

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, JUNE 3, 2014**

The Council of the City of San José convened in Regular Session at 9:34 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Campos, Herrera. (Excused)

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

None provided.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (d)(1) with respect to existing litigation; (1) City v. RossDrulisCusenbery Architecture, Inc., et al.; Names of Partie(s) 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; (2) AFSCME v. City of San José; Names of Partie(s) Involved: American Federation of State, County and Municipal Employees, Local 101, City of San José; Court: Public Employment Relations Board; Case No.: SF-CE-837-M. (3) San José Police Officers' Association v. city, et al.; Names of Partie(s) Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12- 1 through 50, Board of Administration for the Federated City Employees Retirement CV-225926; Amount of Money or Other Relief Sought: Declaratory and

## CLOSED SESSION (Cont'd.)

injunctive relief; (4) San José Retired Employees Association, et al. v. City, et al.; Names of Partie(s) Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does System; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate; (5) Sapien, et al. v. City of San José, et al.; Names of Partie(s) Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1 through 15, the Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (6) Harris, et al. v. City of San José, et al.; Names of Partie(s) Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone, in her capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B; (7) Mukhar, et al. v. City of San José, et al., Names of Partie(s) Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone, in her official capacity as City Manager of the City of San José, the Board of Administration for the 1975 Federated City Employees' Retirement Plan, and Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B; (8) AFSCME, et al. v. City of San José, et al.; Names of Partie(s) Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone in her official capacity as City Manager, the Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: City of San José – Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Benefit & Compensation Summary - City of San José and City Association of Management Personnel Agreement; (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA:

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

Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:30 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera (2:46 p.m.), Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Absent: Council Members - All Present.

## **INVOCATION**

Father Sergio, of St. Martin of Tours Parish provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

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

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Nguyen, seconded by Council Member Khamis, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (9-0-2. Absent: Constant, Herrera.)

## CEREMONIAL ITEMS

### 1.1 Presentation of a commendation to the winners of the 2014 Falcon Naming Contest. (Mayor)

Action: Deferred to June 10, 2014 Per City Clerk.

### 1.2 Presentation of a proclamation for “Meatless Mondays” in the City of San José. (Kalra)

Action: Mayor Reed and Council Member Kalra recognized “Meatless Mondays” in the City of San José.

## REDEVELOPMENT – SUCCESSOR AGENCY

*Item 9.1 heard following the Ceremonial Items*

### 9.1 Redevelopment – Successor Agency on Consent Calendar

#### (a) Proposed July – December 2014 Administrative Budget and ROPS 14-15A (ROPS 6).

Adopt resolutions by the Successor Agency:

- (1) Approving the Administrative Budget for July 1 through December 31, 2014; and
- (2) Approving the Recognized Obligation Payment Schedule 14-15A and authorizing payment of expenditures for items on ROPS 14-15A, which details the obligations of the Successor Agency for the period of July 1, 2014 through December 31, 2014.

**CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Successor Agency)**

Documents Filed: Memorandum from Successor Agency Managing Director Richard A. Keit, dated May 12, 2014, recommending adoption of resolutions.

Action: Upon motion by Council Member Oliverio, seconded by Vice Mayor Nguyen and carried unanimously, Successor Agency Resolution No. 7029, entitled “A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Approving the Administrative Budget for July 1 through December 31, 2014”; and Successor Agency Resolution No. 7030, entitled: “A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Approving the Recognized Obligation Payment Schedule 14-15A and Authorizing Payment of Expenditures for Items on ROPS 14-15A, which Details the Obligations of the Successor Agency for the Period of July 1, 2014 through December 31, 2014”, were adopted. (9-0-2. Absent: Constant, Herrera.)

**9.1 (Cont'd.)**

- (b) **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; and**
  - (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)

Action: Deferred to June 10, 2014 per Administration.

**END OF THE REDEVELOPMENT – SUCCESSOR AGENCY  
ON CONSENT CALENDAR**

**PUBLIC SAFETY SERVICES**

*Item 8.1 heard following Item 9.1*

- 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;**
- (b) **Approve an ordinance of the City of San José amending Title 6 of the San José Municipal Code to add a new Chapter 6.88 to establish a registration process pertaining to medical marijuana collectives; and, to establish regulations pertaining to medical marijuana collectives and to the individual cultivation and use of medical marijuana; and**

**8.1 (c) Discussion of regulating campaign contributions by medical marijuana establishments, and other regulated businesses, to political candidates.**

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

**(Continued from 5/13/14 – Item 8.1 and 5/20/14 – Item 8.2)**

*Public testimony was taken at the May 13, 2014 City Council meeting. A motion was made and tabled for continued action on the May 20, 2014 and June 3, 2014 agendas.*

