

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 23, 2013

The Council of the City of San José convened in Regular Session at 9:06 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Office of Employee Relations Senior Executive Analyst, Jennifer Schembri reported on proposals from AFSCME MEF/CEO, AEA and OE3.

Action: The report was accepted.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:08 a.m. to a Closed Session in Room W133 (A) Public Employment/Public Employee Recruitment/Appointment Pursuant to Government Code Section 54957: Department: Library; Title: Library Director; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation (claim filed) in one (1) matter; Claimant: in re: Claim of Ghenis; City Department: PRNS; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9 (d)(1) with respect to existing litigation: (1) Deisenroth v. City; Names of Partie(s) Involved: Lorie Deisenroth, City of San José; Court: Santa Clara County Superior Court; Case No.: 1-12-CV-224197; Amount of Money or Other Relief Sought: Damages according to proof; (2) Mulholand, et al. v. City of San José, et al; Names of Parties Involved: Paul Mulholand, James

CLOSED SESSION (Cont'd.)

Unland and Mary Follenweider; Russell Crosby, Mike Moehle, each in his capacity as a fiduciary of the San José Federated City Employees Retirement System of the City of San José Police and Fire Retirement Plan, City of San José, a Municipal entity and Does 1 through 10; the Board of Directors of the San José Police and Fire Retirement Board, and the Board of Directors of the City of San José Federated City Employers' Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-219748; Amount of Money or Other Relief Sought: Damages according to proof. (3) San José Police Officers' Association v. City, et al; Names of Partie(s) Involved: San José Police Officers' Association, City of San José and City of San José City Council; Court: Before the Attorney General of the State of California; Case No.: Attorney General Opinion No. 12-605; (4) San José Police Officers' Association v. City, et al.; Names of Partie(s) Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of the City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (5) San José Retired Employees Association, et al. v. City et al.; Names of Partie(s) Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 through 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate; (6) Sapien, et al. v. City of San José, et al; Names of Partie(s) Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1 through 15, the Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (7) Harris, et al. v. City of San José, et al.; Names of Partie(s) Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employee's Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B; (8) Mukhar, et al. v. City of San José, et al.; Names of Partie(s) Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employee's Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B; (9) AFSCME, et al. v. City of San José, et al.; Names of Partie(s) Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone in her capacity as City Manager of the City of San José, The Board of Administration for the Federated City Employee's Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to

CLOSED SESSION (Cont'd.)

Measure B; (10) Citizens Against Airport Pollution v. City, et al., Names of Partie(s) Involved: Citizens Against Airport Pollution, an unincorporated association, and Does 1 to 5, City of San José, City Council of the City of San José, and Does 6 to 10, Does 10 to 30; Real Parties in Interest; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-177290; Amount of Money or Other Relief Sought: City to set aside and void approvals relating to 8th addendum to Airport Master Plan; (11) Carrillo, Alexandra v. City, Names of Partie(s) Involved: Alexandra Carrillo, City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-242864; Amount of Money or Other Relief Sought: Damages according to proof; (12) City v. International Association of Firefighters, et al.; Names of Partie(s) Involved: City of San José, International Association of Firefighters, Local 230; Court: Superior Court of California, County of Santa Clara; Case No: 1-06-CV-075858; Amount of Money or Other Relief Sought: Motion to compel arbitration; (13) City v. International Association of Firefighters, et al.; Names of Partie(s) Involved: City of San José, International Association of Firefighters, Local 230; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-133786; Amount of Money or Other Relief Sought: Arbitration of Fire Fighters Bill of Rights (FBOR); (14) Parker, et al. v. City of San José, et al.; Names of Partie(s) Involved: David Parker, James Williams, Jason Bivens, Debra Ward and Shannon Blean, City of San José, and Does 1 through 20; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-176055; Amount of Money or Other Relief Sought: Damages according to proof. (15) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of CA Public Employment Relations Board; Case No. SF-CE-837-M; (16) IAFF Local 230 v. City; Names of Partie(s) Involved: International Association of Firefighters Local 230, City of San José; Court: State of CA Public Employment Relations Board; Case No.: SF-CE-941-M; Amount of Money or Other Relief Sought: Damages According to Proof; (17) American Federation of State, County & Municipal Employees v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of CA Public Employment Relations Board; Case No.: SF-CE-942-M; Amount of Money or Other Relief Sought: Damages According to Proof; (18) IAFF Local 230 v. City; Names of Partie(s) Involved: IAFF Local 230, City of San José; Court: State of CA Public Employment Relations Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (19) OE#3 v. City of San José; Names of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of CA Public Employment Relations Board; Case No.: SF-CE-900-M; Amount of Money or Other Relief Sought: Damages According to Proof; (20) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of CA Public Employment Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (21) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of CA Public Employment Relations Board; Case No.: SF-CE-945-M; Amount of Money or Other Relief Sought:

