

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 20, 2014

The Council of the City of San José convened in Regular Session at 9:07 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.

None.

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, Subsection (d)(1) with respect to existing litigation; (1) In re: Claim of Affixio; Amount of Money or Other Relief Sought: Administrative Appeal; (2) In re: Claim of Chacon; Amount of Money or Other Relief Sought: Administrative Appeal; (3) In re: Claim of Ray; Amount of Money or Other Relief Sought: Administrative Appeal; (4) Amador v. City of San José, et al.; Names of Partie(s) Involved: Henry Steven Amador, City of San José, Chief of Police Chris Moore, Sergeant David Moody and Does 1 through 50; United States District Court, Northern District of California; Case No: CV11-02374 HRL; Amount of Money or Other Relief Sought: Damages according to proof; (5) McLaughlin v. City of San José, et al.; Names of Partie(s) Involved: Shirli McLaughlin, City of San José, Legacy San José Holdings, LLC and Does 1 through 10; 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; (6) American Construction & Environmental Services, Inc. v. Applegate Johnson, Inc.; Names of Partie(s) Involved: American Construction & Environmental Services, Inc., Applegate Johnson, Inc., the City of San José, the Guarantee Company of North America; Court:

CLOSED SESSION (Cont'd.)

Superior Court of California, County of Santa Clara; Case No: 1-12-CV-219443; Amount of Money or Other Relief Sought: Damages According to Proof; (7) 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- 1 through 50, Board of Administration for the Federated City Employees Retirement CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (8) 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 System; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate; (9) 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; (10) 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-226570; Amount of Money or Other Relief Sought: Challenge to Measure B; (11) Mukhar, et al. v. City of San José, et al., Names of Partie(s) Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone, in her official capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, and Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B; (12) AFSCME, et al. v. City of San José, et al.; Names of Partie(s) Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone in her official capacity as City Manager, 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; (B) 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 –

CLOSED SESSION (Cont'd.)

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.

(A) To confer with Legal Counsel pertaining to the Successor Agency to the Redevelopment Agency of the City of San José pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter.

By unanimous consent, Council recessed from the Closed Session at 11:01 a.m. and reconvened to Regular Session at 1:36 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 Peggy Brian of St. Philip Episcopal Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance, accompanied by third-grade students from John Muir Elementary School, District 1.

ORDERS OF THE DAY

Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 8.1, Revisions to Title 16 (Gaming) deferred. (11-0.)

CEREMONIAL ITEMS

1.6 Presentation of a commendation to Irene Dalis for her thirty years at Opera San José. (Liccardo/Oliverio)

Mayor Reed and Council Members Liccardo and Oliverio honored Irene Dalis for her thirty years at Opera San José.

1.3 Presentation of a proclamation declaring May 19th through 23rd as “Affordable Housing Week” in the City of San José. (Herrera)

Mayor Reed and Council Members Herrera and Liccardo recognized May 19th through 23rd as “Affordable Housing Week” in the City of San José.

1.4 Presentation of a proclamation declaring the week of May 18 - 24, 2014 as Public Works Week. (Public Works)

Mayor Reed recognized May 18 - 24, 2014 as Public Works Week in the City of San José, commending Director of Public Works David Sykes and Staff.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) Regular Minutes of February 4, 2014.**
- (b) Study Session Minutes of February 10, 2014 on 2014-2015 Budget Planning.**
- (c) Regular Minutes of February 11, 2014.**
- (d) Regular Minutes of February 25, 2014.**

2.1 (Cont'd.)

Documents Filed: Regular Council Meeting Minutes of February 4, 11 and 25, 2014; Study Session Minutes of February 10, 2014 on 2014-2015 Budget Planning.

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

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Reports.

(a) Rules and Open Government Committee Report of April 30, 2014. (Mayor)

Documents Filed: Rules and Open Government Committee Report dated April 30, 2014

Action: The Rules and Open Government Committee Report of April 30, 2014 was approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

**2.7 Approve an ordinance amending Section 10.32.140 of Chapter 10.32 of Title 10 and Section 13.44.200 of Chapter 13.44 of Title 13 of the San José Municipal Code to permit the operation of model warships armed with low-velocity gas or compressed-air projectile launchers at times and locations designated by the City. CEQA: Exempt, File No. PP14-032. (City Attorney)
(Deferred from 4/15/14 – Item 2.7)**

Action: Deferred to August 19, 2014 per Administration.

2.8 Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Convention and Cultural Affairs Fund:

(a) Increase the estimate for Earned Revenue by \$1,600,000; and

(b) Increase the Convention Facilities Operations appropriation to the Office of Economic Development in the amount of \$1,600,000.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. Council District 3. (Economic Development/City Manager)

2.8 (Cont'd.)

Documents Filed: Joint memorandum from Budget Director Jennifer Maguire and Assistant to the City Manager and Downtown Manager, Lee Wilcox, dated April 28, 2014, recommending adoption of recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29409, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Convention and Cultural Affairs Fund for the Convention Facilities Operations; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 76973, 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 Convention and Cultural Affairs Fund”, were adopted. (11-0.)

- 2.9 (a) **Award of a construction contract for the 7249 - Training Trailer Replacement to the low bidder, Newton Construction and Management, Inc., in the amount of \$513,874;**
(b) **Approve a contingency in the amount of \$51,400.**
CEQA: Exempt, File No. PP13-045. (Environmental Services)

Documents Filed: (1) City Council Action Request from Assistant Director of the Environmental Services Ashwini Katak and Environmental Services Director Kerrie Romanow, dated May 20, 2014, recommending award of a construction contract. (2) Letter from Treatment Plant Advisory Committee Chair Chuck Reed, dated May 16, 2014, stating concurrence with the Staff recommendations.

Action: Award of a construction contract for the 7249 - Training Trailer Replacement to the low bidder, Newton Construction and Management, Inc., in the amount of \$513,874 with related contingency, was approved. (11-0.)

