

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 10, 2014

The Council of the City of San José convened in Regular Session at 9:31 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chu (9:35 a.m.), Constant, Herrera (9:38 a.m.), Kalra, Khamis, Liccardo (9:35 a.m.), Nguyen (9:35 a.m.), Oliverio (9:38 a.m.), Rocha; Reed.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:32 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 initiation of litigation in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Sutter's Place, Inc. dba Bay 101 v. City of San José. Names of Parties Involved: Sutter's Place, Inc. dba Bay 101, City of San José, The Division of Gaming Control; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-258057; Amount of Money or Other Relief Sought: Damages according to proof. (2) City v. RossDrulisCusenbery Architecture, Inc., et al. Names of Parties Involved: City of San José, RossDrulisCusenbery Architecture, Inc. aka Michael Ross Charles Drulis Architects & Planners, a purported California Corporation and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-237767; Amount of Money or Other Relief Sought: Damages according to proof. (3) AFSCME v. City of San José; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101, City of San José; Court: Public

CLOSED SESSION (Cont'd.)

Employment Relations Board; Case No: SF-CE-837-M. (4) San José Police Officers' Association v. City, et al. Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (5) San José Retired Employees Association, et al. v. City, et al; Names of 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: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (6) Sapien, et al. v. City of San José, et al. Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official 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. (7) 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 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: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (8) Mukhar, et al. v. City of San José, et al. Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official 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: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) AFSCME, et al. v. City of San José, et al. Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, 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: 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.

CLOSED SESSION (Cont'd.)

(4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: 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 11:30 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu (1:38 p.m.), Constant, Herrera (1:58 p.m.), Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Pastor Chris Tenny, Dwell Christian Church offered the Invocation. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by the Third, Fourth and Fifth Graders from Blackford Elementary School and College Students from the Council on American Islamic Relations, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Liccardo, seconded by Council Member Rocha and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Item 3.8 was deferred to June 17, 2014 and Items 10.2 and 10.3 were continued to June 17, 2014. (10-0-1. Absent: Herrera.)

Upon motion by Council Member Oliverio, seconded by Council Member Khamis and carried, Item 11.4 was dropped and deferred to August 5, 2014. (6-4-1. Noes: Kalra, Liccardo, Nguyen, Rocha. Absent: Herrera.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of June 10, 2014:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: San José Police Officers' Association v. City, et al.

Adverse Party of Parties: 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 and related actions.

Substance of Litigation: Challenge to Measure B.

Council Vote: Ayes: Constant, Herrera, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Noes: Campos, Chu, Kalra.

Abstain: None.

Not Present: None.

CEREMONIAL ITEMS

1.2 Presentation of a commendation to six Senior Peer Leaders from the Walk with Ease, Eat for Health Program for their volunteer work and advocacy to senior health. (Constant)

Mayor Reed and Council Member Constant recognized and commended the Senior Peer Leaders for their volunteer work and advocacy to senior health.

1.3 Presentation of a commendation to those who were instrumental in the creation of the Silicon Valley Talent Partnership. (Mayor)

Mayor Reed recognized and commended the people who were instrumental in the creation of the Silicon Valley Talent Partnership.

**1.6 Presentation of a proclamation recognizing June 12th as “Philippines’ Independence Day”. (Campos)
(Rules Committee referral 6/4/14)**

Mayor Reed and Council Members Campos, Chu and Kalra recognized June 12, 2014 as “Philippines’ Independence Day”.

STRATEGIC SUPPORT SERVICES

Items 3.3, 3.4, 3.5 and 3.6 heard after Ceremonial Items.

- 3.3 (a) Review, discussion and approval of the Mayor’s 2014 June Budget Message.
(b) Adopt a resolution by the City Council authorizing the City Manager to negotiate and execute agreements addressed in the Mayor’s Budget Message which are for amounts that exceed the City Manager’s contract authority, provided that any required environmental review has been completed.
(Mayor)**

Documents Filed: (1) Memorandum from Mayor Reed, dated May 30, 2014, transmitting the June Budget Message for Fiscal Year 2014-2015. (2) Memorandum from Council Member Campos, dated June 9, 2014, recommending acceptance of the Mayor’s June Budget Message, including authorization for MBA 11. (3) Memorandum from Council Member Rocha, dated June 9, 2014, regarding the Mayor’s June Budget Message.

Mayor Reed presented introductory remarks and background information. Mayor Reed provided additional amendments to his 2014 June Budget Message and requested that the revisions be included in the motion. Mayor Reed requested that (1) Staff clarify that the \$1 Million fund for Economic Development for incentives to attract manufacturing jobs is used for new or expanding manufacturing companies, (2) For Manager’s Budget Addenda 17, Recommendation 4: Keep the name as current “Fire Station 37 Reserve” leaving the reserve funds in place. (3) Allocate \$50,000 to Health Trust as a one-time funding from savings in the Shopping Cart Program to cover their permitting costs incurred by small businesses who participated in the Health Trust Program in order to allow corner stores to convert their infrastructure to provide dairy, whole grains and fresh produce to the community. Any additional savings from the Shopping Cart Program should be allocated to the Police Staffing Reserves.

Council Members Constant and Khamis expressed support to Mayor Reed’s amendments.

3.3 (Cont'd.)

Motion: Vice Mayor Nguyen moved approval of the Mayor's June Budget Message for Fiscal Year 2014-2015, including the Mayor's amendments as described previously on Page 5. Council Member Constant seconded the motion.

Council Members Chu, Rocha and Campos expressed support to the Mayor Reed's amendments to the June Budget Message.

Council Member Campos requested to amend the motion to include his memorandum dated June 9, 2014, approving Manager's Budget Addendum 11 to provide alternate staffing models for satellite community centers such as the Alum Rock Youth Center. Vice Mayor Nguyen respectfully declined to accept the amendment.

Council Member Kalra requested to amend the motion to include Budget Document 17: to open all Libraries five and a half days a week, including Saturdays; Budget Document 32: funding for the Metcalf Monitoring Station and Budget Document 33: to allow funding for a Code Enforcement Officer and one Police Sergeant to work on an as needed basis for massage parlor regulation and enforcement.

Vice Mayor Nguyen respectfully declined all three amendments from Council Member Kalra, citing that her preference was to adhere to the Mayor's recommendations.

Mayor Reed and Council Members Liccardo and Herrera expressed support to the motion on the floor.

Public Comments: The following speakers pointed out that good quality food should be served at the Senior Center and requested that Staff bring back on site cooking: Julie Tran, Working Partnerships; Glenice Magee, United Seniors Action; Julienne LaFitte and Nicholas Secola, North Side Community Center. David Wall voiced his support for increased funding for public safety.

Mayor Reed offered closing comments.

Action: On a call for the question, the motion carried, the Mayor's June Budget Message for Fiscal Year 2014-2015, dated May 30, 2014, was approved, approving the City Manager's Proposed Budget with additional direction as outlined for purposes of adopting a final budget for Fiscal Year 2014-2015, with the following amendments: (1) Clarify that the \$1 Million fund for Economic Development for incentives to attract manufacturing jobs is used for new or expanding manufacturing companies. (2) Manager's Budget Addendum 17, Recommendation 4: Keep the name as current "Fire Station 37 Reserve" leaving the reserve funds in place. (3) Allocate \$50,000 to Health Trust as a one-time funding from savings in the Shopping Cart Program to cover their permitting costs incurred by small businesses who participated in the Health Trust

3.3 (Action Cont'd.)

Program to order to allow corner stores to convert their infrastructure to provide dairy, whole grains and fresh produce to the community. Any additional savings from the Shopping Cart Program should be allocated to the Police Staffing Reserves and Resolution No. 77011 adopted, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Identified in the Mayor’s 2014 June Budget Message and Approve Amendments in Amounts That Exceed the City Manager’s Contract Authority”, was adopted. (9-2. Noes: Campos, Kalra.)

3.4 (a) Adopt a resolution setting the following Sewer Service and Use Charge rates for 2014-2015:

<u>Category</u>	<u>2014-2015 Monthly Rates</u>
Single-Family Residential	\$33.83
Multi-Family Residential	\$19.35 per unit
Mobile Home	\$19.39 per unit
Non-Monitored Commercial and Industrial	See Attachment A
Monitored Industrial	See Attachment A

(b) Adopt a resolution setting the following Storm Sewer Service Charge rates for 2014-2015:

<u>Category</u>	<u>2014-2015 Monthly Rates</u>
Single-Family Residential and Duplex	\$7.87
Mobile Home	\$3.94 per unit
Residential Condominium	\$4.30 per unit
Large Multi-Family Residential (5 or more units)	\$4.30 per unit
Small Multi-Family Residential (3-4 units)	\$14.95
Commercial, Institutional and Industrial	See Attachment B

CEQA: Not a Project File No. PP10-067(a), Increases and Adjustments to Fees, Rates and Fares. (Environmental Services)

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

Motion: Council Member Constant moved approval of the Staff recommendations. Vice Mayor Nguyen seconded the motion.

Public Comments: David Wall and Yolanda Lewis, Innovative Resources spoke in opposition to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77012, entitled: “A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges for Fiscal Year 2014-2015” and Resolution No. 77013, entitled: “A Resolution of the Council of the City of San José Setting Schedules of Storm Sewer Service Charges for Fiscal Year 2014-2015”, were adopted. (10-0-1. Absent: Chu.)

- 3.5 (a) Conduct a Public Hearing on proposed San José Municipal Water System 2014-2015 potable water rates and charges; and**
(b) Adopt a resolution increasing the San José Municipal Water System potable water rates and charges by 11.0%, effective July 1, 2014.

CEQA: Statutorily Exempt, File No. PP10-067(a), Increase or Adjustment to Fees, Rates and Fares. Council Districts 2, 4, 7 and 8. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated My 19, 2014, recommending conducting a public hearing and adoption of a resolution. (2) Supplemental memorandum from Director of Environmental Services Kerrie Romanow, dated June 3, 2014, reporting on the written protests received through June 2, 2014 in response to Public Notices mailed to property owners regarding the rate increase for 2014-2015. (3) Proof of Publication of Notice of Public Hearing, executed on May 5, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

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

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 77014, entitled: “A Resolution of the Council of the City of San José To Establish New Charges for Potable Water Service Effective July 1, 2014”, was adopted. (10-0-1. Absent: Chu.)

- 3.6 (a) Adopt resolutions approving the Operating Budget for Fiscal Year 2014-2015 for the City of San José, the Capital Budget for Fiscal Year 2014-2015 for the City of San José, and the Five-Year Capital Improvement Program for Fiscal Year 2015-2019 for the City of San José as revised by the Mayor’s Budget Message and directing the City Manager to prepare final documents for adoption.**
- (b) (1) Council by motion waive the 10-day noticing requirement for the legal document for the following item.**
(2) Adopt a resolution establishing the Schedule of Fees and Charges for 2014-2015.
- (c) Adopt a resolution to repeal Resolution No. 76950 and set forth the Master Parking Rate Schedule to authorize parking meter rates of up to \$2 per hour in parking meter zones where Smart Meters have been installed, and authorize an adjustment in the meter rate below \$1 per hour in parking meter zones with underutilized on-street parking.**
- (d) Adopt a resolution amending Council Policy 1-15, Debt Management Policy, to amend Section II (Responsibility for Debt Management Activities) and Section III (Purposes and Parameters for Debt Issuance).**
- (e) Adopt a resolution amending Council Policy 1-18, Operating Budget and Capital Improvement Program Policy, to amend Operating Budget, Section 8 (Debt) and Capital Improvement Program, Section 3 (Debt).**

(City Manager)

3.6 (f) Approve an ordinance amending Title 4 of the San José Municipal Code to add a new Chapter 4.34 to specify the vote of the City Council required for the approval of Lease Financings.

