

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, NOVEMBER 19, 2013**

The Council of the City of San José convened in Regular Session at 9:08 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Herrera, Kalra, Liccardo, Oliverio. (Excused)

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:09 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to initiation of litigation in two (2) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) California Clean Energy Committee v. City, et al; Names of Parties Involved: California Clean Energy Committee, City of San José, Does 1-50, FWSH Partners II, LLC, Edward D. Storm and Does 51-100; Case No: 1-11-CV-212623; Amount of Money or Other Relief Sought: Injunctive Relief. (2) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, 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. (3) San José Retired Employees Association, et al. v. City et al; Names of Parties 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 1-50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No:

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

1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (4) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (5) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (7) AFSCME, et al. v. City of San José, et al. Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union

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

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: Salaries, Hours, Working Conditions, etc; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:55 a.m. and reconvened to Regular Session at 1:35 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo (1:37 p.m.), Nguyen, Oliverio (1:40 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

## **INVOCATION**

Father Demosthenes Paraskevaidis, Saint Nicholas Greek Orthodox Church, offered the Invocation. (District 1)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed, accompanied by the Third Graders, Queen of the Apostles Catholic School, led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended were approved, Item 5.2, CALEMA Grant Application for San José Family Camp was added to the Agenda and Item 5.1, Motion for Reconsideration Relating to Item 5.1 on the November 05, 2013 Council Agenda (Bond Funded Softball Facility Update) was heard last in the afternoon. (10-0-1. Absent: Oliverio.)

## CEREMONIAL ITEMS

### 1.1 Presentation of a commendation to the Ramirez family for their selection as the 2013 La Familia Award recipients. (Campos)

Mayor Reed and Council Member Campos recognized and commended the Ramirez Family for being selected as the 2013 La Familia Award recipients.

### 1.3 Presentation of a proclamation in support of the Shop San José Campaign to Women Impacting Public Policy and representatives of San José's neighborhood business associations declaring November 30, 2013 as "Small Business Saturday" in the City of San José. (Herrera/Economic Development) (Rules Committee referral 11/13/13)

Mayor Reed and Council Member Herrera recognized November 30, 2013 as "Small Business Saturday" in San José.

## CONSENT CALENDAR

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

- 2.1 (a) **Regular Minutes of August 13, 2013**  
(b) **Minutes of the Joint Council/Successor Agency to the Redevelopment Agency/Diridon Development Authority of August 13, 2013**  
(c) **Regular Minutes of August 20, 2013**  
(d) **Regular Minutes of August 27, 2013**

Documents Filed: (1) The Regular Minutes dated August 13, 2013, August 20, 2013 and August 27, 2013. (2) The Minutes of the Joint Council/Successor to the Redevelopment Agency/Diridon Development Authority dated August 13, 2013.

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

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29331 – Rezoning certain real property situated on the southeast corner of South Bascom Avenue and Woodard Road on a 0.73 gross-acre site (3702 South Bascom Avenue) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29331 executed on November 1, 2013, submitted by the City Clerk.

Action: Ordinance No. 29331 was adopted. (11-0.)

- 2.2 (b) **ORD. NO. 29332 – Amending Sections 3.36.610, 3.36.620 and 3.36.1600 of Chapter 3.36, the 1961 Police and Fire Retirement Plan, of Title 3 of the San José Municipal Code to require members to pay the member’s share of contributions when receiving supplemental military pay from the city.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29332 executed on November 1, 2013, submitted by the City Clerk.

Council Member Chu pulled Item 2.2(b) from the Consent Calendar to register a consistent no vote on the amendment to the ordinance.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried, Ordinance No. 29332 was adopted. (10-1. Noes: Chu.) (First Reading: 10-1. Noes: Chu.)

- (c) **ORD. NO. 29334 – Amending various sections of Title 24 of the San José Municipal Code to adopt the 2013 California Building, Residential, Plumbing, Mechanical, Electrical Codes, California Existing Building Code, California Historical Building Code, California Green Building Standards Code and 2012 International Existing Building Code with certain exceptions, modifications and additions.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29334 executed on November 8, 2013, submitted by the City Clerk.

Action: Ordinance No. 29334 was adopted. (11-0.)

- (d) **ORD. NO. 29338 – Rezoning certain real property situated on the northeast corner of Klein Road and Groesbeck Hill Drive on a 0.56 gross-acre site (2560 Klein Road) to the R-1-5 single-family residence zoning district.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29338 executed on November 8, 2013, submitted by the City Clerk.

Action: Ordinance No. 29338 was adopted. (11-0.)

- (e) **ORD. NO. 29339 – Rezoning certain real property situated on the southeast corner of Race Street and Parkmoor Avenue (APN: 264-06-096), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29339 executed on November 8, 2013, submitted by the City Clerk.

Action: Ordinance No. 29339 was adopted. (11-0.)

- 2.2 (f) **ORD. NO. 29340** – Rezoning certain real property situated on the northwest corner of Fallingtree Drive and North Capitol Avenue (APN: 24439042), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29340 executed on November 8, 2013, submitted by the City Clerk.

Action: Ordinance No. 29340 was adopted. (11-0.)

- (g) **ORD. NO. 29341** – Rezoning certain real property situated at the north east corner of South De Anza Boulevard and Via Vico (1090 South De Anza Boulevard); (APN: 37225015), to CP(PD) Planned Development Zoning District.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29341 executed on November 8, 2013, submitted by the City Clerk.

Action: Ordinance No. 29341 was adopted. (11-0.)

### 2.3 Approval of Council Committee Reports.

- (a) **Airport Competitiveness Committee Report of September 16, 2013.**
  - (b) **Rules and Open Government Committee Report of October 23, 2013.**
  - (d) **Rules and Open Government Committee Report of October 30, 2013.**
- (Mayor)
- (e) **Transportation and Environment Committee Report of November 4, 2013.**  
(Liccardo)

Documents Filed: (1) The Airport Competitiveness Report dated September 16, 2013. (2) The Rules and Open Government Committee Reports dated October 23, 2013 and October 30, 2013. (3) The Transportation and Environment Committee Report dated November 4, 2013.

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

- (c) **Community and Economic Development Committee Report of October 28, 2013.**  
(Herrera)

Action: Deferred to December 03, 2013 per City Clerk.

### 2.4 Mayor and Council Excused Absence Requests.

There were none.

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

Council Member Constant presented highlights of his trip with the League of California Cities to Southern California on November 6 and 7, 2013 to attend the Leaders' Workshop in order to prepare the 2014 work plan for the Public Safety Committee that he serves on as Vice Chairman. Council Member Constant will be serving as Chairman in 2014.

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

There were none.

## **2.7 Authorize the City Manager to:**

(a) **Execute an Open Purchase Order with Capstone Fire Management Systems, Inc. (San Diego, CA) for confined space rescue and emergency services at the San José-Santa Clara Regional Wastewater Facility for the period of November 22, 2013 through November 21, 2014, in an amount not-to-exceed \$400,000.**

(b) **Exercise four additional one-year options to renew the Purchase Order, subject to the annual appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)**

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated October 28, 2013, recommending authorization for the City Manager to execute an open purchase order and four additional one-year options to review the purchase order.

Action: The City Manager was authorized to execute an Open Purchase Order with Capstone Fire Management Systems, Inc. (San Diego, CA) for confined space rescue and emergency services at the San José-Santa Clara Regional Wastewater Facility for the period of November 22, 2013 through November 21, 2014, in an amount not-to-exceed \$400,000 and four additional one-year options to renew the Purchase Order, subject to the annual appropriation of funds. (11-0.)

