

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, JUNE 4, 2013**

The Council of the City of San José convened in Regular Session at 9:03 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 American Federation of State, County & Municipal Employees (AFSCME), International Union of Operating Engineers, Local No. 3 (OE#3), and the International Brotherhood of Electrical Workers (IBEW).

Documents Filed: Letter from the San José Federated Labor Coalition to Deputy City Manager Alex Gurza, dated June 3, 2013, regarding the Coalition's counter proposal on retiree healthcare.

Public Comments: Urging Council's cooperation in finding fair solutions and acceptance of the proposals offered, were Yolanda Cruz (AFSCME-MEF), Vera Todorov (ALP), Matt Farrell (CAMP) and Michael Seville (IFPTE Local 21).

Action: The report was accepted.

## CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:12 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation: Number of matter(s) to be discussed: three (3); (B) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: Independent Police Auditor; Name: LaDoris Cordell; (C) 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; (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9 (d)(1) with respect to existing litigation: (1) 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 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; (2) 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; (3) 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; (4) Harris, et al. v. City of San José, et al.; Names of Partie(s) Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (7) 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 8<sup>th</sup> addendum to Airport Master Plan; (8) 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; (9) 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

## CLOSED SESSION REPORT (Cont'd.)

Other Relief Sought: Motion to compel arbitration; (10) 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); (11) 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. (12) 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; (13) 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; (14) 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; (15) 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; (16) 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; (17) 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; (18) 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: Damages According to Proof; (19) 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; (20) 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; (21) 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; (22) City of San José v. SJPOA; City of San José, San

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

José Police Officers' Association; Case No. CSMCS ARB 12-0171; (23) City of San José v. SJPOA; City of San José, San José Police Officers' Association; Case No. CSMCS ARB 11-0136; (24) City of San José v. SJPOA; City of San José, San José Police Officers' Association; Case No. CSMCS ARB 11-0412; (25) 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. (26) 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; Case No.: CJC-08-004555; Amount of Money or Other Relief Sought: Damages According to Proof; (27) 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 Markets 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; Amount of Money or Other Relief Sought: Damages According to Proof; (28) 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

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

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; (29) 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; (30) 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 of California, County of Santa Clara; Case No: 1-11-CV-204096; Amount of Money or Other Relief Sought: Damages According to Proof; (31) 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

## CLOSED SESSION (Cont'd.)

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; (32) 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. (33) 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 an 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; (34) 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. (35) 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: Injunctive Relief; (36) 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. (37) 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. (38) 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. (39) 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. (40) Ahluwalia, et al., v. City of San José, et al.; Names of Partie(s) Involved: Harsh R. Ahluwalia, individually and as

## CLOSED SESSION (Cont'd.)

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; (41) 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.: CV12-01968 HRL; Amount of Money or Other Relief Sought: Damages According to Proof; (42) Cicala, et al. v. City, et al.; Names of Partie(s) Involved: Paul Cicala, Enrico Sagullo, Erick Sanchez, City of San José, Robert Davis, Officers Ordaz, Higgins, Marfia, Kyono and Siegel and Does; 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; (43) 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; (44) 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; (45) 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; (46) 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 (47) 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

## CLOSED SESSION (Cont'd.)

Santa Clara; Case No: 1-13-CV-240941; Amount of Money or Other Relief Sought: Damages According to Proof; (48) 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; Court: U.S. District Court; Case No: CV-13-0577 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (49) 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; (50) 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 Doe 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; (51) 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; (52) 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. (53) 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; (54) 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; (55) 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; (56) City of San José, et al. v. BKD Investments, LLC, et al; Names of Partie(s) Involved: People of the State of California,

## CLOSED SESSION (Cont'd.)

ex rel., City Attorney of the City of San José and the City of San José; BKD Investments, LLC, a California Limited Liability Company dba Hotel Elan; Pankaj K. Patel, an individual; Sanjay K. Patel, an individual; April Guzman, an individual; and Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-227614; Amount of Money or Other Relief Sought: Permanent injunction and final judgment; (57) People/City v. Stanley A. Fimowicz, 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, 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; (58) 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; (59) 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; (60) 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; (61) 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; (62) 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; (63) Pugh v. City, et al; Names of Partie(s) Involved: Dwayne Pugh, City of San José and Does 1-100; Court: Superior

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

Court of California, County of Santa Clara; Case No: 1-10-CV-189429; Amount of Money or Other Relief Sought: Damages according to proof. (64) 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; (65) 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 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; (66) 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; (67) 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; (68) 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. (69) City v. Rosdruliscesenbery 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; ; (70) 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 Stempel, 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 (71)

## CLOSED SESSION (Cont'd.)

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; (72) 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; (73) Leath, Vicky Kim v. City, County of Santa Clara, et al.; Names of Partie(s) 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; (74) 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; (75) 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. (76) 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; (77) 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; (78) 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. (79) 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

## CLOSED SESSION (Cont'd.)

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; (80) 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 injunctive relief according to proof; (E) 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.

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

Successor Agency to the Redevelopment Agency of the City of San José: to confer with Legal Counsel pursuant to Government Code subsection (c) of Section 54956.9 with respect to anticipated litigation: Number of matter(s) to be discussed: two (2);

By unanimous consent, Council recessed from the Closed Session at 12:30 p.m. and reconvened to Regular Session at 1:30 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**

Reverend Rebecca Irelan of Willow Glen Methodist Church, presented the Invocation.

## **PLEDGE OF ALLEGIANCE**

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

## **ORDERS OF THE DAY**

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

## **CLOSED SESSION REPORT**

No report.

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a commendation to Evergreen High School students' participation in the Odyssey of the Mind program and world finals. (Herrera)**

Mayor Reed and Council Member Herrera commended Evergreen High School students for their participation in the Odyssey of the Mind program and world finals.

## **CEREMONIAL ITEMS (Cont'd.)**

### **1.2 Presentation of a commendation to Ida Jew Academies for increasing their Academic Performance Index score. (Herrera)**

Mayor Reed and Council Members Herrera and Campos commended Ida Jew Academies for increasing their Academic Performance Index score.

