. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Housing)**

Documents Filed: City Council Action Request from Director of Housing Leslye Corsiglia, dated March 13, 2013, recommending approval of the fourth amendment to the agreement.

Action: The Fourth Amendment to the Agreement with AmeriNational Community Services, Inc., increasing the amount of the agreement by \$50,000, from \$250,000 to \$300,000, and extending the term from June 30, 2013 to September 30, 2013, was approved. (10-0-1. Absent: Liccardo.)

## 2.12 **Approve a support position for SB 391 (DeSaulnier) – the California Homes and Jobs Act of 2013. CEQA: Not a Project, File No. PP10-069, Administrative activities. (Housing)**

Documents Filed: City Council Action Request from Director of Housing Leslye Corsiglia, dated March 13, 2013, recommending approval of the support position.

City Attorney Richard Doyle and Director of Housing Leslye Corsiglia responded to Council questions and concerns.

Council Member Khamis expressed concern about voting in new taxes.

Council Member Constant expressed concern about how this will affect the City budget and pointed out that the final impact on the City of San José should be considered.

Motion: Council Member Kalra moved approval of support position for SB 391 (DeSaulnier) – the California Homes and Jobs Act of 2013. Council Member Chu seconded the motion.

Council Members Khamis, Constant and Oliverio expressed opposition to the California Homes and Jobs Act of 2013.

Action: On a call for the question, the motion carried, the support position for SB 391 (DeSaulnier) – the California Homes and Jobs Act of 2013 was approved. (8-3. Noes: Constant, Khamis, Oliverio.)

- 2.13 Approve a support position for AB 1229 (Atkins) – Land use: zoning regulations. CEQA: Not a Project, File No. PP10-069, Administrative activities. (Housing)**

Action: Deferred to April 9, 2013 per Administration.

- 2.14 Adopt a resolution to:**

- (a) **Amend the City of San José Pay Plan effective March 26, 2013, to change the salary ranges for the following classifications to align the minimum hourly rate with the San José Minimum Wage Ordinance:**
- (1) **Temporary Employee U PT (9985/9987)**
  - (2) **Temporary Employee U FT/PT Non-management (9986/9983)**
  - (3) **Student Intern U PT (1638)**
- (b) **Authorize the City Manager to adjust the minimum hourly rate for these classifications to correspond with annual adjustments of the San José Minimum Wage for future years.**

**CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated March 4, 2013, recommending adoption of a resolution.

Action: Resolution No. 76580, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Classifications to Comply with the San José Minimum Wage Ordinance”, was adopted. (10-0-1. Absent: Liccardo.)

- 2.15 As recommended by the Rules and Open Government Committee on March 13, 2013, approve a grant of \$500.00 to Andres Castellero Middle School Education Foundation, an IRS-recognized 501(c)(3) public charity in good standing with the IRS and the California Secretary of State, to be paid from the budgeted District 10 HP Pavilion at San José allocation, which is funded by the Arena Community Fund Citywide appropriation. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical change to the environment. (Khamis)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated March 13, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Khamis disclosed that his son attends Andres Castellero Middle School but does not use the education program.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, a grant of \$500.00 to Andres Castellero Middle School Education Foundation was approved. (11-0.)

**2.16 As recommended by the Rules and Open Government Committee on March 20, 2013:**

- (a) Approve the District 5 E-Waste Recycling Event 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; File No. PP10-066(e), Services that involve no physical change to the environment. (Campos)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated March 20, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 5 E-Waste Recycling Event as a City Council sponsored Special Event was approved and acceptance of donations from various individuals, businesses and community groups to support this event was authorized. (10-0-1. Absent: Liccardo.)

**2.17 As recommended by the Rules and Open Government Committee on March 20, 2013, grant an exemption to the application of Council Policy 0-36 (City Council/Commission Code of Conduct) for the limited purpose of allowing the Mayor and Council Members to provide written comments to the Elections Commission on potential amendments to Title 12 of the San José Municipal Code, as requested by the Elections Commission. CEQA: Not a Project; File No. PP10-069, Administrative Activities. (City Clerk)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated March 20, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: An exemption to the application of Council Policy 0-36 (City Council/Commission Code of Conduct) for the limited purpose of allowing the Mayor and Council Members to provide written comments to the Elections Commission on potential amendments to Title 12 of the San José Municipal Code, as requested by the Elections Commission was granted. (10-0-1. Absent: Liccardo.)