## **2.8 Adopt a resolution authorizing the Director of Housing to execute a 45 year affordability restriction delegating monitoring to Habitat for Humanity East Bay/Silicon Valley that will be recorded on Habitat's property at 260 West Humboldt Street. CEQA: Exempt, File No. PP13-094. (Housing)**

Documents Filed: City Council Action Request from Director of Housing Leslye Corsiglia, dated October 28, 2013, recommending adoption of a resolution.

Action: Resolution No. 76845, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications", was adopted. (11-0.)

- 2.9 Recommendation: Adopt a resolution to:**
- (a) **Amend the City of San José Pay Plan effective November 19, 2013, to create the following classifications:**
    - (1) **Public Information Manager (1675)**
    - (2) **Department Information Technology Manager (1372)**
  - (b) **Amend the City of San José Pay Plan effective November 19, 2013, to delete the following obsolete classes:**
    - (1) **Plant Shift Supervisor I/II (3614/3618)**
    - (2) **Senior Plant Operator I/II (3613/3655)**
- CEQA: Not a Project, File No. PP10-068(b), Municipal Code change to Title 3, Personnel. (Human Resources)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated October 28, 2013, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Chu, seconded by Council Member Herrera and carried unanimously, Resolution No. 76846, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Execute an Affordability Restriction that Delegates the Monitoring of the Restriction to Habitat for Humanity”, was adopted. (11-0.)

- 2.10 Adopt a resolution initiating proceedings and setting January 14, 2014 at 1:30 p.m. for Council consideration of the reorganization of territory designated as Moorpark No. 22, which involves the annexation to the City of San José of approximately 1.137 gross acre of land located at the west side of Thornton Way, approximately 260 feet north of Maywood Avenue and the detachment of the same from the appropriate special districts including West Valley Sanitation, Co Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Mitigated Negative Declaration, Resolution to be adopted with Item 10.6. Council District 6. (Planning, Building and Code Enforcement)**

Documents Filed: (1) City Council Action Request from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 28, 2013, recommending adoption of a resolution. (2) Two letters from Karen Bowman, dated November 11, 2013 and November 15, 2013, regarding the reorganization of territory.

Action: Resolution No. 76847, 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 Moorpark No. 22, Described More Particularly Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (11-0.)

**2.11 Adopt the following Appropriation Ordinance amendments in the Federal Drug Forfeiture Fund:**

- (a) Increase the Police Department's Non-Personal/Equipment appropriation for the San José Gun Buy Program in the amount of \$20,000.**
- (b) Decrease the Ending Fund Balance by \$20,000.**

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

Documents Filed: Memorandum from Acting Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated November 1, 2013, recommending adoption of appropriation ordinance amendments.

Action: Ordinance No. 29342, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Federal Drug Forfeiture Fund for the Non-Personal/Equipment Appropriation for the San José Gun Buy Back Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0.)

**2.12 (a) Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2013 UASI grant allocation in the amount of \$983,000 and to negotiate and execute additional amendments and related documents without further Council action.**

**(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**

- (1) Establish a City-Wide Expenses appropriation to the Police Department for the Urban Areas Security Initiative Grant - Police 2013 in the amount of \$354,000.**
- (2) Establish a City-Wide Expenses appropriation to the Fire Department for the Urban Areas Security Initiative Grant - Fire 2013 in the amount of \$420,000.**
- (3) Increase the estimate for Revenue from the Federal Government by \$774,000.**

**CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Police/Fire/ City Manager's Office)**

Documents Filed: Memorandum from Acting Chief of Police Larry Esquivel, Acting Fire Chief Ruben Torres and Budget Director Jennifer Maguire, dated November 1, 2013, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

**2.12 (Cont'd.)**

Action: Resolution No. 76848, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement Between the City of San José and the City and County of San Francisco, Acting as Fiscal Agent for the Bay Area Urban Areas Security Initiative (UASI), To Accept the 2013 UASI Grant Allocation in the Amount of \$983,000 and To Negotiate and Execute Additional Amendments and Related Documents Without Further Council Action”; Ordinance No. 29343, entitled: “An Ordinance of the Council of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the General Fund for the Urban Areas Security Initiative Grant – Fire 2013; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76849, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76677 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2013-2014 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

**2.13 Adopt a resolution summarily vacating a portion of South Baywood Avenue, north of Tisch Way. CEQA: Mitigated Negative Declaration, File No. PDC10-018. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated October 28, 2013, recommending adoption of a resolution.

Action: Resolution No. 76850, entitled: “A Resolution of the Council of the City of San José Summarily Vacating a Portion of South Baywood Avenue North of Tisch Way”, was adopted. (11-0.)

**2.14 Approval of the Downtown San José Property-Based Business Improvement District Annual Financial Report for FY 2012-13. The report provides information to the public and the property owners in the District regarding the use of the assessments and the management and operations of the District. CEQA: Exempt, File No. PP12-053. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans Larsen, dated October 28, 2013, recommending approval of the report.

Action: The Downtown San José Property-Based Business Improvement District Annual Financial Report for FY 2012-2013 was approved. (11-0.)

**2.15 As recommended by the Rules and Open Government Committee on November 6, 2013:**

- (a) **Approve the Commodore Park Grand Opening as a City Council sponsored Special Event.**
- (b) **Approve and accept donations from various individuals, businesses or community groups to support the event.**

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

**[Rules Committee referral 11/6/13 – Item G(2)]**

**2.15 (Cont'd.)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 7, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Commodore Park Grand Opening as a City Council sponsored Special Event was approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

**2.16 As recommended by the Rules and Open Government Committee on November 6, 2013, adopt a resolution approving revisions to Council Policy 9-11, “Policy for Distribution of Tickets or Passes to City/Agency Officials.” CEQA: Not a Project, File No. PP10-068(c), Code or policy change that involves no physical changes to the environment. (City Attorney)**

**[Rules Committee referral 11/6/13 – Item G(3)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 7, 2013, transmitting the recommendations of the Rules and Open Government Committee.

City Attorney Richard Doyle responded to questions and concerns from Council Member Liccardo.

Motion: Council Member Liccardo moved approval of the Staff recommendations with direction to Staff to include an explicit reference to the portions of the gift policy that relate to the acceptance of tickets. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76851, entitled: “A Resolution of the Council of the City of San José Approving Revisions To City Council Policy 9-11 Regarding Distribution of Tickets to City Officials”, was adopted, as amended, with Staff directed to include an explicit reference to the portions of the gift policy that relate to the acceptance of tickets. (11-0.)

**2.17 Adopt a resolution:**

- (a) Approving the terms of compensation increasing the salary and reducing the deferred compensation for the City Manager, Ed Shikada, effective December 21, 2013.**
- (b) Amending the City of San Jose Pay Plan effective December 21, 2013, to increase the compensation for the position of City Manager from \$227,975 to \$250,000.**
- (c) Authorizing the City Clerk to execute an employment agreement between the City of San Jose and Ed Shikada in accordance with the general terms of compensation described in the memorandum to the Rules and open Government Committee from Mayor Chuck Reed, dated November 5, 2013.**

**(Mayor)**

**(Rules Committee referral 11/13/13)**

## 2.17 (Cont'd.)

Documents Filed: Replacement memorandum from City Clerk Toni J. Taber, CMC, dated November 15, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Kalra stated that an interim position for Assistant City Manager Edward K. Shikada would be more appropriate.