### **1.3 Presentation of a proclamation declaring June 10th as Dia de Portugal, de Camões e das Comunidades Portuguesas in the City of San José. (Liccardo)**

Mayor Reed and Council Members Campos and Liccardo recognized June 10th as Dia de Portugal, de Camões e das Comunidades Portuguesas in the City of San José.

## **CONSENT CALENDAR**

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

### **2.1 Approval of minutes.**

- (a) Regular Minutes of September 11, 2012.**
- (b) Regular Minutes of September 18, 2012.**
- (c) Study Session Minutes of September 18, 2012 on Police Response to Recent Crimes and Gang Activity.**
- (d) Regular Minutes of September 25, 2012.**
- (e) Regular Minutes of October 2, 2012.**
- (f) Joint City/County Meeting Minutes of October 5, 2012.**
- (g) Special Meeting Minutes of October 9, 2012 on Prioritization of Policies, Ordinances and Setting Study Sessions.**
- (h) Regular Minutes of October 16, 2012.**
- (i) Regular Minutes of October 23, 2012.**
- (j) Study Session Minutes of October 29, 2012 on Homeless Encampments.**
- (k) Regular Minutes of October 30, 2012.**

Documents Filed: (1) Regular Council Meeting Minutes, dated September 11, 18 and 25, 2012 and October 2, 16, 23, and 30, 2012; (2) Study Session Minutes of September 18, 2012 on Police Response to Recent Crimes and Gang Activity; (3) Joint City/County Meeting Minutes of October 5, 2012; (4) Special Meeting Minutes of October 9, 2012 on Prioritization of Policies, Ordinances and Setting Study Sessions; (5) Study Session Minutes of October 29, 2012 on Homeless Encampments.

Action: The Minutes were approved. (11-0.)

## 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29252** – Adopting salaries and other compensation for the Mayor and Councilmembers pursuant to City Charter Section 407.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29252 executed on May 17, 2013, submitted by the City Clerk.

Action: Ordinance No. 29252 was adopted. (11-0.)

- (b) **ORD. NO. 29253** – Amending Sections 6.54.110, 6.54.260, and 6.54.265 and adding Section 6.54.320 of Chapter 6.54 of Title 6 of the San José Municipal Code to modify the conditions of for fixed location peddlers and authorize the City Manager to promulgate regulations on behalf of all fixed location peddlers.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29253 executed on May 17, 2013, submitted by the City Clerk.

Action: Ordinance No. 29253 was adopted. (11-0.)

- (c) **ORD. NO. 29254** – Amending Title 20 of the San José Municipal Code (The Zoning Ordinance) to amend: Section 20.30.100 of Chapter 20.30 (Residential Zoning Districts) to allow outdoor vending of fresh fruits and vegetables on school, library, community center, and religious assembly sites in residential zoning districts; Sections 20.40.100 and 20.40.520 of Chapter 20.40 (Commercial Zoning Districts) to allow outdoor vending of fresh fruits and vegetables in commercial zoning districts; Section 20.50.100 of Chapter 20.50 (Industrial Zoning Districts) to allow outdoor vending of fresh fruits and vegetables in industrial zoning districts; Section 20.70.100 of Chapter 20.70 (Downtown Zoning Districts) to allow outdoor vending of fresh fruits and vegetables, and to allow banquet facilities as ground-floor space uses, in downtown zoning districts; Sections 20.75.200 and 20.75.320 of Chapter 20.75 (Pedestrian Oriented Zoning Districts) to allow Certified Farmers' Markets, neighborhood agriculture and outdoor vending of fresh fruits and vegetables in pedestrian oriented zoning districts; Sections 20.80.810 and 20.80.820 of Chapter 20.80 (Specific Use Regulations, Outdoor Vending Facilities) to allow outdoor vending of fresh fruits and vegetables and other products in conformance with specific regulations without an administrative permit; and to renumber Sections 20.200.400 (Flag Lot) and 20.200.410 (Fixed Based Host) of Chapter 20.200 (Definitions) without substantive amendment; all to further implement the design for a healthful community major strategy, the vibrant neighborhoods goals and policies, the economic development goals and policies, and the land use goals and policies set forth within the Envision San José 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20.

## 2.2 (c) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29254 executed on May 17, 2013, submitted by the City Clerk.

Action: Ordinance No. 29254 was adopted. (11-0.)

## 2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of May 1, 2013. (Mayor)**
- (b) **Transportation and Environment Committee Report of May 6, 2013. (Liccardo)**
- (c) **Rules and Open Government Committee Report of May 8, 2013. (Mayor)**
- (d) **Public Safety, Finance, and Strategic Support Committee Report of May 16, 2013. (Constant)**
- (e) **Community and Economic Development Committee Report of May 20, 2013. (Herrera)**

Documents Filed: (1) The Rules and Open Government Committee Reports dated May 1 and May 8, 2013; (2) Transportation and Environment Committee Report, dated May 6, 2013; (3) Public Safety, Finance, and Strategic Support Committee Report, dated May 16, 2013; and (4) Community and Economic Development Committee Report, dated May 20, 2013.

Action: The Committee Reports were approved. (11-0.)

## 2.4 Mayor and Council Excused Absence Requests.

None provided.

## 2.5 City Council Travel Reports.

Council Member Rocha reported on his attendance at the Silicon Valley Leadership Group's Annual Advocacy event in Sacramento.

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

None provided.

- 2.7 (a) **Preliminary approval of the report as filed by the Hotel Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2013-2014, and set June 18, 2013 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. (Economic Development)**

- 2.7 (b) **Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2013-2014, and set June 18, 2013 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (c) **Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2013-2014, reduce the district boundaries and set June 18, 2013 at 1:30 p.m. as the date and time for the public hearing on the foregoing matters. CEQA: Exempt, File No. PP03-165. Council District 3. (Economic Development)**

Documents Filed: Three memoranda from Director of Economic Development/Chief Strategist Kim Welsh, each dated May 13, 2013, recommending adoption of resolutions.