(City Attorney)

Documents Filed: (1) Proposed Operating Budget Binder for Fiscal Year 2014-2015. (2) Proposed Fiscal Year 2014-2015 Capital Budget and 2014-2019 Capital Improvement Program Binder. (3) Proposed 2014-2015 Fees and Charges Report.

See Appendix A, Page 47 for related Budget Documents, Manager’s Budget Addenda and Public Correspondence.

Public Comments: Scott Knies, San José Downtown Association, spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 77015, entitled: “A Resolution of the Council of the City of San José Approving for Adoption the Capital Budget for Fiscal Year 2014-2015”; Resolution No. 77016, entitled: “A Resolution of the Council of the City of San José Approving for Adoption the Five Year Capital Improvement Program for Fiscal Years 2015-2019”; Resolution No. 77017, entitled: “A Resolution of the Council of the City of San José Approving for Adoption the Operating Budget For Fiscal Year 2014-2015”; Council waived the 10-day noticing requirement for the legal document for the following item: Resolution No. 77018, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72737 To Amend and Establish Various Fees and Charges Effective July 1, 2014”; Resolution No. 77019, entitled: “A Resolution of the Council of the City of San José Setting Forth the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities to Adjust Parking Meter Rates in Parking Meter Zones Where Smart Meters Have Been Installed and In Locations Where Spaces Are Underutilized and To Repeal Resolution No. 76950”; Resolution No. 77020, entitled: “A Resolution of the Council of the City of San José Approving Revisions to Council Policy 1-15 Relating to Debt Management Policy” and Resolution No. 77021, entitled: “A Resolution of the Council of the City of San José Approving Revisions to Council Policy 1-18 Relating to Operating Budget and Capital Improvement Program Policy”, were adopted, and Ordinance No. 29429, entitled: “An Ordinance of the City of San José Amending Title 4 of the San José Municipal Code to Add a New Chapter 4.34 to Specify the Vote of the City Council Required for the Approval of Lease Financings”, was passed for publication. (10-0-1. Absent: Chu.)

CONSENT CALENDAR

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

2.1 Approval of Minutes.

There were none.

2.2 Final Adoption of Ordinances.

There were none.

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of May 21, 2014. (Mayor)**
- (b) **Rules and Open Government Committee Report of May 7, 2014. (Mayor)**
- (c) **Rules and Open Government Committee Report of May 14, 2014. (Mayor)**

Documents Filed: The Rules and Open Government Committee Reports dated May 7, 2014, May 14, 2014 and May 21, 2014.

Public Comments: David Wall provided various comments about the Rules and Open Government Committee Reports.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Council Committee Reports were approved. (11-0.)

- 2.4 (a) (1) **Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation. (Chu)**
- (2) **Request for an excused absence for Council Member Chu from the Regular Meeting of Neighborhood Services and Education Committee on June 12, 2014 due to Authorized City Business: Attending graduation ceremonies for Piedmont Middle School, Morrill Middle School and Sierramont Middle School. (Chu)**

Documents Filed: Memorandum from Council Member Chu, dated May 30, 2014, requesting an excused absence.

Action: Council waived the 10-day noticing requirement, approved its placement on the agenda and considered the recommendation. An excused absence for Council Member Chu from the Regular Meeting of Neighborhood Services and Education Committee on June 12, 2014 due to authorized City business, was approved. (11-0.)

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 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. CEQA: Not a Project, File No. PP10-069(a), Staff report. (Office of Cultural Affairs/Economic Development)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 8, 2014, transmitting the recommendations of the Community and Economic Development Committee.

Action: The 2014-2016 Prioritized Workplan to implement Cultural Connection: San José Cultural Plan for 2011 – 2020 was adopted. (11-0.)

- 2.8 As recommended by the Rules and Open Government Committee on May 28, 2014:**
- (a) Approve the AB60 Information Forum on June 5, 2014 as a City Council sponsored Special Event and approve the expenditure of funds and approve and accept donations from various individuals, business or community groups to support this event.**
 - (b) Approve the Safe Summer Kick Off Resource Fair and Pharmaceutical Drug Turn In on June 22, 2014 as a City Council sponsored Special Event and approve the expenditure of funds and approve and accept donations from various individuals, business or community groups to support this event.**
 - (c) Approve the District 5 Puerto Rican Flag Raising Ceremony on June 10, 2014 as a City Council sponsored Special Event and approve the expenditure of funds and approve and accept donations from various individuals, business or community groups to support this event.**
 - (d) Approve the District 5 Filipino Flag Raising on June 12, 2014 as a City Council sponsored Special Event and approve the expenditure of funds and approve and accept donations from various individuals, business or community groups to support this event.**
- CEQA: Not a Project. (Campos)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 29, 2014, transmitting the recommendations of the Rules and Open Government Committee.

2.8 (Cont'd.)

Action: The AB60 Information Forum on June 5, 2014, the Safe Summer Kick Off Resource Fair and Pharmaceutical Drug Turn In on June 22, 2014, the District 5 Puerto Rican Flag Raising Ceremony on June 10, 2014 and the District 5 Filipino Flag Raising on June 12, 2014 as City Council sponsored Special Events and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the events was authorized. (11-0.)

2.9 Approve an ordinance amending Chapter 1.08 of Title 1 of the San José Municipal Code by amending Section 1.08.010 to allow the City Attorney to charge offenses designated as misdemeanors under the Municipal Code as infractions and adding a new Section 1.08.060 to grant criminal citation authority to certain employees designated by the City Manager. CEQA: Not a Project; File No. PP10-068(c), Municipal Code or Policy that involves no changes in the physical environment. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 29, 2014, recommending approval of an ordinance.

Public Comments: David Wall presented comments on the proposed ordinance.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29416, entitled: “An Ordinance of the City of San José Amending Chapter 1.08 of Title 1 of the San José Municipal Code By Amending Section 1.08.010 To Allow the City Attorney to Charge Offenses Designated as Misdemeanors Under the Municipal Code as Infractions and Adding a New Section 1.08.060 To Grant Criminal Citation Authority to Certain Employees Designated by the City Manager”, was passed for publication. (11-0.)

2.10 Adopt a resolution authorizing the City Attorney to execute the Third Amendment to the Agreement among the Board of Administration for the Police and Fire Department Retirement Plan, the City of San José and Reed Smith LLP for legal services to increase the maximum compensation by \$500,000 for an amount not to exceed \$1,250,000. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 27, 2014, recommending adoption of a resolution.

Action: Resolution No. 77024, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute a Third Amendment to the Agreement with Reed Smith LLP”, was adopted. (11-0.)

- 2.11 As recommended by the Rules and Open Government Committee on May 28, 2014:**
- (a) Approve the National Night Out scheduled for August 5, 2014 as a City Council sponsored Special Event and approve the expenditure of funds.**
 - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**
- CEQA: Not a Project. (City Clerk)**
[Rules Committee referral 5/28/14 – Item G(2)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 28, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The National Night Out scheduled for August 5, 2014 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on May 28, 2014:**
- (a) Approve the Korean Flag Raising as a City Council sponsored Special Event and approve the expenditure of funds.**
 - (b) Approve and accept donations from various individuals, business or community groups to support the event.**
- (Constant)**
[Rules Committee referral 5/28/14 – Item G(5)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 28, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Korean Flag Raising as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

- 2.13 Adopt a resolution authorizing the City Manager to execute the permanent easement agreement with the San José Water Company for water facilities installation to support the construction and operation of the San José Earthquakes' Stadium. CEQA: FMC/Coleman Avenue Planned Development Rezoning EIR, Resolution No. 71716. Council District 3. (Economic Development)**

Documents Filed: City Council Action Request from Director of Economic Development/Chief Strategist Kim Walesh, dated May 29, 2014, recommending adoption of a resolution.

Action: Resolution No. 77025, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Permanent Easement Agreement With the San José Water Company for Water Facilities Installation to Support the Construction and Operation of the San José Earthquakes' Stadium", was adopted. (11-0.)

- 2.14 Approve a First Amendment to the lease for 20,480 square feet of office space at 1302 North Fourth Street to extend the current term of the agreement for an additional six months (July 1, 2014 through December 31, 2014) and set the monthly rental rate during the extension period at \$38,912 per month. CEQA: Exempt, File No. PP09-117. Council District 3. (Economic Development)**

Documents Filed: City Council Action Request from Director of Economic Development/Chief Strategist Kim Walesh, dated May 29, 2014, recommending approval of a first amendment to the lease.

Action: A First Amendment to the lease for 20,480 square feet of office space at 1302 North Fourth Street to extend the current term of the agreement for an additional six months (July 1, 2014 through December 31, 2014) and set the monthly rental rate during the extension period at \$38,912 per month was approved. (11-0.)

- 2.15 Adopt an annual renewal resolution authorizing the City Manager or designee to negotiate and execute:**

- (a) All contracts, amendments, agreements, leases, subleases, and memoranda of understanding with contractors and vendors providing services to the Workforce Investment Act Program (WIA), including, but not limited to, novations or assignments, vendor training contracts, case management contracts, consultant contracts, memoranda of understanding required with Mandatory Partners for the use of One-Stop facilities, and cities and the unincorporated area of Santa Clara County whose residents receive service under the WIA program for the period from July 1, 2014 to June 30, 2015, in accordance with procurement procedures and requirements mandated by the state and federal governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements that have been reviewed and approved, as required, by the Silicon Valley Workforce Investment Network (work2future) Board, so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**
- (b) All amendments to City Council approved agreements that have been reviewed and approved, as required, by the work2future Board so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**
- (c) All grants agreements, subgrant agreements, and any documents necessary to accept the grant for discretionary funding applied for and approved by the work2future Board, for the period from July 1, 2014 to June 30, 2015, so long as moneys have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**

- 2.15 (d) All agreements specified in Section 1 with an end term beyond the fiscal year in which the contract began (beyond June 30, 2014), so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement, but not beyond the end of the following fiscal year (not beyond June 30, 2015).
- (e) All agreements specified in (a) above that do not involve a disbursement of funds (no-fund agreement) beyond the fiscal year in which the agreement begins (beyond June 30, 2015), but not beyond the end of the following fiscal year (not beyond June 30, 2016).

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

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated May 21, 2014, recommending adoption of a resolution.

Action: Resolution No. 77026, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Related to the Workforce Investment Act Program (WIA) and Projects during FY 2014-2015", was adopted. (11-0.)

2.16 Adopt a resolution authorizing the Director of Housing to:

- (a) Negotiate and execute an Exclusive Negotiation Agreement between the City and Abode Services for potential development of the City-owned Vermont House site, located at 1072 and 1082 Vermont Street.
- (b) Negotiate and execute documents for a Predevelopment Loan between the City and Abode in an amount not to exceed \$125,000.
- (c) Negotiate and execute an amendment to the Vermont House Affordability Restrictions to income-restrict the two structures based on the actual number of bedrooms.

CEQA: Negative Declaration, File No. CP97-033. Council District 6. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated May 20, 2014, recommending adoption of a resolution.

Action: Resolution No. 77027, entitled: "A Resolution of the Council of the City of San José Authorizing an Exclusive Negotiation Agreement and Predevelopment Loan to Adobe Services for Rehabilitation of the Vermont House", was adopted. (11-0.)

2.17 Approve the Second Amendment to the agreement with Athens Insurance Services DBA Athens Administrators for workers compensation comprehensive services, to adjust the total annual costs for medical cost containment services under the service areas of Utilization Review and Medical Case Management and Bill Review/Preferred Provider Organizations. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Human Resources)

2.17 (Cont'd.)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated May 19, 2014, recommending approval of the second amendment to the agreement with Athens Insurance Services.