Documents Filed: (1) Memorandum from Council Member Liccardo, dated May 20, 2014, recommending approval of staff recommendations with modifications as outlined. (2) Supplemental memorandum from City Attorney Richard Doyle, dated May 16, 2014, outlining changes made to Title 6 and Title 20 of the San José Municipal Code. (3) Memorandum from City Clerk Toni J. Taber, CMC, dated May 16, 2014, outlining the initiative process and timeline. (4) Joint memorandum from Assistant to the City Manager, Angelique Gaeta, Director of Planning, Building and Code Enforcement, Harry Freitas and Chief of Police Larry Esquivel dated April 29, 2014, recommending approval of the ordinances amending Title 20 and Title 6 of the San José Municipal Code. (5) Memorandum from Secretary, Planning Commission, Harry Freitas, dated April 25, 2014, recommending approval of a proposed ordinance with modifications. (6) Joint memorandum from Mayor Reed, Vice Mayor Nguyen, Council Members Liccardo and Oliverio, dated May 9, 2014, approving staff recommendations with additions. (7) Supplemental memorandum from Assistant to the City Manager, Angelique Gaeta, dated May 9, 2014, transmitting additional geographical data. (8) Memorandum from Council Member Rocha, dated May 12, 2014 offering support to memoranda. (9) Memorandum from Mayor Reed, dated May 12, 2014, offering recommendations. (10) Two memoranda from Council Member Herrera, dated May 12 and May 13, 2014, offering recommendations. (11) Email correspondence from Dave Hodges, Mitchell Colbert, Gabrielle Antolovich, Dave Duarte, Nancy Pham and Danielle Pirslin, dated May 14, 15 and 20, 2014, regarding medical marijuana. (12) Letter from Susan Landry, dated May 18, 2014, providing suggestions for the City's medical marijuana program. (13) Marijuana Policy Brief, dated April 29, 2014, and Marijuana Legalization Brief, dated May 19, 2014 from the Santa Clara Valley Health and Hospital System. (14) "Energy Up In Smoke", dated April 5, 2011 as written by Evan Mills, Ph.D. (15) "The City of San José Marijuana Regulation Commission Act Text of Proposed Law" Notice of Intent to Circulate Petition, provided by Dave Hodges and John Lee.

Mayor Reed offered an overview of discussions to date.

Motion: Council Member Liccardo moved approval to eliminate buffers between collectives and to add a 500 feet restriction between dispensaries and homeless/emergency shelters and rehabilitation centers. Council Member Khamis seconded the motion.

## 8.1 (Cont'd.)

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

Action: On a call for the question, the first motion failed. (4-5-2. Noes: Campos, Chu, Kalra, Oliverio, Rocha. Absent: Constant, Herrera.)

Director of Planning, Building and Code Enforcement, Harry Freitas responded to zoning questions, offering the distance could be measured in a straight line from the Parcel boundary of the sensitive use to the nearest exterior wall of the Collective's Building envelope.

Council Member Khamis offered an amendment to the original motion on the floor, rather than property line to property line, to measure from envelope to envelope. The amendment was accepted by Council Member Liccardo and Vice Mayor Nguyen.

Council Member Herrera arrived to the Council Meeting at 2:46 p.m.

Substitute Motion: Council Member Rocha moved approval of his memorandum of May 12, 2014 outlining zoning recommendations. Council Member Kalra seconded the motion.

Action: On a call for the question, the first substitute motion failed. (3-7-1. Noes: Campos, Chu, Herrera, Liccardo, Nguyen, Oliverio; Reed. Absent: Constant.)

Senior Executive Analyst Patrick Heisinger responded to questions regarding cultivation issues, and discussion followed.

Second Substitute Motion: Council Member Herrera moved approval to ban marijuana dispensaries and grow operations within the City of San José, citing lack of enforcement capacity in San José and the need to protect children. Council Member Chu seconded the motion.

Action: On a call for the question, the substitute motion failed. (3-7-1. Noes: Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed. Absent: Constant.)

Second Motion: Council Member Liccardo moved approval to defer the item to June 10, 2014, to allow more time for consideration as indicated below in "Action". Council Member Herrera seconded the motion.

Action: On a call for the question, the second motion carried, and further deliberation and action on Item 8.1 was continued to June 10, 2014, with Staff directed to explore streamlining enforcement of regulatory components of the zoning code, determining what actions the City can take in its current capacity with problem facilities, and further researching the cultivation issue. (10-0-1. Absent: Constant.)

## CONSENT CALENDAR

Upon motion by Vice Mayor Nguyen, seconded by Council Member Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Constant, Herrera.)

### 2.1 Approval of Minutes.

None provided.

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29414** – Rezoning certain real property situated on the south side of Balbach Street, 100 feet east of Almaden Avenue (APN 26430067), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. **PDC13-027**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29414 executed on May 23, 2014, submitted by the City Clerk.

Action: Ordinance No. 29414 was adopted. (9-0-2. Absent: Constant, Herrera.)

- (b) **ORD. NO. 29415** – Rezoning certain real property situated on the north side of Huff Avenue, approximately 350 feet west of South Baywood Avenue to the A(PD) Planned Development Zoning District. **PDC13-011**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29415 executed on May 23, 2014, submitted by the City Clerk.

Action: Ordinance No. 29415 was adopted. (9-0-2. Absent: Constant, Herrera.)

### 2.3 Approval of Council Committee Reports.

- (a) **Transportation and Environment Committee Report of May 5, 2014. (Liccardo)**
- (d) **Public Safety, Finance, and Strategic Support Committee Report of May 15, 2014. (Constant)**
- (e) **Community and Economic Development Committee Report of May 19, 2014. (Herrera)**

Documents Filed: (1) Transportation and Environment Committee Report, dated May 5, 2014. (2) Public Safety, Finance and Strategic Support Committee Report, dated May 15, 2014. (3) Community and Economic Development Committee Report of May 19, 2014.