- 2.18 (a) Approve travel by Mayor Reed to Washington, D.C. on March 19 - 24, 2013 to participate in the Silicon Valley Leadership Group's Washington, D.C. Advocacy Trip and meet with U.S. Senate and House leaders, as well as key administration officials. Source of Funds: Mayor's Office Budget. (Mayor)**
- (b) Request for an excused absence for Mayor Reed from the Regular City Council Meeting on March 19, 2013, and the Regular Meeting of the Rules and Open Government Committee on March 20, 2013 due to Authorized City Business: Silicon Valley Leadership Group Washington, D.C. Advocacy Trip. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated March 19, 2013, requesting approval of travel and an excused absence.

## **2.18 (Cont'd.)**

Action: The travel for Mayor Reed was approved and the absence was excused. (10-0-1. Absent: Liccardo.)

## **2.19 Approve travel by Council Member Chu to Pasadena, CA on April 4, 2013 to attend the League of California Cities' regularly scheduled Housing, Community & Economic Development Policy Committee Meeting. Source of Funds: Mayor & Council Travel Fund. (Chu)**

Documents Filed: Memorandum from Council Member Chu, dated March 15, 2013, requesting approval of travel.

Action: The travel for Council Member Chu was approved. (10-0-1. Absent: Liccardo.)

## **END OF CONSENT CALENDAR**

## **STRATEGIC SUPPORT SERVICES**

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

City Manager Debra Figone reported that Director of Housing Leslye Corsiglia received the 2013 YWCA of Silicon Valley Tribute to Women and Industry Award.

City Manager Debra Figone announced that the City has earned the 2013 award for excellence in local government from the Alliance for Innovation.

### **3.3 Approve the Fiscal Year 2013-2014 Mayor's March Budget Message. (Mayor)**

Documents Filed: (1) Memorandum from Mayor Reed, dated March 8, 2013, recommending that the Council direct the City Manager to submit a proposed budget for FY 2013-2014 that is balanced and guided by the policy direction and framework of priorities outlined in the Mayor's March Budget Message. (2) Memorandum from Council Members Chu and Kalra, dated March 22, 2013, recommending approving the Mayor's March Budget Message, with direction to the City Manager to allocate \$60,000 in one time funding to support the San José Parks Foundation. (3) Memorandum from Council Member Chu, dated March 22, 2013, recommending approving the Mayor's March Budget Message with direction to the City Manager to work with Chief McDonald and provide the Council with an update during the budget study session regarding the cost and feasibility of updating the hardware and software used by the Fire Department. (4) Memorandum from Council Member Khamis, dated March 22, 2013, recommending approving the Mayor's March Budget Message, the memorandum from Council Members Chu and Kalra and direction to the City Manager to evaluate the potential for incorporating a self funded financial incentive element into the City's e-ideas employee suggestion program. (5) Memorandum from Council Member Rocha, dated March 25, 2013, with additions to the Mayor's March Budget Message. (6) Letter from Jerry

Mungai, dated March 26, 2013, regarding the Mayor's March Budget Message.

### 3.3 (Cont'd.)

Mayor Reed presented introductory remarks on the Fiscal Year 2013-2014 Mayor's March Budget Message.

City Manager Debra Figone offered comments on the Employee Suggestion Program. Assistant City Manager Edward K. Shikada summarized the Employee Suggestion Program.

City Attorney Richard Doyle clarified that a public meeting and public hearing in connection with increasing the Marijuana business tax, and a public notice of both as set forth in the Brown Act will need to be agendized. Mayor Reed replied that he will request the maker of the motion to incorporate those actions.

Public Comments: Claudia Flores urged the Council to continue to fund the Healthy Kids Program. Amy Aken, The Aging Services Collaborative thanked the Council for their commitment to funding the senior programs. Maria Noel Fernandez urged the Council to add four park rangers, two code enforcement officers and open the libraries on Saturdays.

Nick Labosky and James Reber thanked the Council for their support of San José Parks Foundation. Tina Morrill urged the Council to direct the City Manager's Staff to explore a blended training approach for employees. Tony Nguyen suggested that the libraries stay open on Saturdays in lieu of Mondays. Speaking in support to the Mayor's March Budget Message were Jerry Mungai, Michael Mulcahy, Children's Musical Theatre; Roland LeBrun and Tom DeNatale, United Seniors Action Committee. Bob Leininger, San José Retired Employees Association expressed several objections to the Mayor's March Budget Message.

Motion: Vice Mayor Nguyen moved approval of the Mayor's March Budget Message, including the additional recommendations from the Mayor, the four memoranda from the Council Members, and the public hearing, meeting and public notice regarding the Marijuana business tax. Council Member Herrera seconded the motion.

Council discussion ensued.