Action: The Second Amendment to the agreement with Athens Insurance Services DBA Athens Administrators for workers compensation comprehensive services, to adjust the total annual costs for medical cost containment services under the service areas of Utilization Review and Medical Case Management and Bill Review/Preferred Provider Organizations was approved. (11-0.)

2.18 As recommended by Rules and Open Government Committee on May 28, 2014:

- (a) **Approve the Ethiopian Heritage Flag Raising scheduled on July 3, 2014 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) **Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Liccardo)

[Rules Committee referral 5/28/14 – Item G(4)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 29, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Ethiopian Heritage Flag Raising as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.19 Approve a Joint Use Agreement with the Santa Clara Valley Water District (SCVWD) for continued operation and maintenance of the recreational trail along Los Gatos Creek Trail on SCVWD property for a term of 25 years, with City option to renew for another 25 years. CEQA: Exempt, File No. PP14-052. Council District 6. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 19, 2014, recommending a joint use agreement with Santa Clara Valley Water District.

Action: A Joint Use Agreement with the Santa Clara Valley Water District (SCVWD) for continued operation and maintenance of the recreational trail along Los Gatos Creek Trail on SCVWD property for a term of 25 years, with City option to renew for another 25 years, was approved. (11-0.)

- 2.20 Adopt a resolution adopting a Labor Compliance Program for all public works construction projects utilizing Proposition 84 funds (Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006). CEQA: Not a Project, File No. PP10-068(b), Municipal Code of Policy change that involves no changes to the physical environment. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 19, 2014, recommending adoption of a resolution.

Action: Resolution No. 77028, entitled: “A Resolution of the Council of the City of San José Adopting a Labor Compliance Program for Public Works Construction Projects That Utilize Proposition 84 Funds”, was adopted. (11-0.)

- 2.21 Report on bids and award of contract for the 6394-Minnesota Avenue Sanitary Sewer Improvement project to the low bidder, JMB Construction, Inc., in the amount of \$1,063,931, and approval of a contingency in the amount of \$106,000. CEQA: Exempt, File No. PP13-076. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 19, 2014, recommending award of the contract to the low bidder, with related contingency.

Action: The report on bids and award of contract for the 6394-Minnesota Avenue Sanitary Sewer Improvement project to the low bidder, JMB Construction, Inc., in the amount of \$1,063,931, with related contingency, was approved. (11-0.)

- 2.22 (a) Accept the Annual Status Report on the Safe Neighborhood Parks and Recreation Bond Projects for the FY 2012-2013.**
(b) Accept the Annual Status Report on the Branch Library Bond Projects for the FY 2012-2013.
(c) Accept the Annual Status Report on the Public Safety Bond Program for the FY 2012-2013.

CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Public Works)

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated May 29, 2014, recommending acceptance of the reports.

Action: The Annual Status Report on the Safe Neighborhood Parks and Recreation Bond Projects for the FY 2012-2013, the Annual Status Report on the Branch Library Bond Projects for the FY 2012-2013 and the Annual Status Report on the Public Safety Bond Program for the FY 2012-2013 were accepted. (11-0.)

- 2.23 (a) **Adopt the following Appropriation Ordinance amendments in the Airport Revenue Bond Improvement Fund:**
- (1) **Increase the Federal Inspection Facility Sterile Corridor Extension appropriation to the Airport Department in the amount of \$470,000.**
 - (2) **Decrease the Terminal Area Improvement, Phase I appropriation to the Airport Department in the amount of \$470,000.**
- (b) **Adopt a resolution authorizing the Director of Public Works to:**
- (1) **Award the construction contract for the San José International Airport Sterile Corridor Extension at Gates 17 and 18 Project to the lowest responsive and responsible bidder in an amount not to exceed \$1,525,000 and approve a fifteen percent contingency.**
 - (2) **Hear and decide any timely bid protests, to make the City's final determination as to the lowest responsive bidder that is responsible, or to reject all bids and re-bid the project.**
 - (3) **Execute change orders in excess of \$100,000 within the contingency amount.**

CEQA: Airport Master Plan Update EIR, Resolution Nos. 67380 and 71451, File No. PP14-035. (Public Works/City Manager)

Documents Filed: Memorandum from Director of Public Works David Sykes and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 19, 2014, recommending adoption of appropriation ordinance amendments and a resolution.

Action: Ordinance No. 29417, "An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Airport Revenue Bond Improvement Fund for the Federal Inspection Facility Sterile Corridor Extension; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 77029, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Determine and Award the San José International Airport Sterile Corridor Extension at Gates 17 and 18 Project to the Lowest Responsive and Responsible Bidder, In An Amount Not To Exceed \$1,525,000 and Approve a 15 Percent Contingency", were adopted. (11-0.)

- 2.24 (a) **Report on bids and award of the construction contract for the 3336 - Fire Station No. 21 Project to the low bidder, Sausal Corporation, Inc., to include the base bid and Add Alternates No. 1, 2 and 3, in the amount of \$5,112,900, and approval of a contingency in the amount of \$512,000.**
- (b) **Adopt the following Appropriation Ordinance amendments in the Neighborhood Security Bond Fund:**
- (1) **Increase the Fire Station 21 – Relocation (White Road) appropriation to the Fire Department by \$350,000.**
 - (2) **Decrease the Fire Station 37 (Willow Glen) Reserve by \$350,000.**

CEQA: Addendum to the Evergreen-EastHills Visioning Strategy EIR, File No. PP08-184. Council District 8. (Public Works/City Manager)

2.24 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works David Sykes and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 16, 2014, recommending the award of the construction contract to the low bidder, with related contingency and adoption of appropriation ordinance amendments.

Action: The report on bids and award of the construction contract for the 3336 - Fire Station No. 21 Project to the low bidder, Sausal Corporation, Inc., to include the base bid and Add Alternates No. 1, 2 and 3, in the amount of \$5,112,900, with related contingency was approved, and Ordinance No. 29418, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Neighborhood Security Bond Fund for the Fire Station 21 – Relocation (White Road); and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0.)

2.25 Adopt a resolution:

- (a) **Approving the Downtown San José Property-Based Improvement District Annual Report prepared by the Downtown San José Property Owners Association for Fiscal Year 2014-2015 as filed or modified by Council.**
- (b) **Confirming the individual assessments as proposed by the Downtown San José Property Owners Association, or as modified by Council.**
- (c) **Directing that the City baseline services contribution in the amount of \$365,000 be continued in Fiscal Year 2014-2015.**
- (d) **Directing the Director of Public Works to deliver the assessment roll to the County for collection with the property taxes.**

CEQA: Not a Project, File No. PP10-069(a), Assessments and Annual Reports. (Transportation/Public Works)

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen and Director of Public Works David Sykes, dated May 22, 2014, recommending adoption of a resolution.

Action: Resolution No. 77030, entitled: "A Resolution of the Council of the City of San José: (1) Approving the Downtown San José Property-Based Improvement District Annual Report Prepared by the Downtown San José Property Owners Association for Fiscal Year 2014-2015 as Filed or Modified by the City Council; (2) Confirming the Individual Assessments as Proposed by the Downtown San José Property Owners Association, or as modified by the City Council, Including the Assessment on City-Owned Property and the Assessment on Successor Agency-Owned Property; (3) Directing that the City Baseline Services Contribution In The Amount of \$365,000 Be Continued in Fiscal Year 2014-2015 and (4) Directing the Director of Public Works to Deliver the Assessment Roll to the County of Santa Clara for Collection with the Property Taxes", was adopted. (11-0.)

- 2.26 Approve an agreement between the City and MHN Services for Substance Abuse Treatment and Managed Health Network for Employee Assistance Program and Critical Incident Stress Management for the initial period of July 1, 2014 through June 30, 2015, with additional option periods that would extend the agreement through December 31, 2016, for a total cost that will not exceed \$1,512,500, subject to the annual appropriation of funds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Human Resources) (Deferred from 6/3/14 – Item 2.25)**

Documents Filed: (1) Memorandum from Deputy City Manager Alex Gurza, dated May 15, 2014, recommending approval of an agreement. (2) Supplemental memorandum from Deputy City Manager Alex Gurza, dated May 30, 2014, providing clarification that the two separate entities MHN Services and Managed Health Network will provide EAP, CISM and substance abuse services to the City, its employees and their dependents.

Action: An agreement between the City and MHN Services for Substance Abuse Treatment and Managed Health Network for Employee Assistance Program and Critical Incident Stress Management for the initial period of July 1, 2014 through June 30, 2015, with additional option periods that would extend the agreement through December 31, 2016, for a total cost that will not exceed \$1,512,500, subject to the annual appropriation of funds was approved. (11-0.)

- 2.27 As referred by the Rules and Open Government Committee on June 4, 2014:**
- (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) Direct the City Manager to facilitate the installation of two mid-building signs on the River Park Towers II Office Tower located at 300 Park Avenue in Downtown San José, and approve a ten-day sunshine waiver.**
- CEQA: Not a Project, File No. PP10-069, Administrative activities. (Mayor) (Rules Committee referral 6/4/14)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated June 6, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Council waived the 10-day noticing requirement, approved its placement on the agenda, and considered the recommendation. The City Manager was directed to facilitate the installation of two mid-building signs on the River Park Towers II Office Tower located at 300 Park Avenue in Downtown San José, and a ten-day sunshine waiver was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.7 (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)

(Deferred from 4/29/14 – Item 3.4, et al, 6/3/14 – Item 3.3)

Action: Deferred to June 17, 2014 per Administration.

- 3.8 **As recommended by the Rules and Open Government Committee on May 21, 2014, deny a Waiver of the Revolving Door Restrictions for Council Member Campos' former Chief of Staff, Josué Garcia. (City Clerk)**
[Rules Committee referral 5/21/14 – Item G(4)]

Action: Deferred to June 17, 2014 per Orders of the Day.

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 or 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)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 8, 2014, transmitting the recommendations of the Community and Economic Development Committee.

Deputy City Attorney Elizabeth Klotz presented the report.

Motion: Council Member Liccardo moved approval of recommendations for the special event ordinance submitted by the Community and Economic Development Committee and the City Attorney. Council Member Constant seconded the motion.

Deputy City Attorney Elizabeth Klotz and Deputy Director of Parks, Recreation and Neighborhood Services Steve Hammack responded to Council questions.

4.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29419, entitled: “An Ordinance of the City of San José Amending Title 13 of the San José Municipal Code To Add A New Chapter 13.14 Relating To Community Special Events, To Add Sections 13.44.011, 13.44.011.5, 13.44.014.5, 13.44.015, 13.44.072, 13.44.074 And 13.44.076 and Amend Sections 13.44.070, 13.44.150 and 13.44.180 of Chapter 13.44 (Parks), and Repealing Chapters 13.12 (Parade Regulations), 13.16 (Temporary Street Closures), and 13.22 (Paseos and Plazas) In Their Entirety and Section 13.44.080 of Chapter 13.44 (Parks), All in Order To Establish Comprehensive Regulations Pertaining To Outdoor Special Events On or At City Streets, Paseos, Plazas and Parks”, was passed for publication. (11-0.)

4.2 **Conduct an Administrative Hearing on and consider a Planned Development Permit and Determination of Public Convenience or Necessity to allow the sale of alcoholic beverages for off-sale consumption at an existing 92,504 square foot retail store (Walmart) on an approximately 13.4 gross acre site in the A(PD) Planned Development Zoning District, located on the northwest corner of Almaden Expressway and Highway 85, approximately 670 feet south of Cherry Avenue, and adopt a resolution reflecting the Council’s action (5095 Almaden Expressway) (John Giacomazzi, Owner). CEQA: Exempt. Planning Commission recommends approval (5-1-1). (Planning, Building and Code Enforcement) PD14-002/ABC14-001 – District 9**

Documents Filed: (1) Memorandum from Council Member Rocha, dated June 9, 2014, recommending that Council deny the proposed Planned Development Permit and Determination of Public Convenience or Necessity to allow the sale of alcoholic beverages for off-sale consumption. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD14-002/ABC14-001, dated April 28, 2014. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated May 20, 2014, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing, executed on May 16, 2014, submitted by the City Clerk.