Mayor Reed pointed out that the compensation for the position has not been changed.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76852, entitled: "A Resolution of the Council of the City of San José Approving the Terms of Compensation for the City Manager, Ed Shikada, Effective December 21, 2013 and Ending July 31, 2015; Amending the Pay Plan Effective December 21, 2013 and Authorizing the City Clerk to Execute an Agreement Between the City of San José and Ed Shikada", was adopted. (9-2. Noes: Kalra, Rocha.)

### END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

- 3.3 As recommended by the Rules and Open Government Committee on October 30, 2013, approve an ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to amend Section 12.06.810 and to add a new Part 11 related to Officeholder/Candidate Legal Defense Funds. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy. (City Attorney)  
[Rules Committee referral 10/30/13 – Item G(4)]**

Action: Deferred to December 03, 2013 per Administration

- 3.4 Acceptance of report and presentation on retirement board governance and direction to City staff on possible actions related to the report. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated November 7, 2013, recommending acceptance of the report.

Mayor Reed presented introductory comments.

Council Member Constant offered background information. Tom Iannucci, Cortex Applied Research provided the presentation.

City Attorney Richard Doyle and Tom Iannucci, Cortex Applied Research, responded to Council questions and concerns.

### 3.4 (Cont'd.)

Motion: Council Member Constant moved approval of report and presentation, with direction to the City Attorney and the City Manager to: (1) Work towards developing a recommendation to implement the changes contemplated in the Cortex Applied Research Inc. Report as a package, including working with outside Retirement Counsel (Pension and Retirement for City Council). (2) Return to the Rules and Open Government Committee with a work plan of the items that are necessary to accomplish, which includes the stakeholder outreach, and to have a final product on a Council Agenda in time for either the June or November Election in 2014, and to ask that each of the Boards weigh in on the issue of whether they support the Cortex recommendations as a package, that is implemented in one step. Council Member Khamis seconded the motion.

Public Comments: Robert Sapien, President, San José Firefighters Local 230, expressed opposition to the consolidation of plans but would like to be involved in more discussion on autonomy.

Council Member Rocha expressed support to reintroducing the \$50.00 stipend at some point.

Council Member Constant requested to amend the motion to include specific direction to the City Attorney and the City Manager that the Cortex response to the concerns will be forwarded by the Administration to each Council Member. The issue of any potential changes in stipends or pay, the Council will expressly state that they will deal with those as part of the final formation of this package and not take it as a separate agenda item and that it will be incorporated into the final recommendations for the ballot (or not). The amendments were accepted by Council Member Khamis.

Action: On a call for the question, the motion carried unanimously, the report and presentation were accepted. The City Attorney and City Manager were directed to: (1) Work towards developing a recommendation to implement the changes contemplated in the Cortex Applied Research Inc. Report as a package, including working with outside Retirement Counsel (Pension and Retirement for City Council). (2) Return to the Rules and Open Government Committee with a work plan of the items that are necessary to accomplish, which includes the stakeholder outreach, and to have a final product on a Council Agenda in time for either the June or November Election in 2014, and to ask that each of the Boards weigh in on the issue of whether they support the Cortex recommendations as a package, that is implemented in one step. (3) Including, specific direction to the City Attorney and the City Manager that the Cortex response to the concerns will be forwarded by the Administration to each Council Member. The issue of any potential changes in stipends or pay, the Council will expressly state that they will deal with those as part of the final formation of this package and not take it as a separate agenda item and that it will be incorporated into the final recommendations for the ballot (or not). (11-0.)

- 3.5 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Association of Building, Mechanical and Electrical Inspectors, and authorize the City Manager to execute an agreement with a term of July 1, 2013, to June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)  
(Rules Committee referral 11/13/13)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated November 12, 2013, recommending adoption of a resolution.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76853, entitled: "A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and the Association of Building, Mechanical and Electrical Inspectors, With a Term of July 1, 2013 – June 30, 2014", was adopted. (11-0.)

## **COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.1 Approve an ordinance amending Chapter 17.12 of the San José Municipal Code to:**
- (a) Adopt the 2013 edition of the California Fire Code (CFC), and the Standards referenced in 2013 CFC.**
  - (b) Approve an ordinance to adopt the 2013 California Fire Code with the local amendments regarding fire suppression and alarm requirements, firefighter breathing air replenishment system for high-rise buildings, and the requirements relating to the design and installation of fire protection and special systems and hazardous material systems.**

**CEQA: Exempt, File No. PP13-082. (Planning, Building and Code Enforcement/Fire)**

Action: Deferred to December 03, 2013 per Administration

- 4.2 Conduct a public hearing and adopt a resolution vacating a portion of Sixth Street between Virginia Street and Martha Street and reserving a public service easement over the entire area being vacated. CEQA: Mitigated Negative Declaration, File No. PDC07-035. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated October 28, 2013, recommending conducting a public hearing and adoption of a resolution.

Mayor Reed opened the Public Hearing.

Public Comments: There was no testimony from the floor.

Mayor Reed closed the Public Hearing.

## 4.2 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76854, entitled: "A Resolution of the Council of the City of San José Vacating a Portion of Sixth Street Between Virginia Street and Martha Street and Reserving a Public Service Easement Over the Entire Area Being Vacated", was adopted. (10-0-1. Absent: Constant.)

## 4.3 **Report on bids and award of a construction contract for 5065-West Evergreen Park to the low bidder, Star Construction, Inc., for the base bid and two Add Alternates in the total amount of \$1,200,000, and approval of a five percent contingency in the amount of \$60,000. CEQA: Exempt, File No. PP07-159. Council District 7. (Public Works)**

Documents Filed: (1) Memorandum from Vice Mayor Nguyen, dated November 14, 2013, recommending approval of the Staff recommendations. (2) Memorandum from Director of Public Works David Sykes, dated October 28, 2013, recommending approval of the report on bids and the award of the contract to the low bidder with related contingency.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the report on bids and award of a construction contract for 5065-West Evergreen Park to the low bidder, Star Construction, Inc., for the base bid and two Add Alternates in the total amount of \$1,200,000, and approval of a five percent contingency in the amount of \$60,000 were approved. (10-0-1. Absent: Constant.)

## NEIGHBORHOOD SERVICES

### 5.1 (a) **Consider a motion to reconsider Council Action on November 5, 2013 regarding Item 5.1 Bond Funded Softball Facility Update. (Oliverio)**

*Heard last in the afternoon.*

Documents Filed: (1) Memorandum from Council Member Herrera, dated November 18, 2013, recommending reconsideration of the Council Action on November 5, 2013 and to approve the memorandum from Mayor Reed and Council Members Herrera and Liccardo, dated October 30, 2013, with direction to Staff to pursue negotiations with the owners of the Arcadia site for the development of a softball facility with added direction to negotiate a fourth ball field at the Arcadia site. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated November 15, 2013, transmitting the recommendations of the Rules and Open Government Committee. (3) Letter from Jeffrey V. Smith, County Executive, dated November 15, 2013, regarding the clarification of the Board's action related to the Fairgrounds. (4) Eleven emails of support from the public all dated November 19, 2013, expressing support to a softball facility located at the Arcadia site.

**5.1 (Cont'd.)**

Motion: Council Member Oliverio moved approval to reconsider the Council action on November 5, 2013. Council Member Herrera seconded the motion.