Council Member Campos requested to amend the motion to direct the City Manager to consider during the budget process: continuing the study of crossing guards, gang prevention and intervention funding, including Safe Summer Initiative as an essential City service and analyze essential service reserve as a potential way to enhance or increase these services, particularly crossing guards. The amendment was accepted by Vice Mayor Nguyen and Council Member Herrera.

### 3.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the FY 2013-2014 Mayor's March Budget Message was approved, including: (1) The memorandum from Council Members Chu and Kalra, dated March 22, 2013, was approved, with the following amendment: the City Manager was directed to allocate \$60,000 in one time funding to support the San José Parks Foundation. (2) City Manager was directed to work with Chief McDonald to analyze and report back to Council in late summer related to the memorandum from Council Member Chu, dated March 22, 2013, to provide an update regarding the cost and feasibility of updating the hardware and software used by the Fire Department. (3) City Manager's Office was directed to analyze and report back to Council regarding the memorandum from Council Member Khamis, dated March 22, 2013, regarding evaluating the potential for incorporating a self-funded financial incentive element into the City's e-Ideas Employee Suggestion Program or any similar program that may take the place of the e-Idea Program. (4) Staff was directed to return through the budget process with Manager's Budget Addendums (MBA) as described in the memorandum from Council Member Rocha, dated March 25, 2013, (1) Eco Pass; (2) South San José Police Substation; (3) Downtown College Prep (DCP) and (4) the Senior Nutrition Program. (5) In connection with increasing the Marijuana business tax, Staff was directed to agendize a public meeting, a public hearing and to provide public notice of both as set forth in the Brown Act. (6) City Manager was directed to consider during the budget process: continuing the study of crossing guards, gang prevention and intervention funding, including Safe Summer Initiative as an essential City service and analyze essential service reserve as a potential way to enhance or increase these services, particularly crossing guards. (11-0.)

### 3.4 (a) **Consider the appeal by National Security Industries and Services, Inc. regarding the Report on Request for Proposals for Citywide Security Guard Services and adopt a resolution setting forth the decision of the City Council.**

Documents Filed: (1) Memorandum from Director of Finance Julia H. Cooper, dated March 8, 2013, recommending considering the appeal by National Security Industries and Services, Inc., and adoption of resolutions. (2) Supplemental memorandum from Director of Finance Julia H. Cooper, dated March 21, 2013, providing additional information regarding an appeal that was submitted by National Security Industries and Services, Inc. and to amend the language to allow Staff the ability to negotiate and execute an agreement for Parks, Recreation and Neighborhood Services in the event that Staff is not able to successfully conclude negotiations with Cypress Private Security. (3) Protest papers dated March 26, 2013 submitted by National Security Industries and Services, Inc.

Council Member Constant left the meeting.

Andrew Yaphe, Rob Fong and Michael Gevami, National Security requested that the Council consider the appeal by National Security Industries and Services, Inc. regarding the proposal for citywide security guard services.

**3.4 (Cont'd.)**

Director of Finance Julia H. Cooper presented introductory remarks. Division Manager of Finance Mark Giovannetti offered the Report on Citywide Security Services.

Council discussion ensued.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76581, entitled: “A Resolution of the Council of the City of San José Denying the Appeal by National Security Industries and Services, Inc. of the Denial of Its Protest Regarding the Citywide Security Guard Services Request for Proposals”, was adopted, denying the appeal. (9-1-1. Noes: Khamis. Absent: Constant.)

**(b) Report on Request for Proposal for Citywide Security Guard Services and adopt a resolution authorizing the City Manager to:**

- (1) Execute agreements with First Alarm & Patrol, Inc. (San José, CA) and National Security Industries & Services (San José, CA) for Security Guard Services for an initial five year term ending March 31, 2018, and maximum compensation for these agreements not to exceed \$3,089,160 for the period April 1, 2013 through March 31, 2014 as follows:**

<u>Department</u>	<u>Vendor</u>	<u>Maximum Compensation (year 1)</u>
Aviation/Airport	First Alarm	\$2,002,750
ESD/Water Pollution Control Plant	First Alarm	395,905
Office of Economic Development/Work2Future	National	160,598
Public Works	First Alarm	51,554
Transportation	First Alarm	<u>478,353</u>
<b>Total</b>		<b>\$3,089,160</b>

- (2) Negotiate and execute an agreement with Cypress Private Security (San José, CA) for Security Guard Services for Parks, Recreation and Neighborhood Services for an initial five year term ending March 31, 2018, and maximum compensation for the agreement not to exceed \$120,704 for the period April 1, 2013 through March 31, 2014.**
- (3) In the event agreement cannot be reached with Cypress Private Security:**
- (a) Negotiate and execute an agreement with the next ranked proposer(s) for services to Parks, Recreation and Neighborhood Services for an initial five year term ending March 31, 2018, in a total amount based on rates consistent with the proposal.**