Council Member Rocha offered his analysis and reasoning to deny the proposed Planned Development Permit and Determination of Public Convenience or Necessity to allow the sale of alcoholic beverages for off-sale consumption at the Walmart on Almaden Expressway.

Motion: Council Member Constant moved approval of the Staff recommendations to approve the proposed Planned Development Permit and Determination of Public Convenience or Necessity and to allow the sale of alcoholic beverages for off-sale consumption. Council Member Liccardo seconded the motion.

Council Member Liccardo offered meeting disclosures.

4.2 (Cont'd.)

Council Members Kalra and Khamis expressed support to the memorandum from Council Member Rocha.

Council Member Campos suggested that there should be mitigation measures and offered his support to the memorandum from Council Member Rocha.

Council Members Liccardo and Constant concurred that this action is consistent with the City of San José's Policy for Determination of Public Convenience or Necessity.

Mayor Reed opened the Administrative Hearing.

Public Comments: Ross Signorino spoke in opposition to the Staff recommendations.

Mayor Reed closed the Administrative Hearing.

Council Member Khamis provided meeting disclosures.

Action: On a call for the question, the motion carried, the recommendation of the Planning Commission and the Planning Director was approved, and Resolution No. 77031: entitled: "A Resolution of the Council of the City of San José Granting, Subject to Conditions, A Planned Development Permit and Determination of Public Convenience or Necessity to Allow the Sale of Alcoholic Beverages for Off-Site Consumption at an Existing 92,504 Square Foot Retail Store (Walmart) on a 13.4 Gross Acre Site Located at the Northwest Corner of Almaden Expressway and Highway 85, Approximately 670 Feet South of Cherry Avenue (5095 Almaden Expressway)", was adopted. (6-5. Noes: Campos, Chu, Kalra, Khamis, Rocha.)

STRATEGIC SUPPORT SERVICES

- 3.9**
- (a) Interview five (5) applicants for appointment to the Planning Commission.**
 - (b) Appoint three (3) members to the Planning Commission to terms expiring June 30, 2018.**
 - (c) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.**
(City Clerk)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated May 19, 2014, recommending interviewing five applicants, appointing three members and further direction to City Clerk if any vacancy remains. (2) Memorandum from Deputy Director of Planning, Building and Code Enforcement Diane Buchanan, dated April 18, 2014, responding to the request for Planning Commission Applicant Code Review. (3) Planning Commission Ballot One and Ballot Two filled out by the Mayor and each Council Member, dated June 10, 2014.

3.9 (Cont'd.

The Planning Commission Applicants Edesa Bitadal, Hope Cahan, Nick Pham, Cameron Day and Edgar Abelite were interviewed by Mayor Reed and the Council Members.

Action: Edesa Bitabadal, Edgar Abelite and Nick Pham were appointed to terms expiring June 30, 2018.

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.**
 - (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)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 28, 2014, recommending acceptance of the report on the Request for Proposal for the Senior Nutrition Program and adoption of a resolution. (2) Petition dated June 10, 2014 signed by 115 seniors in favor of having the option to have a cook on-site senior lunch program. (3) Petition dated June 10, 2014 signed by 58 seniors in favor of continuing with the nutritious catered meals delivered by Bateman Senior Meals. (4) Letter from Nandini Garud, dated June 10, 2014, recommending continuing the nutritious catered meals delivered by Bateman Senior Meals.

Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and Deputy Director Matt Cano provided the report on the Senior Nutrition Program and responded to Council questions and concerns.

Public Comments: Martha O'Connell pointed out that the methodology of the survey was flawed and that Bateman Senior Meals intimidated the seniors during the survey process. Joyce Rabourn, Senior Citizens Commission stated that the Commission has not taken a position. Nandini Garud recommended continuing the nutritious catered meals delivered by Bateman Senior Meals and was not in favor of on-site cooking. Richard McCoy commented that the food at the senior centers were improving and noted that many seniors approve of the on-site cooking.

5.1 (Cont'd.)

Motion: Council Member Constant moved approval of the Staff recommendations with direction to the City Manager to (1) Monitor the actions of the County related to potential additional funding for senior nutrition. (2) Reconvene the bid evaluation team to complete the evaluation of the on-site bid. To work to identify the funding to complete the gap that would be present based on that bid, the County money and the approved budget for senior nutrition. Return to the Council with the complete package for review. (3) Work with the seniors to come up with a more reliable survey process in order to evaluate the opinions related to the Senior Nutrition Program in a way that seniors are not intimidated, are able to answer honestly and may openly express how they feel about the program. Council Member Liccardo seconded the motion.

Extensive Council discussion ensued.

Action: On a call for the question, the motion carried, the report on Request for Proposal for Senior Nutrition Program was accepted, Resolution No. 77032, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Compass Group USA, Inc. (Batemen) To Provide Citywide Senior Nutrition Services for an Initial One Year Term, In An Amount Not To Exceed \$1,400,000 and To Execute Five One Year Options to Renew the Agreement, Subject to the Appropriation of Funds", were adopted. The City Manager was directed to: (1) Monitor the actions of the County related to potential additional funding for senior nutrition. (2) Reconvene the bid evaluation team to complete the evaluation of the on-site bid. To work to identify the funding to complete the gap that would be present based on that bid, the County money and the approved budget for senior nutrition. Return to the Council with the complete package for review. (3) Work with the seniors to come up with a more reliable survey process in order to evaluate the opinions related to the Senior Nutrition Program in a way that seniors are not intimidated, are able to answer honestly and may openly express how they feel about the program. (8-3. Noes: Campos, Chu, Kalra.)

5.2 As recommended by the Public Safety, Finance, and Strategic Support Committee on May 15, 2014:

- (a) **Accept the Evaluation Report for FY 2012-2013 San José Bringing Everyone's Strengths Together (BEST) and the Mayor's Gang Prevention Task Force.**
- (b) **Approve the Resource Allocation Plan for San José BEST and Safe Summer Initiative Grant programs for FY 2014- 2015.**

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 29, 2014, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

5.2 (Cont'd.)

Acting Assistant Director of Parks, Recreation and Neighborhood Services Angel Rios responded Council questions and concerns.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Liccardo and carried unanimously, the Evaluation Report for FY 2012-2013 San José Bringing Everyone's Strengths Together (BEST) and the Mayor's Gang Prevention Task Force and the Resource Allocation Plan for San José BEST and Safe Summer Initiative Grant programs for FY 2014- 2015, were accepted. (9-0-2. Absent: Constant, Kalra.)

TRANSPORTATION & AVIATION SERVICES

6.1 As recommended by the Transportation and Environment Committee on May 5, 2014, accept the following changes to be incorporated as part of the new Airport Ground Transportation program directive:

- (a) Accept a three year moratorium on any new taxi cab companies from servicing the City of San José; after the third year staff should determine through a “needs and necessities” process whether passenger demand supports any new taxi companies’ increase in the City of San José.**
- (b) Require any new taxi companies to have a minimum three year experience operating taxis in San José before they can become qualified to service the Airport.**
- (c) During the first three years of the new Airport Ground Transportation program, require any new taxi company servicing the Airport to have been DOT GPS approved either on or before March 4, 2014.**
- (d) Continue to allow individuals drivers to apply for Taxi Driver permits in the City of San José.**

(Airport)

Action: Dropped. Referred to the Transportation and Environment Committee.

PUBLIC SAFETY SERVICES

- 8.1 (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.**

- 8.1 (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; 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)

Documents Filed: (1) The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Oliverio, dated May 9, 2014, relating to amending Title 20 of the San José Municipal Code related to Land Use Regulations pertaining to Medical Marijuana Collectives. (2) The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Oliverio, dated May 9, 2014, relating to Title 6, Safety for Children, Neighborhoods and the Patients Act; (3) The memorandum from Mayor Reed, dated May 12, 2014, amending Title 20 and establishing the effective date of the ordinance. (4) The memorandum from Council Member Rocha, dated May 12, 2014, Item (1) only: Prohibit collectives from locating in the CG Commercial General Zoning District. (5) The memorandum from Council Member Liccardo, dated May 20, 2014, amending Title 20 homeless shelters and legal nonconforming residential uses. (6) The memorandum from Council Member Herrera, dated June 9, 2014, with direction to Staff to look into charitable contributions and a policy to address the public cost of medical marijuana dispensaries. (7) Memorandum from Council Member Herrera, dated May 12, 2014, with direction to Staff to protect children by eliminating the for profit marijuana market. (8) Memorandum from Council Member Herrera, dated May 12, 2014, with direction to Staff to amend the zoning code to ban the outdoor growth of marijuana within the City limits of San José. (9) Supplemental memorandum from City Attorney Richard Doyle, dated May 16, 2014, providing background on the medical marijuana ordinances. (10) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated May 16, 2014, providing an outline of the initiative process, the current status of the medical marijuana initiatives and a timeline relating to the process. (11) Memorandum from Interim Director of Planning, Building and Code Enforcement David Sykes, dated April 25, 2014, transmitting the recommendation of the Planning Commission. (12) 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. (13) Supplemental memorandum from Assistant to the City Manager Angelique Gaeta, dated May 9, 2014, transmitting additional information. (14) Staff presentation dated May 20, 2014 summarizing Medical Marijuana. (15) Parcel Maps of Proposed Zoning Regulations for Medical Marijuana submitted by Planning, Building and Code Enforcement Staff dated June 10, 2014. (16) Letter from Jeffrey V. Smith, County Executive, County of Santa Clara, dated June 9, 2014, regarding the continuation of amendments to Title 20 and Tile 6 to Establish Medical Marijuana Regulations. (17) Two emails from the public citing concerns and opposition to marijuana in the commercial neighborhood zones.

8.1 (Cont'd.)

Assistant to the City Manager Angelique Gaeta presented introductory remarks. Deputy Director of Planning, Building and Code Enforcement Diane Buchanan offered the report on Medical Marijuana.

City Attorney Richard Doyle provided clarifications.

Motion: Council Member Liccardo moved approval of: (1) The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Oliverio, dated May 9, 2014, relating to amending Title 20 of the San José Municipal Code related to Land Use Regulations pertaining to Medical Marijuana Collectives. (2) The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Oliverio, dated May 9, 2014, relating to Title 6, Safety for Children, Neighborhoods and the Patients Act; (3) The memorandum from Mayor Reed, dated May 12, 2014, amending Title 20 and establishing the effective date of the ordinance. (4) The memorandum from Council Member Rocha, dated May 12, 2014, Item (1) only: Prohibit collectives from locating in the CG Commercial General Zoning District. (5) The memorandum from Council Member Liccardo, dated May 20, 2014, amending Title 20 homeless shelters and legal nonconforming residential uses. (6) Direction including distances, cash transactions and enforcement. Vice Mayor Nguyen seconded the motion.

Extensive Council discussion ensued.

Council Member Liccardo responded to concerns from Council Member Constant and clarified that if a collective is located on a parcel with multiple tenants or occupants, and occupies both buildings, that would be considered a parcel with multiple tenants.

Council Member Liccardo requested to amend his motion to direct Staff to explore ways to encourage collectives to use financial institutions. Vice Mayor Nguyen accepted the amendment.

Council Member Herrera requested to amend the motion to include direction to Staff to report to the Council annually on the secondary impacts of medical marijuana collectives in San José and perform an audit on public safety, behavior issues and crime rates. The amendments were accepted by Council Member Liccardo and Vice Mayor Nguyen.