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Damages According to Proof; (22) IAFF Local 230 v. City; Names of Partie(s) Involved: International Association of firefighters Local 230, City of San José; Court: State of CA Public Employment Relations Board; Case No.: SF-CE-970-M; Amount of Money or Other Relief Sought: Damages According to Proof; (23) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of CA Public Employment Relations Board; Case No.: SF-CE-972-M; Amount of Money or Other Relief Sought: Damages According to Proof; (24) City of San José v. SJPOA; Names of Partie(s) Involved: City of San José, San José Police Officers' Association; Case No. CSMCS ARB 11-0477; (25) City of San José v. SJPOA; City of San José, San José Police Officers' Association; Case No. CSMCS ARB 12-0171; (26) City of San José v. SJPOA; City of San José, San José Police Officers' Association; Case No. CSMCS ARB 11-0136; (27) City of San José v. SJPOA; City of San José, San José Police Officers' Association; Case No. CSMCS ARB 11-0412; (28) Great Oaks Water, Inc. v. City, et al.; Names of Partie(s) Involved: Great Oaks Water Company, Inc., John W. S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and Betty B. Roeder, Trustees of the Walter S. Roeder Trust B, the City of San José, The San José Redevelopment Agency, South Bay Water Recycling, Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-04-CV-012008; Amount of Money or Other Relief Sought: Damages according to proof. (29) County of Alameda, et al. v. AMBAC Financial, et al.; Names of Partie(s) Involved: County of Alameda; City and County of San Francisco; City of Los Angeles; Los Angeles Department of Water and Power; Los Angeles World Airports; City of Oakland; City of Richmond; Redwood City; East Bay Municipal Utility District; City of Sacramento; Sacramento Suburban Water District; Sacramento Municipal Utility District; City of San José; City of Stockton; The Redevelopment Agency of the City of Stockton; the Public Financing Authority of the City of Stockton; County of Tulare; the Regents of the University of California; the Redevelopment Agency of the City of San José; AMBAC Assurance Corporation; MBIA, Inc.; MBIA Insurance Corporation; MBIA Insurance Corp. of Illinois, a/k/a National Public Finance Guarantee Corporation; Syncora Guarantee, Inc. f/k/a XL Capital Assurance, Inc.; Financial Guaranty Insurance Company; Financial Security Assurance, Inc.; CIFG Assurance North America, Inc.; Assured Guaranty Corp.; Jason Kissane; Does 1 through 50; (30) RDA/City vs. Bank of America, N.A., et al.; Names of Partie(s) Involved: City of San José, the San José Redevelopment Agency, Bank of America N.A., Merrill Lynch & Co., Inc., UBS AG, UBS Financial Services, Inc., UBS Securities, LLC, MBIA, Inc., Citibank, N.A. Citigroup Financial Products INC., Citigroup Global arkets Holdings INC., Morgan Stanley, Rabobank Group, Bayerische, Landesbank Gironzentrale, Piper Jaffray & Co., Societe Generale SA, Financial Security Assurance, Inc., Assured Guaranty US Holdings INC., Dexia S.A., National Westminster Bank, PLC, Natixis Funding Corp., Natixis S.A. the Goldman Sachs Group, Inc., Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs Bank USA, CDR Financial Products, Winters & Co., Advisors, LLC, George K. Baum & Co., Sound Capital Management Inc., Investment Management Advisory Group, Inc., First Southwest Company, PFM Investment, LLC., PFM Asset Management LLC.; Court: United States District Court, Northern District of California; Case No.: CV 10-2199;

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Amount of Money or Other Relief Sought: Damages According to Proof; (31) Sipple, et al. v. City of Alameda, et al., Names of Partie(s) Involved: Donald Sipple, John Simon, Karl Simonsen, Christopher Jacobs, Settlement Class Representatives, New Cingular Wireless PCS LLC, City of Alameda, County of Alameda, City of Albany, City of Alhambra, City of Arcadia, City of Baldwin Park, City of Beaumont, City of Bell, City of Bellflower, City of Benecia, City of Berkeley, City of Burbank, City of Calabasas, City of Cathedral, City of Ceres, City of Chico, City of Chula Vista, City of Citrus Heights, City of Claremont, City of Colton, City of Compton, City of Covina, City of Cudahy, City of Culver City, City of Cupertino, City of Daly City, City of Desert Hot Springs, City of Dinuba, City of Downey, City of East Palo Alto, City of El Cerrito, City of El Monte, City of El Segundo, City of Emeryville, City of Eureka, City of Exeter, City of Fairfax, City of Fairfield, City of Gardena, City of Gilroy, City of Glendale, City of Gonzales, City of Greenfield, City of Grover Beach, City of Guadalupe, City of Gustine, City of Hawthorne, City of Hayward, City of Hercules, City of Hermosa Beach, City of Holtville, City of Huntington Beach, City of Huron, City of Indio, City of Inglewood, City of Irwindale, City of LA Habra, City of Lakewood, City of La Palma, City of LaVerne, City of Lawndale, City of Lindsey, City of Long Beach, City of Los Alamitos, City of Los Altos, City of Los Angeles, Los Angeles County, City of Lynwood, City of Malibu, City of mammoth Lakes, City of Maywood, City of Menlo Park, City of Modesto, City of Montclair, City of Monterey, City of Monterey Park, City of Moreno Valley, City of Mountain View, City of Norwalk, City of Oakland, City of Orange Cove, City of Oroville, City of Pacific Grove, City of Palm Springs, City of Palo Alto, City of Paramount, City of Pasadena, City of Pico Rivera, City of Piedmont, City of Pinole, City of Placentia, City of Pleasant Hill, City of Pomona, City of Port Hueneme, City of Porterville, City of Rancho Palos Verde, City of Redondo Beach, City of Redwood City, City of Rialto, City of Richmond, City of Riverside, City of Sacramento, City of Salinas, City of San Bernardino, City of Buenaventura (Ventura), City of San Francisco, City of San Gabriel, City of San José, City of San Leandro, City of San Luis Obispo, City of San Marino, City of San Pablo, City of Sanger, City of Santa Ana, City of Santa Barbara, City of Santa Cruz, City of Santa Monica, City of Seal Beach, City of Seaside, City of Sierra Madre, City of Soledad, City of South Pasadena, City of Stanton, City of Stockton, City of Sunnyvale, City of Torrance, City of Tulare, City of Waterford, City of Watsonville, City of Westminster, City of Whittier, City of Winters City of Woodlake, Does 1-50.; Court: Superior Court of California, County of Santa Clara; Case No: BC462270; Amount of Money or Other Relief Sought: Damages according to proof; (32) Konnick v. Kaiser, et al.; Names of Partie(s) Involved: Michi Konnick, by her Guardian Ad Litem, Mircea G. Dragomir, CLPF and George Konnick, Kaiser Foundation Heathplan, INC., Kaiser Foundation Hospitals, the Permanente Medical Group, Inc., Chandu A. Karadi, Johnson D. Chan, American Medical Response, Inc., Bonnie McPherson, Carlos Garcia, Thomas Cooper, the City of San José dba San José Fire, and Rocco Francisco, and Does 1-200; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-200068; Amount of Money or Other Relief Sought: Damages According to Proof; (33) Seibert v. City of San José; Names of Partie(s) Involved: Grant Seibert, City of San José, San José Civil Service Commission, Debra Figone as San José City Manager, Alex Gurza as San José Director of Employee Relations, William McDonald as Fire Chief for San José Fire Department, Does 1-10; Court: Superior Court