- 3.4 (b) (3) (b) **Issue a Purchase Order with similar terms and scope of services as the current agreement for services to the Parks, Recreation and Neighborhood Services with the incumbent vendor First Alarm for a term through the execution of a new agreement.**
- (4) **For all agreements, execute amendments and change orders as required to add or delete facilities, or change service levels due to seasonal changes or budget constraints, subject to the appropriation of funds.**
- (5) **For all agreements, execute up to five one-year options to extend the term of the agreements, subject to the appropriation of funds.**
- (6) **For all agreements, adjust the maximum compensation annually consistent with the terms of the agreements not to exceed 3% or the percentage adjustment to the City's Living Wage, whichever is greater, subject to the appropriation of funds.**

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

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, Resolution No. 76582, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Agreements with First Alarm and Patrol, Inc., Cypress Private Security and National Security Industries & Services for Citywide Security Guard Services", was adopted, the supplemental memorandum from Director of Finance Julia H. Cooper, dated March 21, 2013 was approved. Staff was directed to return to Council in 90 days for final approval of any modifications to the Living Wage Ordinance. (9-0-2. Absent: Constant, Khamis.)

- 3.5 **Approve an amendment to extend the term of an agreement with Mitchell Corporation to provide workers' compensation cost containment services and increase compensation at a cost not to exceed \$1,500,000, during the period July 1, 2012 to June 30, 2013. 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 March 4, 2013, recommending approval of an amendment to the agreement.

Deputy City Manager Alex Gurza responded to Council questions and concerns.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, an amendment to extend the term of an agreement with Mitchell Corporation to provide workers' compensation cost containment services and increase compensation at a cost not to exceed \$1,500,000, during the period July 1, 2012 to June 30, 2013, was approved. (9-0-2. Absent: Constant, Rocha.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution authoring the City Manager to execute the following agreements:**
- (a) An Incentive Agreement between the City of San José and Samsung Semiconductor, Inc. outlining the City and State incentives to be provided to Samsung in coordination with the development of the proposed Research and Development (R&D) Center in North San José.**
  - (b) A Capital Equipment and Assistance Agreement with Samsung Semiconductor, Inc., in which the City will provide an amount not to exceed \$500,000 for the acquisition of production and assembly equipment to be installed at Samsung Semiconductor's new R&D facility in San José.**
  - (c) Utility Users Tax Reimbursement Agreement with Samsung Semiconductor, Inc., that will provide funding in an amount up to 50% of the City's 5% utility tax paid by Samsung on an annual basis for ten years for a cumulative reimbursement not to exceed to \$2.6 million.**

**CEQA: EIR Resolution No. 72768 and Addendum thereto, dated March 25, 2013. Council District 4. (Economic Development) (Deferred from 3/19/13 – Item 4.1, et al, and 02/26/13 – Item 4.2)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Chu, Herrera and Rocha, dated March 22, 2013, recommending adoption of a resolution as outlined in the supplemental Staff report. (2) Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated February 7, 2013, recommending adoption of a resolution. (3) Supplemental memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated March 15, 2013, revising Item 4.1(c) to reflect the intent of the language incorporate in the Memorandum of Understanding between the State of California, County of Santa Clara, City of San José and Samsung Semiconductor, Inc., dated August 12, 2012, as follows: Utility Users Tax Reimbursement Agreement with Samsung Semiconductor, Inc., that will provide funding in an amount up to 50% of the City's 5% utility tax paid by Samsung on an annual basis for ten years for a cumulative reimbursement not to exceed to \$2.6 Million.

Director of Economic Development/Chief Strategist Kim Walesh provided opening remarks and responded to Council questions and concerns.

Public Comments: Jim Elliot, Samsung Semiconductor, Inc., spoke to the merits of the project.

Motion: Council Member Chu moved approval of the memorandum he cosigned with Mayor Reed and Council Members Herrera and Rocha, dated March 22, 2013, and the supplemental Staff Report dated March 15, 2013, revising Item 4.1(c). Council Member Herrera seconded the motion.

Council Members Rocha and Khamis provided meeting disclosures.

#### 4.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Members Chu, Herrera and Rocha, dated March 22, 2013, was approved, Resolution No. 76583, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Following Agreements with Samsung Semiconductor, Inc., An Incentive Agreement, A Capital Equipment and Assistance Agreement and A Utility Users Tax Reimbursement Agreement”, was adopted, as outlined in the supplemental Staff report dated March 15, 2013. (10-0-1. Absent: Constant.)