Public Comments: The following speakers expressed support to reconsider Council action on November 5, 2013 and to consider the Arcadia site for the development of the Bond-Funded Softball Facility: Toby Strite, Evergreen Little League; Franklin Collazo, Joshua Barousse, District 8 Community Roundtable; Nichole Edraos, Rose Amador, Center for Training and Careers; Rose Naranjo, Ed Snyder, East Valley Pentecostal Church; Victor Garza, La Raza Roundtable; Anita Bowles, Manoj Joshi, Maria Lopez, Eastside Meadowfair, John Trejo, East Valley P.A.L. Softball League; Angela Tirado, Eastside Little League; John Alvarez and Jerry Soriano.

Patrick Pizzo expressed support to the Santa Clara County Fairgrounds site.

Action: On a call for the question, the motion carried, the motion to reconsider prior Council action on November 5, 2013 regarding the Measure P Bond Funded Softball Facility Site was not approved. (5-6. Noes: Campos, Chu, Constant, Kalra, Khamis, Rocha.)

- (b) If the motion for reconsideration is approved:**
- (1) Accept the Measure P Bond Funded Softball Facility Site Selection Study (“Study”).**
  - (2) Direct staff to proceed with next steps toward implementing recommendations outlined in the Study as follows:**
    - (a) Pursue negotiations with the owners of the Arcadia site for the development of a softball facility at that site with a minimum of three adult sized lighted softball fields.**
    - (b) Return to the City Council in 2014 with recommendations on how to use any remaining reserves in the park bond funds.**

**CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Parks, Recreation and Neighborhood Services)**  
**(Rules Committee referral 11/13/13)**

Item 5.1(b) was not heard.

- 5.2**
- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.**
  - (b) Adopt a resolution authorizing the City Manager or her designee to execute the California Emergency Management Agency (CALEMA) application and all related documents pertaining to damages at San Jose Family Camp as a result of the Yosemite Rim Fire.**

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

## 5.2 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated November 18, 2013, recommending waiving the 10-day noticing requirement, approving its placement on the agenda and adoption of a resolution.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the 10-day noticing requirement was waived, the recommendation was formally approved and placed on the agenda; Resolution No. 76855, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Parks Director or City Manager's or Park Director's Designee to Execute and Submit an Application to the State of California Emergency Management Agency for State Disaster Assistance, To Accept the Funds if Awarded and To Execute All Related Documents", was adopted. (10-0-1. Absent: Constant.)

## ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:53 p.m.

## **RECESS/RECONVENE**

The City Council recessed at 4:53 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - All Present.

City Clerk Toni J. Taber, CMC read the requests for continuance of the applications. Upon motion by Council Member Constant, seconded by Council Member Rocha and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

## **CEREMONIAL ITEMS**

### **1.2 Presentation of a proclamation declaring the month of November as “Sikh Awareness Month” in the City of San José. (Kalra)**

Mayor Reed and Council Member Kalra recognized the month of November as “Sikh Awareness Month” in San José and recognized and commended the Coyote Creek Troop 600 Sikh Boy Scout Troop. Troop 600 is the only Sikh Troop in the United States.

## **GENERAL PLAN PUBLIC HEARINGS**

### **10.1 Tentative approval of General Plan Consent Calendar items.**

No General Plan Consent Calendar items at this time.

### **10.2 Tentative approval of General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Open Space, Parklands and Habitat to Public/Quasi-Public to allow a public elementary school on a 1.4 gross acres site located on the south east corner of Goodyear Street and Pepitone Avenue (1197 Lick Avenue) (City of San José, Owner). CEQA: Mitigated Negative Declaration, File No. PP12-091. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-0-1, Commissioner O’Halloran abstained) recommended approval. (Planning, Building and Code Enforcement)**

**GP13-003 – District 3**  
**(Deferred from 10/22/13 – Item 10.2)**

*Note: Heard Jointly with Items 11.2 And 11.3. See Items 11.2 and 11.3 for other actions.*

## 10.2 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, Vice Mayor Nguyen and Council Member Herrera, dated November 15, 2013, recommending approval of the Staff recommendations. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 30, 2013, transmitting the decision of the Planning Commission. (3) Statement and Declaration of Conflict of Interest from Council Member Liccardo, dated November 19, 2013, disclosing that his wife is an employee of Rocketship Education. (4) Proof of Publication of Notice of Public Hearing, executed on September 11, 2013, submitted by the City Clerk.

Council Member Liccardo recused himself from participating in the Council discussion and voting on Items 10.3, 11.2 and 11.3 and disclosed that his wife is an employee of Rocketship Education.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti provided introductory comments.

Motion: Vice Mayor Nguyen moved tentative approval of the memorandum she cosigned with Mayor Reed and Council Member Herrera, dated November 15, 2013, recommending tentative approval of the Staff recommendations. Council Member Herrera seconded the motion.

Mayor Reed opened the public hearing;

Erik Schoennauer, representing the Applicant, Rocketship Education and Launchpad Development, spoke to the merits of the project.

Public Comments: The following speakers expressed comments for and against the Rocketship School at the proposed location, requested a middle school and/or park in lieu of an elementary school, expressed opposition to the school, urged Council to deny the request to build the school, voiced several concerns about Rocketship Foundation including low test scores for the students and the solvency of the Foundation: Gemma Abels, Cynthia Broyles, Jerry Broyles, Alma Neighborhood Association; Arcelia Ramirez, Maria Claudio, Patty Lozano, Jose Tellez, Maria Marcelo, Jesus Hernandez, Jazmine Lozano, Jelisa O'Hara, Rachel Zalkind, Marilia Assad Nakamoto, Natalie Grazian, Angela Bymaster, Brett Bymaster, Diego Alvillar, Spencer Fairgrieve, Will Keith, Maria Hernandez, Washington Elementary School; Aurelia Sanchez, Erika Camacho, Marisol Barrajas, Yadira Aweguín, Eliza Bawagam, Janet Duran, Esmeralda Orrelas, Rosario Cruz, Janis Hubbs, Rosa Valdez, Dr. Roxana Marachi, Pam Foley, San José Unified School District; Stephen Hulse, Erika Yeremey, Allison Pruitt, Jessica Dimpel, Ana Silva, Lori Valenzuela, Elizabeth Robledo, Alice Antonini, Silvia Rendon, Carolina Vanek, Mario Coelho, Bradley Vanek, Jessica Davis, Linda Rahmer, Juanita Gonzalez, Isabel Flanagan, Maureen Hansen, Maryanne Guzman, Delphine Coelho, Sandra Herrera, Becky Burnett, Carissa Piedra, Darren Battaglia, Gina Gates, Dennis Raj, Deanna Quinones, Blanca Carbajal, Irvin Martinez, Alma Rocketship; Roland LeBrun,

## 10.2 (Cont'd.)

### Public Comments: (Cont'd.)

Eddie Navarez, Jessie Rodriguez, Keith Bohren, Paul Alvarado, Daniel Valdespiro, Martha Rivera, David Rivera, Rocketship Education; Henry Galdamez, Hector Guzman, Oscar Martinez, Rocketship Discovery, Jason Fromoltz, Valdina Luna and Jennifer Fernandez.

Mayor Reed closed the Public Hearing.

Mayor Reed, Vice Mayor Nguyen, Council Members Herrera, Khamis and Constant expressed support to the motion on the floor.