Council Member Herrera requested that her memorandum dated June 9, 2014, be referred to Staff for consideration and return to Council with suggestions: (a) Charitable contributions by dispensaries to anti-drug nonprofits. (b) A policy dedicating a percentage of the Marijuana Business Tax to address the public cost of medical marijuana dispensaries. The amendment was accepted by Council Member Liccardo and Vice Mayor Nguyen.

Council Member Kalra expressed concern about the overconcentration of collectives growing marijuana on-site in certain areas.

8.1 (Cont'd.)

Council Member Liccardo clarified that the minimum distance from a collective to another collective shall be 50 feet measured in a straight line from parcel boundary to parcel boundary. Vice Mayor Nguyen accepted the amendment.

Action: On a call for the question, the motion carried, Ordinance No. 29420, entitled: “An Ordinance of the Council of the City of San José Repealing Suspended Ordinance No. 28958 Except for Those Provisions 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 of the San José Municipal Code 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, Amending Part 13 of Chapter 20.100 To Add Sections 20.100.1530, 20.100.1535 and 20.100.1540, All to Establish Land Use Regulations Pertaining to Medical Marijuana Collectives” and Ordinance No. 29421, entitled: “An Ordinance of the Council of the City of San José Amending Title 6 of the San José Municipal Code To Add a New Chapter 6.88 to Establish Regulations Pertaining to Medical Marijuana Collectives and to the Individual Cultivation and Use of Medical Marijuana”, were passed for publication. (1) The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Oliverio, dated May 9, 2014, was approved, approving the Administration’s recommendations outlined in the Staff Report dated April 29, 2014, to amend Title 20 to establish Land Use Regulations pertaining to medical marijuana collectives and cultivation with the following modifications to: (a) Allow marijuana dispensaries and growing operations in IP Industrial Park Zoning Districts and HI Heavy Industrial Zoning Districts, while expressly prohibiting marijuana dispensaries and growing operations in the employment centers covered by the North San José Area Development Policy, The International Business Park and the Edenvale Area Development Policy. (b) Add “adult daycare centers” to the 150 foot minimum distance category. (c) Place religious assembly uses in the 150 foot category with residential uses. (d) Replace the word “schools” with “preschools, elementary schools and secondary schools”. (2) The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Oliverio, dated May 9, 2014, was approved, approving the Staff recommendations outlined in the Staff Report dated April 29, 2014, amending Title 6 with the additions and revisions as outlined, and with the exception of the provisions to require County-issued State ID cards, require entertainment permits for entertainment uses, prohibit self-illuminated advertising and prohibit human or mechanical sign wavers, which are referred to Staff for further study (per the City Attorney’s memorandum): (a) Amend Title 6.88.010, Purpose and Intent [Page 2 of the draft ordinance] by replacing with content of Exhibit A. (b) Add to Part 2, Definitions [Page 3], definitions for Manufacturing and Processing. The definition for Processing should include reference to the ban on chemical processing in the California code. (c) Add to Title 6.88.380, Fees and Charges [Page 28], fees for inspection. (d) Amend Title 6.88.420, Security, Item J [Page 33] to: require 24-hour security at offsite cultivation facilities and to include the sidewalks adjacent to the

8.1 (Action Cont'd.)

collective. (e) Amend Title 6.88.440, Collective Operations, Item F [page 37] to read: "No persons under the age of twenty-one (21) shall be allowed at the location." (f) Increase the distance in Title 6.88.440, Collective Operations, Item J [Page 37] to read: "within 300 feet of the Premises and/or Location on the public-right-of-Way."¹ (g) Amend Title 6.88.450, Owner, Manager, Membership Requirements, Item A, number 3 [Page 39] to read "Be under the age of twenty-one (21)" and more clearly reflect that dispensing marijuana to minors is prohibited. (h) Amend Title 6.88.460, Dispensing and Packaging of Medical Marijuana, Item C [Page 42] to clarify that not only shall packaging not imitate candy, but the medical marijuana product itself shall not imitate candy. (i) Amend Title 6.88.700, Inspection and Enforcement, Item C [Page 48] to include provisions that samples obtained by the police will be logged and recorded in accordance with departmental standards. (j) Add to Title 6.88.820, Violation and Enforcement, Item A [Page SO], a provision that "any and all remedies" may include the immediate closure of the collective by the City Manager or Chief of Police for violations threatening the health and safety of patients, caregivers, employees and/or the public. (k) Add sections for Property Maintenance and Performance Standards, as outlined in Exhibit B. (l) Add a provision that, in compliance with California law, the chemical processing of concentrated cannabis is prohibited. Should State law change in the future, chemical processing will continue to be prohibited in collectives and will only be considered in offsite cultivation locations with a Hazardous Materials permit and appropriate chemical safety plan. (m) Add a provision that collective employees shall be at least twenty-one (21) years of age. (n) Add a provision that transfers may only occur inside the premises of the collective. (3) The memorandum from Mayor Reed, dated May 12, 2014, was approved: (a) Amend the draft ordinance Title 20.80.775, Restrictions and Conditions, Item D to read: At the time of issuance of a Zoning Code Verification Certificate, no Medical Marijuana Collective or Medical Marijuana Collective, Cultivation Site Only shall be located on a parcel of real property that is closer than a minimum of one hundred and fifty (150) feet from any residential use as measured by the foot path of travel in a straight line between the boundary lines of the parcels that are closest to one another. (b) Establish the effective date of each ordinance regulating Medical Marijuana Collectives and Cultivation to be 30 days after the second reading of the ordinance. (c) A collective that is: (1) In possession of a valid receipt for payment of Marijuana Business Tax; (2) Has no outstanding code compliance orders; (3) Is eligible to register; (4) Is not disqualified from registration; (5) That meets the distance requirements from schools and other uses outlined in Title 20.80.775, Items A & B; (6) That meets the distance requirements from residential uses in Title 20.80.775, Item D: Shall have: 90 days from the effective date of the ordinance to apply for Zoning Verification and Registration needed to complete its registration, whether for its existing site or a new site; and one year from the effective date of the ordinance to obtain Zoning Verification and Registration and move if necessary. (d) From the effective date of the ordinance, all collectives must comply with all other operational regulations (such as the prohibition of consumption onsite, in parking lots, or at neighboring properties or public

¹ Three hundred feet is the distance requirement outlined in Title 6.86.240 Performance Standards for Off-Sale Alcohol facilities.

8.1 (Action Cont'd.)

right-of-way, enforcement of age limits, etc.) outlined in Title 6. (4) The memorandum from Council Member Rocha, dated May 12, 2014, Item (1) only: Prohibit collectives from locating in the CG Commercial General Zoning District, was approved. (5) The supplemental memorandum from Council Member Liccardo, dated May 20, 2014, was approved: (a) Include as sensitive uses those homeless/family shelters and drop-in service providers with the same 500-foot buffer accorded to substance abuse rehabilitation centers. (b) Ensure that existing, Legal Non-Conforming (LNC) residential uses are included within the definition of "any residential use," along with the corresponding 150 foot buffer. The following was approved: (6) Distances: For collectives located ~~on a parcel with multiple tenants~~ in a multi-tenant building that contains other occupants, the distance from nonresidential sensitive receptors shall be measured in a straight line from the parcel boundary of the sensitive receptor to the nearest exterior wall of the collective's occupied tenant space in the shared building. For collectives that are the sole occupant of the building, the distance from nonresidential sensitive receptors shall be measured in a straight line from the parcel boundary of the sensitive receptor to the nearest boundary of the collective's building envelope. The minimum distance from a collective to another collective shall be 50 feet measured in a straight line from parcel boundary to parcel boundary. (7) Cash Transitions: Cash transactions shall be allowed. Staff was directed to explore ways to encourage collectives to use financial institutions. (8) Enforcement: Staff was directed to explore options to streamline the enforcement process under Title 6 and the Marijuana Business Tax Regulations. (9) Cultivation: Amend Section 6.88.430 E to read: Only Medical Marijuana that was cultivated and manufactured by the Collective at the Collective's Premises and/or offsite Cultivation Location in strict accordance with State Law and this Chapter, may be stored and dispensed from said Premises and Location. Medical Marijuana products (including edibles and concentrates) sold in San José must be manufactured and/or processed at the Collective's Premises in San José. Amend 6.88.435 to read: (1) The Cultivation Site shall be located within Santa Clara County and counties contiguous to Santa Clara County. The Cultivation Site must be in compliance with State Law and local ordinances. (2) A Cultivation Site that does not serve as the Collective's sole dispensing location shall not be open to the public. (3) The City Manager was directed to give the highest priority to issuing regulations necessary to ensure that collectives control, record and track their marijuana throughout the growing and dispensing process in accordance with State Law and the California Attorney General's guidelines. (10) Evaluation: Staff was directed to report to Council annually on the secondary impacts of medical marijuana collectives in San José. (11) The memorandum from Council Member Herrera, dated June 9, 2014, was referred to Staff for consideration, and return to the Council with suggestions: (a) Charitable contributions by dispensaries to anti-drug nonprofits. (b) A policy dedicating a percentage of the Marijuana Business Tax to address the public cost of medical marijuana dispensaries. (7-3-1. Noes: Campos, Kalra, Rocha. Absent: Chu.)

REDEVELOPMENT – SUCCESSOR AGENCY

9.1 (a) Actions Related to the Assignment Agreement for the MLK Library Escrow Account.

- (1) The Successor Agency approve an Assignment Agreement assigning to the City of San José the Successor Agency's right to meet and confer regarding the expenditure of restricted funds for capital improvements to the Martin Luther King (MLK) Library as provided under the original Development Agreement for the MLK Library and assigning to the City the Escrow Agreement and Joint Trust Fund Agreement associated with the MLK Library Escrow Account.**
- (2) The City Council approve the Assignment Agreement and accept the assignment of the Successor Agency's right to meet and confer regarding the expenditure of restricted funds for capital improvements to the MLK Library as provided under the original Development Agreement for the MLK Library and accept the Escrow Agreement and Joint Trust Fund Agreement associated with the MLK Library Escrow Account.**

(Successor Agency)

[Deferred from 6/3/14 – Item 9.1(b)]

Documents Filed: Memorandum from Managing Director Richard A. Keit, dated May 29, 2014, recommending approval of the assignment agreements.

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously, the Assignment Agreements were approved. (10-0-1. Absent: Chu.)

OPEN FORUM

Tom Sawyer complained about the Fry's Aircraft night landings.

Mayor Reed directed City Manager Edward K. Shikada to follow up with Mr. Sawyer.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 6:42 p.m.

RECESS/RECONVENE

The City Council recessed at 6:42 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 Liccardo, seconded by Council Member Oliverio and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the winners of the 2014 Falcon Naming Contest. (Mayor) (Deferred from 6/3/14 – Item 1.1)

Mayor Reed recognized and commended the winners of the 2014 Falcon Naming Contest. The two male Falcons were named “Blaze” and “Bolt”. The name “Blaze” was submitted by Katelyn and Nina, Grade 4, Holly Oak Elementary School and “Bolt” was provided by Samik, Grade 2, Delphi Academy. The two female Falcons were named “Beatrix” and “Halo”. “Beatrix” was offered by Alicia, Grade 9, Andrew Hill High School and “Halo” was selected by Daniela and Gia, Grade 4, Holly Oak Elementary School.

1.4 Presentation of a commendation to Iglesia Ni Cristo Congregation for centennial anniversary celebration and dedicated service to residents of San José. (Nguyen)

Mayor Reed and Vice Mayor Nguyen recognized and commended Iglesia Ni Cristo Congregation for their dedication to the residents of San José.