- 2.10 **Approve a Master Service Agreement with Langham Consulting Services, Inc. for professional services to support implementation of new Utility and Business Tax System billing solutions for the term of May 20, 2014 to May 20, 2016, with a not-to-exceed amount of \$1,100,000. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Environmental Services/Finance)**

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper and Environmental Services Director Kerrie Romanow, dated April 28, 2014, recommending approval of a master service agreement.

Action: A Master Service Agreement with Langham Consulting Services, Inc. for professional services to support implementation of new Utility and Business Tax System billing solutions for the term of May 20, 2014 to May 20, 2016, with a not-to-exceed amount of \$1,100,000, was approved. (11-0.)

- 2.11 Adopt a resolution setting a Public Hearing on Tuesday, June 17, 2014, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated May 7, 2014, recommending adoption of a resolution.

Action: Resolution No. 76974, entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing for the Approval of a Report of the Director of Finance on the Cost of Unpaid Sidewalk Repairs for June 17, 2014”, was adopted. (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on May 7, 2014, approve the appointment of Stephen Wymer as a representative on the work2future Board of Directors. (Mayor)
[Rules Committee referral 5/7/14 – Item F(1)(a)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 8, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The appointment of Stephen Wymer as a representative on the work2future Board of Directors, was approved. (11-0.)

- 2.13 As recommended by Rules and Open Government Committee on May 7, 2014:**
- (a) Approval of the Mid-Autumn Festival and Resource Fair as a City Council sponsored Special Event and approving the expenditure of funds;**
 - (b) Approval and acceptance of donations from various individuals, businesses or community groups to support the Mid-Autumn Festival and Resource Fair; and**
 - (c) Approve the expenditure of donations and City funds to provide incentives for children participants.**
- CEQA: Not a Project. (Nguyen)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 8, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 7 Mid-Autumn Festival and Resource Fair as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.14 Report on bids and award of a construction contract for the 2014 Remove and Replace Asphalt Concrete Pavement Project to the low bidder, MCK Services, Inc., in the amount of \$2,777,655, and approval of a ten percent (10%) contingency in the amount of \$277,765. CEQA: Exempt, File No. PP11-035. (Transportation)**

2.14 (Cont'd.)

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated April 28, 2014, recommending approval of a construction contract.

Action: A report on bids and award of a construction contract for the 2014 Remove and Replace Asphalt Concrete Pavement Project to the low bidder, MCK Services, Inc., in the amount of \$2,777,655, with related contingency, was approved. (11-0.)

2.15 Adopt a resolution:

- (a) **Authorizing the City Manager or designee to submit a request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2014-2015 Transportation Development Act, Article 3 State grant funding in the amount of \$1,094,695 for Citywide Bicycle and Pedestrian projects;**
- (b) **Making the certifications and assurances required under the grant program as explained in this memorandum; and**
- (c) **Authorizing the City Manager or designee to accept any grant funding awarded from MTC and to negotiate and execute any grant documents to effectuate the grant.**

CEQA: Exempt, File No. PP13-037. (Transportation)

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated April 28, 2014, recommending approval of a construction contract.

Action: Resolution No. 76975, entitled: "A Resolution of the Council of the City of San José, (1) Authorizing the City Manager, or Designee, to Submit a Request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2014-2015 Transportation Development Act, Article 3 ("TDA3") State Grant Funding in the amount of \$1,094,695 for Citywide Bicycle and Pedestrian Projects; (2) Making the Certifications and Assurances Required Under the Grant Program; and (3) Authorizing the City Manager, or Designee, to Accept Any Grant Funding Awarded From MTC and to Negotiate and Execute any Grant Documents to Effectuate the Grant", was adopted. (11-0.)

2.16 Approve appointments to the Youth Commission. (City Clerk)

Renumbered from Item 3.4

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated May 9, 2014, providing background information for Youth Commission appointment nominations. (2) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated May 16, 2014 transmitting names of Councilmember nominations for the Youth Commission.

Action: The Youth Commission appointment nominations were approved. (11-0.)

- 2.17 (a) **Report on bids and award of contract for the 6470-Lower Guadalupe River Trail-Tasman Under-Crossing to the low bidder, Con-Quest Contractors, Inc., in the amount of \$527,650, and approval of a contingency in the amount of \$53,000;**
- (b) **Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 Fund:**
- (1) **Decrease the Ending Fund Balance by \$520,000; and**
- (2) **Establish the Trail: Guadalupe River Under-Crossing (Tasman Drive) appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$520,000;**
- (c) **Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:**
- (1) **Decrease the North San José Traffic Impact Fees Reserve by \$260,000; and**
- (2) **Establish the Trail: Guadalupe River/Tasman Under-Crossing appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$260,000.**

CEQA: Mitigated Negative Declaration, File No. PP04-323 (Resolution Number 72742, adopted 6/21/2005). Council District 4. (Public Works/Parks, Recreation and Neighborhood Services/Transportation/City Manager)

Renumbered from Item 4.7

Documents Filed: Joint memorandum from Director of Public Works David Sykes, Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, Director of Transportation Hans Larsen and Budget Director Jennifer Maguire, dated April 28, 2014, recommending adoption of appropriation ordinance amendments.

Action: Ordinance No. 29410, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 for the Trail: Guadalupe River Under-Crossing (Tasman Drive); and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Ordinance No. 29411, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Construction Excise Tax Fund for the Trail: Guadalupe River/Tasman Under-Crossing; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

- 2.18 **Approve travel by Mayor Reed to Denver, CO and Colorado Springs, CO on May 15 -16, 2014 to attend the Colorado Pension Project and the United States Air Force Academy Lunch and Learn. Source of Funds: Mayor’s Office Budget. (Mayor) (Rules Committee referral 5/14/14)**

Documents Filed: Memorandum from Mayor Reed, dated May 12, 2014, requesting authorization to attend the Colorado Pension Project and the United States Air Force Academy Lunch and Learn.