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of California, County of Santa Clara; Case No: 1-11-CV-204096; Amount of Money or Other Relief Sought: Damages According to Proof; (34) California Building Industry Association v. City, et al., Names of Partie(s) Involved: California Building Industry Association, a California Nonprofit Corporation, City of San José, A California Municipal Corporation, City Council and Mayor of the City of San José, Does 1-200; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-167289; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (35) Bernal, et al. v. City, et al.; Names of Partie(s) Involved: Mike C. Bernal, Susan R. Bernal, Nanetta Bernal, Lilian Bernal Auvinen, Katherine Lira, Diana Bernal-Tuyor, Mmike A. Bernal, Gary James Bernal, Domenico Loverde, Tomas J. Martinez, Authur Paul Lira, Jr., Jerimiah Lira, Sommer Kai Espinosa, Lucia A. Bernal, Guillermo Espinosa, City of San José and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-116141; Amount of Money or Other Relief Sought: Damages according to proof. (36) Andy's BP, Inc., et al. v. City of San José, et al.; Names of Partie(s) Involved: Andy's BP, Inc., a California corporation, and Andy Saberi, an individual, the City of San José, Joseph Horwedel, individually and Amir Shirazi, individually and dba Moe's Stop, and Amir Shirazi, as Trustee for the Mohammad M. Shirazi Living Trust, and Does 1-25; Court: U.S. District Court San José Division; Amount of Money or Other Relief Sought: Damages According to Proof; (37) Berg & Berg Enterprises, LLC v. City, et al.; Names of Partie(s) Involved: Berg & Berg Enterprises, LLC, City of San José; San José City Council, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-091955; Amount of Money or Other Relief Sought: Damages according to proof. (38) California Clean Energy Committee v. City. Et al., Names of Partie(s) Involved: California Clean Energy Committee, City of San José, Does 1-50; FWSH Partners II, LLC; Edward D. Storm; and Does 51-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-212623; Amount of Money or Other Relief Sought: Damages according to proof. (39) City of Milpitas v. City, et al., Names of Partie(s) Involved: City of Milpitas, a public entity, City of San José, public entity, and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233069; Amount of Money or Other Relief Sought: Petition for writ of mandate. (40) People/City v. Bevan, Warren; Names of Partie(s) Involved: People of the State of California, ex rel., City Attorney of the City of San José, Wanda M. Bevan, an individual; Warren Bevan, aka Warren A. Bevan, an individual; Warren A. Bevan and Lynn E. Winnett-Bevan, Trustees of the Bevan Trust, created on 8/16/06 and Does 1 through 10; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-118193; Amount of Money or Other Relief Sought: Injunctive relief. (41) City v. Marquez, Rita and Avalos, Luzmarie; Names of Partie(s) Involved: City of San José, Rita Marquez, Luzmarie Avalos, Court: Superior Court of California, County of Santa Clara; Case No: C-1354130; Amount of Money or Other Relief Sought: Damages according to proof. (42) People/City v. Rosales; Collins & Constant; Robert Collins; John Seaman, et al.; Names of Partie(s) Involved: People of the State of California, ex rel., City Attorney of the City of San José, and City of San José, Julian Rosales, an individual, dba Beautiful Temple International; Collins & Constant Investments, LLC, a California limited liability company; Robert Collins, an individual; John Seaman, an individual. Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-235487; Amount of Money or Other Relief Sought: Injunctive relief. (43) Ahluwalia, et al., v. City of San