Action: The Council Committee Reports were accepted. (9-0-2. Absent: Constant, Herrera.)

**2.3 Approval of Council Committee Reports (Cont'd.)**

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

Action: Deferred to June 10, 2014 per City Clerk.

**2.4 Mayor and Council Excused Absence Requests.**

None provided.

**2.5 City Council Travel Reports.**

None provided.

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

None provided.

- 2.7**
- (a) **Approve a Consultant Agreement with Landrum & Brown, Inc. for airspace and airfield analysis services for the Norman Y. Mineta San José International Airport in an amount not to exceed \$350,000 and for the term of July 1, 2014 to June 30, 2017;**
  - (b) **Adopt a resolution authorizing the Director of Aviation to exercise an option to extend the agreement for one additional three-year term from July 1, 2017 through June 30, 2020.**

**CEQA: Not a Project, File No. PP10-066(d), Consultant services for design, study, research and inspection. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Kim Becker Aguirre, dated May 12, 2014, recommending approval of a consultant agreement and adoption of a resolution.

Action: Resolution No. 76987, entitled: "A Resolution of the Council of the City of San José Granting the Director of Aviation the Authority to Exercise the Option to Extend the Agreement for Consultant Services between the City of San José and Landrum & Brown, Inc., for One Additional Three-Year Period", was adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.8**
- (a) **Approve an agreement for Airport Bus Service between the City of San José and the Santa Clara County Valley Transportation Authority (VTA) for a term from July 1, 2014 to June 30, 2019, with first year compensation to VTA not to exceed \$675,020;**
  - (b) **Adopt a resolution authorizing the City Manager to exercise options to extend the agreement for up to five additional one-year periods, subject to appropriation of funds by the City Council.**

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

**2.8 (Cont'd.)**

Documents Filed: Memorandum from Director of Aviation, Kim Becker Aguirre, dated May 12, 2014, recommending approval of an agreement and adoption of a resolution.

Action: Resolution No. 76988, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Exercise Options to Extend the Agreement for Airport Bus Service between the City of San José and the Santa Clara Valley Transportation Authority for Up to Five Additional One-Year Periods”, was adopted. (9-0-2. Absent: Constant, Herrera.)

**2.9 Adopt a resolution authorizing the City Manager, or his designee, to apply for, and execute upon receipt, grants from the Federal Aviation Administration in a total amount not to exceed \$8,000,000 for certain Airport Improvement Program projects at the Norman Y. Mineta San José International Airport. CEQA: Airport Master Plan EIR Resolution Nos. 67380 and 71451, File Nos. PP14-035 and PP14-040. (Airport)**

Documents Filed: (1) Memorandum from Director of Aviation, Kim Becker Aguirre, dated May 12, 2014, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Aviation, Kim Becker Aguirre, dated May 23, 2014, recommending including Norman Y. Mineta San José International Airport to the Policy.

Action: Resolution No. 76989, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Apply For, and Execute Upon Receipt, Grant Applications for Funding from the Federal Aviation Administration in a Total Amount Not to Exceed \$8,000,000 for Certain Airport Improvement Projects at the Norman Y. Mineta San José International Airport, to Accept the Grants if Awarded, and to Execute all Related Documents”, was adopted. (9-0-2. Absent: Constant, Herrera.)

**2.10 Adopt a resolution authorizing the City Attorney to execute an Eleventh Amendment to the Agreement for Legal Services with Hogan Lovells US LLP for legal services related to aviation matters at the Norman Y. Mineta San José International Airport, extending the term of the Agreement from June 30, 2014 to June 30, 2015, and increasing the total compensation by \$100,000 to an amount not to exceed \$370,000. 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 21, 2014, recommending adoption of a resolution.

Action: Resolution No. 76990, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute an Eleventh Amendment to Agreement for Legal Services with Hogan Lovells US LLP”, was adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.11 As recommended by the Public Safety, Finance, and Strategic Support Committee on May 15, 2014, accept the Audit of the Housing Loan Portfolio. CEQA: Not a Project, File No. PP10-069, Staff Report. (City Auditor)  
[Public Safety, Finance, and Strategic Support Committee referral 5/15/14 – Item D(4)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated May 22, 2014, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: The Audit of the Housing Loan Portfolio was accepted. (9-0-2. Absent: Constant, Herrera.)

- 2.12 Appoint Johnson Tran to the vacant District 4 position on the Neighborhoods Commission to an unexpired term ending June 30, 2016. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 19, 2014, transmitting the recommendation to the Neighborhood Commission.

Action: Johnson Tran was appointed to the vacant District 4 position on the Neighborhoods Commission to an unexpired term ending June 30, 2016. (9-0-2. Absent: Constant, Herrera.)

- 2.13 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Municipal Employees' Federation, AFSCME, Local 101 (MEF), and authorize the City Manager to execute an agreement with a term of July 1, 2014 through June 30, 2015. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated May 19, 2014, recommending adoption of a resolution.