- Action: The travel authorization was approved. (11-0.)
- 2.19 Approve travel by Mayor Reed to New York, NY on June 4 – 6, 2014 to attend the Citi Pension Conference. Source of Funds: Mayor’s Office Budget. (Mayor) (Rules Committee referral 5/14/14)**

Documents Filed: Memorandum from Mayor Reed, dated May 12, 2014, requesting authorization to travel to attend the Citi Pension Conference.

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

- 2.20 Approve travel by Councilmember Constant to New York, NY on September 16 – 19, 2014 to attend the San José/Silicone Valley Chamber of Commerce Study Mission (City-to-City Trip). Source of Funds: Mayor & Travel Fund. (Constant) (Rules Committee referral 5/14/14)**

Documents Filed: Memorandum from Council Member Constant, dated May 13, 2014, requesting authorization to travel and excused absences due to authorized City business.

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

- 2.21 As recommended by the Rules and Open Government Committee on May 14, 2014, adopt a position of support if amended for SB 1151 (Cannella). (Transportation) [Rules Committee referral 5/14/14 – Item G(2)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 15, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Khamis pulled Item 2.21 to offer his recommendation that fines be kept at a local level. Director, Intergovernmental Relations Betsy Shotwell clarified the process.

Action: Upon motion by Council Member Khamis, seconded by Council Member Herrera and carried unanimously, a position of support for SB 1151 (Cannella) was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 (a) **Accept status report on the City's efforts to submit information requested by Google Fiber for its consideration of selecting San José for the future installation of a Google Fiber network; and**
- (b) **Adopt a resolution authorizing the City Manager or his designee to execute a master Network Hut License Agreement with Google Fiber, and to execute Network Hut Site Terms thereunder for individual sites following City Council approval of such individual sites.**

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

Action: Deferred to June 3, 2014 per Administration.

- 3.4 **Approve appointments to the Youth Commission. (City Clerk)**

Renumbered to Item 2.16. See Item 2.16 for Action.

- 3.5 (a) **Conduct a Public Hearing regarding an economic subsidy in connection with a Capital Equipment and Assistance Agreement with Vander-Bend Manufacturing, pursuant to California Government Code Section 53083;**
- (b) **Adopt a resolution authorizing the City Manager to execute a Capital Equipment and Assistance Agreement with Vander-Bend Manufacturing in which the City will provide an amount not to exceed \$100,000 for the acquisition of production and assembly equipment at Vander-Bend's new headquarters and production facilities in San José.**

CEQA: Exempt, File No. PP14-044. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated April 21, 2014, recommending conducting a public hearing and adoption of a resolution.

City Manager Ed Shikada opened the discussion with a discussion of the City's economic strategy. Deputy Director of Economic Development, Nanci J. Klein offered a presentation on Vander-Bend Manufacturing.

Mayor Reed opened the public hearing.

Public Comment: Mark Hoag, Director of Manufacturing, Vander-Bend Manufacturing, spoke to the merits of doing business with his company.

Mayor Reed closed the public hearing.

3.5 (Cont'd.)

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76976, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Execute a Capital Equipment and Assistance Agreement with Vander-Bend Manufacturing in Which the City Will Provide an Amount Not to Exceed \$100,000 for the Acquisition of Production and Assembly Equipment at Vander-Bend’s New Headquarters and Production Facilities in San José”, was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **As recommended by the Community and Economic Development Committee on April 28, 2014, of the two proposed Special Events ordinances, adopt the revised community special events ordinance that would add Chapter 13.14, repeal Chapters 13.12, 13.16, and 13.22, and amend Chapter 13.44 of Title 13 of the San José Municipal Code, in order to establish a comprehensive permit process for outdoor special events on at City streets, parks, paseos and plaza. CEQA: Not a Project, File No. PP10-068(c), Municipal Code amendments involving no changes to the physical environment. (City Attorney/Economic Development)
[Community and Economic Development Committee referral 4/28/14 – Item D(4)]**

Action: Deferred to June 10, 2014 per Administration.

- 4.2 (a) **Adopt a resolution authorizing the execution and delivery of a master equipment lease/purchase agreement with Banc of America Public Capital Corp, as lessor, and separate schedules thereto for the acquisition, purchase, financing and leasing of certain equipment that constitutes an energy conservation facility in a principal amount not to exceed \$30,000,000; authorizing the execution and delivery of other documents required in connection therewith; and authorizing the taking of all other actions related thereto;**
- (b) **Adopt a resolution authorizing the Director of Public Works to negotiate and execute an amendment to the Energy Services Agreement with Chevron Energy Solutions increasing the maximum compensation from \$21,093,029 to \$23,482,781 to accommodate the conversion of 3,127 additional streetlights to LED technologies;**
- (c) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2013-2014:**
- (1) **Increase the revenue estimate for Other Revenue by \$27,063,135; and**
 - (2) **Establish a City-wide appropriation to the Public Works Department for the Energy and Utility Conservation Measures Program in the amount of \$27,063,135.**

CEQA: Streetlight conversions from low-pressure sodium to LED lighting: Exempt, File No. PP11-002; and Building Energy Upgrades: Exempt, File Nos. PP13-111 through PP13-117, PP14-003, and PP14-004. (Finance/Public Works)

4.2 (Cont'd.)

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper, Director of Public Works David Sykes and Budget Director Jennifer Maguire, dated May 7, 2014, recommending adoption of resolutions and appropriation ordinance and funding sources resolution amendments.

Director of Public Works David Sykes and Director of Finance Julia H. Cooper responded to questions from Council.

Public Comments: Emily Douglas, representing Chevron Energy Solutions, spoke in support of the project.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29412, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the General Fund for the Energy and Utility Conservation Measures Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76977, entitled: “A Resolution of the Council of the City of San José, Authorizing the Execution and Delivery of a Master Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp, as Lessor, and Separate Schedules Thereto for the Acquisition, Purchase, Financing and Leasing of Certain Equipment that Constitutes an Energy Conservation Facility it a Principal Amount Not To Exceed \$30 Million; Authorizing the Execution and Delivery of Other Documents Required in Connection Therewith; and Authorizing the Taking of all Other Actions Necessary to the Consummation of the Transactions Contemplated by this Resolution”; Resolution No. 76978, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute an Amendment to the Energy Services Agreement with Chevron Energy Solutions to Increase the Amount of Total Compensation Allowed”, and Resolution No. 76979, 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”; was adopted. (10-1. Noes: Oliverio.)