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José, et al.; Names of Partie(s) Involved: Harsh R. Ahluwalia, individually and as successor-in-interest to Decedent Varun Kumar; Ravinder K. Ahluwalia, individually and as co-successor-in-interest to Decedent Varun Kumar; the Estate of Varun Kumar, City of San José; Chris Moore, in his official capacity as Chief of Police for the San José Police Department; Sergio Carabarin, in his individual and official capacities as an officer of the San José Police Department; Ryan Kimber in his individual and official capacities as an officer of the San José Police Department; Phil Juan in his individual and official capacities as an officer of the San José Police Department; and Does 1-50; Court: U.S. District Court, San José Division; Case No.: C13-0114-PSG; Amount of Money or Other Relief Sought: Injunctive relief; (44) Carter v. City of San José, et al.; Names of Partie(s) Involved: Jamil Carter, the City of San José, the San José Police Department (“SJPD”); Michael Sullivan, individually and in his official capacity as Lieutenant, SJPD; and Keith Cottrell, individually and in his Official capacity as Sergeant, SJPD; Court: United States District Court, Northern District of California; Case No.: C08-04032 PVT; Amount of Money or Other Relief Sought: Damages According to Proof; (46) Chahal v. City of San José, et al.; Names of Partie(s) Involved: Lakhbir Singh Chahal; Baljit Chahal, city, Bach Thai Tran, and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-199202; Amount of Money or Other Relief Sought: Damages according to proof; (47) Correa v. City of San José, et al.; Names of Partie(s) Involved: Thomas Correa, the City of San José; the San José Police Department (“SJPD”); Michael Sullivan, individually and in his official capacity as Lieutenant, SJPD; Kimberly Hudson, individually and in her official capacity as Sergeant, SJPD; Court: U.S. District Court, San José Division; Case No.: CV12-05436 HRL; Amount of Money or Other Relief Sought: Damages According to Proof; (48) Fujikawa, Michael v. City, Chief Chris Moore, et al., Names of Partie(s) Involved: Michael Fujikawa, the City of San José; Police Chief Chris Moore, Officers Payne (Badge No. 3971), Officer Pfiefer (Badget No. 3951), Office Jeffrey (Badge No. 3926), Officer Burke (Badge No. 3949), Officer Akery (Badge No. 3495) and Does 1-50; (49) Galindo, Celina et al. v. Tassio, Kilmer, et al.; Names of Partie(s) Involved: Celina Galindo, Sabrina Galindo, and Valente Galindo, IV, a minor, by and through his Guardian ad Litem, Gina Padilla, Officer Lee Tassio, Officer Anthony Kilmer and City of San José; Court: U.S. District Court, San José Division; Case No.: CV13-0105 HRL; Amount of Money or Other Relief Sought: Damages According to Proof (50) Garden City, Inc. dba Casino M8trix, et al. v. City, et al.; Names of Partie(s) Involved: Garden City, Inc., dba Casino M8trix a California Corporation, Airport Parkway Two, LLC., a California limited liability company, and Airport Opportunity Fund, LLC., a Delaware limited liability company, City of San José, a California Municipal Corporation, San José Police Department, for the City of San José, Richard Teng, individually and as Administrator of the San José Police Department Division of Gaming Control, and Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-240941; Amount of Money or Other Relief Sought: Damages According to Proof; (51) Garden City, Inc. dba Casino M8trix, et al. v. City, et al.; Names of Partie(s) Involved: Garden City, Inc., dba Casino M8trix a California Corporation, Airport Parkway Two, LLC., a California limited liability company, and Airport Opportunity Fund, LLC., a Delaware limited liability company, City of San José, a California Municipal Corporation, San José Police Department, for the City of San José, Richard

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Teng, individually and as Administrator of the San José Police Department Division of Gaming Control; Court: U.S. District Court; Case No: CV-13-0577 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (52) Swallow, et al. v. City of San José; Names of Partie(s) Involved: Eric Swallow, Jeanine Lunardi, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-243151; Amount of Money or Other Relief Sought: Damages according to proof; (53) Gonzales, Mary Lou v. City, et al.; Names of Partie(s) Involved: Mary Lou Gonzales, City of San José, as a Municipal Corporation; San José Police Chief Moore, individually and in his official capacity; SJPD Detective Yvonne Delacruz, in her official and individual capacity; SJPD Sgt. Archer, in his official capacity and individual capacity; SJPD Homicide Detective Jamie (last name unknown) in his individual and official capacity; SJPD Officers Doe 1 to Doe 7 in their individual and official capacities; SJPD Officers and Detectives and employees 8-50; Court: U.S. District Court, San José Division; Case No.: CV13-0695 PJH; Amount of Money or Other Relief Sought: Damages According to Proof; Gonzales-Guerrero, Javier v. City, Brian Johst, Mark Stephens, et al.; Names of Partie(s) Involved: Javier Gonzales-Guerrero, City of San José, Brian Johst, Mark Stephens, Gary Petrokovitz, and Tim Stephens; Court: United States District Court, Northern District of California; Case No.: CV12-03541 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (55) Hellams, John, Charles Bernard and Marlene Anderson v. City, et al.; Names of Partie(s) Involved: John Hellams, Charles Bernard, Marlene Anderson, City of San José and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-227586; Amount of Money or Other Relief Sought: Damages according to proof. (56) Hernandez, Luis & Cindy Calderon v. City of San José, et al, Names of Partie(s) Involved: Luis Hernandez, Cindy Calderon, City of San José, Ernie Alcantar individually and in his official capacity as Captain, k CJPD; and James Werkema, individually and in his official capacity as Lieutenant, SJPD; Court: U.S. District Court, San José Division; Case No.: CV12-02952 HRL; Amount of Money or Other Relief Sought: Damages According to Proof; (57) Kerkeles v. City of San José, et al.; Names of Partie(s) Involved: Michael Kerkeles, a.k.a. Michael Kerk, City of San José, Matthew Christian, and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-103523; (58) Montiel v. City, et al.; Names of Partie(s) Involved: Jermaine Montiel; Officer M. Williams, Officer C. Sheppard, Officer Hernandez, Officer Rodriguez, John Doe and Richard Doe, Robert Davis, City of San José, and Does. Court: United States District Court, Northern District of California; Case No.: C07 05490 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (59) 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: 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; (60) People/City v. Stanley A. Fimowicz, et al.; Names of Partie(s)