Action: Resolution No. 76991, entitled: "A Resolution of the Council of the City of San José Approving the Terms of an Agreement between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 (MEF), with a term of July 1, 2014 through June 30, 2015", was adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.14 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Confidential Employees' Organization, AFSCME, Local 101 (CEO), and authorize the City Manager to execute an agreement with a term of July 1, 2014 through June 30, 2015. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated May 19, 2014, recommending adoption of a resolution.

**2.14 (Cont'd.)**

Action: Resolution No. 76992, entitled: “A Resolution of the Council of the City of San José Approving the Terms of an Agreement between the City of San José and the Confidential Employees' Organization, AFSCME, Local 101 (CEO), with a term of July 1, 2014 through June 30, 2015”, was adopted. (9-0-2. Absent: Constant, Herrera.)

**2.15 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Association of Legal Professionals (ALP), and authorize the City Manager to execute an agreement with a term of July 1, 2014 through June 30, 2015. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated May 19, 2014, recommending adoption of a resolution.

Action: Resolution No. 76993, entitled: “A Resolution of the Council of the City of San José Approving the Terms of an Agreement between the City of San José and the Association of Legal Professions (ALP), with a term of July 1, 2014 through June 30, 2015”, was adopted. (9-0-2. Absent: Constant, Herrera.)

**2.16 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the International Union of Operating Engineers, Local No. 3 (OE#3), and authorize the City Manager to execute an agreement with a term of July 1, 2014 through June 30, 2015. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated May 19, 2014, recommending adoption of a resolution.

Action: Resolution No. 76992, entitled: “A Resolution of the Council of the City of San José Approving the Terms of an Agreement between the City of San José and the International Union of Operating Engineers, Local No. 3 (OE#3), with a term of July 1, 2014 through June 30, 2015”, was adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.17 (a) **Adopt a resolution approving compensation and benefit changes for executive management and professional employees in Unit 99 and other unrepresented employees (Units 81/82), effective June 22, 2014; and**
- (b) **Adopt a resolution to amend the City of San José Pay Plan effective June 22, 2014, to provide an approximately .33% special base pay increase to the Assistant Police Chief classification, which results in increasing by approximately .33% the top of the salary range for the classification of Assistant Police Chief (2225), in addition to the general wage increase effective June 22, 2014.**

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

Documents Filed: Memorandum from City Manager, Edward K. Shikada, dated May 22, 2014, recommending adoption of resolutions.

Action: Resolution No. 76995, entitled: “A Resolution of the Council of the City of San José Implementing Changes to Compensation and Benefits for Executive Management and Professional Employees (Unit 99) and Other Unrepresented Employees (Units 81/82) Effective June 22, 2014”; and Resolution No. 76996, entitled: “A Resolution of the Council of the City of San José to Amend the Pay Plan, Effective June 22, 2014”, were adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.18 (a) **Approve travel by Council Member Constant to Houston, TX on June 3 – 5, 2014 to speak at the 2014 Leadership Forum: Municipal Finance. Source of Funds: Greater Houston Partnership.**
- (b) **Request for an excused absence for Council Member Constant from the Executive Session and the Regular City Council Meeting on June 3, 2014 and the Regular Meeting of the Rules and Open Government Committee on June 4, 2014 due to Authorized City Business: 2014 Leadership Forum: Municipal Finance.**

**(Constant)**

Documents Filed: Memoranda from Council Member Constant, dated May 21 and May 27, 2014, requesting authorization to travel and excused absences due to authorized City business.

Action: The travel and excused absences were approved. (9-0-2. Absent: Constant, Herrera.)

- 2.19 (a) **Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2014-15, and set June 17, 2014 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.**

- 2.19 (b) Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2014-2015, to suspend collection of the Downtown BID assessments for businesses that qualify for the business tax financial hardship exemption under the City's general business tax ordinance, and set June 17, 2014 at 1:30 p.m. as the date and time for the public hearing on the foregoing matters.**

**CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**

Documents Filed: Two memoranda from Director of Economic Development/Chief Strategist Kim Walesh, both dated May 12, 2014, recommending preliminary approval of the 2014-2015 Budget Reports and adoption of resolutions.

Action: Resolution No. 76997, entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2014-2015 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting the Date and Time for the Public Hearing; and Resolution No. 76998, entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2014-2015 in the Downtown Business Improvement District, Suspend Collection of the Assessments for Businesses that Qualify for the Business Tax Financial Hardship Exemption Under the City's General Business Tax Ordinance; and Setting the Date and Time for the Public Hearing", were adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.20 Adopt a resolution authorizing the City Manager to execute a Qualified Management Agreement and Convention and Visitors Bureau Services Agreement with Team San José for the period of July 1, 2014 through June 30, 2019, with two additional five-year options. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated May 12, 2014, recommending adoption of a resolution.

Action: Resolution No. 76999, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Qualified Management Agreement and Convention and Visitors Bureau Services Agreement with Team San José", was adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.21 Adopt a resolution authorizing the City Manager to:**

- (a) Execute the Third Amendment to the Public Address System Agreement with Signature Technologies, Inc., dba Com-Net Software to extend services for system maintenance and support for one additional twelve month period for the term July 15, 2014, through July 14, 2015, revise the maintenance schedule so that each airport terminal is on the same term with coterminous end dates, and increase compensation by \$39,234 for a revised maximum compensation of \$3,618,893;**

- 2.21 (b) **Negotiate and execute subsequent amendments to the Agreement to replace hardware for the purpose of minimizing system maintenance costs, subject to the appropriation of funds; and**
- (c) **Execute up to four additional one-year options to extend the agreement through July 14, 2019 to provide ongoing maintenance and support for an estimated annual cost of \$141,000, subject to the appropriation of funds.**

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated May 12, 2014 recommending adoption of a resolution.