Action: Resolution No. 76645, entitled: “A Resolution of the Council of the City of San José, Declaring its Intent to Levy Assessments for Fiscal Year 2013-2014 in the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”; Resolution No. 76646, entitled: “A Resolution of the Council of the City of San José, Declaring its Intent to Levy Assessments for Fiscal Year 2013-2014 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”; and Resolution No. 76647, entitled: “A Resolution of the Council of the City of San José, Declaring its Intent to Levy Assessments for Fiscal Year 2013-2014 in the Downtown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing”, were adopted. (11-0.)

- 2.8 (a) **Adopt a resolution authorizing the City Manager to ratify and approve an agreement with Santa Clara Valley Transportation Authority (VTA), retroactive from March 20, 2013 to August 31, 2015, to receive funding in the amount of \$255,000 for the management of public art enhancements as part of VTA’s Santa Clara – Alum Rock Bus Rapid Transit Project (BRT).**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the City-Wide Cultural Affairs Special Project appropriation in the amount of \$90,000; and**
  - (2) **Increase the estimate for Revenue from Local Agencies by \$90,000.**
- CEQA: Exempt, File No. PP11-017. (Economic Development/City Manager’s Office)**

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Welsh and Budget Director Jennifer Maguire, dated May 14, 2013, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

**2.8** Action: Ordinance No. 29257, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund – City-Wide Community and Economic Development for the Cultural Affairs Special Project; Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, Resolution No. 76648, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the General Fund”, and Resolution No. 76649, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

**2.9** **Approve an Agreement with the Silicon Valley Community Foundation in an amount not to exceed \$300,000, for a term of July 1, 2013 to December 31, 2014, for the purpose of implementing the Community Energy Championship Grant program. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)**

Documents Filed: City Council Action Request from Environmental Services Director Kerrie Romanow, dated June 4, 2013, recommending approval of an agreement.

Action: An agreement with the Silicon Valley Community Foundation in an amount not to exceed \$300,000, for a term of July 1, 2013 to December 31, 2014, for the purpose of implementing the Community Energy Championship Grant program, was approved. (11-0.)

**2.10** **Adopt a resolution authorizing the City Manager to negotiate and execute the Second Amendment to the Agreement with the San José Conservation Corps for the Event Recycling and Creek Cleanup and Riparian Work, and the Fourth Amendment to the Agreement with the San José Conservation Corps for Basic Park Support, to increase the hourly salary rate from \$22.00 to \$24.50, retroactive to March 11, 2013. CEQA: Strong Neighborhoods EIR Resolution No. 71045, File No. PP13-050. (Environmental Services/Parks, Recreation and Neighborhood Services)**

Documents Filed: City Council Action Request from Environmental Services Director Kerrie Romanow and Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated June 4, 2013, recommending adoption of a resolution.

Council Member Khamis pulled Item 2.10 to ask questions about the rate increase. Assistant City Manager Ed Shikada and PRNS Parks Manager, Mike Will, responded to Council Member Khamis’ query.

City Manager Debra Figone offered to provide an informational memorandum to clarify the procedure.

**2.10 (Cont'd.)**

Action: Upon motion by Council Member Kalra, seconded by Vice Mayor Nguyen and carried, Resolution No. 76650, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Second Amendment to the Agreement with San José Conservation Corps for the Event Recycling and Creek Cleanup and Riparian Work, and the Fourth Amendment to the Agreement with the San José Conservation Corps for Basic Park Support, to Increase the Hourly Salary Rate from \$22.00 to \$24.50, Retroactive to March 11, 2013”, was adopted. (8-2-1. Absent: Chu, Liccardo. Noes: Khamis.)

**2.11 Adopt a resolution initiating proceedings and setting a public hearing on June 18, 2013 at 1:30 p.m. for Council consideration of the reorganization of territory designated as Snell No. 30, which involves the annexation to the City of San José of approximately 258.94 gross acres of land generally bounded by Branham Lane to the north, Barron Park Drive to the west, Chynoweth Avenue to the south, and Snell Avenue to the east and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Envision San José 2040 General Plan Final Program EIR Resolution No. 76041. Council District 10. (Planning, Building and Code Enforcement)**

Documents Filed: City Council Action Request submitted by Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 4, 2013, recommending adoption of a resolution.

Action: Resolution No. 76651, entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Snell No. 30, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (11-0.)

**2.12 Authorize travel for City Attorney Richard Doyle to St. Louis, Missouri on June 14-15, 2013 to attend an International Municipal Lawyers Association (IMLA) Big Cities meeting. Source of Funds: City Attorney’s Office Non Personal Services Appropriation. CEQA: Not a Project; File No. PP10-069, Administrative Activities. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 22, 2013, requesting approval of a travel request.