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Involved: People of the State of California, ex rel., City Attorney of the City of San José, and the City of San José, Stanley A. Fimowicz, an individual; Stella L. Fimowicz, an individual; and Does 1 through 10; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-243896; Amount of Money or Other Relief Sought: Damages According to Proof; (61) People/City v. Chinh Hoang Nguyen dba La Visage Salon, 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, Chinh Hoang Nguyen aka Nguyen Chinh Hoang, an individual, dba La Visage Salon; Tung Van Vo, aka Andy Hoant Buu Vo aka Vo Tung, an individual, dba La Visage Salon; Sang Van Pham aka Pham Sang Van, an individual; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226470; Amount of Money or Other Relief Sought: Damages According to Proof; (62) Naymark, et al. v. City, et al.; Names of Partie(s) Involved: Janice Naymark, Ronald Naymark, City of San José, San José Police Department, Robert Davis, City of Capbell, Campbell Police Department, David Gullo, Town of Los Gatos, City of Monte Sereno, Los Gatos/Monte Sereno Police Department, Scott Seaman, City of Palo Alto, Lynn Johnson, City of Santa Clara, Santa Clara Police Department, Stephen D. Lodge, State of California, California Highway Patrol, Michael L. Brown, County of Santa Clara, Office of the Santa Clara County Sheriff, Laurie Smith and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-080008; Amount of Money or Other Relief Sought: Injunctive relief; (63) Rice, JoAnn, America Savin, et al. v. City, et al.; Names of Partie(s) Involved: Rice, JoAnn, America Savin, et al. v. City, et al.; Names of Partie(s) Involved: JoAnn Rice, America Savin, Perry Nelson, and W.N., a minor, by and through his Guardian ad Litem, America Savin, City of San José, San José Police Department, Does 1-10; Court: U.S. District Court; Case No.: 2:13-CV-00334-KJM-CKD; Amount of Money or Other Relief Sought: Damages According to Proof; (64) Valdez, et al v. City, et al.; Names of Partie(s) Involved: Francisco Valdez, Ricardo Vasquez, Daniel Martinez, Jamil Stubbs, City of San José, San José Police Chief Robert Davis, Officer R. Agaman (#4041); Officer Martin (#3894), Officer Rickert (#3734), Officer Wallace (#3922); Officer Orlando, does 1 through 2500; United States District Court, Northern District of California; Case No.: C09 00176 RMW; Amount of Money or Other Relief Sought: Damages According to Proof; (65) Pham/Do v. City, et al.; Names of Partie(s) Involved: Vinh Huu Pham and Lan Thi Do, City of San José, a Municipality of the State of California, officer Brian Jeffrey, #3926, individually and in his official capacity as a police officer, and Does 1-100; Court: United States District Court, Northern District of California; Case No. CV11-01526 EJD; Amount of Money or Other Relief Sought: Damages According to Proof; (66) Pugh v. City, et al; Names of Partie(s) Involved: Dwayne Pugh, City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-189429; Amount of Money or Other Relief Sought: Damages according to proof. (67) Salinas, Roberta, George & Frances Salinas, et al. v. City, et al; Names of Partie(s) Involved: Roberta Salinas, George Salinas, Frances Salinas, Carlos Salinas, Olivia Salinas, Loretta Salinas, City of San José and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-116174; Amount of Money or Other Relief Sought: Damages According to Proof; (68) Noreen Salinas v. City, et al.; Names of Partie(s) Involved: Noreen Salinas, City of San José, Chief Robert Davis, Taser International, Inc., Does 1 to