#### 4.2 **Conduct an Administrative Hearing and consider an Appeal of the Planning Commission’s decision to approve a Conditional Use Permit to allow the expansion of an existing cemetery site in the R-1-8 Residential Zoning District, on two parcels consisting of 0.20 and 0.18 gross acres, located on the east side of Alexander Avenue, approximately 260 feet southerly of Madden Avenue (60 and 80 Alexander Avenue) (Roman Catholic Bishop of San José, Owner). CEQA: Exempt. CP12-038 – District 5. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 6, 2013, recommending adoption of a resolution. (2) Supplemental memorandum dated March 15, 2013, noting that the applicant submitted a request to withdraw their appeal. (3) Proof of Publication of the Title of Ordinance No. 29202 executed on March 1, 2013, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel stated that the applicant submitted a request to withdraw their appeal of the Planning Commission’s decision for a Conditional Use Permit to allow an expansion of the boundary of an existing cemetery site.

Public Comments: Mayor Reed opened the Administrative Hearing. There was no testimony from the floor. Mayor Reed closed the Administrative Hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Chu and carried unanimously, Resolution No. 76584 was adopted to approve a Conditional Use Permit to allow an expansion of the boundary of an existing cemetery site. (9-0-2. Absent: Constant, Kalra.)

- 4.3 Consideration of an ordinance to approve a Development Agreement with Barry Swenson Builder to develop up to 394 single family attached residential units and 20,000 square feet of ground floor commercial retail space consistent with a previously approved Planned Development Rezoning (File No. PDC05-114) which allows up to 460 residential units and 20,000 square feet of ground floor retail commercial space at/on the Southwest corner of North First Street and Century Center (1733 N First St) in the North San José Area Development Policy area subject to performance by Barry Swenson Builder for payment of contributions, commencement of construction, and subsequent occupancy per deadlines of performance included in the agreement (Schmidt F James Et Al, Owner). CEQA: North San José Area Development Policy Update, EIR Resolution No. 72768 and Addendum thereto.  
DA13-001 – District 4. (Planning, Building and Code Enforcement)**

Action: Deferred to April 9, 2013 per Administration.

- 4.4 Accept the Calendar Year 2012 Annual Progress Report on the Implementation of the San José 2007-14 Housing Element. CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Housing/Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Housing Leslye Corsiglia, dated March 4, 2013, recommending acceptance of the report.

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

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Khamis and carried unanimously, the Calendar Year 2012 Annual Progress Report on the Implementation of the San José 2007-14 Housing Element was accepted. (9-0-2. Absent: Constant, Khamis.)

- 4.5 (a) Adopt a resolution:**
- (1) Approving the final structure of City financial assistance, with no additional City funding, for the 95-unit San Carlos Senior Apartments Project (Senior Project or Project) located at 1523-1533 West San Carlos Street, as follows:**
- (a) A construction/permanent loan in the aggregate amount of \$6,208,420, reflecting the amount equal to the Senior Project's original conditional grant of \$4,775,000, refinance of the existing loan of \$536,238 for construction of infrastructure for the Project, and a capitalized payment in lieu of interest in the amount of \$897,182.**

- 4.5 (a) (1) (b) **A construction/permanent loan of \$2,973,834, reflecting the assignment of the outstanding principal balance of the infrastructure loan from the adjacent San Carlos Townhomes project (Townhomes Project).**
- (2) **Authorizing the Director of Housing to negotiate and execute all legal documents to effectuate the transaction, including loans and an option to purchase.**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Low and Moderate Income Housing Asset Fund:**
- (1) **Increase the revenue estimate for Earned Revenue by \$5,700,000.**
- (2) **Increase the Housing Loans and Grants appropriation by \$4,775,000.**
- (3) **Increase the Ending Fund Balance by \$925,000.**

**CEQA: Mitigated Negative Declaration; File No. PD04-103. Council District 6. (Housing/City Manager's Office)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia and Budget Director Jennifer A. Maguire, dated March 14, 2013, recommending adoption of a resolution and appropriation ordinance and resolution amendments.

Action: Dropped, to be renoticed, per Orders of the Day.