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

- 2.13 (a) **Approve an Ordinance amending Chapter 4.80 of Title 4 of the San José Municipal Code to take effect retroactively on June 30, 2013 to add new Parts in order to establish the following funds:**
- (1) **San José Arena Capital Fund;**
  - (2) **Contingent Lien District Fund;**
  - (3) **Federal Grant Fund;**
  - (4) **Improvement District Fund;**
  - (5) **Multi-Source Housing Fund;**
  - (6) **Public Works Program Support Fund;**
  - (7) **San José Arena Enhancement Fund;**
  - (8) **San José/Santa Clara Treatment Plant Fund; and**
  - (9) **Supplemental Law Enforcement Services Fund.**
- (b) **Approve an Ordinance repealing various Parts of Chapter 4.80 of Title 4 and amending Section 17.02.300 of Chapter 17.02 of Title 17 of the San José Municipal Code as referenced below to take effect retroactively on June 30, 2013 to eliminate funds which have been previously closed out or are scheduled to be closed out in Fiscal Year 2012-2013:**
- (1) **1975 Rincon De Los Esteros Tax Allocation Bond Fund (Part 18; Sections 4.80.900 to 4.80.920);**
  - (2) **Comprehensive Employment and Training Act Fund (Part 6; Sections 4.80.250 to 4.80.270);**
  - (3) **Economic Development Enhancement Fund (Part 9; Sections 4.80.440 to 4.80.460);**
  - (4) **Emergency Communication System Support Fund (Part 51; Sections 4.80.3400 to 4.80.3410);**
  - (5) **Emergency Employment Act Fund (Part 10; Sections 4.80.500 to 4.80.520);**
  - (6) **Federal Local Law Enforcement Block Grant Fund (Part 50; Sections 4.80.3300 to 4.80.3330);**
  - (7) **Microfilm Book Fund (Part 15; Sections 4.80.750 to 4.80.760);**
  - (8) **Model Cities Planning and Program Fund (Part 16; Sections 4.80.800 to 4.80.820);**
  - (9) **Municipal Health Services Program Fund (Part 32; Sections 4.80.1750 to 4.80.1770);**
  - (10) **Public Improvement Fund (Part 21; Sections 4.80.1150 to 4.80.1160);**
  - (11) **Public Works Employment Act Fund (Part 22; Sections 4.80.1200 to 4.80.1250);**
  - (12) **Redevelopment Capital Projects Fund (Part 23; Sections 4.80.1300 to 4.80.1320);**
  - (13) **Repair and Demolition Fund (Section 17.02.300);**
  - (14) **Revenue Sharing Trust Fund (Part 24; Sections 4.80.1350 to 4.80.1370);**
  - (15) **Services for Redevelopment Capital Projects Fund (Part 48; Sections 4.80.3100 to 4.80.3140);**

**2.13 (Cont'd.)**

- (b) (16) Special Assessment Revolving Fund (Part 26; Sections 4.80.1450 to 4.80.1460);**
- (17) Special Aviation Fund (Part 27; Sections 4.80.1500 to 4.80.1520);**
- (18) William F. Prusch Jr. Trust Fund (Part 30; Sections 4.80.1650 to 4.80.1670); and**
- (19) Workers' Compensation Fund (Part 31; Sections 4.80.1700 to 4.80.1720).**

**CEQA: Not a Project, File No. PP10-068, Municipal Code or Policy change that involves no changes in the physical environment. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Jennifer Maguire, dated May 23, 2013, recommending approval of ordinances.

Action: Ordinance No. 29258, entitled: "An Ordinance of the City of San José Amending Chapter 4.80 of Title 4 of the San José Municipal Code to Add New Parts to Establish New Funds, to Take Effect Retroactively on June 30, 2013", and Ordinance No. 29259, entitled: "An Ordinance of the City of San José Repealing Various Parts of Chapter 4.80 of Title 4 of the San José Municipal Code to Eliminate Funds Which Have Been Closed Out or are Scheduled to be Closed Out in Fiscal Year 2012-2013, and Amending Section 17.02.300 of Chapter 17.02 of Title 17, to Take Effect Retroactively on June 30, 2013", were passed for publication. (11-0.)

- 2.14 (a) Approve the District 1 Korean Flag Raising as a City Council sponsored Special Event as rescheduled to August 15, 2013; and**
- (b) Approve and accept donations from various individuals, business, or community groups to support the event.**

**CEQA: Not a Project. (Constant)**

Documents Filed: Memorandum from Council Member Constant, dated May 31, 2013, requesting approval of a travel request.

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

- 2.15 (a) Approve travel by Council Member Constant to Washington, D.C. on June 26 – 29, 2013 to preside as Chair of the National League of Cities' (NLC) Public Safety & Crime Prevention Committee, and serve as the voting delegate at the NLC Annual Business Meeting. Source of Funds: Mayor & Council Travel Fund & Office Budget. (Constant)**
- (b) Request for an excused absence for Council Member Constant from the Regular Meeting of the Rules and Open Government Committee on June 26, 2013 due to Authorized City Business: presiding as Chair of the National League of Cities' (NLC) Public Safety & Crime Prevention Committee at the 2013 NLC Summer Policy Forum. (Constant)**

**2.15 (Cont'd.)**

Documents Filed: Memorandum from Council Member Constant, dated May 28, 2013, requesting an absence due to authorized City travel, and approval of a travel request.

Action: The absence and travel request were approved. (11-0.)

- 2.16 (a) Approve the San José Jazz Festival Flag Raising as a City Council sponsored Special Event; and**  
**(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

Documents Filed: Memorandum from Council Member Liccardo, dated May 22, 2013, recommending approval of a City Council sponsored special event.

Action: The San José Jazz Festival 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.)

- 2.17 (a) Approve the National Night Out as a City Council sponsored Special Event;**  
**(b) Approve and accept donations from various individuals, business, or community groups to support the event.**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated May 30, 2013, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The National Night Out 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.)

- 2.18 As recommended by the Rules and Open Government Committee on May 29, 2013, approve a support position for AB 416 (Gordon): California Air Resources Board: Local Emission Reduction Program. (Environmental Services)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated May 30, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: A support position for AB 416 (Gordon): California Air Resources Board: Local Emission Reduction Program, was approved. (11-0.)

**2.19 As recommended by the Rules and Open Government Committee on May 29, 2013, approve a support position for AB 637(Atkins, Principal Co-author – Torres): Housing Assistance. (Housing)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated May 30, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Khamis pulled Item 2.19 to ask questions. Director of Housing Leslye Corsiglia responded to Council Member Khamis' concerns.

Action: A support position for AB 637(Atkins, Principal Co-author – Torres): Housing Assistance., was approved. (9-0-2. Absent: Chu, Herrera.)

**2.20 As recommended by the Rules and Open Government Committee on May 29, 2013, approve a support position for AB 1051 (Bocanegra): Sustainable Communities for All Program, Housing. (Housing/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated May 30, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: A support position for AB 1051 (Bocanegra): Sustainable Communities for All Program, Housing. (Housing/Parks, Recreation and Neighborhood Services), was approved. (11-0.)