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10; Court: United States District Court, Northern District of California; Case No.: C08-02625 RS (consolidated with C09-04410RS); Amount of Money or Other Relief Sought: Damages According to Proof; (69) Vasquez v. City, et al.; Names of Partie(s) Involved: Ramon José Vasquez, Brian Ferrante, Individually and as an Officer of the San José Police Department and Tom Morales, individually as an Officer of the San José Police Department, Does 1 through 50; Court: United States District Court, Northern District of California; Case No.: CV10-00948 LKH; Amount of Money or Other Relief Sought: Damages According to Proof; (70) Watson-Stalker, et al. v. City, et al.; Names of Partie(s) Involved: Tracy Watson, Renee Stalker, Olivia Stalker, Shafer Watson, Riley Watson, County of Santa Clara, County of Santa Clara Department of Family and Children Services; County of Santa Clara Department of County Counsel; County of Santa Clara District Attorneys' Office; Santa Clara Valley Medical Center; Evergreen School District; City of San José; San José Police Department; Norma Sparks, Yazmina Letona; Sharon Burgan; Jewels Ramirez, Vu Tran, Ann Miller Ravel, Rima Singh, Aaron West, George Kennedy, Clifton Black, Rose Real, Robert Pruitt, Cheryl Harms, Claudia Blodgett, Gary Kishimoto, John Hamilton, Anita Noble, Janet Kahle, Mary Ritter, David Kearns, Rajul Kazi, Rob Davis, William Hoyt, Craig Blank; Court: United States District Court, Northern District of California; Case No.: C06-04029 RMW; Amount of Money or Other Relief Sought: Damages According to Proof; (71) City v. Western Roofing; Names of Partie(s) Involved: City of San José, Western Roofing; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-123029; Amount of Money or Other Relief Sought: Damages according to proof. (72) City v. Rossdruhiscesenbery Architecture, Inc. aka Micheal Ross Charles Drulis Architects & Planners, a purported California Corporation; and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-237767; Amount of Money or Other Relief Sought: Damages According to Proof; ; (73) Shahrivar, Farid v. City, et al., Names of Partie(s) Involved: Farid Shahrivar, City of San José, a municipality; Rodney Rapson, an individual; David Sykes, an individual; Harry 'Freitas, an individual; Katherine Jensen, an individual; David Printy, an individual; Danny Tsao, an individual; Katrina Allen, an individual; Dough Baker, an individual; Alex Gurza, an individual; Sarah Nunes, an individual; Les White, an individual; Allen Demers, an individual; Rajiv Das, an individual; Adam Strempe, an individual; Steve Pagan, an individual, Angela Chen, an individual; Mark Danaj, an individual; Robert Fabela, an individual; Susan Lacy, and Does 1 through 45; Court: U.S. District Court, Oakland Division; Case No.: CV10-01029 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (74) Vagts, Hale and Patty Vagts v. State of California, et al.; Names of Partie(s) Involved: Hale Vagts & Patty Vagts, State of California, City of San José, and does 1-40; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-239693; Amount of Money or Other Relief Sought: Damages According to Proof; (75) Flores, Valerie v. City of San José, et al.; Names of Partie(s) Involved: Valerie Flores, City of San José, and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-212090; Amount of Money or Other Relief Sought: Damages according to proof. Amount of Money or Other Relief Sought: Damages According to Proof; (76) Leath, Vicky Kim v. City, County of Santa Clara, et al.; Names of Partie(s)

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Involved: Vicky Kim Leath, County of Santa Clara, Huyen Nguyen; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-227600; Amount of Money or Other Relief Sought: Damages according to proof; (77) McLaughlin, Shirli v. City of San José; Names of Partie(s) Involved: Shirli McLaughlin, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-236396; Amount of Money or Other Relief Sought: Damages according to proof; (78) Ortiz v. City, et al; Names of Partie(s) Involved: Esmeralda Galan and José Ortiz, Husband and Wife; individually and as parents and successors in interest of their deceased minor son Mateo Ortiz, City of San José, a Charter City, David Alvernaz, Alycia Saaveda-Alvernaz, and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-199150; Amount of Money or Other Relief Sought: Damages according to proof. (79) Perez, Cynthia v. City of San José; Cynthia Perez, City of San José and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-209825; Amount of Money or Other Relief Sought: Damages according to proof; (80) Stand for San José, et al. v. City, et al.; Names of Partie(s) 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: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive relief; (81) City of San José v. County of Santa Clara; Names of Partie(s) Involved: City of San José, A municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod Sharma, individually, and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara; Court: Superior Court of California, County of Sacramento; Case No: 34-2012-80001190; Amount of Money or Other Relief Sought: Damages according to proof. (82) Ted Smith. v. City, et al.; Names of Partie(s) 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 a Councilmember for the City of San José; Ash Kalra, in his official capacity as a Councilmember for the City of San José; Sam Liccardo, in his official capacity as a Councilmember for the City of San José; Pierluigi Oliverio, in his official capacity as a Councilmember for the City of San José; Madison Nguyen, in her official capacity as a Councilmember for the City of San José; Rose Herrera, in her official capacity as a Councilmember for the City of San José; Judy Chirco, in her official capacity as a Councilmember for the City of San José; Kansen Chu, in his official capacity as a Councilmember for the City of San José; Nora Campos, in her official capacity as a Councilmember for the City of San José; Nancy Pyle, in her official capacity as a Councilmember for the City of San José; and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-150427; Amount of Money or Other Relief Sought: Damages According to Proof; (83) Vietnamese-American Community of Northern California v. City, et al; Names of Partie(s) Involved: Vietnamese-American Community of Northern California; City of San José; City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-107082; Amount of Money or Other Relief Sought: for Declaratory and

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injunctive relief according to proof; (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 Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: City of San José – Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Benefit & Compensation Summary - City of San José and City Association of Management Personnel Agreement; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 12:20 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

Pastor Felipe Santos, South Bay Church, provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance, accompanied by third-grade students from John Muir Elementary School.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Assistance League of San José for supporting vital community services in the City since 1983 through a number of philanthropic programs. (Khamis)**

Mayor Reed and Council Member Khamis recognized the Assistance League of San José for supporting vital community services in the City since 1983 through a number of philanthropic programs.

- 1.2 Presentation of a commendation to San José Taiko on their 40th anniversary of contributing cultural tradition and artistic excellence to the City of San José. (Liccardo)**

Action: Dropped per Administration.

- 1.3 Presentation of a proclamation declaring April 26, 2013 as “World Intellectual Property Day” in the City of San José. (Herrera)
(Rules Committee referral 4/17/13)**

Mayor Reed and Council Member Herrera recognized April 26, 2013 as “World Intellectual Property Day” in the City of San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of Minutes.

There were none.