Council Member Campos advised that this was not an appropriate location for a school. Council Member Campos pointed out that the neighborhood is currently impacted by a freeway near a major transit center which may have high speed rail in the future.

Council Members Rocha, Kalra, Rocha and Chu expressed opposition to the motion on the floor citing impacts such as heavy traffic, safety issues and that it was not the best location for a school.

On a call for the question, the motion failed due to the lack of majority. (5-5-0-1. Noes: Campos, Chu, Kalra, Oliverio, Rocha. Abstain: Liccardo.)

Second Motion: Council Member Oliverio moved approval to defer this item to date to be determined. Council Member Herrera seconded the motion.

Director of Planning, Building and Code Enforcement Joseph Horwedel recommended that Staff return with this item at the next scheduled General Plan Hearing.

Council Member Oliverio withdrew the motion.

City Attorney Richard Doyle and Director of Planning, Building and Code Enforcement Joseph Horwedel offered additional clarifications.

Brief Council discussion ensued.

Action: The original motion failed for lack of majority. (5-5-0-1. Noes: Campos, Chu, Kalra, Oliverio, Rocha. Abstain: Liccardo.) The second motion was withdrawn. Third Motion: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Items 10.2, 11.2 and 11.3 were deferred and the hearing was continued to August 2014. (10-0-0-1. Abstain: Liccardo.)

- 10.3 Tentative approval of a General Plan amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation of a 308-acre portion of the San José/Santa Clara Water Pollution Control Plant from Public/Quasi-Public to Industrial Park (81 acres), Light Industrial (31 acres), Neighborhood Community Commercial (5 acres), Combined industrial/Commercial (11 acres) and Open Space, Parklands and Habitat (80 acres) located at the southern end of the San Francisco Bay within the northernmost portion of the City of San José immediately north of State Route 237, west of Interstate 880 (700 Los Esteros Road, APN 01 5-31-024+). (Cities of San José and Santa Clara, Owner). CEQA: San José/Santa Clara Water Pollution Control Plant Master Plan EIR, File No. PP11-043 - Resolution to be adopted with Item 11.4. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission (5-0-2, Abelite and Bit-Badal absent) recommends approval with the Nortech Parkway extension moved to the south of the designated Open Space, Parklands and Habitat Area. (Planning, Building and Code Enforcement)  
GP13-020 – District 4**

*Note: Heard jointly with Item 11.4. See Item 11.4 for other actions taken.*

Documents Filed: (1) Memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Rocha, dated November 13, 2013, recommending approval of the Staff recommendations. (2) Memorandum from Council Members Liccardo and Kalra, dated November 15, 2013, recommending approval of the Staff recommendations with modifications to the Land Use Component. (3) Memorandum from Council Member Chu, dated November 18, 2013, recommending approval of the memorandum from Council Members Liccardo and Kalra, dated November 15, 2013, with additional amendments. (4) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated November 4, 2013, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PP11-043 and GP13-020, dated October 18, 2013, and the recommendation of the Planning Commission. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 14, 2013, providing additional analysis in response to issues raised in comment letters received on the Final EIR for the San José/Santa Clara Water Pollution Control Plant Master Plan which is comprised of the Draft EIR and the First Amendment to the Draft EIR for the project at the October 30, 2013 Planning Commission Meeting and in the Notice of Appeal filed on November 4, 2013. (5) Proof of Publication of Notice of Public Hearing, executed on October 11, 2013, submitted by the City Clerk. (6) Zero Emission Recreational Vehicle Park Proposal dated November 19, 2013 developed and submitted by Zero Emissions Recreational Organization, Inc. (7) Letter from Supervisor David Cortese, dated November 19, 2013, recommending that Council not certify the EIR for the Water Pollution Control Plant. (8) Eleven letters all dated November 19, 2013 in support of the proposed Water Pollution Control Plant Master Plan. (9) Approximately 1,260 letters all dated November 19, 2013 in support to protecting the burrowing owl population at this location.

Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Environmental Services Kerrie Romanow offered the Staff report.

### 10.3 (Cont'd.)

Mayor Reed opened the Public Hearing and the Administrative Hearing on Item 11.4.

Shani Kleinhaus, Appellant, Santa Clara Valley Audubon Society, urged the Council to vote against certifying the EIR tonight and to allow more public input first. She expressed concern about any major development proposed near the baylands, which support Burrowing Owls and other species of plants, birds and other animals. Ms. Kleinhaus voiced support of the changes proposed by Council Members Liccardo and Kalra in the joint memorandum dated November 15, 2013.

Public Comments: The following speakers provided comments about the burrowing owls, expressed support to the memorandum from Council Members Liccardo and Kalra, expressed support to the letter from Supervisor David Cortese, and urged the Council to keep the area as open space and not develop the land: Jim Reed, San José Silicon Valley Chamber of Commerce; Jonah Probell, Alviso Neighborhood Association; Lynne Trulio, Dean Stanford, Philip Higgins, Mike Ferreira, Sierra Club; Greg Matter, Silicon Valley Manufacturing Roundtable; Esther Alday, Michele Beasley, Greenbelt Alliance; Jean Dresden, Richard Ruiz and Roland LeBrun.

Mayor Reed closed the Public Hearing and the Administrative Hearing.

Director of Planning, Building and Code Enforcement Joseph Horwedel, Director of Environmental Services Kerrie Romanow, Deputy Director of Economic Development Nanci Klein and City Attorney Richard Doyle responded to Council questions and concerns.

Mayor Reed encouraged the Council to support the Staff's preferred alternative.

Motion: Vice Mayor Nguyen moved tentative approval of the proposed General Plan Amendment, the memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Rocha, dated November 15, 2013, tentatively approving the Planning/Staff recommendations to: (1) Adopt the Final Environmental Impact Report (FEIR) for the Plant Master Plan. (2) Adopt the Plant Master Plan with 1,173 acres designated for habitat, including 180 acres for burrowing owls. (3) Approve a General Plan Amendment as recommended in the Staff report. Council Member Herrera seconded the motion.

Substitute Motion: Council Member Chu moved tentative approval of his memorandum dated November 18, 2013. The motion failed for lack of a second.

Council Member Khamis requested to amend the motion to include Items (1)-(3) from the memorandum from Council Members Liccardo and Kalra, dated November 15, 2013.

City Attorney Richard Doyle suggested that Council direct Staff at the project level review and analysis, to look at alternatives to the current proposed alignment of the Nortech Parkway.

### 10.3 (Cont'd.)

The amendment to the motion from Council Member Khamis, Item (1), as amended and Item (2) contained in the memorandum from Council Members Liccardo and Kalra, were accepted by Vice Mayor Nguyen and Council Member Herrera.

Council Members Liccardo and Kalra expressed opposition to the current motion on the floor.

Action: On a call for the question, the original motion carried, the City Council tentatively approved the proposed General Plan Amendment, the memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Rocha, dated November 15, 2013, tentatively approving the Planning/Staff recommendations to: (1) Adopt the Final Environmental Impact Report (FEIR) for the Plant Master Plan. (2) Adopt the Plant Master Plan with 1,173 acres designated for habitat, including 180 acres for burrowing owls. (3) Approve a General Plan Amendment as recommended in the Staff report. The memorandum from Council Members Liccardo and Kalra, dated November 15, 2013, was tentatively approved, as amended: (1) At the project level review and analysis, look at alternatives to the current proposed alignment of the Nortech Parkway. (2) Reconfigure Plan to ensure that solar power development does not occur within or adjacent to wetlands or designated open space. (8-3. Noes: Chu, Kalra, Liccardo.)