**2.21 As recommended by the Rules and Open Government Committee on May 29, 2013, approve a support position for AB 574 (Lowenthal): California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund: Sustainable Communities Strategies. (Transportation)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated May 30, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: A support position for AB 574 (Lowenthal): California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund: Sustainable Communities Strategies, was approved. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

- 3.3 Approve an ordinance amending Section 3.54.020.20 of Chapter 3.54 and Section 3.56.020.20 of Chapter 3.56 of Title 3 of the San José Municipal Code to clarify that the Police and Fire Health Trust Funds may be subtrusts of one trust pursuant to Section 115 of the Internal Revenue Code. CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy change that involves no changes in the physical environment. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 23, 2013, recommending consideration of an ordinance.

Action: Upon motion by Council Member Chu, seconded by Vice Mayor Nguyen and carried unanimously, Ordinance No. 29260, entitled: “An Ordinance of the City of San José Amending Section 3.54.020.20 of Chapter 3.54 and Section 3.56.020.20 of Chapter 3.56 of Title 3 of the San José Municipal Code for the Purpose of Clarifying that Two New Trusts may be Subtrust of One Trust Pursuant to Section 115 of the Internal Revenue Code Related to Retiree Healthcare Benefit Funding and Payment of Retiree Health Care Benefits”, was passed for publication. (11-0.)

- 3.4 Approve an ordinance amending Section 1.13.050 of Chapter 1.13 of Title 1 of the San José Municipal Code to clarify the definition of “public nuisance” to include nonpayment of certain City business taxes and transient occupancy (hotel) taxes. CEQA: Not a Project; File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 23, 2013, recommending approval of an ordinance.

City Attorney Richard Doyle responded to questions from Council.

Council Member Liccardo offered meeting disclosures.

Public Comments: Dave Hodges, San José Cannabis Community, argued that this ordinance would violate due process. John Lee commented that the community needs to be more thoroughly engaged.

Action: Ordinance No. 29261, entitled: “An Ordinance of the City of San José, Amending Section 1.13.050 of Chapter 1.13 of Title 1 of the San José Municipal Code to Clarify the Definition of Public Nuisance to Include the Conduct of Business or the Operation of a Hotel on Property in the City of San José for which Certain Taxes Assessed by the Director of Finance Remain Delinquent”, passed for publication. (11-0.)

**3.5 Adopt an ordinance amending Section 4.66.250 of Chapter 4.66 of Title 4 of the San José Municipal Code to increase the Marijuana Business Tax rate from 7% of gross receipts to 10% of gross receipts, effective on July 1, 2013. CEQA: Not a Project; File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (City Attorney's Office)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated May 23, 2013, recommending adoption of an ordinance. (2) Supplemental memorandum from Director of Finance Julia H. Cooper, dated May 28, 2013, providing detail regarding additional noticing efforts. (3) Proof of Publication of Notice of Public Hearing, executed on May 17, 2013, submitted by the City Clerk.

Public Comments: Expressing opposition to an increase in the tax rate and recommending further good faith discussion with the public, were Mike Bulea; Dave Hodges, San José Cannabis Community; John Lee and Johnny Lee.

City Attorney Richard Doyle clarified certain aspects of the taxation and responded to questions from Council.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried, Ordinance No. 29262, entitled: “An Ordinance of the City of San José Amending Section 4.66.250 of Chapter 4.66 of Title 4 of the San José Municipal Code to Increase the Rate of Taxation for Marijuana Business from 7% to 10% of Gross Receipts”, was passed for publication. (10-1. Noes: Kalra.)

**3.7 Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Director of Aviation for the Airport 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 May 17, 2013, recommending adoption of a Statement of Policy and City Council Questions.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Liccardo and carried unanimously, a Statement of Policy and City Council Questions related to the selection of a prospective Director of Aviation for the Airport Department as described in the staff memorandum, in compliance with City Charter Section 411.1, was adopted. (11-0.)

- 3.8 (a) Adopt a resolution:**
- (1) Implementing changes to the established retiree healthcare funding provisions for Executive Management and Professional Employees (Unit 99) who are in the Federated City Employees' Retirement System, effective June 23, 2013;**
  - (2) Implementing a provision that new employees hired into Unit 99, who elect to join Tier 2, would be ineligible to receive retiree healthcare benefits;**
  - (3) Implementing four-tier health and dental insurance coverage premium rates for employees in Unit 99, effective January 1, 2014.**
- (b) Direct the Administration to bring forward a recommendation for establishing a Retiree Healthcare Reserve in the General Fund as part of the 2012-2013 Annual Report for the one-time savings generated from the recommendations related to the changes to the retiree healthcare funding provisions for Unit 99 for 2013-2014.**

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

Documents Filed: (1) Memorandum from Deputy City Manager Alex Gurza, dated May 21, 2013, recommending adoption of a resolution. (2) Statement and Declaration of Conflict of Interest Form from Council Member Constant, dated June 4, 2013.

Council Member Constant was recused from voting due to receiving a pension from the City of San José.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76652, entitled: "A Resolution of the Council of the City of San José Implementing Changes to Retiree Healthcare and Four-Tier Insurance Premium Rates for Executive Management and Professional Employees (Unit 99)", was adopted. (10-0-0-1. Abstain: Constant.)

- 3.9 Adopt a resolution approving revisions to the City's Living Wage Policy, Council Policy 3-3, to require contractors to provide a minimum number of days of compensated time off to workers providing labor or service to the City pursuant to procurements initiated on or after June 5, 2013, and to amendments of existing agreements requiring City Council approval. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 22, 2013, recommending adoption of a resolution.

Director of Public Works David Sykes provided a presentation on revisions to the City's Living Wage Policy.

### 3.9 (Cont'd.)

Motion: Council Member Rocha moved approval to the Staff's recommendation. Council Member Herrera seconded the motion.

Department of Public Works Director of Equality Assurance, Nina Grayson, and Director of Public Works David Sykes responded to questions from Council.