- 2.2 (a) **ORD. NO. 29241 – Approving a Development Agreement with the F. James, Schmidt, Charles Seufferlein and Brendan and Kelley Properties, LLC, a Limited Liability Company, and Green Valley Corporation, a California Corporation, relative to the development of the Century Court Residential Towers Development Project on certain real property located in North San José and authorizing the City clerk to execute the Development Agreement and cause the same to be recorded with the Santa Clara County Recorder’s Office.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29241 executed on April 12, 2013, submitted by the City Clerk.

Action: Ordinance No. 29241 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of December 5, 2012. (Mayor)**
- (b) **Rules and Open Government Committee Report of December 12, 2012. (Mayor)**

Documents Filed: The Rules and Open Government Committee Reports dated December 5 and December 12, 2012.

Action: The Rules and Open Government Committee Reports were approved. (11-0.)

- (c) **Rules and Open Government Committee Report of December 19, 2012. (Mayor)**

Documents Filed: The Rules and Open Government Committee Reports dated December 19, 2012.

Council Member Rocha pulled the Rules and Open Government Report of December 19, 2012, recommending status updates from Staff as outlined in “Action”.

2.3 (c) (Cont'd.)

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, the Rules and Open Government Committee Report dated December 19, 2012 was approved, with direction to Staff to issue an information memo regarding Item G4, whereby a policy or process is to be established to facilitate communication with City retirees regarding decisions that may affect retirees as part of negotiations. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Recommendation: Approve an ordinance regarding the consolidation of Boards and Commissions. (City Clerk)

Action: Deferred to May 7, 2013 per City Clerk.

2.8 Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute the First Amendment to the Sublease Agreement between the City of San José and the County of Santa Clara for the use of City Property for the Household Hazardous Waste Collection Program; and**
- (b) Execute any future amendments to the Sublease to modify the dates for delivery and payment of rent in the event of additional delays to the construction of the Environmental Innovation Center.**

CEQA: Mitigated Negative Declaration, File No. PP09-138. (Economic Development)

Documents Filed: City Council Action Request provided by Director of Economic Development/Chief Strategist Kim Welsh, dated April 23, 2013, recommending an amendment to a sublease agreement.

Action: Resolution No. 76609, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the First Amendment to the Sublease Agreement with the County of Santa Clara for the Use of City Property for the Household Hazardous Waste Collection Program and to Execute Any Future Amendments to the Sublease to Modify the Dates for Delivery and Payment of Rent in the Event of Additional Delays to the Construction of the Environmental Innovation Center", was adopted. (11-0.)

- 2.9 Approve travel by Council Member Campos to Sacramento, CA on April 24, 2013 to attend the League of California Cities' Legislative Action Day and Reception. Source of Funds: Mayor & Council Travel Fund. (Campos)**

Documents Filed: Memorandum from Council Member Campos, dated April 11, 2013, requesting approval of a travel request.

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

- 2.10 Approve travel by Council Member Herrera to Sacramento, CA on April 24, 2013 to attend the League of California Cities' Legislative Action Day, Transportation, Communication, and Public Works Committee Meeting and the Women's Caucus. Source of Funds: Mayor & Council Travel Fund. (Herrera)**

Documents Filed: Memorandum from Council Member Herrera, dated April 24, 2013, requesting approval of a travel request.

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

- 2.11 (a) Approve the Mid-Autumn Festival and Resource Fair as a City Council sponsored Special Event; and
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project. (City Clerk)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated April 5, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Mid-Autumn Festival and Resource Fair 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. (11-0.)

- 2.11 As recommended by the Rules and Open Government Committee on April 17, 2013:
(a) Approve the May Day Rally at City Hall as a City Council sponsored Special Event; and
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project. (Campos/Kalra)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated April 17, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The May Day Rally 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. (11-0.)

- 2.13 As recommended by the Rules and Open Government Committee on April 17, 2013:**
- (a) Approve the Community Events Sponsored by District 4 outlined in the City Clerk’s memorandum to the Rules and Open Government Committee as City sponsored Special Events; and**
 - (b) Approve and accept donations from various individuals, businesses, or community groups to support the events.**
- CEQA: Not a Project. (City Clerk)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated April 18, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Community Events Sponsored by District 4 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. (11-0.)

- 2.14 As recommended by the Rules and Open Government Committee on April 17, 2013, adopt a resolution reappointing Sharon Erickson as City Auditor and approving compensation for services as City Auditor for term beginning July 1, 2013 and ending June 30, 2017. (Mayor)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated April 18, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Rocha pulled Item 2.14 to pose questions regarding term length.

Council Member Liccardo suggested tying in discussion of performance-based compensation during employee evaluations, and asked that this be a conversation considered as we move into the next fiscal year.

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, Resolution No. 76610, entitled: “A Resolution of the Council of the City of San José Reappointing Sharon Erickson as City Auditor for a Term Beginning July 1, 2013 and Ending June 30, 2017, and Approving the Terms of Compensation”, was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone introduced the newly appointed Director of Libraries Jill Bourne and thanked Anne Cain for her leadership serving as Interim Library Director.

3.3 Adopt a resolution amending the Schedule of Fees and Charges (Resolution No. 72737, as amended) to eliminate the Business Tax Exemption Processing Fee, effective June 1, 2013. CEQA: Not a Project; File No. PP10-067(a), Adjustments to fees, rates and charges. (Finance)

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper and Budget Director Jennifer Maguire, dated April 11, 2013, recommending adoption of a resolution.