4.3 Adopt a resolution:

- (a) **Approving a funding commitment to King Road Associates, a California Limited Partnership, for a conditional grant of up to \$920,984 for the rehabilitation of Creekview Inn Apartments, located at 965 Lundy Avenue, to provide ten studio apartments for extremely low-income homeless individuals referred by the City;**
- (b) **Authorizing the Director of Housing, or designee, to set the specific business terms and negotiate and execute all documents necessary to implement the rehabilitation, Project-Based Rental Assistance and operating subsidy, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection with the rehabilitation grant, rental assistance, and operating subsidy.**

CEQA: Exempt, File No. PP13-108. Council District 4. (Housing)

4.3 (Cont'd.)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated April 28, 2014, recommending adoption of a resolution.

Director of Housing Leslye Corsiglia responded to questions from Council.

Action: Upon motion by Council Member Chu, seconded by Council Member Herrera and carried unanimously, Resolution No. 76980, entitled: "A Resolution of the Council of the City of San José Approving a Funding Commitment for Creekview Inn Apartments Rehabilitation Project", was adopted. (11-0.)

4.4 **As recommended by the Community and Economic Development Committee on April 28, 2014, adopt the 2014 -2016 Prioritized Workplan to implement *Cultural Connection: San José Cultural Plan for 2011 – 2020*. (Office of Cultural Affairs/Economic Development)** **[Community and Economic Development Committee referral 4/28/14 – Item D(2)]**

Action: Deferred to June 10, 2014 per Administration.

4.5 **Adopt a resolution by the City Council doing the following in accordance with San José Municipal Code Section 14.07.310:**

- (a) **Finding that the cost of the proposed design-build contract for the United States Patent and Trademark Office Project ("Project") is likely to exceed \$5,000,000, and the use of a design-build delivery method process is likely to save money and/or result in faster Project completion than if the City used the traditional design-bid-build method of Project delivery;**
- (b) **Approving a Request for Proposals and the criteria and process by which the City shall select a design-build entity for the Project; and**
- (c) **Authorizing the Director of Public Works to issue addenda to the Request for Proposals to add any additional requirements of the United States Patent and Trademark Office and to make such other revisions to the Request for Proposals that are consistent with the scope and selection criteria as approved by Council.**

CEQA: Exempt, File No. PP14-031. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 5, 2014, recommending adoption of a resolution.

4.5 (Cont'd.)

Action: Upon motion by Council Member Khamis, seconded by Council Member Herrera and carried unanimously, Resolution No. 76981, entitled: “A Resolution of the Council of the City of San José Finding that the Design-Build Procurement Process for the Design and Construction of the United States Patent and Trademark Office Project will Result in Faster Project Completion than if the City Used a Traditional Design-Bid-Build Project Delivery System, Approving a Request for Proposals and the Criteria and Process by Which the City Shall Select a Design-Build Entity for the Project, and Authorizing the Director of Public Works to Issue Addenda to the Request for Proposals to Add Any Additional Requirements of the United States Patent and Trademark Office and to Make Such Other Revisions to the Request for Proposals that are Consistent with the Scope and Selection Criteria as Approved by Council”, was adopted. (11-0.)

4.6 Adopt a resolution authorizing the Director of Public Works to negotiate and execute a Construction Agreement with Earthquakes Stadium, LLC (“Developer”) for public improvements to upsize a sanitary sewer main which runs adjacent to the Guadalupe River and within Trimble Road with a reimbursement to the Developer of an amount not to exceed \$1,792,000. CEQA: Addendum to the Envision San José 2040 General Plan EIR, PP12-076. Council Districts 3 and 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated April 28, 2014, recommending adoption of a resolution.

Public Comment: Ross Signorino expressed satisfaction with the project.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76982, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute an Agreement with Earthquakes Stadium, LLC for the Construction of Public Improvements to the Sanitary Sewer Main Adjacent to the Guadalupe River and Within Trimble Road”, was adopted. (11-0.)

- 4.7 (a) Report on bids and award of contract for the 6470-Lower Guadalupe River Trail-Tasman Under-Crossing to the low bidder, Con-Quest Contractors, Inc., in the amount of \$527,650, and approval of a contingency in the amount of \$53,000;**
- (b) Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 Fund:**
- (1) Decrease the Ending Fund Balance by \$520,000; and**
 - (2) Establish the Trail: Guadalupe River Under-Crossing (Tasman Drive) appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$520,000;**

- 4.6 (c) Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:**
- (1) Decrease the North San José Traffic Impact Fees Reserve by \$260,000; and**
 - (2) Establish the Trail: Guadalupe River/Tasman Under-Crossing appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$260,000.**

CEQA: Mitigated Negative Declaration, File No. PP04-323 (Resolution Number 72742, adopted 6/21/2005). Council District 4. (Public Works/Parks, Recreation and Neighborhood Services/Transportation/City Manager)

Renumbered to Item 2.17. See Item 2.17 for Action.

NEIGHBORHOOD SERVICES

- 5.1 (a) Accept the report on Request for Proposal for Senior Nutrition Program;**
- (b) Adopt a resolution authorizing the City Manager to:**
- (1) Negotiate and execute an agreement with Compass Group USA, Inc. (Bateman) to provide Citywide Senior Nutrition Services for an initial one-year term beginning October 1, 2014, through September 30, 2015, with a maximum compensation amount not to exceed \$1,400,000 subject to City Council appropriation of funds; and**
 - (2) Execute five one (1) year options to renew the agreement, subject to the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Parks, Recreation and Neighborhood Services)

Action: Deferred to June 10, 2014 per Administration.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Approve the master agreements between the City of San José and the following firms for environmental review and permitting services for the San José-Santa Clara Regional Wastewater Facility and various other City projects and programs for a term through June 30, 2019, subject to the appropriation of funds:**
- (a) Environmental Science Associates in an amount not to exceed \$2,125,000;**
 - (b) CH2M Hill Engineers, Inc. in an amount not to exceed \$500,000; and**
 - (c) David J. Powers & Associates, Inc. in an amount not to exceed \$375,000.**

CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Environmental Services)

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated April 23, 2014, recommending approval of master agreements.