Council Member Khamis voiced opposition to the proposed resolution, expressing that he feels the standard is too vague and would like to wait for something more fully thought out. City Manager Debra Figone explained the logic behind the Staff's recommendation, and Assistant City Manager Ed Shikada offered additional support.

Council Member Constant expressed disagreement with offering compensation to new and part time employees.

Action: On a call for the question, the motion carried, and Resolution No. 76653, entitled: "A Resolution of the Council of the City of San José Approving Revisions to Council Policy 3-3 Relating to Living Wage", was adopted. (8-3. Noes: Constant, Khamis, Oliverio.)

- 3.6
- (a) **Interview applicants for appointment to the Civil Service Commission**
  - (b) **Appoint one (1) member to the Civil Service Commission.**
  - (c) **If no appointment is made, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration.**
- (City Clerk)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated May 28, 2013, offering recommendations and information on Civil Service Commission appointments.

Two applicants were interviewed for one vacancy to the Civil Service Commission.

Action: Michael Wilcoxon was appointed to the Civil Service Commission to fill an unexpired term ending November 30, 2014.

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **Recommendation: As recommended by the Community and Economic Development Committee on May 20, 2013, accept the progress report on the implementation of the Urban Village component of the Envision San José 2040 General Plan, provide comments on the proposed approach for additional implementation, and provide additional direction on the proposed approach. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Planning, Building, and Code Enforcement/Economic Development)**

#### 4.1 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated June 3, 2013, recommending acceptance of the Staff progress report with additional direction. (2) Memorandum from Acting City Clerk Toni Taber, dated May 3, 2013, transmitting the recommendations of the Community and Economic Development Committee.

Director of Planning, Building and Code Enforcement Joseph Horwedel, provided a presentation on Urban Village Strategy implementation.

Public Comments: Expressing the need for more affordable housing and for engaging the community in the process, were Kevin Zwick (Housing Trust), Tina Morrill, and Michele Beasley (Greenbelt Alliance).

Mayor Reed recommended inclusion of the direction he offered in his memorandum of June 3, 2013.

Motion: Council Member Liccardo moved approval of Staffs' recommendations, with direction as outlined in Mayor Reed's memorandum of June 3, 2013, as noted below in "Action". Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and as recommended by the Community and Economic Development Committee on May 20, 2013, the progress report on the implementation of the Urban Village component of the Envision San José 2040 General Plan, providing comments on the proposed approach for additional implementation, and providing additional direction on the proposed approach, was accepted, with direction for staff to return to Council in September 2013 with models of an Urban Village in two or three of the City's highest priority Urban Village Plan areas that show a conceptual layout of office, residential and commercial development and information regarding infrastructure improvements, amenities and best available cost estimates. (11-0.)

#### 4.2 **Direct the Housing Department to conduct a nexus study analyzing the impact that residential development has on the need for affordable housing in San José and to return to the City Council with recommendations. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Housing)**

Documents Filed: (1) Joint memorandum from Council Members Kalra and Campos, dated May 31, 2013, recommending approval of staff recommendations with additional direction. (2) Joint memorandum from Vice Mayor Nguyen and Council Member Rocha, dated May 31, 2013, recommending approval of staff recommendations with additional direction. (3) Joint memorandum from Council Members Khamis and Constant, dated June 1, 2013, recommending approval of staff recommendations with additional direction. (4) Memorandum from Director of Housing Leslye Corsiglia, dated May 17, 2013, recommending completion of a Nexus Study. (5) Letter from the Law Foundation of Silicon Valley, dated June 4, 2013, encouraging approval of a nexus study. (6) Email correspondence from Joshua Howard, California Apartment Association, dated June 4, 2013, offering support to the staff recommendations.

## 4.2 (Cont'd.)

Public Comment: Expressing the need for affordable housing and offering support to a nexus study as recommended by staff, were: Rebecca Irelan (Willow Glen United Methodist Church), Michelle Fox, and Shannon Giovacchini (Downtown Streets Team); Polo Munoz (Mid-Pen Housing), Martha O'Connell, Jennifer Cater; Kevin Zwick (Housing Trust); Lourde and Daniella Castro, Tina Margalis, Tony Valladao, Carla Mitchler, Eileen Hunter, Elena Alvarado, Nadine Cortez, Ralph Sivilla, Maria Varela, Lorena Sanchez Castaneda, Maru Rosas, Poncho Guevara, Jolene Jones, Laura Diaz (Sacred Heart Community Service); Greg Plant and Sandy Perry (Affordable Housing Network); Deyan Ivanovic (First Presbyterian Church); Albert Hernandez; Gloria Chun Hou (League of Women Voters); Brian Li, Maria Noel Fernandez, Carlos Ignacio Navarro, Esha Menon, and Bill Mishler (Working Partnerships, USA); Danielle McCluskey (Catholic Charities of Santa Clara County); Diane Fisher (JCRC); Melissa Morris (New Foundation of Silicon Valley); Jenny Niklaus (EHC Life Builders); John Ravelo, Regina Moreno and Shiloh Ballard (SVLG); Bob Brownstein; Tomella; Brian Darrow; Jeremy Barousse (District 8 Community Round Table); and Matt Huerta (Neighborhood Housing Services Silicon Valley).

Anil Babbart (SCCADR) expressed concerns regarding the City's housing inventory, and Joshua Howard (California Apartment Association) offered that this is one-time revenue and to look at the issue in a broader context.

Council Member Constant commented that he does not believe this is the right direction, and would be registering a "no" vote, but needs to leave at 5:15 p.m. and won't be available for the vote.

Motion: Vice Mayor Nguyen moved approval of the Staff recommendations, including the memorandum she coauthored with Council Member Rocha and with the inclusion of the memorandum coauthored by Council Members Kalra and Campos, dated May 31, 2013. Council Member Herrera seconded the motion.

Council Member Khamis explained that he would not be supporting the motion on the floor as fees will be passed along to the buyers by the developers. Council Member Oliverio expressed his concerns that San José would be carrying the full burden, and this should be a regional issue.

Council Member Constant left the meeting at 5:15 p.m.