Director of Finance Julia H. Cooper provided a brief presentation on the business tax exemption processing fee and amnesty program and responded to questions from Council.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, Resolution No. 76611, 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, 76397, and 76476 to Eliminate the Processing of Exempt Business Tax Application Fees, to be Effective June 1, 2013, was adopted. (10-0-1. Absent: Khamis.)

3.4 Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Chief Information Officer for the Information Technology Department as described in the staff memorandum, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)

Documents Filed: Memorandum from City Manager Debra Figone, dated April 8, 2013, recommending adoption of a Statement of Policy and City Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Rocha and carried unanimously, a Statement of Policy and City Council Questions related to the selection of a prospective Chief Information Officer for the Information Technology Department as described in the staff memorandum, in compliance with City Charter Section 411.1”, was adopted. (10-0-1. Absent: Khamis.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **Adopt a resolution authorizing the Director of Public Works to determine the lowest responsive and responsible bidder and to decide any bid protests for the Taxiway W Extension D-G Project at the Norman Y. Mineta San José International Airport and to either: (i) award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$10,095,583, contingent upon award and execution of an Airport Improvement Program (AIP) Grant from the Federal Aviation Administration; or (ii) reject all bids and re-bid the Project;**
- (b) **Approve a contingency equal to fifteen percent of the award amount.**
CEQA: San José International Airport Master Plan Update Final EIR, (File No. PP95-110), Resolution Nos. 67380 and 71451, and Addendum thereto (File No. PP 12-079). (Public Works/Airport)

Documents Filed: Joint memorandum from Director of Public Works David Sykes and Director of Aviation William F. Sherry, dated April 2, 2013, recommending adoption of a resolution and approval of a contingency.

Director of Public Works David Sykes responded to questions from Council and offered to provide additional information as issues arise that may affect the bid process.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No.76613, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Award a Construction Contract for the Norman Y. Mineta San José International Airport Taxiway W Extension D-G Project to the Lowest Responsive Bidder in an Amount Not to Exceed \$10,095, 583, Plus a Contingency Equal to 15% of the Award Amount, Contingent Upon Award and Execution of an Airport Improvement Grant from the Federal Aviation Administration”, was adopted, with Staff directed to provide an information memo updating Council on any significant issues that may affect the bid process. (11-0.)

STRATEGIC SUPPORT SERVICES

- 3.5 **Recommendation: As referred by the City Council under Orders of the Day on March 12, 2013, consider adoption of a resolution in support of the Food and Drug Administration’s regulation of menthol and flavored tobacco products. (Chu/Kalra/Campos)**

Documents Filed: (1) Joint memorandum from Council Members Chu, Kalra and Campos, dated February 14, 2013, recommending adoption of a resolution. (2) Memorandum from Director, Intergovernmental Relations Betsy Shotwell, dated April 15, 2013, providing an update on the status of the Food and Drug Administration’s study.

3.5 (Cont'd.)

Public Comments: Supporting the resolution and offering comments related to the health of children and others targeted by the tobacco industry were Patsy Cortez, Juselle Moreno, Brendan Vu and Victoria Bourdon (Menthol Flavored Tobacco Prevention Project).

Council Members Constant and Khamis expressed opposition to the proposed resolution, citing that Council should only take positions on things that impact the City as an organization and that this belongs in the education process.

Vice Mayor Nguyen and Council Members Campos, Herrera and Kalra offered support, reasoning that such regulations serve our community.

Action: Upon motion by Council Member Chu, seconded by Council Member Kalra and carried, Resolution No. 76612, entitled: "A Resolution of the Council of the City of San José in Support of Food and Drug Administration (FDA) Regulation of Menthol in Cigarettes and Flavoring in Other Tobacco Products", was adopted. (8-3. Noes: Constant, Khamis, Oliverio.)

- 3.6 As referred by the City Council on March 26, 2013, refer to the Elections Commission or other appropriate commission the question of whether or not the City of San José should adopt a resolution calling for an amendment to the United States Constitution that states that, first, only individual human beings, not corporations no other collective entities, enjoy the First Amendment protections of the United States Constitution, and second, that money is not "speech" protected by the First Amendment. In the alternative, the City Council may adopt such a resolution. (Liccardo/Campos/ Rocha)
[Referred by City Council 3/26/13 – Item 3.6(h)]**

Action: Deferred to May 7, 2013 per Rules and Open Government Committee.

NEIGHBORHOOD SERVICES

- 5.1 Conduct a Public Hearing and adopt a resolution to be effective August 1, 2013 to:**
- (a) Set forth the new Schedule of Parkland Fees charged pursuant to the San José Municipal Code Chapters 14.25 ("Park Impact Ordinance") and 19.38 ("Parkland Dedication Ordinance") to reflect the 2012 Residential Land Value Study; and**
 - (b) Authorize the City Manager to determine the applicable parkland fees for any residential units in the City of San José that are not included in the Schedule of Parkland Fees based on the nearest Multiple Listing Service zones.**

CEQA: Not a Project, File No. PP10-067(a), Adjustments to fees, rates, and charges. (Parks, Recreation and Neighborhood Services)

Action: Deferred to April 3, 2013 per Administration.

OPEN FORUM

Marcela Davison (VivaFest!), Susan Krane (San Jose Museum of Art) and Andrew Bales (Symphony Silicon Valley) urged Council to support the Arts during the upcoming budget process.

ADJOURNMENT

The Council of the City of San José adjourned at 2:56 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
Acting City Clerk

rmk/4-23-13MIN