### 10.4 Adoption of Four (4) Urban Village Plans to implement the Urban Village strategy of the Envision San José 2040 General Plan, including the following minor General Plan land use designation and Village Boundary line changes:

- (a) **Roosevelt Park Urban Village Plan:** Approval of a General Plan amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation on a 0.71 acre portion of the Urban Village area located on the south side of East Santa Clara Street, approximately 240 feet west of US Highway 101 from Urban Village to Neighborhood/Community Commercial.
- (b) **Five Wounds Urban Village Plan:** Approval of a General Plan amendment to expand the Plan area boundary in the Envision San José 2040 General Plan Land Use/Transportation Diagram in one (1) location on the east side of North 26<sup>th</sup> Street, approximately 130 feet north of East Santa Clara Street to include two (2) parcels that are 0.12 and 0.23 acres in size.
- (c) **24th and William Street Urban Village Plan:** Approval of a General Plan amendment to expand the Plan Area boundary in the Envision San José 2040 General Plan Land Use/Transportation Diagram in one (1) location that includes three (3) parcels that are 1.37, 0.66, and 1.07 acres in size and located on both sides of McLaughlin Avenue, approximately 340 feet south of William Street.

**10.4 (d) Little Portugal Urban Village Plan: Approval of a General Plan amendment to:**

- (1) Expand the Plan boundary in the Envision San José 2040 General Plan Land Use/Transportation Diagram in the following three (3) locations:**
  - (a) The east side of South 33rd Street, south of Alum Rock Avenue.**
  - (b) The east side of North 34th Street, north of Alum Rock Avenue.**
  - (c) The north side of Alum Rock Avenue between Highway 101 and North 33rd Street.**
- (2) Change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation on each of the three locations subject to the Plan boundary change in 4(a)(i)-(iii) above from Residential Neighborhood to Urban Village.**
- (3) Change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation on a 2 acre portion of the Urban Village Plan area located on the north and south side of Alum Rock Avenue, approximately 210 feet to the east from US Highway 101, from Urban Village to Neighborhood/Community Commercial.**

**CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement and Planning Commission (7-0-0) recommend approval of all four (4) Urban Village Plans and related General Plan Amendments specified above. Districts 3 and 5.**

**(Continued from 10/22/13 – Item 10.4)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Liccardo and Campos, dated November 15, 2013, recommending approval of the Staff recommendations with direction. (2) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated September 30, 2013, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement, dated September 18, 2013, and the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing, executed on September 11, 2013, submitted by the City Clerk. (4) Email from Supervisor David Cortese, dated November 19, 2013, expressing his support of the Five Wounds Trail.

Motion: Council Member Liccardo moved tentative approval of the memorandum he cosigned with Mayor Reed and Council Member Campos, dated November 15, 2013, including the deletion of the first paragraph i: Revise Building Height Policy 4, on Page 19 of the Roosevelt Park Urban Village Plan to read: “New development in Area D, the former Empire Lumber site, located on the south side of East Santa Clara Street, shall be designed such that view of the Five Wounds Portuguese National Church will be maintained for a majority of the neighborhood located to the south and southwest of the site, to the same extent that the view-shed would have been preserved for street-level pedestrians with development at a height of 55 feet”. Council Member Campos seconded the motion.

## 10.4 (Cont'd.)

Mayor Reed opened the Public Hearing.

Erik Schoennauer, representing Empire Lumber, spoke to the merits of the project.

Public Comments: Robert Van Cleef, Little Portugal North Neighborhood; Michele Beasley, Greenbelt Alliance and Imelda Rodriquez, Olinder Neighborhood, spoke in support to the Staff recommendations.

Mayor Reed closed the Public Hearing.

Action: On a call for the question, the motion carried unanimously, the City Council tentatively approved the proposed General Plan Amendment and the memorandum from Council Member Liccardo dated November 15, 2013, as amended: Item (i) was deleted per Council Member Liccardo verbally at the Council Meeting: *Revise Building Height Policy 4, on Page 19 of the Roosevelt Park Urban Village Plan to read: "New development in Area D, the former Empire Lumber site, located on the south side of East Santa Clara Street, shall be designed such that view of the Five Wounds Portuguese National Church will be maintained for a majority of the neighborhood located to the south and southwest of the site, to the same extent that the view-shed would have been preserved for street-level pedestrians with development at a height of 55 feet"*. (ii) Revise A. Urban Plazas, on Page 36 of Roosevelt Park Urban Village Plan, to clarify that the urban plaza may be constructed within the footprint of the VTA-owned right-of-way property as part of the future development of the Five Wounds rail-to-rail, so long as the street-level design of the adjacent Area D development appropriately supports and accommodates the development of that plaza. (iii) Modify the "Implementation Strategies, Action 2" portion of each Plan to specify that housing development agreements shall not be approved prior to the Council approval of an Urban Village Implementation Finance Strategy for the entire plan area. (iv) If, by January 1, 2017, the Federal Transit Administration has not approved a full-funding grant agreement for the construction of a "Phase II" of the Silicon Valley Rapid Transit (BART) extension that includes the station with the Five Wounds Area Urban Village Plans area, the City Manager shall place these Village Plans on the Council agenda to reexamine the feasibility of development according to these plans. (11-0.)

- 10.5 Tentative approval of a General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Residential Neighborhood to Mixed-Use Neighborhood on 1.0 gross acre site, located on the west side of Thornton Way, approximately 260 feet northerly of Maywood Avenue. (Plaza III, Owner). CEQA: Mitigated Negative Declaration, Resolution to be adopted with Item 10.6. Director of Planning, Building and Code Enforcement and Planning Commission (6-1, Commissioner Cahan opposed) recommended approval. GP13-006 – District 6 (Deferred from 10/22/13 – Item 10.3)**

*Note: Heard Jointly with Item 11.5. See Item 11.5 for other actions taken.*

## 10.5 (Cont'd.)

Documents Filed: (1) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated October 1, 2013, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP13-006 and C13-026, dated September 18, 2013, and the recommendation of the Planning Commission. (2) Proof of Publication of Notice of Public Hearing, executed on September 11, 2013, submitted by the City Clerk. (3) Letter from Karen Bowman dated October 17, 2013, expressing opposition to the General Plan Amendment on behalf of herself and the neighborhood.

Mayor Reed opened the Public Hearing.

Public Comments: Penny Martell, Mahmoud Ascarie and Karen Bowman pointed out that the neighborhood was not opposed to seniors; but expressed opposition to the rezoning, annexation and General Plan amendment associated with the proposed senior assisted living facility on Thornton Way because it is an inappropriate land use.

Mayor Reed closed the Public Hearing.

Motion: Council Member Oliverio moved tentative approval of the General Plan Amendment. Council Member Constant seconded the motion.

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

Action: On a call for the question, the motion carried unanimously, the City Council tentatively approved the proposed General Plan Amendment. (10-0-1. Absent: Chu.)