- 4.6 (a) **Direct the Housing Department and the City Attorney's Office to draft and release a Request for Qualification (RFQ) to identify a qualified consultant to complete a nexus study to examine Housing Impact Fees, to support the Citywide Inclusionary Housing Ordinance, and to identify other tools that capture value imparted by City land use decisions, including a foregone density fee discussed in this memorandum.**
- (b) **Authorize the Director of Housing and the City Attorney to select, and enter into an agreement with, a qualified firm or individual based on the results of the RFQ.**
- (c) **Direct the Housing Department to return to the City Council upon completion of the Nexus Study to present:**
- (1) **Key findings/recommendations of the nexus study.**
- (2) **A recommended work plan for implementing an affordable rental housing impact fee, if applicable.**
- (3) **Other potential mechanisms to fund affordable housing.**

**CEQA: Not a Project, File No. PP10-069(a), Staff report. (Housing)**

Action: Deferred to April 9, 2013 per Administration.

## NEIGHBORHOOD SERVICES

- 5.1 (a) **Adopt a resolution authorizing the City Manager or designee to:**
- (1) **Submit two grant applications to the State of California – Natural Resources Agency for an amount up to \$1,230,000 as part of the Roberti-Z’berg-Harris (Prop 40) grant program for the Three Creeks Trail Pedestrian Bridge development project with no local match required.**
  - (2) **Make the required assurances to comply with the project applications, deadlines to complete the project, grant program requirements, and other assurances required by the State of California as explained in the staff memorandum.**
  - (3) **Accept any grants award(s) and negotiate and execute any documents to effectuate the grant(s), including documents that increase the amount of the grant(s) awarded or increase the local match of funds required from the City for the project, subject to the appropriation of funds.**
- (b) **Adopt the following Appropriation Ordinance Amendments in the Subdivision Park Trust Fund (Fund 375):**
- (1) **Increase the Trail: Three Creeks Interim Improvements & Trestle Bridge appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,188,000.**
  - (2) **Decrease the Reserve: Future PDO/PIO Projects appropriation in the amount of \$503,000.**
  - (3) **Decrease the Reserve: Trail: Three Creeks appropriation in the amount of \$685,000.**

**CEQA: Resolution No. 65459, File No. PP03-05-175. Council District 6. (Parks, Recreation and Neighborhood Services/City Manager’s Office)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and Budget Director Jennifer A. Maguire, dated March 4, 2013, recommending adoption of a resolution and appropriation ordinance amendments.

Public Comments: Richard Zappelli, Willow Glen Neighborhood Association and Martin Delson, Save Our Trails, spoke in support to the Staff recommendations.

Motion: Council Member Oliverio moved approval of the Staff recommendations with direction to Staff to preserve the older wood to create benches. Council Member Herrera seconded the motion.

A brief discussion ensued.

## 5.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 76585, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Submit Two Grant Applications to the State of California – Natural Resources Agency for An Amount Up To \$1,230,000 As part of the Roberti-Z’Berg-Harris (Prop 40) Grant Program for the Three Creeks Trail Pedestrian Bridge Development Project With No Local Match Required; To Make the Required Assurances To Comply With the Project Applications, Deadlines To Complete the Project, Grant Program Requirements, and Other Assurances Required by the State of California; and To Accept Any Grant Awards and Negotiate and Execute Any Documents To Effectuate the Grant Including Any Documents to Effectuate the Grant Including Any Documents To Increase the Amount of the Grants Awarded or Increase the Local Match of Funds Required From the City of San José for the Project, Subject to the Appropriation of Funds” and Ordinance No. 29228, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Subdivision Trust Fund for the Trail: Three Creeks Interim Improvements and Trestle Bridge Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” adopted. Staff was directed to preserve the older wood to create benches. (9-0-2. Absent: Chu, Constant.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Consideration of an ordinance of the City of San José amending Section 15.10.290 of Chapter 15.10 of Title 15 (Public Utilities), Chapter 15.11 of Title 15 in its entirety, and Section 20.100.440 of Chapter 20.100 of Title 20 (The Zoning Ordinance) of the San José Municipal Code, all to modify the Water Efficient Landscape Standards for New and Rehabilitated Landscaping and to establish Water Efficient Landscape Regulations pursuant to State Law and to make other technical, formatting, or other nonsubstantive changes with those Chapters of Title 15 and Title 20. CEQA: Final Program Environmental Impact Report (EIR) for the envision San José 2040 General Plan, EIR Resolution No. 76041 (File No. PP12-100). (Planning, Building and Code Enforcement)**

Action: Deferred to April 16, 2013 per Administration.