1.5 Presentation of a commendation to Dan Brady for his 25 years of service, dedication, and leadership to the Boy Scouts of America Troop 390, Pack 390, and Venture Crew 697 of San José. (Oliverio)

Mayor Reed and Council Member Oliverio recognized and commended Dan Brady for his 25 years of service to the Boy Scouts of America Troop 390, Pack 390, and Venture Crew 697 of San José.

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)]
(Continued from 5/20/14 – Item 10.1)

Mayor Reed opened the Public Hearing.

Motion: Council Member Liccardo moved approval of the Staff recommendation as indicated above. Council Member Herrera seconded the motion.

Council Member Herrera pointed out that there have been four years of no action and that the Applicant can come back at a later date with a Letter of Intent. She added there was Community input against this action and that this is not a final decision tonight.

Sal Caruso, Owner, expressed concerns about the General Plan Amendments for Dove Hill Road and noted that more time is needed to go forward with the project.

Public Comments: Shani Kleinhouse, Santa Clara Valley Audubon Society spoke in support to the proposed General Plan Amendment.

Mayor Reed closed the Public Hearing.

Council Members Constant and Kalra expressed concerns about approving this action today.

Council Member Liccardo offered that he would be willing to modify his motion and have this item return to Council in twelve months allowing the Applicant more time and full notice.

Council Member Herrera pointed out that she would be willing to concede, however the Planning Staff had expressed concern to the Applicant about the inactivity of the project.

Mayor Reed stated that this is a specialized design and recommended bringing it back to Council in 2015.

Council Member Herrera requested to amend the motion, moved approval of her memorandum continue this item to the August 14, 2014 General Plan. Council Member Liccardo accepted the amendment.

City Attorney Richard Doyle and Planning, Building and Code Enforcement Planning Official Steve Piasecki responded to Council questions and concerns. Extensive Council discussion followed.

10.1 (Cont'd.)

Council Member Herrera requested to amend the motion to refer Item 10.2 to Staff for further exploration and to return to Council in 2015. Council Member Liccardo accepted the amendment.

Action: On a call for the question, the motion carried, Item 10.2 was referred to Staff, to return to Council in 2015. (6-5. Noes: Campos, Kalra, Nguyen, Oliverio, Rocha.)

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 including revised shared parking policies described in the supplemental staff memo, Art Master Plan, and 10–Year Horizon Analysis to provide a framework for transforming the Diridon Station Area into a regional transportation hub, employment center, and entertainment destination; and more specifically to use the 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 parking provisions in the City of San José and San José Arena Management agreement continue to be met.**
- (c) **Direct Staff to pursue shared parking as a condition of development on sites that currently provide public parking within approximately one-third of a mile of the Diridon Station Area.**
- (d) **Tentative approval of 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.**

- 10.2 (d) (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.**

(e) **Approve the recommended actions outlined in the section of this report titled, “Coordination with San José Arena Management”.**

**CEQA: Diridon Station Area Plan Environmental Impact Report (File No. PP09-163) to be considered for certification and adoption. Planning Commission recommends approval (5-0-2). (Planning, Building and Code Enforcement)
(Continued from 5/20/14 – Item 10.2)**

Documents Filed: Memorandum from Council Member Liccardo, dated June 9, 2014, recommending deferring action on the Diridon Station Area Plan and Plan Amendment until June 17, 2014.

A brief Council discussion ensued.

Action: Item 10.2 was previously continued to June 17, 2014 per Orders of the Day. The Public Comment on Item 10.2 has been concluded.

10.3 Adopt a resolution approving all General Plan amendment actions from both May 20, 2014 and June 10, 2014. (Planning, Building and Code Enforcement)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Item 10.3 was continued to June 17, 2014. (8-0-3. Absent: Constant, Oliverio, Rocha.)

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: Rocha.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located at the southwest corner of North 4th Street and East Saint John Street (77 North 4th Street) from CG Commercial General to DC Downtown Primary Commercial Zoning District of an approximately 0.44 gross acre site (Pittman Family Partnership, Green Valley Corporation, and Salinas Valley Corporation, Owners). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
C14-005 – District 3**

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated May 23, 2014, transmitting the recommendation of the Planning Commission. (2) Proof of Publication of Notice of Public Hearing, executed on May 2, 2014, submitted by the City Clerk.

Action: The recommendation of the Planning Commission was approved, and Ordinance No. 29422, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of North 4th Street and East St. John Street on an Approximately 0.44 Gross Acre Site From the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District”, was passed for publication. (10-0-1. Absent: Rocha.)

- (b) Consideration of an ordinance rezoning the real property located at/on the south terminus of Cadwallader Avenue, approximately 1090 feet south of Prunetree Lane (4140 Cadwallader Avenue) from the A Agricultural District to the R-1-RR Residential Zoning District; there is an existing single family home on the 1.51 gross acre site. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)
C14-022 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-022, dated May 20, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on May 23, 2014, submitted by the City Clerk.

Action: Ordinance No. 29423, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 1.51 Acres Situated on the South Terminus of Cadwallader Avenue from the A Agricultural Zoning District to the R-1-RR Rural Residential Zoning District”, was passed for publication. (10-0-1. Absent: Rocha.)

- 11.1 (c) **Consideration of an ordinance rezoning the real property located on the northeast corner of South White Road and Aborn Road (3290 South White Road) from the A(PD) Planned Development Zoning District to the CN Commercial Neighborhood Zoning District on an approximately 0.50 gross acre site. CEQA: Envision San José General Plan 2040 EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)**
C14-023 – District 8

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-023, dated May 20, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on May 23, 2014, submitted by the City Clerk.

Action: Ordinance No. 29424, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of South White Road and Aborn Road (3290 South White Road) from the A(PD) Planned Development Zoning District to the CN Commercial Neighborhood Zoning District”, was passed for publication. (10-0-1. Absent: Rocha.)

- (d) **Consideration of an ordinance rezoning the real property located on the southwest corner of Ridder Park Drive and Schallenberger Road (750 Ridder Park Drive) from the HI Heavy Zoning District to the CIC Combined Industrial/Commercial Zoning District to allow industrial/warehouse uses on the approximately 35.67 gross acre site. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)**
C14-025 –District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-025, dated May 20, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on May 23, 2014, submitted by the City Clerk.

Action: Ordinance No. 29425, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Ridder Park Drive and Schallenberger Road from the HI Heavy Industrial Zoning District to CIC Combined Industrial/Commercial Zoning District”, was passed for publication. (10-0-1. Absent: Rocha.)

END OF THE PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 (a) **Adopt a resolution adopting the Mitigated Negative Declaration for the Brasilia Way Residential Development Project and a related Mitigation Monitoring and Reporting Program.**
- (b) **Consideration of and vote on a Majority Protest to Rezoning PDC12-018 filed pursuant to Part 5 of Chapter 20.120 of Title 20 (Zoning Code) to protest a rezoning to the A(PD) Planned Development Zoning District on a 7.5 gross acre site located on the west side of Almaden Expressway at the southern terminus of Brasilia Way (5827 Brasilia Way).**
- (c) **Consideration of an ordinance rezoning the real property located on the west side of Almaden Expressway at the southern terminus of Brasilia Way (5827 Brasilia Way) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for the development of up to 10 single-family detached residences on an approximately 7.95 gross acre site (Brasilia LLC, Owner).**

CEQA: Mitigated Negative Declaration to be considered for adoption. (Planning, Building and Code Enforcement)

PDC12-018 – District 10

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Khamis and Rocha, dated June 6, 2014, recommending approval of the Staff recommendations as described in “Action”. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC12-018, dated April 1, 2014. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated April 30, 2014, transmitting the recommendation of the Planning Commission. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated May 30, 2014, transmitting revised project plans and providing background information to reflect the Planning Commission discussion on April 9, 2014. (5) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated June 4, 2014, noting that a valid majority zoning protest was filed on this project and responding to the issues raised by the Protestants. (6) Proof of Publication of Notice of Public Hearing executed on March 31, 2014, submitted by the City Clerk. (7) Petition dated June 10, 2014 containing 1,069 signatures requesting that the Council Members decline the request of the rezoning of 5827 Brasilia Way, San Jose, CA. (8) Letter from Colin Gray, JSM Enterprises, dated May 5, 2014, providing information about the proposed development at Brasilia Way. (9) Email from former Council Member Nancy Pyle, dated June 5, 2014, endorsing Council approval of this excellent project. (10) Letter from Melanie Ventura, Realtor, dated June 2, 2014, expressing support to the project moving forward. (11) Letter from Ken Tavernier, Almaden Valley Rotary Club, dated June 10, 2014, expressing support to the JSM Enterprises project moving forward. (12) Three letters from the public, all dated June 10, 2014, expressing objections to the project moving forward.

11.2 (Cont'd.)

Mayor Reed opened the Public Hearing.

Colin Gray, JSM Enterprises, the Applicant, pointed out that 70% of the land will be permanently designated open space and cannot be developed. He noted that JSM Enterprises has listened to the concerns of the homeowners and stated that new, large boxed and field grown Oak trees will be planted as additional screening.

Public Comments: The following speakers expressed support to the project, voiced concerns about loss of habitat and public safety, expressed concern that the character of the hill and the natural habitat will not be protected, opposed to spoiling the view and the planned lots are too small. Nancy Pyle, Pam Capurso, Sandy Eaton, William Eaton, James Harrington, Paul Heckler, Nick Petredis, Cliff Del Carlo, Otis W. Bynum, Howard Glaer, Melanie Ventura, Henry Plata, Elias Chamorow, Angela MacEwen, Nancy Northern, Ardyth Nothwang, Joel Stadelman, David Poeschel, Loma Prieta Chapter Sierra Club and Pat Pizzo.

Mayor Reed closed the Public Hearing.

City Attorney Richard Doyle related information about the overriding the majority protest

Motion to Deny the Majority Protest to the Rezoning: Council Member Khamis moved to deny the request. Council Member Herrera seconded the motion.

Council discussion ensued.

Council Member Chu provided meeting disclosures.

Council Member Khamis moved approval of Items (1), (3) and (4) of the memorandum he cosigned with Mayor Reed and Council Member Rocha. Council Member Herrera seconded the motion. (9-1. Noes: Kalra.)

Action: On a call for the question, the motion carried, Resolution No. 77033, entitled: "A Resolution of the Council of the City of San José Adopting the Brasilia Way Residential Development Project 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. The memorandum from Mayor Reed, Council Members Khamis and Rocha, dated June 6, 2014, was approved, approving the Staff recommendations (a) and (b) above, and (c) with the following modifications: (1) Incorporate project design changes as detailed in the supplemental Staff Report which will result in protection of 48 of the existing 55 native oak trees on the property. As described in the project documentation the property owner will also be adding 34 native oak trees to the site for a net gain of 27 oak trees. (2) Modify structure at Lot 1 for a three story structure to a two story structure

11.2 (Action Cont'd.)

to provide more consistency with nearby existing home sites and provide a visual “step-up” to the other new homes to be constructed at the base of the hill. (3) Modify structure at Lot 5 from a three story structure to a two story structure to provide more consistency with nearby existing home sites and provide a visual “step-up” to the other new homes to be constructed at the base of the hill. (4) Accept the property owner’s office to partner with the District 10 Council Office and community organizations to improve and maintain landscaping and provide long desired “gateway” signage for the median barrier across from the proposed development, and Ordinance No. 29426, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the West Side of Almaden Expressway at the Southern Terminus of Brasilia Way to A Agricultural Zoning District(PD)”, was passed for publication, as amended. (10-1. Noes: Kalra.)