Action: Resolution No. 77000, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute a Third Amendment to the Public Address System Agreement with Signature Technologies, Inc., dba Com-Net Software to extend the Term for One Year, Revise the Maintenance Schedule and Increase Maximum Compensation; (2) Negotiate and Execute Subsequent Amendments to the Agreement to Replace Hardware; and (3) Execute up to Four One-Year Options to Extend the Agreement to Provide Ongoing Maintenance and Support for the Public Address System at Norman Y. Mineta San José International Airport", was adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.22 **Approve a First Amendment to the Agreement with the Santa Clara Central Fire Protection District for the City of San José to provide emergency response services to Zone One from July 1, 2014 through December 31, 2015; with an option to extend the term of this Agreement through June 30, 2019, by mutual agreement. CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Fire)**

Documents Filed: Memorandum from Acting Fire Chief Ruben Torres, dated May 16, 2014, recommending approval of a first amendment to an agreement.

Action: A First Amendment to the Agreement with the Santa Clara Central Fire Protection District for the City of San José to provide emergency response services to Zone One from July 1, 2014 through December 31, 2015; with an option to extend the term of this Agreement through June 30, 2019, by mutual agreement, was approved. (9-0-2. Absent: Constant, Herrera.)

- 2.23 **Approve a Sixth Amendment to the Agreement with AmeriNational Community Services, increasing the amount of the agreement by \$50,000 from \$375,000 to \$425,000 and extending the term from June 30, 2014, to December 31, 2014. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated May 12, 2014, recommending approval of an amendment to an agreement.

**2.23 (Cont'd.)**

Action: a Sixth Amendment to the Agreement with AmeriNational Community Services, increasing the amount of the agreement by \$50,000 from \$375,000 to \$425,000 and extending the term from June 30, 2014, to December 31, 2014, was approved. (9-0-2. Absent: Constant, Herrera.)

**2.24 Adopt a resolution authorizing the City Manager to execute a Continuation and Third Amendment to an Agreement with InnVision Shelter Network, successor to InnVision the Way Home, for operator services, in an amount not to exceed \$90,000 for maintenance and operation of the Haven Disaster Relief Shelter and Triplex affordable housing units, located at 937 and 943 Locust Street, retroactively from July 1, 2012 to June 30, 2014, with options to extend the Agreement through June 30, 2015. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts. Council District 3. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated May 13, 2014, recommending adoption of a resolution.

Action: Resolution No. 77001, entitled: "A Resolution of the Council of the City of San José Approving a Continuation and Third Amendment to the Agreement with InnVision Shelter Network for the Maintenance and Operation of the Haven Disaster Relief Shelter", was adopted. (9-0-2. Absent: Constant, Herrera.)

**2.25 Approve an agreement between the City and Managed Health Network 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 Employee Assistance Program, Critical Incident Stress Management, and substance abuse treatment for a total cost that will not exceed \$1,560,000, 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)**

Action: Deferred to June 10, 2014 per Administration.

**2.26 (a) Approve the District 3 Eritrean Independence Day Flag Raising Ceremony scheduled for May 23, 2014 as a City Council sponsored Special Event and approve the expenditure of funds; and  
(b) Approve and accept donations from various individuals, businesses or community groups to support the event.  
CEQA: Not a Project. (Liccardo)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 22, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Eritrean Independence Day Flag Raising as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (9-0-2. Absent: Constant, Herrera.)

- 2.27 Accept the report on the Request for Proposal for the purchase of a Utility Billing System and adopt a resolution authorizing the City Manager to:**
- (a) Negotiate and execute an agreement with Harris Local Government Solutions Inc., doing business as Advanced Utility Systems Corporation (Toronto, Ontario) for the purchase of a Utility Billing System to include software, installation, implementation, data migration, training and related professional services, taxes, maintenance and support, for an initial five year term ending June 2019, with a maximum compensation not-to-exceed \$2,236,875, subject to the appropriation of funds;**
  - (b) Execute change orders to cover any unanticipated changes or requirements in the system design and implementation not to exceed \$335,531 (15%) as may be required, subject to the appropriation of funds; and**
  - (c) Execute one-year options to extend the term of the agreement to provide ongoing maintenance and technical support after the initial five year term, subject to the annual appropriation of funds.**
- CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)**

*Renumbered from Item 3.4*

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated May 12, 2014, recommending acceptance of a report and adoption of a resolution.

Action: The report on the Request for Proposal was accepted, and Resolution No. 77002, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Negotiate and Execute an Agreement with Harris Local Government Solutions Inc., DBA Advanced Utility Systems Corporation, for the Purchase of a Utility Billing System for an Initial Five-Year Term; (2) Execute Change Orders to Cover Unanticipated Changes or Requirements in the System Design and Implementation; and (3) Execute One-Year Options to Extend the Term of the Agreement to Provide Ongoing Maintenance and Technical Support After the Initial Term”, was adopted. (9-0-2. Absent: Constant, Herrera.)