Mayor Reed requested an amendment to the motion, asking that staff provide an informational memorandum once a consultant is selected and providing the scope of work. The amendment was accepted by Vice Mayor Nguyen and Council Member Herrera.

#### 4.2 (Cont'd.)

Action: On a call for the question, the motion was carried, and the Housing Department was directed to conduct a nexus study analyzing the impact that residential development has on the need for affordable housing in San José and to return to the City Council with recommendations, with acceptance of Vice Mayor Nguyen and Council Member Rocha's memorandum dated May 31, 2013, and Council Member Kalra and Campos' memorandum dated May 31, 2013. Additionally, when a consultant has been selected, staff is directed to provide an informational memorandum outlining the scope of work. (8-2-1. Noes: Khamis, Oliverio. Absent: Constant.)

#### 4.3 **Conduct a Public Hearing and consider an ordinance rezoning the real property located on the west side of Bundy Avenue, approximately 200 feet northerly of Adra Avenue (425 Bundy Avenue) from the R-M Multi-Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District to allow for the development of up to four (4) single-family detached residences on a 0.29 gross acre site (Chitgar Kourosh, Owner). CEQA: Mitigated Negative Declaration Resolution to be considered for adoption. Planning Commission recommends approval (6-0-1). PDC12-014 – District 1. (Planning, Building, and Code Enforcement)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC12-014, dated May 14, 2013, recommending approval. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 23, 2013, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on May 3, 2013 submitted by the City Clerk.

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

Action: Upon motion by Council Member Kalra, seconded by Council Member Herrera, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 28342, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Bundy Avenue, Approximately 200 Feet Northerly of Adra Avenue (425 Bundy Avenue, APN 303-33-035) from the R-M Multiple Residence Zoning District to the R-M(PD) Planned Development Zoning District", was passed for publication, and Resolution No. 76654 entitled: "A Resolution of the Council of the City of San José Adopting the Chitgar Place Mitigated Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring the Reporting Program, was adopted. (10-0-1. Absent: Constant.)

**4.4 Conduct an ADMINISTRATIVE HEARING and consider an APPEAL of the Planning Director’s environmental determination of Categorical Exemption for a Special Use Permit (File No. SP12-033) to allow a Recycling Transfer Facility on a 3.83 gross acre site in the HI Heavy Industrial Zoning District, located at the northerly terminus of Yard Court (1255 Yard Court) (TSMM LLC, Owner; Eco Box, Applicant) SP12-033 – District 4. (Planning, Building, and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 10, 2013, recommending denial of an appeal. (2) Proof of Publication of Notice of Public Hearing, executed on May 3, 2013, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comment: (1) Bill Parkin, representing the appellant, Greenwaste, cited an inconsistency in the exemption and asked for a level playing field for all recycling facilities. (2) Glen Hulsenberg, representing California Waste Solutions, asked that equal consideration be given during the review process. Dennis Lowery, representing EcoBox asked that his special use permit be allowed.

Mayor Reed closed the public hearing.

Motion: Council Member Chu moved that the appeal be granted. The motion died for lack of a second.

Motion: Council Member Kalra moved acceptance of the staff’s recommendation, recommending that the appeal be denied. Vice Mayor Nguyen seconded the motion.

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

Action: On a call for the question, the motion carried, and Resolution No. 76655, entitled: “A Resolution of the Council of the City of San José Denying an Appeal of an Upholding the Director of Planning, Building and Code Environment’s Determination and Finding that the EcoBox Recycling Transfer Facility Project, for which a Special Use Permit was Issued, is Categorically Exempt from Environmental Review Under Section 15301 (Existing Facilities) of the Guidelines Promulgated Under the California Environmental Quality Act (CEQA)”, was adopted. (9-1-1. Noes: Chu. Absent: Constant.)

**4.5 Conduct a Public Hearing and consider an ordinance rezoning the real property located on the west side of Meridian Avenue, 130 feet northerly of Curci Drive (979 Meridian Avenue), from the A Agricultural Zoning District to the CP Commercial Pedestrian Zoning District to allow medical office use on a 0.37 gross acre site (Green Valley Enterprises, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR Resolution No. 76041. C13-003 – District 6 (Planning, Building, and Code Enforcement)**

#### 4.5 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C13-003, dated May 6, 2013, recommending approval. (2) Proof of Publication of Notice of Public Hearing, executed on April 26, 2013 submitted by the City Clerk.

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

Action: Upon motion by Council Member Oliverio, seconded by Council Member Campos and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 29264, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Meridian Avenue 130 Feet Northerly of Curci Drive on a 0.38 Gross-Acre Site (979 Meridian Avenue) to the CP Commercial Pedestrian Zoning District", was passed for publication. (10-0-1. Absent: Constant.)

#### 4.6 **Conduct a Public Hearing and consider an ordinance of the City of San José amending Title 20 of the San José Municipal Code (the Zoning Ordinance) to: amend Sections 20.80.1110, 20.80.1130, and 20.80.1150 of Chapter 20.80 (Specific Use Regulations, Recycling Facilities) to amend regulations for Reverse Vending Machines and Unattended Collection Containers in Small Collection Facilities; amend Sections 20.100.1240 and 20.100.1250 of Chapter 20.100 (Administration and Permits) to amend requirements for Display and Terms of Administrative Permits; add Section 20.80.1115 to Chapter 20.80 to establish a maximum number of allowable Administrative Permits for Unattended Collection Containers City-wide; and add Sections 20.200.877 and 20.200.1303 of Chapter 20.200 (Definitions) to add definitions for "Permittee" and "Unattended Collection Container"; and establish a retroactive effective date of May 7, 2013 for the applicability of Section 20.80.1115; all to further implement the Measurable Sustainability/Environmental Stewardship Major Strategy, the Measurable Environmental Sustainability Goals and Policies, and the Land Use Goals and Policies set forth within the Envision San Jose 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20. CEQA: Envision San José 2040 General Plan Final Program EIR Resolution No. 76041.**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 17, 2013, recommending adoption of an ordinance. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 4, 2013, providing a list of applications. (3) Proof of Publication of Notice of Public Hearing, executed on May 17, 2013, submitted by the City Clerk.