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: (1) Memorandum from Council Member Rocha, dated June 9, 2014, recommending approval of the Historic Landmarks Commission to designate the Century 21 Theatre as a City Landmark. (2) Memorandum from Historic Landmarks Secretary Harry Freitas, dated May 20, 2014, transmitting the recommendation of the Historic Landmarks decision to approve Century 21 Theatre as a City Landmark. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL14-018, dated April 30, 2014. (4) Proof of Publication of Notice of Public Hearing executed on May 23, 2014, submitted by the City Clerk. (5) Letter from Jeffrey S. Berkes, Executive Vice President, Federal Realty Investment Trust, dated June 5, 2014, urging the Council not to designate the Century 21 Theatre as City Landmark at this time. (6) Letter from Michael Hensley, dated June 10, 2014, urging the Council to designate the Century 21 Theatre as City Landmark.

Planning, Building and Code Enforcement Project Manager Richard Buikema offered the report and responded to Council questions and concerns.

Mayor Reed opened the Public Hearing.

John Bovone, Property Owner of Century 21, provided background information and urged the Council to delay the vote tonight in order to gather all the facts regarding future development of the site.

11.3 (Cont'd.)

Public Comments: Speaking in favor of designating the Century 21 Theatre as a City Landmark were Matthew Sutton, Alison Breeze, Kathryn Hedges and Scott Guggenheim, Friends of the Retro Dome; Jessie Skeen, Phyliss Tripp, Erica Atreya, Richard Canavese, Bill Cope, Chris Giangreco and Daphna Woolfe, Winchester Orchard Neighborhood Association; Marina Tibury, Gayle Frank and Brian Grayson, Preservation Action Council San José; Linda Montgomery, Sally Zavuowitz, Jack Nadeau, Reggie Adkins, Julie Engelbrecht, Michael McWalters and Joe Sabero.

Speaking against the Century 21 Theatre as a City Landmark were Seth Bland and Linda Callon, Federal Realty; Greg Pitzen, Chris Brown, Mary Sidlustes and Kelly Hyland.

Motion: Council Member Constant moved approval to defer Item 11.3 until Federal Realty has had the time to fully engage the stakeholders. Council Member Khamis seconded the motion.

Council discussion ensued.

Substitute Motion: Council Member Rocha moved approval of his memorandum dated June 9, 2014, recommending approval of the Historic Landmarks Commission to designate the Century 21 Theatre as a City Landmark. Council Member Liccardo seconded the motion.

Council Member Oliverio voiced objection to designating the Century 21 Theatre as a City Landmark citing that it is not economically feasible and would be impossible to relocate the theatre.

Action: On a call for the question, the motion carried, the memorandum from Council Member Rocha, dated June 9, 2014, was approved, accepting the Staff recommendations and Resolution No. 77034, entitled: "A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, The Century 21 Theatre, Located at 3161 Olsen Drive, As A Agricultural Zoning District City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", was adopted. (7-4. Noes: Constant, Khamis, Oliverio; Reed.)

- 11.4 (a) **Adopt a resolution adopting the Mitigated Negative Declaration for the Park Avenue Senior and Multi-Family Housing Project and a related Mitigation Monitoring and Reporting Program.**
- (b) **Consideration of an ordinance rezoning the real property located at the northeast corner of Park Avenue and Laurel Grove Lane (777 Park Avenue) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow up to 182 multi-family attached units on 2.14 gross acres site (County of Santa Clara Housing Authority, Owner).**

CEQA: Mitigated Negative Declaration to be considered for adoption. Planning Commission recommends approval (5-0-2). (Planning, Building and Code Enforcement)

PDC13-012 – District 6

Action: Upon motion by Council Member Oliverio, seconded by Council Member Kalra and carried, Item 11.4 was dropped and deferred to August 5, 2014 per Orders of the Day. Staff was directed to notify the Applicant. (6-4-1. Noes: Kalra, Liccardo, Nguyen, Rocha. Absent: Herrera.)

- 11.5 (a) **Adopt a resolution adopting the Mitigated Negative Declaration for the 505 Lincoln Avenue Residential Project and a related Mitigation Monitoring and Reporting Program.**
- (b) **Consideration of an ordinance rezoning the real property located at the west side of Lincoln Avenue, approximately 500 feet south of Auzerais Avenue (505 Avenue) from the IP – Industrial Park and A(PD) Planned Development Zoning Districts to the A(PD) Planned Development Zoning District to allow a 5-story building with up to 190 multi-family residential units on a 2.94 gross acre site (SI 52 LLC, Owner).**

CEQA: Mitigated Negative Declaration to be considered for adoption. (Planning, Building and Code Enforcement)

PDC13-046 – District 6

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated May 23, 2014, transmitting the recommendation of the Planning Commission. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC13-046, dated May 13, 2014. (3) Proof of Publication of Notice of Public Hearing executed on May 7, 2014, submitted by the City Clerk.

Planning, Building and Code Enforcement Planning Official Steve Piasecki presented the report.

Mayor Reed opened the Public Hearing.

Rod Standard, Applicant, The Sobrato Organization, spoke to the merits of the project and pointed out that the proposed density and height will fit in with the surrounding development.

Mayor Reed closed the Public Hearing.

11.5 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Rocha and carried unanimously, Resolution No. 77035, entitled: “A Resolution of the Council of the City of San José Adopting the 505 Lincoln Avenue Residential Project Mitigated Negative Declaration, For Which An Initial Study Was Prepared, All In Accordance with California Environmental Quality Act, As Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted and Ordinance No. 29427, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated at the West Side of Lincoln Avenue, Approximately 500 Feet South of Auzerais Avenue, From the IP Industrial Park Zoning District and the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Liccardo.)

- 11.6 (a) **Consideration of an ordinance rezoning the real property located on the northwest corner of Nortech Parkway and Disk Drive (25 Nortech Parkway) (State Street Bank and Trust, Owner) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow a reduction in the vehicle and bicycle parking requirements for a previously approve Planned Development Zoning (File PDC99-054).**
- (b) **Consideration of a Planned Development Permit to allow the construction of three single-story manufacturing buildings totaling 563,760 square feet on a 35.57 gross acre site.**

CEQA: Addendum to the Cisco Site 6 EIR, North San José Area Development Policy EIR, and the Envision San José 2040 General Plan EIR. (Planning, Building and Code Enforcement)

PDC14-004/PD14-007 – District 4

Documents Filed: (1) Memorandum from Mayor Reed, dated June 9, 2014, recommending approving the Staff recommendations. (2) Memorandum from Council Member Chu, dated June 9, 2014, recommending deferring Item 11.6 until August 2014 with direction. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated May 19, 2014, transmitting the recommendation of the Planning Commission. (4) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC14-004/PD14-007, dated May 6, 2014. (5) Proof of Publication of Notice of Public Hearing executed on April 30, 2014, submitted by the City Clerk.

Mayor Reed provided meeting disclosures.

Planning, Building and Code Enforcement Planning Official Steve Piasecki, Director of Public Works David Sykes and Deputy Director of Economic Development Nanci Klein presented the Staff Report and responded to Council questions and concerns.

Mayor Reed opened the public meeting.

11.6 (Cont'd.)

John Greer, Trammell Crow Company, Applicant/Developer, spoke to the merits of the project.

Public Comments: The following speakers are opposed to the development: Jodi Muirhead, Theron Taylor, Vladimir Raykin, Feliz Reyes, Richard Ruiz, Ermelinda Peralez, Betty Brown, Andrea, Athena, Bea Leija, Sarah Ruiz, Joe McCreary, Ron Evans, Connie Estabrook, Jonah Probell, Michael Hickey, United Teachers of Santa Clara; April Burns, Craig Parada, Bob Nimkun Wu, Richard Tai, Tom Kennedy, Elania Del Real, Jim Whitecar, Juan Del Real, Michael McWalters, Teresa R. Hernandez, Charles Taylor, Aaron Atwood, Hallie Russo, Kathy Watanabe, Rob Renfrew, Valery Moya, Marianne Rivkin, Roman Milter, Shance Ordell, Bob Gross Ph D., Daniel Espinoza, Damaris Llamas, Athena Espinoza, Esther Alday, Lurdes Rivera, Rebecca Espinoza, Verónica Toscano, Annamarie Espinoza, Kathryn Espinoza, Mark Espinoza, Jill Smith, Rachel Noturio, Joe Samaro, Joel Espinoza II, Lonnie Gross, Steven Gabriel, Alec Ward, Albert Villagomez, Ramon Espinoza, Mimi Munoz, Ina K. Bendis, M.D., Richard P. Santos and Tony Santos.

Mayor Reed pointed out that this action was consistent with the 1998 Alviso Masterplan, and that Staff had conducted several community meetings. Mayor Reed recommended that Council approve this item as outlined in his memorandum dated June 9, 2014.

Motion: Council Member Constant moved approval of the memorandum from Mayor Reed, dated June 9, 2014, approving a Planned Development Rezoning and a Planned Development Permit to allow the construction of three single story manufacturing buildings totaling 563,760 square feet on a 35.55 gross acre site located on the northwest corner of Nortech Parkway and Disk Drive. Council Member Khamis seconded the motion.

Vice Mayor Nguyen and Council Members Campos and Kalra expressed concern that the buildings are too close to the elementary school and have a negative impact on children.

Council Member Khamis provided meeting disclosures.

Substitute Motion: Council Member Chu moved approval of his memorandum dated June 9, 2014, requesting that Council defer Item 11.6 until August 2014 to provide time for additional outreach to the Santa Clara Unified School District Board and the community. The substitute motion failed for lack of a second.

The original motion was back on the floor.

11.6 (Cont'd.)

Action: On a call for the question, the motion carried, the memorandum from Mayor Reed, dated June 9, 2014, was approved, accepting the Staff recommendations as described. Ordinance No. 29428, entitled: “An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Nortech Parkway and Disk Drive on an Approximately 57 Gross Acre Site From the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District”, was passed for publication. A Planned Development Permit to allow the construction of three single-story manufacturing buildings totaling 563,760 square feet on a 35.57 gross acre site, was approved by Council. (6-5. Noes: Campos, Chu, Kalra, Nguyen, Rocha.)

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 receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10250	Northeast Corner of Juliet Park Drive and Rosemar Avenue	5	Rosemar Court 7, LLC	6	SFD

ADJOURNMENT

The Council of the City of San José was adjourned at 1:11 a.m. in memory of Tennis Coach Don Johnson, who passed away on the May 10, 2014. In 1976 Don created a National Junior Tennis League program for San José and was an excellent Tennis Coach for over 25 years. (Liccardo)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

smd/06-10-14 MIN

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

APPENDIX A

3.6 (Continued from Page 9)