**2.28 “2.28” Not Used.**

**2.29 Adopt a resolution amending City Council Policy 9-9 titled “Smoking Policy for any Building Owned, Leased or Occupied by the City” to revise the definition of smoking to include Electronic Cigarettes (e-cigarettes) and to apply the Policy to the Mineta San José International Airport. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy that involves no changes in the physical environment. (Public Works)**

*Renumbered from Item 4.6*

## 2.29 (Cont'd.)

Documents Filed: (1) Joint memorandum from Council Member Kalra, Chu and Rocha, dated May 30, 2014, recommending acceptance of the staff report. (2) Memorandum from Director of Public Works David Sykes, dated May 22, 2014, recommending adoption of a resolution. (3) Letter from Michael Ong, Tobacco Education and Research Oversight Committee, dated February 26, 2014; Letter from BAYMEC Chair, dated February 19, 2014; Letter from Michele Lew, President, Asian Americans for Community Involvement, dated April 17, 2014; Letter from Rev. Jethroe Moore II, National Association for the Advancement of Colored People, dated May 2, 2014, Cynthia Hallett, Americans for Nonsmokers' Rights, dated May 30, 2014; Letters from Laura Dernetz, Joshua Greene, Aida Urizar from Andrew Hill High School, each offering support for the proposed ordinance. (4) List compiled by the Butt Out of Our Bars Campaign listing organizations and individuals supporting adding e-cigarettes to the banned list of Tobacco products.

Council Member Kalra pulled Item 2.29 from the Consent Calendar.

Motion: Council Member Kalra moved approval of the memorandum he cosigned with Council Members Chu and Rocha, dated May 30, 2014. Council Member Herrera seconded the motion.

Public Comment: Speaking in support of the staff's recommendation, were: Hewitt Joyner (Breathe California), Brian Davis (Butt Out of Our Bars), Liz Williams (Americans for Nonsmokers' Rights), Lucy Popova, Amanda Prescott (Youth Leadership Institute), Dr. Lauren Dutra (University of California, San Francisco), Vi Vu, Esha Menon (Working Partnerships USA), Rosemary McCarthy, Gabrielle Antolovich (Voices United), and Vanessa Marvin (American Lung Association). Henry Huerta spoke on beneficial aspects of e-cigarettes.

Council Member Khamis explained that he would not support the motion on the floor, viewing it as restricting peoples' rights and that he is not altogether convinced of the harmful effects of e-cigarettes.

Council Member Herrera requested to amend the motion to stipulate that Policy 9-9 be applied City-wide, including the Norman Y. Mineta San José International Airport. Council Member Kalra accepted the amendment.

## 2.29 (Cont'd.)

Action: On a call for the question, the motion carried, and Resolution No. 77003, entitled: “A Resolution of the Council of the City of San José Approving Revisions to Council Policy 9-9 Relating to Smoking Policy for any Building Owned, Leased or Occupied by the City”, was adopted, with City Council Policy 9-9 to be applied City-wide including the Norman Y. Mineta San José International Airport. Staff directed to return in August, as outlined in the joint memorandum from Council Members Kalra, Chu and Rocha, dated May 30, 2014, with a report to adopt language used in the Council Policy 9-9 to amend Chapter 9.44 of Title 9 of the San José Municipal Code: 9.44.022: “Smoking” is defined either (1) inhaling, exhaling, burning or carrying a lighted cigarette, cigar, pipe or other apparatus used to smoke tobacco or other organic or non-organic material; or (2) the use of an electronic cigarette as defined in California Health & Safety Code Section 119405 (“e-cigarette”) or a similar device intended to emulate smoking which permits a person to inhale vapors or mists that may or may not include nicotine; and 9.44.040 “Exceptions”: B. Retail tobacco and vape stores which sell primarily tobacco products and vape products. (8-2-1. Noes: Khamis, Oliverio. Absent: Constant.)

## 2.30 **Adopt a resolution revising the Rules and Regulations for operation of the San José Municipal Water System and repealing Resolution No. 73258 to incorporate technical corrections, revise shut-off procedures, update provisions on cross-connections and fire hydrant usage, and increase fees for meter accuracy tests and re-connections. Council Districts 2, 4, 7 and 8. CEQA: Not a Project, File No. PP10-068(c), Code or Policy change that involve no changes in the physical environment. (Environmental Services)**

*Renumbered from Item 7.1.*

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated May 22, 2014, recommending adoption of a resolution.

Action: Resolution No. 77004, entitled: “A Resolution of the Council of the City of San José Establishing Rules and Regulations for Operating of the Municipal Water System and Establishing Rates for Water Service, and Repealing Resolution No. 73258”, was adopted. (9-0-2. Absent: Constant, Herrera.)

## 2.31 **Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the City Association of Management Personnel, IFPTE, Local 21 (CAMP), and authorizing the City Manager to execute an agreement with a term of July 1, 2014 through June 30, 2015. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated May 27, 2014, recommending approval of an agreement.