## 10.6 **Adopt a resolution approving all of the General Plan amendment actions and adopting the Five Wounds Urban Village Plan actions taken on October 22, 2013 and November 19, 2013, and adopt all related CE QA resolutions. (Planning, Building and Code Enforcement)**

**(Continued from 10/22/13 – Item 10.5)**

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76856, entitled: “A Resolution of the Council of the City of San José Specifying the Council’s Determinations on Proposed Amendments to the Envision San José 2040 General Plan Pursuant to Title 18 of the San José Municipal Code and Adopting the Four (4) Five Wounds Urban Village Plans (Roosevelt Park, Five Wounds, Twenty Fourth and William Street, and Little Portugal)”, was adopted. (9-0-2. Absent: Chu, Constant.)

**END OF GENERAL PLAN HEARINGS**

## PUBLIC HEARINGS ON CONSENT CALENDAR

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

- 11.1 (a) Consideration of an ordinance conforming conventional zoning of properties located on the northwest corner of Race Street and Parkmoor Avenue (529, 581 and 691 Race Street) from HI Heavy Industrial to IP Industrial Parking Zoning District on an approximately 4.29 gross acre site (Green Valley Corporation, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building and Code Enforcement)  
CP13-036 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP13-036, dated October 28, 2013. (2) Proof of Publication of Notice of Public Hearing, executed on November 1, 2013, submitted by the City Clerk.

Action: The recommendation of the Planning Director was approved, Ordinance No. 29344, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Race Street and Parkmoor Avenue (529, 581 and 691 Race Street) from the HI Heavy Industrial Zoning District to the IP Industrial Park Zoning District”, was passed for publication. (10-0-1. Absent: Constant.)

- (b) Consideration of an ordinance conforming conventional rezoning of a real property located on the south side of East Brokaw Road, between North First Street and Bering Drive, from the IP Industrial Park, LI Light Industrial, CG Commercial General, R-2 Two-Family Residence, and IP(PD) Zoning Districts to the TEC Transit Employment Center Zoning District on a 31.09 gross site (Peery-Arrillaga, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building and Code Enforcement)  
CP13-045 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP13-045, dated October 28, 2013. (2) Proof of Publication of Notice of Public Hearing, executed on November 1, 2013, submitted by the City Clerk.

**11.1 (b) (Action Cont'd.)**

Action: The recommendation of the Planning Director was approved, Ordinance No. 29345, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated Westerly of Bering Drive Between East Brokaw Road and Crane Court on a 31.09 Gross Acre Site (APN 237-16-071, 237-16-072, 237-16-073) From the IP Industrial Park, LI Light Industrial, CG Commercial General, R-2 Two Family Residence and IP(PD) Zoning Districts to the TEC Transit Employment Center Zoning District”, was passed for publication. (10-0-1. Absent: Constant.)

- (c) **Consideration of an ordinance conforming rezoning of a real property located on the south side of West Hedding Street, approximately 330 feet easterly of Spring Street (360 W. Hedding Street) from the CO Commercial Office Zoning District to the LI Light Industrial Zoning District on a 0.24 gross acre site (Orlando Nunes, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)**  
**C13-040 – District 3**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on November 1, 2013, submitted by the City Clerk.

Action: Deferred to January 14, 2014 per Administration.

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## **PUBLIC HEARINGS**

- 11.2 Consideration of an ordinance to rezone from LI Light Industrial Zoning District to R-M Multiple Residence Zoning District, on a 1.4 gross acres site located on the south east corner of Goodyear Street and Pepitone Avenue (1197 Lick Avenue) (City Of San José, Owner). CEQA: Mitigated Negative Declaration, File No. PP12-091. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Commissioner O’Halloran recused) recommended approval. (Planning, Building and Code Enforcement)  
C13-013 - District 3  
(Deferred from 10/22/13 – Item 11.2)**

*Note: Heard Jointly With Items 10.2 and 11.3*

Documents Filed: (1) Statement and Declaration of Conflict of Interest from Council Member Liccardo, dated November 19, 2013, disclosing that his wife is an employee of Rocketship Education. (2) Proof of Publication of Notice of Public Hearing, executed on September 11, 2013, submitted by the City Clerk.

Action: The original motion failed for lack of majority. (5-5-0-1. Noes: Campos, Chu, Kalra, Oliverio, Rocha. Abstain: Liccardo.) The second motion was withdrawn. Third Motion: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Items 10.2, 11.2 and 11.3 were deferred and the hearing was continued to August 2014. (10-0-0-1. Abstain: Liccardo.)

- 11.3 Approve a revised Purchase and Sale Agreement between the City of San José and Launchpad Development Company, a California non-profit corporation, for the sale of approximately 26,528 square feet (0.6 acres) of real property in the amount of \$848,896 to facilitate the construction of Rocketship Tamien Public School #8, with the understanding that the acquired property will be transferred to Launchpad Development Nine, LLC, a California limited liability company. CEQA: Mitigated Negative Declaration, File No. PP12-091. Council District 3. (Parks, Recreation and Neighborhood Services)  
(Deferred from 10/22/13 – Item 11.3)**

*Heard Jointly With Items 10.2 and 11.2*

Documents Filed: Statement and Declaration of Conflict of Interest from Council Member Liccardo, dated November 19, 2013, disclosing that his wife is an employee of Rocketship Education.

Action: The original motion failed for lack of majority. (5-5-0-1. Noes: Campos, Chu, Kalra, Oliverio, Rocha. Abstain: Liccardo.) The second motion was withdrawn. Third Motion: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Items 10.2, 11.2 and 11.3 were deferred and the hearing was continued to August 2014. (10-0-0-1. Abstain: Liccardo.)

- 11.4 (a) **Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's certification of the Environmental Impact Report (EIR) for the proposed project, the San José/Santa Clara Water Pollution Control Plant Master Plan. In addition, consider adoption of a resolution to uphold the Planning Commission's certification of the EIR and certify that:**
- (1) The City Council has read and considered the EIR.**
  - (2) The EIR has been completed in compliance with the California Environmental Quality Act (CEQA).**
  - (3) The EIR represents the independent judgment and analysis of the City of San José.**
  - (4) The Director of Planning, Building and Code Enforcement shall transmit copies of the EIR to any other decision-making body of the City of San José for the project.**
- (b) **Adopt a resolution making certain findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation and monitoring and reporting program, and adopting a statement of overriding considerations in accordance with CEQA for the San José/Santa Clara Water Pollution Control Plant Master Plan.**

**PP11-043/GP13-020- District 4**

- (c) **As recommended by the Transportation and Environment Committee on October 7, 2013, approve the San José/Santa Clara Water Pollution Control Plant Master Plan, with modifications to the Land Use Component consistent with staff recommendations.**

**[Transportation and Environment referral 10/7/13 – Item d(2)]**

**(Planning, Building and Code Enforcement/Environmental)**

*Note: See Item 10.3 for other actions taken.*

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 5, 2013, transmitting the Final Environmental Impact Report for the proposed project, the San José/Santa Clara Water Pollution Control Plant Master Plan is complete and in conformance with the requirements of the California Environmental Quality Act of 1970 (CEQA) and to uphold the Planning Commission recommendation. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated November 7, 2013, transmitting the recommendations of the Rules and Open Government Committee. (3) Proof of Publication of Notice of Public Hearing, executed on October 11, 2013, submitted by the City Clerk. (4) Letter from Thomas Williams, City Manager, City of Milpitas, dated November 15, 2013, expressing a summary of major provisions that the City of Milpitas believes the City of San José should address prior to the certification of the EIR and approval of the Master Plan and the General Plan Amendment. (5) Letter from Libby Lucas, member of the public, dated November 12, 2013, commenting on the deficiencies of the EIR document.