Mayor Reed opened the public hearing.

- 4.6** Public Comment: Julie Wedge (Campus California) suggested that reporting requirements should be considered. Julie Faqir and Tobin Costen (USAgain) offered support with changes in cap, and the importance of providing service to customers.

Mayor Reed closed the public hearing.

Council recessed at 6:28 to attend a flag-raising ceremony.

The Council of the City of San José reconvened in Regular Session at 7:01 p.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chu, Herrera, Kalra, Liccardo, Nguyen, Oliverio (7:30 p.m.), Rocha; Reed.

Absent: Council Members - Constant, Khamis.

**4.6 (cont'd.)**

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti responded to questions from Council.

Motion: Vice Mayor Nguyen moved approval of the Staff recommendations, with additional direction to limit to one application box per site. Council Member Rocha seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29265, entitled: “An Ordinance of the City of San José Amending Title 20 of the San Jose Municipal Code (the Zoning Ordinance) to Amend Sections 20.80.1110, 20.80.1130, and 20.80.1150 of Chapter 20.80 (Specific Use Regulations, Recycling Facilities) to Modify Regulations for Reverse Vending Machines and Unattended Collection Containers in Small Collection Facilities, to amend Sections 20.100.1240 and 20.100.1250 of Chapter 20.100 (Administration and Permits) to Modify Requirements for Display and Terms of Administrative Permits, to Add Section 20.80.1115 to Chapter 20.80 to Establish a Maximum Number of Allowable Administrative Permits for Unattended Collection Containers City-Wide, and to add Sections 20.200.877 and 20.200.1303 to Chapter 20.200 (Definitions) to add definitions for “Permittee” and “Unattended Collection Container”; and Establishing a Retroactive Effective Date of May 7, 2013 for the Applicability of Section 20.80.1115; All to Further Implement the Measurable Sustainability/ Environmental Stewardship Major Strategy, the Measurable Environmental Sustainability Goals and Policies, and the Land Use Goals and Policies Set Forth Within the Envision San Jose 2040 General Plan and to Make other Technical, Formatting or Other Nonsubstantive Changes Within Those Sections of Title 20”, passed for publication, with direction to limit to one application box per site. (8-0-3. Absent: Constant, Khamis, Oliverio.)

## NEIGHBORHOOD SERVICES

### 5.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on May 16, 2013:

- (a) **Accept the Evaluation Report for FY 2011-2012 San José Bringing Everyone's Strengths Together (BEST) and the Mayor's Gang Prevention Task Force (MGPTF);**
- (b) **Approve the Resource Allocation Plan for San José BEST and Safe Summer Initiative Grant (SSIG) Programs for FY 2013-2014;  
Approved.**
- (c) **Adopt a resolution:**
  - (1) **Authorizing the Parks, Recreation and Neighborhood Services (PRNS) Director to utilize San José Municipal Code 4.12.235 Unique Services Purchases to negotiate and execute agreements with unique service providers for amounts not to exceed \$250,000, via the BEST Program Emergency Fund in the 2013-2016 triennial period in the event of an emergency or a spike in a particular type of criminal activity amongst the MGPTF Target Population; and**
  - (2) **Authorizing the Parks, Recreation and Neighborhood Services Director to negotiate and execute all grant agreements, amendments and extensions for the 2013 Safe Summer Initiative Grants consistent with the FY 2012-2013 Adopted Budget.**

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

Documents Filed: (1) Memorandum from Acting City Clerk Toni Taber, dated May 23, 2013, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (2) Copy of the Filipino Youth Coalition commendation with forty-nine (49) letters from members of the FYP expressing their dedication to the coalition.

Acting Assistant Director of Parks, Recreation and Neighborhood Services Angel Rios introduced the report and urged support of the task force.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Campos and carried unanimously, the Evaluation Report for FY 2011-2012 San José Bringing Everyone's Strengths Together (BEST) and the Mayor's Gang Prevention Task Force (MGPTF), was accepted; the Resource Allocation Plan for San José BEST and Safe Summer Initiative Grant (SSIG) Programs for FY 2013-2014, was approved; and Resolution No. 76656, entitled: "A Resolution of the Council of the City of San José authorizing the Director of Parks, Recreation and Neighborhood Services to Utilize San José Municipal Code Section 4.12.235 to Negotiate and Execute Agreements with Unique Service Providers Via the Bringing Everyone's Strengths Together Program Emergency Fund in the 2013-2016 Triennial Period in the Event of an Emergency or a Spike in a Particular Type of Criminal Activity Amongst the Mayor's Gang Prevention Task Force Target Population, and to Negotiate and Execute all Grant Agreements, Amendments and Extension for the 2013 Safe Summer Initiative Grants", was adopted. (8-3. Absent: Constant, Khamis, Oliverio.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 Recommendation: Adopt a resolution authorizing the City Manager to exercise the City's option to extend the Advertising Concession Agreement between the City of San José and Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports on the same terms and conditions for three years from July 1, 2014 through June 30, 2017. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)**

Action: Deferred to June 18, 2013 per Administration.

- 6.2 As recommended by the Transportation and Environment Committee on May 6, 2013, accept the status report on the City's Deferred Maintenance and Infrastructure Backlog. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Public Works)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated May 23, 2013, transmitting the recommendations of the Transportation and Environment Committee.

Director of Public Works David Sykes and Director of Transportation Hans Larsen provided an overview of the deferred backlog summary and information on funding.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Campos and carried unanimously, the status report on the City's Deferred Maintenance and Infrastructure Backlog as recommended by the Transportation and Environment Committee, was accepted. (9-0-2. Absent: Constant, Khamis.)

## OPEN FORUM

None provided.

## ADJOURNMENT

The Council of the City of San José adjourned at 7:44 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
Acting City Clerk

rmk/6-4-13MIN