7.1 (Cont'd.)

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the master agreements between the City of San José and the following firms for environmental review and permitting services for the San José-Santa Clara Regional Wastewater Facility and various other City projects and programs for a term through June 30, 2019, subject to the appropriation of funds: (a) Environmental Science Associates in an amount not to exceed \$2,125,000; (b) CH2M Hill Engineers, Inc. in an amount not to exceed \$500,000; and (c) David J. Powers & Associates, Inc. in an amount not to exceed \$375,000, were approved. (10-0-1. Absent: Constant.)

- 7.2 (a) **Report on bids and award of a construction contract for 7100 – Digester Gas Compressor Upgrade Project to the low bidder, Anderson Pacific Engineering and Construction, Inc., for the base bid in the amount of \$11,316,000, and approval of a ten percent contingency in the amount of \$1,131,600.**
- (b) **Adopt the following 2013-2014 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund:**
- (1) **Decrease the Energy Generation Improvements appropriation to the Environmental Services Department in the amount of \$5,200,000; and**
 - (2) **Increase the Combined Heat and Power Equipment Repair and Rehabilitation appropriation to the Environmental Services Department in the amount of \$5,200,000.**

CEQA: Exempt, File No. PP13-060. (Environmental Services/City Manager)

Documents Filed: Joint memorandum from Environmental Services Director Kerrie Romanow and Budget Director Jennifer Maguire, dated April 28, 2014, recommending approval of an award of a construction contract and adoption of appropriation ordinance amendments.

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 7100 – Digester Gas Compressor Upgrade Project to the low bidder, Anderson Pacific Engineering and Construction, Inc., for the base bid in the amount of \$11,316,000, with related contingency was approved, and Ordinance No. 29413, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the San José – Santa Clara Treatment Plant Capital Fund for the Combined Heat and Power Equipment Repair and Rehabilitation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-0-1. Absent: Constant.)

7.3 Adopt a resolution setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreements between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total processing costs for organic processing services. CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates & Fares. (Environmental Services)

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated May 15, 2014, recommending adoption of a resolution.

Deputy Director of Environmental Services Jo Zientek provided a presentation, and City Attorney Richard Doyle provided clarification that agreements may be subject to modification.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76983, entitled: “A Resolution of the Council of the City of San José Fixing and Determining Maximum Commercial Solid Waste Services Rates in the City of San José Pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement Between the City of San José and Allied Waste Services of North America, LLC DBA Allied Waste Services of Santa Clara County Including the Total Processing Fee for Organics Processing Services, Effective July 1, 2014”, was adopted. (10-1. Noes: Oliverio.)

PUBLIC SAFETY SERVICES

- 8.1 (a) Approve an ordinance amending various sections of Title 16 of the San José Municipal Code to provide for the City Attorney to respond to requests for advisory opinions regarding Title 16 within thirty days; provide non-key employees the option of applying for dual State and City work permits; incorporate a process for the utilization of an enforcement advisor to participate in several of the regulatory processes described in Title 16; establish a schedule for providing notice of a final decision to impose a monetary penalty for a minor violation and notice of regulatory action; provide that the name(s) of the person(s) who committed violations leading to monetary fines and regulatory actions be disclosed; incorporate revisions recommended by WhiteSand Gaming; substitute use of the term “business day” for “work day” and provide a definition of “business day;” eliminate the twenty-one day waiting period for recommendations regarding specified key employee licenses to become final; and make minor corrections; and**
- (b) Accept the Administration’s report regarding alternate-level gaming, occupancy for non-gaming related events and civilianization of the Division of Gaming Control.**

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 16. (City Manager/City Attorney)

Action: Deferred per Orders of the Day.

- 8.2 (a) **Approve an ordinance of the City of San José repealing suspended ordinance no. 28958 except for those Sections of Title 20 of the San José Municipal Code related to Zoning Code Verification Certificates previously unsuspended by Ordinance No. 29089, and amending Title 20 by amending Section 20.10.040 of Chapter 20.10, amending Section 20.40.100 of Chapter 20.40; amending Section 20.50.100 of Chapter 20.50, amending Section 20.70.100 of Chapter 20.70, adding a new Part 9.75 to Chapter 20.80, and adding new Sections 20.100.1530, 20.100.1535 and 20.100.1540 to Part 13 of Chapter 20.100, all to establish Land Use regulations pertaining to medical marijuana collectives;**
- (b) **Approve an ordinance of the City of San José amending Title 6 of the San José Municipal Code to add a new Chapter 6.88 to establish a registration process pertaining to medical marijuana collectives; and, to establish regulations pertaining to medical marijuana collectives and to the individual cultivation and use of medical marijuana;**
- (c) **Discussion of regulating campaign contributions by medical marijuana establishments, and other regulated businesses, to political candidates.**

CEQA: Addendum to Negative Declaration File No. PP11-039 as previously addended; File No. PP14-030. Planning Commission recommends approval with modifications described in the transmittal memo. (City Manager/Planning, Building and Code Enforcement/Police)

(Continued from 5/13/14 – Item 8.1)

Public testimony was taken at the May 13, 2014 City Council meeting. A motion was made and tabled for continued action. No future public testimony was taken.