**2.31 (Cont'd.)**

Action: Resolution No. 77005, entitled: “A Resolution of the Council of the City of San José Approving an Agreement between the City of San José and the City Association of Management Personnel, IFPTE, Local 21 (CAMP), with a Term of July 1, 2014 – June 30, 2015”, was adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.32 As recommended by the Rules and Open Government Committee on May 28, 2014:**
- (a) Approve the Rainbow Flag Raising Ceremony as a City Council sponsored Special Event and approve the expenditure of funds; and**
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**
- CEQA: Not a Project. (Oliverio)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 30, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Rainbow Flag Raising as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (9-0-2. Absent: Constant, Herrera.)

- 2.33 As recommended by the Rules and Open Government Committee on May 28, 2014, adopt a resolution to amend the City of San José Pay Plan to provide general salary increases of 3% effective June 22, 2014 for the City Manager, City Clerk, City Auditor, City Attorney, and Independent Police Auditor. CEQA: Not a Project; File No. PP10-069(b), Personnel Related Decision [Rules Committee referral 5/28/14 – Item G(7)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 30, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: Resolution No. 77006, entitled: “A Resolution of the Council of the City of San José, to Amend the Pay Plan to Provide a General Wage Increase of 3% for Council Appointees, Effective June 22, 2014”, was adopted. (9-0-2. Absent: Constant, Herrera.)

- 2.34 As recommended by the Rules and Open Government Committee on May 28, 2014, adopt a position of support for the State Mental Health Parity Enforcement Act. (City Manager) [Rules Committee referral 5/28/14 – Item G(8)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 30, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of support for the State Mental Health Parity Enforcement Act was adopted. (9-0-2. Absent: Constant, Herrera.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

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

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

**(Deferred from 4/29/14 – Item 3.4, et al., 5/20/14 – Item 3.3)**

Action: Deferred to June 10, 2014 per Administration.

- 3.4 **Accept the report on the Request for Proposal for the purchase of a Utility Billing System and adopt a resolution authorizing the City Manager to:**

- (a) **Negotiate and execute an agreement with Harris Local Government Solutions Inc., doing business as Advanced Utility Systems Corporation (Toronto, Ontario) for the purchase of a Utility Billing System to include software, installation, implementation, data migration, training and related professional services, taxes, maintenance and support, for an initial five year term ending June 2019, with a maximum compensation not-to-exceed \$2,236,875, subject to the appropriation of funds;**
- (b) **Execute change orders to cover any unanticipated changes or requirements in the system design and implementation not to exceed \$335,531 (15%) as may be required, subject to the appropriation of funds; and**
- (c) **Execute one-year options to extend the term of the agreement to provide ongoing maintenance and technical support after the initial five year term, subject to the annual appropriation of funds.**

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

*Note: Item 3.4 was Renumbered to Item 2.27. See Item 2.27 for Action.*

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Conduct a Public Hearing concerning an economic development subsidy to be provided to Prospect Silicon Valley or "Prospect SV," in connection with a below-market lease, pursuant to California Government Code Section 53083.
- (b) Adopt a resolution authorizing the City Manager, or his designee, to execute a below-market sublease, for an initial term of five years, plus two three-year extension options, with Prospect SV, for approximately 23,492 square feet of space in real property located at 1608 Las Plumas Avenue, known as the San José Environmental Innovation Center, or "EIC," for purposes of operating a clean technology demonstration center.

**CEQA: Negative Declaration for the San José Environmental Innovation Center, File No. PP09-138. (Economic Development)**  
**(Deferred from 5/6/14 – Item 4.1 and 5/13/14 – Item 4.1)**

Documents Filed: Memorandum from Deputy Director of Economic Development, Nanci J. Klein, dated April 25, 2014, recommending a public hearing and adoption of a resolution.

Mayor Reed offered modifications to be made to the sublease terms as indicated below in "Action".

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

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 77007, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Execute a Below-Market Sublease with Prospect Silicon Valley for Approximately 23,492 Square Feet of Space in Real Property Located at 1608 Las Plumas Avenue, Known as the San José Environmental Innovation Center, for Purposes of Operating a Clean Technology Demonstration Center", was adopted, with modifications to be made to the sublease terms: (1) Regarding Exhibit F-1, allow flexibility in the description of clean technology key sectors, including language "covered but not limited to" in designating clean tech uses; (2) Regarding Exhibit F-4, allow greater flexibility by deleting the reference to limiting the use rights to a period of 12 months in any 24-month period. (3) Modify Section 14.2 regarding Tenant's share of Operating Expenses, excluding an automatic "increase by four percent (4%) per year", basing increase instead on operations, with "a maximum 4% increase". (8-0-3. Absent: Campos, Constant, Kalra.)

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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- 4.2 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)  
[Community and Economic Development Committee referral 4/28/14 – Item D(4)]  
(Deferred from 5/20/14 – Item 4.1)**

Action: Deferred to June 10, 2014 per Administration.

- 4.3 Preliminary approval of the report as filed by the Hotel Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy increased assessments for Fiscal Year 2014-15, and confirming June 17, 2014 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed increased assessments. CEQA: Exempt, File No. PP08-048. (Economic Development)**

Documents Filed: (1) Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated May 12, 2014 recommending Council levy the increased assessments for Fiscal Year 2014-2015 in the BID. (2) Proof of Publication of Notice of Public Hearing executed on May 2, 2014, submitted by the City Clerk.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 77008, entitled: “A Resolution of the Council of the City of San José Declaring its Intent to Levy Increased Assessments for Fiscal Year 2014-2015 in the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Confirming June 17, 2014 at 1:30 p.m. as the Date and Time for the Public Hearing on the Levy of the Proposed Increased Assessments”, was adopted. (8-0-3. Absent: Campos, Constant, Kalra.)