## **PUBLIC SAFETY SERVICES**

### **8.1 Adopt a resolution authorizing the City Manager to:**

- (a) Execute a First Amendment to the Agreement with South Bay Regional Public Safety Training Consortium related to providing Police Recruit Academy Training to the San José Police Department for the period of September 1, 2012, to October 31, 2013, in an amount not to exceed \$435,420.**
- (b) Execute four additional annual renewal options with the total amount of compensation for the entire contract not to exceed \$2,177,100.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements and contracts for professional services. (Police)**

Documents Filed: Memorandum from Acting Chief of Police Larry Esquivel, dated March 4, 2013, recommending adoption of a resolution.

City Manager Debra Figone responded to Council questions and concerns.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76586, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute a First Amendment to the Agreement With South Bay Regional Public Safety Training Consortium Related to Providing Police Recruit Academy Training to the San José Police Department for the Period of September 1, 2012 to October 31, 2013, In An Amount Not To Exceed \$435,420 and (2) Execute Four Additional Annual Renewal Options with the Total Amount of Compensation for the Entire Contract Not To Exceed \$2,177,100”, was adopted. (10-0-1. Absent: Constant.)

## **TRANSPORTATION & AVIATION SERVICES**

- 6.1 (a) Approve an ordinance amending Chapter 6.64 of Title 6 of the San José Municipal Code to amend Section 6.64.130 and add a new Section 6.64.465 to create exceptions for out of town taxi businesses and taxi drivers whose principal place of business is outside of the City and who only do business in the City at the airport from obtaining an additional license under Title 6 if properly permitted under Title 25 and another jurisdiction. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy. (Airport/Police)**
- (b) Adopt a resolution:**
  - (1) Establishing a Trip Fee structure for Ground Transportation Permitted operators, including taxicab companies who are exempt from obtaining a Police Permit;**
  - (2) Re-adopting all other Airport Fees, Rates and Charges; and**
  - (3) Repealing Resolution No. 76438.**

**CEQA: Not a Project, File No. PP10-067(a), Adjustment to rates, fares, tolls, and charges. (Airport)**

- 6.1 (c) **Approve an ordinance amending Sections 6.64.440, 6.64.620, and 6.64.630 of Chapter 6.44 of Title 6 and Section 25.08.750 of Chapter 25.08 of Title 25 of the San José Municipal Code related to taxicab and airport permits to remove outdated language, clarify requirements, and to ensure consistency with other permit provisions in the Code. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy. (City Attorney's Office)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Liccardo, dated March 22, 2013, recommending approval of Staff recommendation Alternative #2, which allows for only drop-off activities by non-Police Licensed companies. (2) Memorandum from City Attorney Richard Doyle, dated March 14, 2013, recommending approval of an ordinance. (3) Memorandum from Director of Aviation Services William F. Sherry, A.A.E. and Acting Chief of Police Larry Esquivel, dated March 4, 2013, recommending approval an ordinance and adoption of a resolution.

Assistant Director of Aviation Services Kim Aguirre presented a brief update about the recent Airport Commission Meeting. Assistant Director Aguirre noted that the speakers at the meeting were not in favor of out of town taxi drivers and they were in support of the memorandum from Mayor Reed and Council Member Liccardo, dated March 22, 2013.

Motion: Council Member Liccardo moved approval of the memorandum he cosigned with Mayor Reed, dated March 22, 2013. Vice Mayor Nguyen seconded the motion.

Public Comments: Providing comments pro and con about the out of town taxi permits, the amendments to the San José Municipal Code, and the memorandum from Mayor Reed and Council Member Liccardo, dated March 22, 2013, approval of Staff recommendation Alternative #2, which allows for only drop-off activities by non-Police Licensed companies, were: John Holway, Dmitriy Vorik, Abdulahi Ali, Dave Logan, Yellow Checker Cab; Mohamed Ali, Shukul Buni, Ibrahim Mohamed, Eisema Bizuneh, Seyoum Ashat, Saranpal Bains, Amarjit Singh, Lashkar Singh, Ramon Singh, Silicon Valley Cab; Varinder Kuman, Classic Cab; Mussie Harte, Said Arale, Bikram Jeet Singh, Alpha Cab/California Cab; Eugide and Azaclunla Singh.

Assistant Director of Aviation Services Kim Aguirre responded to Council questions and concerns.

Council Member Campos requested to amend the motion to add direction to the City Auditor to return with an analysis and breakdown of fees to the Transportation and Environment Committee Meeting on June 3, 2013. The amendment was accepted by Council Member Liccardo and Vice Mayor Nguyen.

Council Member Kalra requested to amend the motion to approve the recommendation but defer the fees and take no action on the fees until after the analysis by the City Auditor. On a call for the question, the motion amendment failed. (5-5-1. Noes: Herrera, Khamis, Liccardo, Nguyen; Reed. Absent: Constant.)