Documents Filed: (1) Memorandum from Council Member Liccardo, dated May 20, 2014, recommending approval of staff recommendations with modifications as outlined. (2) Supplemental memorandum from City Attorney Richard Doyle, dated May 16, 2014, outlining changes made to Title 6 and Title 20 of the San José Municipal Code. (3) Memorandum from City Clerk Toni J. Taber, CMC, dated May 16, 2014, outlining the initiative process and timeline. (4) Joint memorandum from Assistant to the City Manager, Angelique Gaeta, Director of Planning, Building and Code Enforcement, Harry Freitas and Chief of Police Larry Esquivel dated April 29, 2014, recommending approval of the ordinances amending Title 20 and Title 6 of the San José Municipal Code. (5) Memorandum from Secretary, Planning Commission, Harry Freitas, dated April 25, 2014, recommending approval of a proposed ordinance with modifications. (6) Joint memorandum from Mayor Reed, Vice Mayor Nguyen, Council Members Liccardo and Oliverio, dated May 9, 2014, approving staff recommendations with additions. (7) Supplemental memorandum from Assistant to the City Manager, Angelique Gaeta, dated May 9, 2014, transmitting additional geographical data. (8) Memorandum from Council Member Rocha, dated May 12, 2014 offering support to memoranda. (9) Memorandum from Mayor Reed, dated May 12, 2014, offering recommendations. (10) Two memoranda from Council Member Herrera, dated May 12 and May 13, 2014, offering recommendations. (11) Email correspondence from Dave Hodges, Mitchell Colbert, Gabrielle Antolovich, Dave Duarte, Nancy Pham and Danielle Pirslin, dated May 14, 15 and 20, 2014, regarding medical marijuana. (12) Letter from Susan Landry, dated May 18, 2014, providing suggestions for the City's medical marijuana program.

8.2 (Cont'd.)

Documents Filed: (cont'd.) (13) Marijuana Policy Brief, dated April 29, 2014, and Marijuana Legalization Brief, dated May 19, 2014 from the Santa Clara Valley Health and Hospital System. (14) “Energy Up In Smoke”, dated April 5, 2011 as written by Evan Mills, Ph.D. (15) “The City of San José Marijuana Regulation Commission Act Text of Proposed Law” Notice of Intent to Circulate Petition, provided by Dave Hodges and John Lee.

Assistant to the City Manager, Angelique Gaeta and Acting Code Enforcement Official, Diane Buchanan, responded to questions from Council.

Action: No Council Action Was Taken. Further deliberation and action continued to June 3, 2014.

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **As recommended by the Transportation and Environment Committee on May 5, 2014, accept status report on the City’s Deferred Maintenance and Infrastructure Backlog; and**
- (b) **Accept staff report and provide policy direction on San José priorities for a possible new countywide transportation tax measure..**

CEQA: Not a Project; File No. PP10-069(a). (Public Works)

[Transportation and Environment Committee referral 5/5/14 – Item D(2)]

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated May 15, 2014, transmitting the recommendations of the Transportation and Environment Committee. (2) Supplemental memorandum from City Manager, Edward K. Shikada, dated May 16, 2014, providing additional information to support consideration of a new countywide sales tax measure.

Director of Public Works David Sykes offered a report on deferred maintenance and the infrastructure backlog. City Manager, Edward K. Shikada offered insight on the potential ballot measure, and Director of Transportation Hans Larsen provided additional information.

Chair of the California Transportation Commission, Carl Guardino, offered extensive background on City Council options and responded to questions from Council. He added that the Commission’s Board of Directors will meet mid-June and will continue seeking guidance to make an informed decision regarding the community’s traffic and transportation options.

Mayor Reed added that this item will be agendaized for the June 17 Council meeting since polling regarding the pending VTA tax measure could influence the Council’s decision.

6.1 (Cont'd.)

Public Comment: Corinne Winter, Silicon Valley Bicycle Coalition encouraged increased funding for bike paths. Adina Levin, Friends of Caltrain, offered suggestions for extending BART to the Diridon plan. Ross Signorino stressed the need for seeing a plan for bringing BART to San José.

Action: No action required.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 6:30 p.m.

RECESS/RECONVENE

The City Council recessed at 6:30 p.m. from the afternoon Council Session and reconvened at 7:00 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 Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

CEREMONIAL ITEMS

1.1 Administer Oaths of Office to newly appointed Youth Commissioners. (City Clerk)

City Clerk Toni J. Taber, administered Oaths of Office to newly appointed Youth Commissioners, joined by Mayor Reed and Council Members Chu, Herrera, Liccardo and Oliverio.

1.2 Presentation of a proclamation declaring the Month of May 2014 as “Asian Pacific American Heritage Month” in the City of San José. (Chu) (Deferred from 5/6/14 – Item 1.1)

Mayor Reed and Council Members Chu, Council Member Khamis and Vice Mayor Nguyen recognized the Month of May 2014 as “Asian Pacific American Heritage Month” in the City of San José.

1.5 Presentation of a proclamation proclaiming the “San José – Okayama Sister City Youth” as Honorary Ambassadors of the City of San José. (Khamis)

Mayor Reed and Council Members Khamis and Kalra recognized the “San José – Okayama Sister City Youth” as Honorary Ambassadors of the City of San José.

1.7 Presentation of commendations to Sartorette and Cherrywood Elementary Schools Safety Patrol Programs for providing school safety services and education to the Sartorette and Cherrywood communities. (Rocha/Chu)

Mayor Reed and Council Members Rocha and Chu offered commendations to Sartorette and Cherrywood Elementary Schools Safety Patrol Programs for providing school safety services and education to their respective communities.

GENERAL PLAN PUBLIC HEARINGS

10.1 (a) General Plan Amendment for Dove Hill Road.

As recommended by the Rules and Open Government Committee on April 23, 2014, direct staff to bring forward a City-initiated General Plan amendment for GP08-08-03 to change the land use designation back to Non-Urban Hillside from Public/Quasi-Public. (Herrera)

[Rules Committee referral 4/23/14 – Item G(2)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 8, 2014, transmitting the recommendations of the Rules and Open Government Committee.

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 Herrera, seconded by Council Member Khamis and carried unanimously, a City-initiated General Plan amendment for GP08-08-03 to change the land use designation back to Non-Urban Hillside from Public/Quasi-Public, was tentatively approved. (11-0.)