- 4.4 Conduct a Public Hearing and consider the adoption of a resolution ordering the reorganization of territory designated as Evergreen No. 203 which involves the annexation to the City of San José of an approximately 1.57 gross acre area consisting of one parcel located on the east side of San Felipe Road, approximately 550 feet north of Scenix Meadow Lane, and the detachment of properties within the annexation area from Central Fire Protection and Area No. 01 (Library Services) County Service (James T Nguyen, Owner). CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041 (Related approved Rezoning File No. C13-039). Council District 8. (Planning, Building and Code Enforcement)**

#### 4.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated May 12, 2014, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing executed on April 25, 2014, submitted by the City Clerk.

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

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 77009, entitled: “A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Evergreen No. 203, Subject to Liability for General Indebtedness of the City”, was adopted. (8-0-3. Absent: Campos, Constant, Kalra.)

#### 4.5 **Conduct a Public Hearing and consider the adoption a resolution approving a street renaming to change the name of an existing private street from Phunglau Court to Joy Lane, located on the west side of Boynton Avenue approximately 400 feet southerly of Stevens Creek Boulevard (Phunglau Court) (Multiple Applicants). CEQA: Exempt. (Planning, Building and Code Enforcement) ST14-002 – District 1**

Documents Filed: (1) City Council Action Request from Director of Planning, Building and Code Enforcement, Harry Freitas, dated June 3, 2014, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing executed on May 16, 2014, submitted by the City Clerk.

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

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 77010, entitled: entitled: “A Resolution of the Council of the City of San José Renaming the Street Known as Phunglau Court, Located on the West Side of Boynton Avenue Approximately Four Hundred Feet Southerly of Stevens Creek Boulevard, to Joy Lane”, was adopted. (8-0-3. Absent: Campos, Constant, Kalra.)

#### 4.6 **Adopt a resolution amending City Council Policy 9-9 titled “Smoking Policy for any Building Owned, Leased or Occupied by the City” to revise the definition of smoking to include Electronic Cigarettes (e-cigarettes) and to apply the Policy to the Mineta San José International Airport. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy that involves no changes in the physical environment. (Public Works)**

*Note: Item 4.6 was Renumbered to Item 2.29. See Item 2.29 for Action.*

## NEIGHBORHOOD SERVICES

**5.1 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; and**
- (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)**

**[Public Safety, Finance, and Strategic Support Committee referral 5/15/14 – Item D(6)]**

Action: Deferred to June 10, 2014 Per Administration.

## ENVIRONMENTAL & UTILITY SERVICES

**7.1 Adopt a resolution revising the Rules and Regulations for operation of the San José Municipal Water System and repealing Resolution No. 73258 to incorporate technical corrections, revise shut-off procedures, update provisions on cross-connections and fire hydrant usage, and increase fees for meter accuracy tests and re-connections. Council Districts 2, 4, 7 and 8. CEQA: Not a Project, File No. PP10-068(c), Code or Policy change that involve no changes in the physical environment. (Environmental Services)**

*Note: Item 7.1 was Renumbered to Item 2.30. See Item 2.30 for Action.*

## REDEVELOPMENT – SUCCESSOR AGENCY

- 9.2 (a) Approve a Second Amendment to Settlement Agreement and General Release with Kenneth Solis and Bonnie Torrez, doing business as Patty's Inn (Tenant), to extend the date for Tenant to vacate the property located at 102 South Montgomery Street in San José (Property) and to allow for monthly rent payable by Tenant to be offset against the remaining relocation payment owed to Tenant;**
- (b) Approve a five (5) year lease (Lease) with Tenant for the Property with the provision that each party shall have the right to terminate the Lease upon not less than ninety (90) days written notice to the other party.**

**CEQA: Exempt, CEQA Guideline Section 15301. (Successor Agency)**

**(Deferred from 4/29/14 – Item 9.2 and 5/13/14 – Item 9.1)**

Action: Deferred to August 5, 2014 per Administration.

**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>
10259	East Terminus of Lexington Avenue without Endicott Blvd. and south of Great Oaks Pkwy	2	City Ventures LCC	1 Lot/143 units	MFA/condo
10257	Southeast corner of McKee Road and LA Pala Drive	5	Lisa Lee	7 Lots	SFD

**OPEN FORUM**

- (1) Judy Bender expressed concerns regarding food service at the Willows Senior Center.
- (2) Jason Tanko, Tanko Lighting, urged the City to rebid its contract with Chevron for the City’s streetlights, expressing that the City has not received a fair bid.
- (3) Shelby Brown expressed her problems with procuring independent housing and was referred by the Mayor to the Assistant City Manager.

**ADJOURNMENT**

The Council of the City of San José was adjourned at 4:53 p.m. in memory of former State Senator John Vasconcellos who passed away on May 24. Senator Vasconcellos distinguishably represented San José in the State Legislature for 38 years. (Mayor)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

rmk/6-3-14MIN