[A] FISCAL YEAR 2014-2015 BUDGET DOCUMENTS (BD) AND DOCUMENT LOG: [1] Memorandum from Armando Gomez, Mayor's Budget Office, dated April 30, 2014, providing the background for the Budget Process for FY 2014-2015 and the Budget Document Template. [2] Memorandum from Council Member Oliverio, dated June 10, 2014, requesting District 6 rebudget. [3] Memorandum from Council Member Khamis, dated May 20, 2014, requesting Council District 10 rebudget. [4] Memorandum from Council Member Oliverio, dated June 10, 2014, requesting \$45,000.00 for pedestrian safety improvements. [5] Memorandum from Vice Mayor Nguyen, dated May 21, 2014, requesting restoration of the San José Police Department Burglary Unit. [6] Memorandum from Vice Mayor Nguyen, dated May 21, 2014, requesting the addition of three Full Time Park Rangers. [7] Memorandum from Vice Mayor Nguyen, dated May 21, 2014, requesting funding for the Monterey Road Pilot Project and evaluation of program after one year for continued funding of services. [8] Memorandum from Vice Mayor Nguyen, dated May 21, 2014, requesting the funding for the Mayor's Gang Prevention Task Force Females and Gangs. [9] Memorandum from Vice Mayor Nguyen, dated May 21, 2014, requesting the Council District 7 Budget Carryover. [10] Memorandum from Vice Mayor Nguyen, dated May 21, 2014, requesting restoring an addition day of service to the Berryessa and Tully Branch Libraries. [11] Memorandum from Council Member Khamis, dated May 21, 2014, requesting \$29,000 for the Financial Transparency Initiative. [12] Memorandum from Council Member Khamis, dated May 21, 2014, requesting \$48,000 for an expanded Crossing Guard Program. [13] Memorandum from Council Member Khamis, dated May 21, 2014, requesting \$95,000 for the Senior Housing Match Program. [14] Memorandum from Council Member Khamis, dated May 21, 2014, requesting \$25,000 for the Responsible Landlord Engagement Initiative. [15] Memorandum from Council Member Kalra, dated May 21, 2014, requesting the District 2 Rebudget. [16] Memorandum from Council Member Kalra, dated May 21, 2014, requesting \$250,000 for the reestablishment of full City Staffing for the Senior Nutrition Program with Onsite Cooking. [17] Memorandum from Council Member Kalra, dated May 21, 2014, requesting funding to open all City Libraries five and one half days a week, including Saturdays. [18] Memorandum from Council Member Constant, dated May 21, 2014, requesting Council District 1 Rebudget. [19] Memorandum from Council Member Constant, dated May 21, 2014, requesting that the remaining FY 2014-2015 fund balance of Public Safety CSA funds be allocated toward critical countywide public safety communication interoperability infrastructure project. [20] Memorandum from Council Member Herrera, dated May 21, 2014, requesting \$89,964 allocated towards changing management of San José Police Department Human Resources Funding. [21] Memorandum from Council Member Herrera, dated May 21, 2014, requesting, \$51,098 for the Safe Cam Program. [22] Memorandum from Council Member Herrera, dated May 21, 2014, requesting \$381,206 funding for Park Rangers. [23] Memorandum from Council Member Herrera, dated May 21, 2014, requesting funding for a competitive grant to support homework centers for

APPENDIX A (Cont'd.)

[A] FISCAL YEAR 2014-2015 BUDGET DOCUMENTS (BD) AND DOCUMENT LOG [23] (Cont'd.): San José High Schools. [24] Memorandum from Council Member Herrera, dated May 21, 2014, requesting the Council District 8 Budget Carryover. [25] Memorandum from Council Member Chu, dated May 21, 2014, requesting funding for Free Parks Usage Day at San José Regional Parks. [26] Memorandum from Council Member Chu, dated May 21, 2014, requesting funding for a Pilot Program to provide free Senior Nutrition Program Meals to Veterans. [27] Memorandum from Council Member Chu, dated May 21, 2014, requesting funding for a Pilot Program to reduce permit fees for residential and commercial roof mounted solar services. [28] Memorandum from Council Member Chu, dated May 21, 2014, requesting funding to restore Park Rangers for Alum Rock Park and Overfelt Gardens. [29] Memorandum from Council Member Chu, dated May 21, 2014, requesting funding for enhanced park maintenance at District 4 Parks. [30] Memorandum from Council Members Campos and Chu, dated May 21, 2014, requesting funding for a Pilot Program to provide additional Code Enforcement Officers to night time with regard to Medical Marijuana. [31] Memorandum from Council Member Chu, dated May 21, 2014, requesting the District 4 Office Rebudget. [32] Memorandum from Council Member Kalra, dated May 21, 2014, requesting one time funding for construction and installation of air monitoring station at Metcalf and funding for ongoing maintenance costs. [33] Memorandum from Council Member Kalra, dated May 21, 2014, requesting funding for one full time Code Enforcement Officer to work on an as needed basis for Massage Parlor Regulation and Enforcement. [34] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for School Crossing Guards for the most needed intersections. [35] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for the Guadalupe Trail Project. [36] Memorandum from Council Member Rocha, dated May 21, 2014, requesting Council District 9 Office Rebudget. [37] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for Houge Park Facility Repairs. [38] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding to open Alum Rock Youth Center as a “Hybrid Model”. [39] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for building Fire Station 37. [40] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for opening all branch Libraries 4.5 days per week. [41] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for a Corner Store Initiative. [42] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for a Coordinator, Violence Against Women Prevention. [43] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for the General Parking Fund, Debt Service Payments Reserve. [44] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for the Tobacco Master Settlement Agreement. [45] Memorandum from Council Member Campos, dated May 21, 2014, requesting funding to restore Fire Prevention and Education. [46] Memorandum from Council Member Campos, dated May 21, 2014, requesting funding for City of San José Gun Bay Back Program. [47] Memorandum from Council Member Rocha, dated May 21, 2014, requesting District 5 Office and Constituent Outreach

APPENDIX A (Cont'd.)

[A] FISCAL YEAR 2014-2015 BUDGET DOCUMENTS (BD) AND DOCUMENT LOG [47] (Cont'd.): Budget Carryover. [48] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for additional Park Rangers to focus on Homeless Outreach and Skate Parks. [49] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for restoring the position of Nuisance Specialist within the Crime Prevention Unit of the San José Police Department. [50] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for School Transportation Safety. [51] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for TEAM Kids Program. [52] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for the Marijuana Growth Enforcement Program. [53] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for restoring Library service to 5.5 days per week at all branch locations and to include Saturday service. [54] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for the Human Trafficking Unit. [55] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for the Aquatics Programs. [56] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding to reopen the Alum Rock Youth Center as the Pilot Program “Hybrid Model” Community Center. [57] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for additional support for Youth and Senior Programming and BEST Funding. [58] Memorandum from Council Member Rocha, dated May 21, 2014, requesting funding for the Camden Community Center Gymnasium Upgrade Reserve. [59] Memorandum from Council Member Liccardo, dated May 21, 2014, requesting funding for two full time Crime and Intelligence Analysts for the the Data Analytics/Predictive Pilot Program. [60] Memorandum from Council Member Liccardo, dated May 21, 2014, requesting funding for the “Speed Bumps, Sans The Studies” Pilot Project.

[B] FISCAL YEAR 2014-2015 MANAGER’S BUDGET ADDENDA (MBA) AND DOCUMENT LOG: [1] Memorandum from Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 1, 2014, transmitting the master schedule and the detailed agendas for the 2014-2015 Budget Study Sessions. [2] Memorandum from Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 1, 2014, informing Council of the process to obtain cost estimates necessary for the development of Council Member 2014-2015 Budget Documents that are submitted to the Mayor’s Office for consideration as part of the Mayor’s release of his June Budget Message. [3] Memorandum from Fire Chief Ruben Torres, dated May 5, 2014, regarding the Fire Emergency Medical Services. [4] Memorandum from Fire Chief Ruben Torres and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 6, 2014, providing information on the 2014-2015 Fire Station Projected Costs. [5] Memorandum from Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 8, 2014, providing the 2014-2015 Proposed Budget in Brief overviews. [6] Memorandum from Planning Commission Secretary Harry Freitas, dated May 12, 2014, transmitting the

APPENDIX A (Cont'd.)

[B] FISCAL YEAR 2014-2015 MANAGER'S BUDGET ADDENDA (MBA) AND DOCUMENT LOG [6] (Cont'd.): Planning Commission recommendation on the 2015-2019 Proposed Capital Improvement Program. [7] Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated May 16, 2014, providing detailed information about the Multiple Housing Residential Occupancy Permit Program. [8] Memorandum from Director of Transportation Hans Larsen, Director of Planning, Building and Code Enforcement Harry Freitas, Director of Economic Development/Chief Strategist Kim Walesh and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 16, 2014, recommending several actions addressing the estimated \$50 Million funding shortfall for the North San José Area Development Policy Phase I transportation improvements. [9] Memorandum from Fire Chief Ruben Torres, dated May 16, 2014, providing information about the regional partnerships Combined Fire/EMS Communications Center. [10] Memorandum from Director of Finance Julia H. Cooper and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 16, 2014, recommending amending the Debt Management Policy and the Operating Budget and Capital Improvement Program Policy. [11] Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 16, 2014, providing examples of operational Staff models for satellite community centers, such as Alum Rock Youth Center. [12] Memorandum from Director of Transportation Hans Larsen, dated May 19, 2014, providing an inventory and an order of magnitude cost estimate for the City's unfunded transportation infrastructure improvement needs. [13] Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas and Fire Chief Ruben Torres, dated May 21, 2014, providing information on the scope of work pertaining to the fee study to be conducted, as well as the timeframe associated with the proposed fee study. [14] Memorandum from Chief of Police Larry Esquivel, dated May 20, 2014, describing the prioritization of the Burglary Investigation Unit/Burglary Reduction Efforts. [15] Memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 20, 2014, recommending approval of Arena Authority Funding. [16] Memorandum from Director of Transportation Hans Larsen, dated May 21, 2014, responding to the enforcement of disabled parking violations. [17] Memorandum from Fire Chief Ruben Torres, Director of Public Works David Sykes and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 21, 2014, recommending acceptance of Staff's analysis on the evaluation of response times and the costs regarding the existing Fire Station 6 and a new Fire Station 37. [18] Memorandum from Director of Transportation Hans Larsen and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 22, 2014, recommending approving of the report on Smart Meters and the evaluation of Community Parking Districts and adoption of a resolution and appropriation ordinance amendments. [19] Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 22, 2014, responding to the request to explore the option of reopening the Office on Aging.

APPENDIX A (Cont'd.)

[B] FISCAL YEAR 2014-2015 MANAGER'S BUDGET ADDENDA (MBA) AND DOCUMENT LOG (Cont'd.): [20] Memorandum from Director of Finance Julia H. Cooper and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 22, 2014, recommending amendments to the Trans Interest and Issuance Costs and Banking Services budget adjustments. [21] Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated May 21, 2014, recommending approval of the proposed 2014-2015 funding allocations for the Transient Occupancy Tax funded arts and cultural grant awards. [22] Memorandum from Director of Aviation Kim Becker Aguirre, dated May 22, 2014, providing information about the Airport Curfew Violation Fines. [23] Memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Director of Public Works David Sykes, dated May 23, 2014, providing background on the Cultural Facilities Capital Improvements Project Approval Process and Funding Plan. [24] Memorandum from Chief of Police Larry Esquivel and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 21, 2014, providing a four year Police Staff Restoration Strategy and identifying additional resources that would be necessary to support this strategy. [25] Memorandum from Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 29, 2014, recommending approving amendments to the 2014-2015 Proposed Fees and Charges Report as outlined in Attachment A of this memorandum. [26] Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas and Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 27, 2014, recommending actions for the Abandoned Shopping Cart Program. [27] Memorandum from Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 29, 2014, recommending amendments to the 2014-2015 Proposed Operating and Capital Budgets. [28] Memorandum from Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 29, 2014, providing updates to the 2014-2015 Property Tax and General Fund Beginning Fund Balance Estimates. [29] Memorandum from Deputy City Manager Norberto Dueñas, dated May 23, 2014, providing the Community Budget Meetings Summary. [30] Memorandum from Deputy City Manager/Budget Director Jennifer A. Maguire, dated June 13, 2014, recommending adoption of the 2014-2015 Operating and Capital Budgets.

[C] BUDGET CORRESPONDENCE FROM THE PUBLIC: [1] Letter from Bob Levy, Chair, Parks and Recreation Commission, dated April 24, 2014, recommending restoring staffing to previous levels in Park Maintenance, Park Ranger Program and Recreation Leader Program. [2] Letter from Darryl Ospring, Coyote Creek Neighborhood Association/Adopt a Park Coordinator for Shady Oaks Park, dated May 30, 2014, expressing concern about the intended uses of the proposed sales tax ballot measure and recommending more investment in the City Parks including park maintenance and more Park Rangers.