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

- 10.2 Conduct a Public Hearing to consider taking the following actions:**
- (a) Certify the Environmental Impact Report for the Diridon Station Area Plan, and adopt a resolution 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, all in accordance with the California Environmental Quality Act (CEQA);**
 - (b) Approve the Diridon Station Area Plan, Implementation Strategy Report and Art Master Plan to provide a framework for transforming the Diridon Station area into a regional transportation hub and a regional employment and entertainment destination;**
 - (c) Adopt a resolution to approve the addition of the Park Avenue/Naglee Avenue, The Alameda/Naglee Avenue, and Lincoln Avenue/San Carlos Street intersections to the protected intersections list pursuant to the provisions of the City's Transportation Impact Policy (City Policy 5-3);**
 - (d) Adopt a resolution approving text amendments to the Envision San José 2040 General Plan to incorporate the Diridon Station Area Plan into the General Plan and designate it as an Urban Village, and to make the following General Plan Land Use/Transportation Diagram changes:**
 - (1) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 6.06 gross acre site generally bounded by West Julian Street to the north, Stockton Avenue to the east, The Alameda to the south, and to the west approximately 180 feet from Rhodes Court, from Mixed Use Commercial to Urban Village.**
 - (2) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 6.5 gross acre site generally located on both side of West San Carlos Street between Bird and Delmas Avenues, from Neighborhood/Community Commercial to Downtown.**
 - (3) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 0.36 gross acre site generally at the northeast corner of Park and Gifford Avenues, from Neighborhood/Community Commercial to Downtown.**
 - (4) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 0.14 gross acre site generally located on the east side of Josefa Street at the terminus of Columbia Avenue, approximately 200 feet south of West San Carlos Street, from Residential Neighborhood to Downtown.**
 - (5) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 0.14 gross acre site generally located on the west side of Gifford Avenue, approximately 90 feet south of West San Carlos Street, from Residential Neighborhood to Downtown.**
 - (6) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 0.38 gross acre site generally located at the northwest corner of Auzerais and Delmas Avenues, from Neighborhood/Community Commercial on 0.13 acres and Residential Neighborhood on 0.25 acres to Downtown.**

- 10.2 (e) Accept the Diridon Station Area Plan 10–Year Horizon Analysis as a guide to assess the parking needs of near term development in the Central Zone of the Plan area, to identify opportunities for shared parking, and to ensure that the provisions in the City of San José – San José Arena Management agreement continue to be met.**

CEQA: Diridon Station Area Plan Environmental Impact Report (File No. PP09-163). Planning Commission recommends approval (5-0-2). (Planning, Building and Code Enforcement)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on The Diridon Station Area Plan, dated April 30, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated May 15, 2014, transmitting the Planning Commission recommendation. (3) Joint memorandum from Director of Transportation Hans Larsen, Director of Planning, Building and Code Enforcement, Harry Freitas and Director of Economic Development/Chief Strategist Kim Walesh, dated May 15, 2014, providing recommendations regarding the Diridon Station Area Plan. (4) CD dated May 20, 2014, with files regarding Diridon Station Area Plan and the General Plan Amendment. (5) Proof of Publication of Notice of Public Hearing executed on April 18, 2014, submitted by the City Clerk. (6) Letter from Erik Alm, District Branch Chief, Department of Transportation, dated May 5, 2014, offering comments regarding the draft Program Environmental Impact Report. (7) Letter from Michael Scanlon, Executive Director, Caltrain, dated May 15, 2014, offering support to the Plan. (8) Letter from Chris Augenstein, Deputy Director, Planning, Valley Transportation Authority, dated May 19, 2014, providing follow-up to the City’s proposed measures. (9) Letters from Bill Rank, President, Save Our Trails, and from Kristy Wang, SPUR, both dated May 16, 2014, offering support to the Plan with suggestions for improvement. (10) Letter from Shani Kleinhaus, Santa Clara Valley Audubon Society, dated May 18, 2014, providing a request for bird-safe design guidelines. (11) Letter from the Sierra Club Loma Prieta Chapter, dated May 19, 2014, offering comments and clarifications on the Diridon Station Area Plan Draft Environmental Report. (12) Email from Allen Takahashi, received May 19, 2014, offering support to the Plan. (13) Email from Bob Back, received May 20, 2014, citing ‘missing elements’ of the Plan as written and recommending revisions.

Assistant Director of Transportation Jim Ortbal and staff offered a presentation on the Diridon Station Area Plan.

Mayor Reed opened the public hearing.

10.2 (Cont'd.)

Public Comment: Stressing the need for bird-safe design plans and creek preservation and offering environmental concerns, were: Carolyn Straub; Katja Irvin and Kenneth Rosales (Sierra Club, Loma Prieta Chapter), David Poeschel, Liz Flores-Lathan, James Robenolt (Committee for Green Foothills), Michele Beasley (Greenbelt Alliance), Corinne Winter (Silicon Valley Bicycle Coalition), Lynne Grob and Shani Kleinhaus (Silicon Valley Audubon Society), Eileen McLaughlin (Citizens Committee to Complete the Refuge), Ljiljana Vuk, Phil Higgins, Joshua McCluskey, Jodie Sonntag, Ada Marquez, Larry Ames and Wendy Lao. Citing the importance of urban land-use designation, ample parking and affordable housing were Eric Schoenhauer, Kristy Wang (SPUR), Bob Brownstein, Matt Huerta (Neighborhood Housing Services Silicon Valley), Pilar Lorenzana-Campo (Non-profit Housing Association), Hira Levin (Friends of Caltrain), Shiloh Ballard (Silicon Valley Leadership Group), Thai Le, Bill Renkin and Soren Spies. Tina Morill offered that art projects are baked into the plan, and Jim Goddard (Sharks Sports and Entertainment) offered concerns regarding the impact on the SAP Center.

Mayor Reed closed the public hearing.

Director of Planning, Building and Code Enforcement, Harry Freitas responded to questions from Council.

Motion: Council Member Liccardo moved continuance of all general plan amendment actions for Item 10.2 to June 10, 2014. The motion was seconded by Council Member Herrera.