The Administrative Hearing was held under Item 10.3.

#### 11.4 (Cont'd.)

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried, Resolution No. 76857 and Resolution No. 76858, entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Environmental Impacts, Mitigation Measures and Alternatives, Adopting a Mitigation Monitoring and Reporting Program and Adopting a Statement of Overriding Considerations in Accordance with the California Environmental Quality Act of 1970, as amended (CEQA) for the San José/Santa Clara Water Pollution Control Plant Master Plan (PMP) and Related Actions, For Which an Environmental Impact Report Has Been Prepared and Approving the Adoption of the PMP”, were adopted and the San José/Santa Clara Water Pollution Control Plant Master Plan, with modifications to the Land Use Component consistent with Staff recommendations was approved. (8-3. Noes: Chu, Kalra, Liccardo.)

#### 11.5 **Consideration of an ordinance to Pre-Zone from County to R-M, Multiple Residence Zoning District on a 1.0 gross acre site, located on the west side of Thornton Way, approximately 260 feet northerly of Maywood Avenue. (Plaza III, Owner). CEQA: Mitigated Negative Declaration, to be adopted under Item 10.6. Director of Planning, Building and Code Enforcement and Planning Commission (6-1, Commissioner Cahan opposed) recommended approval. (Planning, Building and Code Enforcement)**

**C13-026 - District 6**

**(Deferred from 10/22/13 – Item 11.4)**

*Note: See Item 10.5 for other actions taken.*

Documents Filed: (1) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated October 1, 2013, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP13-006 and C13-026, dated September 18, 2013, and the recommendation of the Planning Commission. (2) Proof of Publication of Notice of Public Hearing, executed on September 11, 2013, submitted by the City Clerk. (3) Letter from Karen Bowman dated October 17, 2013, expressing opposition to the General Plan Amendment.

Public testimony was heard under Item 10.5.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Commission and Planning Director was approved, Ordinance No. 29346, entitled: “An Ordinance of the Council of the City of San José Prezoning Certain Real Property Situated on the West Side of Thornton Way Approximately 260 Feet Northerly of Maywood Avenue from County of Santa Clara to the RM Multiple Family Residence Zoning District”, was passed for publication. (10-0-1. Absent: Chu.)

- 11.6 Consideration of an ordinance rezoning the real property located at/on the easterly terminus of Skyway Drive, East of Monterey Road, near the southeast corner of the football field (100 Skyway Drive) from A(PD) Zoning District to the A(PD) Zoning District to allow: (1) increase student population from 1,300 to 2,300 students; (2) allow inbound school bus access on Diamond Heights Drive; (3) remove a requirement for a transportation mitigation measure at Skyway Drive and Monterey Road; and (4) modify Santa Clara Valley dudleya plant mitigation measures on a 56.2 gross acres site (Valley Christian Schools, Owner). CEQA: Valley Christian Schools EIR. (Planning, Building and Code Enforcement)  
PDC12-012 – District 2**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 4, 2013, submitted by the City Clerk.

Action: Dropped. To Be Renoticed.

- 11.7 Conduct an Administrative Hearing and consideration of an Appeal of the Planning Commission’s decision to approve a Conditional Use Permit renewal to allow the continued operation of a drinking establishment (Club Caribe) with late night use until 2:00 a.m. daily on a 0.52 gross acre site, in the CP Commercial Pedestrian Zoning District, located on the southwest corner of South 1<sup>st</sup> Street and Willow Street (1009 S. 1<sup>st</sup> Street) (Avanessian Sandra G, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends denial. (Planning, Building and Code Enforcement)  
CP13-037 – District 3**

Documents Filed: (1) Memorandum from Council Member Liccardo, dated November 15, 2013, recommending adoption of the Staff recommendations with modifications to the Conditional Use Permit conditions as described below in “Action”. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 29, 2013, recommending denying the appeal and upholding the Planning Commission recommendation to approve the Conditional Use Permit and transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP13-037, dated August 14, 2013. (2) Proof of Publication of Notice of Public Hearing, executed on November 1, 2013, submitted by the City Clerk.

Motion: Council Member Liccardo moved approval of his memorandum dated November 15, 2013, recommending adoption of the Staff recommendations with modifications to the Conditional Use Permit conditions as described below in “Action”. Council Member Herrera seconded the motion.

Mayor Reed opened the Public Hearing.

Keith Bohren, Appellant, expressed opposition to a Conditional Use Permit (CUP) renewal for Club Caribe for the reason that it adversely affects the peace, public health, safety and general welfare of residents in the surrounding area. Mr. Bohren suggested adding additional licensed security guards and more parking spaces.

## 11.7 (Cont'd.)

Public Comments: Speaking in support of the Staff recommendations were Sandra Escobar, Escobar Legacy Consulting; Erik Valeriano, Peggy O’Laughlin, Club Caribe; Maria Marcelo, Paul Alvarado and Blanca Carba. Mark Lopez spoke in opposition to the Staff Recommendations.

Mayor Reed closed the Public Hearing.

Council Member Liccardo requested that City Manager submit a referral to the Police Department pointing out that the crime statistics may not be reflected accurately to the actual level of crime activity in this area.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76859, entitled: “A Resolution of the Council of the City of San José Approving a Conditional Use Permit to Use Certain Real Property Described Herein for the Purpose of Renewing a Previously Approved Conditional Use Permit (File No. CPA 02-001-01) To Allow Continued Use of a Public Drinking Establishment with Late Night Use Until 2:00 a.m. on a 0.52 Gross Acre Site, Located on the Southwest Corner of South 1<sup>st</sup> Street and Willow Street (1009 1<sup>st</sup> Street)”, was adopted, the memorandum from Council Member Liccardo, dated November 2013, was approved, with the following modifications to the Conditional Use Permit conditions: (1) *Condition 13, Hours of Operation.* Add to this condition that the service of alcohol will stop at 1:30 a.m. and that no new patrons will be allowed into the premises after 1:00 a.m. (2) *Condition 14, Security.* Change the condition from one (1) security officer for every fifty (50) to two (2) security officers for every fifty (50) patrons. (3) *Condition 15, Loitering Prohibited.* (a) Change the second sentence to read: The permittee shall proactively work to clear this area (500 foot radius of the doors of the premises) half an hour prior to and after closure of their operation on all days of the week. (b) Add to this condition: The permittee shall proactively monitor the area within a 500 foot radius of the premises to discourage loitering and nuisance activities of patrons during all hours of operation. (4) *Condition 19, Anti Litter.* Add to condition (a) that at least once a month the sidewalks along the project’s boundaries will be power washed. The City Manager was requested to submit a referral to the Police Department pointing out that the crime statistics may not be reflected accurately to the actual level of crime activity in this area. (10-0-1. Absent: Constant.)

## NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract/Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10169 & S/E corner of Berryessa Rd and N Jackson Ave	4	Pulte Home Corporation	22 Lots / 66 Units	SFA	Approval

## **OPEN FORUM**

Jon Max Reger presented his own comments about working at the speed of business.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 12:51 a.m. in memory of Sergeant Ronald Sebastian Bondi, who retired from the San José Police Department in 1997 after 29 years of service. Sergeant Bondi, a San José native, graduated from San José High School before serving the Santa Clara County Sherriff's Department and San José Police Department in Intelligence, Personnel and Street Crimes. (Rocha)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

smd/11-19-13 MIN

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