## 6.1 (Cont'd.)

Discussion returned to the original motion.

Council Members Herrera and Khamis expressed their support to the motion on the floor.

Action: On a call for the question, the motion carried, the memorandum from Mayor Reed and Council Member Liccardo, dated March 22, 2013, was approved, the Staff Alternative #2 was approved, which allows only drop-off activities by non-Police Licensed companies. The City Auditor was directed to return with an analysis and breakdown of fees to the Transportation and Environment Committee Meeting on June 3, 2013, with the Committee to recommend a referral to the full City Council for consideration and action in mid June; Ordinance No. 29229, entitled: “An Ordinance of the City of San José Amending Section 6.64.130 of Chapter 6.64 of Title 6 of the San José Municipal Code and Adding Section 6.64.465 of Part 6 of Chapter 6.64 of Title 6 to Create Exceptions for Out of Town Taxi Businesses and Taxi Drivers Whose Principal Place of Business is Outside of the City, and Who Only Drop Off Passengers at the Airport, From Obtaining an Additional License Under Title 6 If Properly Permitted Under Tile 25”, was passed for publication, as amended; Resolution No. 76587, entitled: “A Resolution of the Council of the City of San José Establishing Fees, Rates and Charges at the Norman Y. Mineta San José International Airport and Repealing Resolution No. 76438”, was adopted and Ordinance No. 29230, entitled: “An Ordinance of the City of San José Amending Sections 6.64.440, 6.64.620 and 6.64.630 of Chapter 6.64 of Title 6 of the San José Municipal Code Regarding Police Taxicab Permits to Remove Outdated Language and To Clarify Hearing Requirements to Ensure Consistency With Other Permit Provisions of the Code and Amending Section 35.08.755 of Chapter 25 of the San José Municipal Code Regarding Airport Permits to Clarify Requirements”, was passed for publication. (9-1-1. Noes: Kalra. Absent: Constant.)

## STRATEGIC SUPPORT SERVICES

### 3.6 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of October 3, 2012.**
  - (b) **Rules and Open Government Committee Report of October 10, 2012.**
  - (c) **Rules and Open Government Committee Report of October 17, 2012.**
  - (d) **Rules and Open Government Committee Report of October 24, 2012.**
  - (e) **Rules and Open Government Committee Report of October 31, 2012.**
- (Mayor)

*Note: Renumbered from Item 2.3.*

Action: Deferred to April 9, 2013.

- (g) **Rules and Open Government Committee Report of March 6, 2013. (Mayor)**

Action: Dropped. To Be Renoticed.

**3.6 (f) Transportation and Environment Committee Report of March 4, 2013.  
(Liccardo)**

Documents Filed: The Transportation and Environment Committee Report dated March 4, 2013.

Action: The Transportation and Environment Committee Report was approved. (10-0-1. Absent: Constant.)

**(h) Rules and Open Government Committee Report of January 23, 2013.  
(Mayor)  
[Deferred from 3/19/13 – Item 2.3(b)]**

Documents Filed: (1) Memorandum from Council Members Liccardo, Rocha and Campos, dated March 22, 2013, recommending that Council agendaize Item (g)(3) from the January 23, 2013 Rules and Open Government Committee Report for the April 9, 2013 Council Meeting for the purpose of allowing the Council to consider a resolution regarding amendment of the United States Constitution in response to the Supreme Court's decision in Citizens United v. Federal Elections Commission. (2) Rules and Open Government Committee Report dated January 23, 2013.

Motion: Council Member Rocha moved approval of the memorandum he cosigned with Council Members Liccardo and Campos, dated March 22, 2013, described below in "Action". Council Member Kalra seconded the motion.

Council Members Khamis and Oliverio expressed opposition to the motion on the floor. Brief discussion ensued.

Action: On a call for the question, the motion carried, the memorandum from Council Members Liccardo, Rocha and Campos, dated March 22, 2013, was approved, a resolution amendment of the United States Constitution in response to the Supreme Court's decision in Citizens United versus Federal Elections Commission, from the January 23, 2013, Rules and Open Government Committee Report, will be agendaized on the April 9, 2013 City Council Meeting for Council consideration and formal action. (8-2-1. Noes: Khamis, Oliverio. Absent: Constant.)

**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>
10150	North side of River Oaks Parkway, 200 feet east of Research Place	4	River Oaks San Jose Group, LLC	1 Lot / 438 Units	MFA	Approval

**ADJOURNMENT**

The Council of the City of San José was adjourned at 6:43 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
Acting City Clerk

smd/03-26-13 MIN

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