Action: On a call for the question, the motion carried unanimously, all General Plan Amendment actions for Item 10.2 were continued to June 10, 2014. (10-0-1. Absent: Rocha.)

10.3 Continuance of all General Plan amendment actions from May 20, 2014 to June 3, 2014. (Planning, Building and Code Enforcement)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, all General Plan Amendment actions to be continued to June 10, 2014 per Council. (10-0-1. Absent: Rocha.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Adopt a resolution initiating proceedings and setting June 3, 2014 at 1:30 p.m. for Council consideration of the reorganization of territory designated as Evergreen No. 203, which involves the annexation to the City of San José of approximately 1.57 gross acre of land located at the east side of San Felipe Road, approximately 550 feet northerly of Scenic Meadow Lane 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 EIR Resolution No. 76041 (Related approved Rezoning File No. C13-039). (Planning, Building and Code Enforcement)**
EVERGREEN No. 203 – District 8

Documents Filed: City Council Action Request from Director of Planning, Building and Code Enforcement, Harry Freitas, dated May 20, 2014, recommending adoption of a resolution.

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 Herrera, seconded by Council Member Liccardo and carried unanimously, Resolution No. 76984, 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 Evergreen No. 203, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (10-0-1. Absent: Rocha.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 (a) Adopt a resolution making certain findings and overriding the action of the Santa Clara County Airport Land Use Commission related to the subject Planned Development Rezoning described below; and**
- (b) Consider an ordinance rezoning the real property located on the south side of Balbach Street, 100 feet east of Almaden Avenue (110, 120, 150, 158, 160, 166, 172 and 180 Balbach Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow a mixed-use development with 101 multi-family residential units, a 1405 square foot retail space, and an underground parking facility on an approximately 1.5 gross acre site (Balbach Street Properties LLC, Owner).**

CEQA: Addendum to Downtown Strategy 2000 EIR, Resolution No. 72767. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC13-027 – District 3

(Deferred from 3/18/14 – Item 11.3 and 4/15/14 – Item 11.4)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated May 19, 2014, accepting Staff's recommendations with modifications. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated April 30, 2014, transmitting the Planning Commission recommendation and Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC13-027. (3) Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, recommending adoption of a resolution. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated May 19, 2014, transmitting comments from the Santa Clara County Airport Land Use Commission and Caltrans. (5) Proof of Publication of Notice of Public Hearing executed on February 7, 2014, submitted by the City Clerk.

Motion: Council Member Liccardo moved approval of the Staff recommendations for item (a) & (b) with changes to item (c) as outlined in his memorandum of May 19, 2014. Council Member Council Member Herrera seconded the motion.

Mayor Reed opened the public hearing.

Erik Schoennauer, representing the applicant, Silicon Sage Builders, urged approval of the project.

Public Comments: Pat Flanigan, Joel Segura, Paul Fogarty and Pete Kolstad (Market-Almaden Neighborhood Association) recommended excluding 180 Balbach from the residential parking area. John Scholtz (Emerald Village Home Owners Association) suggested it was premature to consider the parking and expressed support of the project.

Erik Schoennauer responded to the Market-Almaden Neighborhood Association's concerns, assuring that the contractor will work with the City on parking issues.

Mayor Reed closed the public hearing.

11.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Resolution No. 76985, entitled: “A Resolution of the Council of the City of San José Making Certain Findings Required by California Public Utilities Code Section 21676 that Proposed Planned Development Rezoning Application File No. PDC13-027 is Consistent with the Purposes Set Forth in California Public Utilities Code Section 21670 and Overruling the Airport Land Use Commission’s Determination that the Proposed Project is Not Consistent with the Noise Policies as Defined by the “Comprehensive Land Use Plan for San José International Airport”, was adopted; and Ordinance No. 29414, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Balbach Street, 100 Feet East of Almaden Avenue (APN 26430067), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District”, was passed for publication, with modifications as outlined in Council Member Liccardo’s memorandum of May 19, 2014, item (c) to Exclude PDC13-027 (180 Balbach) applicant from the Residential Permit Parking (RPP) program for the current RPP designated boundaries for the Market/Almaden Neighborhood Association (MANA). (10-0-1. Absent: Rocha.)

**11.3 Conduct a Public Hearing and adopt a resolution designating the “Century 21 Theatre” located on the south side of Olsen Drive, approximately 500 feet west of Winchester Boulevard (3161 Olsen Drive), as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. CEQA: Exempt; File No. HL14-212. (Planning, Building and Code Enforcement)
HL14-212 – District 1**

Documents Filed: Proof of Publication of Notice of Public Hearing executed on April 18, 2014, submitted by the City Clerk.

Action: Dropped. To Be Renoticed.

11.4 (a) Adopt a resolution adopting the Mitigated Negative Declaration for the Huff Avenue Rezoning Project and a related Mitigation Monitoring and Reporting Program;
**(b) Consideration of an ordinance rezoning the real property located on the north side of Huff Avenue, approximately 350 feet west of South Baywood Avenue (2979 Huff Ave.) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to 16 attached multi-family residential units on a 0.42 gross acre site (Strei LLC, Owner).
CEQA: Mitigated Negative Declaration Resolution to be adopted. Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)
PDC13-011 – District 1**

11.4 (Cont'd.)

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated April 28, 2014, transmitting the Planning Commission recommendation and Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC13-011. (2) Proof of Publication of Notice of Public Hearing, executed on April 4, 2014, 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 Constant, seconded by Council Member Herrera, and carried unanimously, Resolution No. 76986, entitled: "A Resolution of the Council of the City of San José Adopting the Huff Avenue Rezoning 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 and Reporting Program, was adopted; and Ordinance No. 29415, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Huff Avenue, Approximately 350 Feet West of South Baywood Avenue to the A(PD) Planned Development Zoning District", was passed for publication. (10-0-1. Absent: Rocha.)

ADJOURNMENT

The Council of the City of San José was adjourned at 10:03 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/5-20-14MIN