



## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 5, 2014

The Council of the City of San José convened in Regular Session at 9:03 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - All Present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

None provided.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:07 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code subsection (d)(1) of Section 54956.9 with respect to potential litigation: Number of matter(s) to be discussed: two (2); (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation (Claim Not Filed) in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code subsection (d)(1) of Section 54956.9, with respect to existing litigation: (1) Deisenroth v. City; Names of Parties Involved: Tinajero v. Elliott v. City, et al.; Names of Partie(s) Involved: Maria Tinajero, Maryann Elliott, and Does 1-50, inclusive; City of San José, Maryann Elliott and Does 1-25, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-243965; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (2) 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

## CLOSED SESSION (Cont'd.)

No: 1-12-CV-225027; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (3) San José Retired Employees Association, et al. v. City, et al.; Names of 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; (4) 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; (5) 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; (6) 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; (7) 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; Amount of Money or Other Relief Sought: Challenge to Measure B; (8) San José Retired Employees Association, et al. v. City of San José, et al.; Names of Partie(s) Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, the Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (9) AFSCME v. City of San José; 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; Amount of Money or Other Relief Sought: Damages According to Proof; (10) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: Public Employment Relations Board; Case No.: SF-CE-837-M; Amount of Money or Other Relief Sought: Damages According to Proof; (11) IAFF Local 230 v. City of San José; Names of Partie(s) Involved: International Association of Firefighters Local 230,

## CLOSED SESSION (Cont'd.)

City of San José; Court: Public Employment Relations Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (12) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: Public Employment Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (13) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Case No.: SF-CE-972-M; Amount of Money or Other Relief Sought: Damages According to Proof; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union 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. Telephone for Employee Relations: 408-535-8150.

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

By unanimous consent, Council recessed from the Closed Session at 11:50 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - All Present.

## **INVOCATION (DISTRICT 1)**

Muneer Chowdhry of the South Bay Afghan Community provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## **CONSENT CALENDAR**

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

### **2.1 Approval of Minutes.**

None provided.

### **2.2 Final Adoption of Ordinances.**

None provided.

### **2.3 Approval of Council Committee Reports.**

- (a) Transportation and Environment Committee Report of June 2, 2014. (Liccardo)**
- (b) Rules and Open Government Committee Report of June 11, 2014. (Mayor)**
- (c) Airport Competitiveness Report of May 30, 2014. (Mayor)**

Documents Filed: (1) Transportation and Environment Committee Report of June 2, 2014; (2) Rules and Open Government Committee Report dated June 11, 2014; (3) Airport Competitiveness Report dated May 30, 2014. (4) Letter from Treatment Plant Advisory Committee Chair Chuck Reed, dated June 13, 2014, stating concurrence with the Staff recommendations.

**2.3 (Cont'd.)**

Public Comments: David Wall pulled items 2.3 and 2.14 for remarks regarding the Water Pollution Control Plant.

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

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

None provided.

**2.5 City Council Travel Reports.**

None provided.

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

None provided.

**2.7 Approve a Lease with SJJC Airline Services, LLC for ramp and office space in support of its commercial airline fueling operations for a month to month term not to exceed five years, with estimated annual income to the City of \$386,000. CEQA: Airport Master Plan Update EIR and Supplemental EIR, Resolution Nos. 67380 and 71451, File No. PP12-065. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Kim Becker Aguirre, dated July 14, 2014, recommending approval of a lease.

Action: A Lease with SJJC Airline Services, LLC for ramp and office space in support of its commercial airline fueling operations for a month to month term not to exceed five years, with estimated annual income to the City of \$386,000, was approved. (11-0.)

- 2.8 (a) Adopt a resolution revising the airline incentive program to support the development of new air service at the Norman Y. Mineta San José International Airport (SJC) by limiting the waiver of fees to landing fees only for existing carriers adding new service and including the waiver of eligible terminal rents to new entrant carriers only; eliminating the list of unserved and under-served destinations; making new seasonal international service eligible for fee waiver(s); making matching marketing funds available for new domestic service; and repealing Resolution No. 76717; and**
- (b) Adopt a resolution to repeal Resolution No. 76719, which will eliminate the Focus City Promotional Fee Waiver Incentive Program.**

**CEQA: Airport Master Plan Update EIR and Supplemental EIR , Resolutions Nos. 67380 and 71451, File No. PP09-192. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Kim Becker Aguirre, dated July 14, 2014, recommending adoption of resolutions.

## 2.8 (Cont'd.)

Councilmember Herrera pulled item 2.8 to question staff on the success of the incentive program. Assistant Director of Aviation John Aitken responded to questions.

Action: Upon motion by Councilmember Herrera, seconded by Councilmember Khamis and carried unanimously, Resolution No. 77099, entitled: “A Resolution of the Council of the City of San José Revising the City’s Airline Air Service Promotional Fee Waiver Incentive Program to Support the Development of New Air Service At the Norman Y. Mineta San Jose International Airport By Limiting the Waiver of Fees to Landing Fees only for Existing Carriers Adding New Service, and Including the Waiver of Eligible Terminal Rents to New Entrant Carriers Only; Eliminating the List of Unserved and Under-Served Destinations; Making New Seasonal International Service Eligible for Fee Waiver(s); Making Matching Marketing Funds Available for New Domestic Service; and Repealing Resolution No. 76717”; and Resolution No. 77100, entitled: “A Resolution of the Council of the City of San José Eliminating the Focus City Promotional Fee-Waiver Incentive Program at the Norman Y. Mineta San Jose International Airport and Repealing Resolution No. 76719”, were adopted. (11-0.)

## 2.9 **Appoint Richard James to the District 8 Seat on the Arts Commission to a term ending June 30, 2018. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated July 22, 2014, providing the Arts Commission Appointment recommendation.

Action: The appointment of Richard James to the District 8 Seat on the Arts Commission to a term ending June 30, 2018, was approved. (11-0.)

**2.10 Adopt a resolution declaring the results of the June 3, 2014 Municipal Election pursuant to Elections Code Section 15400. (City Clerk)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated July 23, 2014, recommending adoption of a resolution. (2) Letter from Phillip J. Crawford, Attorney at Law, requesting removal of Item 2.10 from the Consent Calendar pending review.

Public Comments: James Rowen and Phil Crawford offered comments on increased regulation, and the District 5 election.

Assistant City Attorney Ed Moran responded to questions from the Council, including involvement of the Ethics Commission.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Herrera and carried unanimously, Resolution No. 77101, entitled: “A Resolution of the Council of the City of San José Reciting that a Regular Municipal Election and Special Municipal Election Was Held In the City Of San Jose on Tuesday, June 3, 2014; Stating the Offices to be Filled at the Election and Confirming the Passage of Measure B; Finding and Declaring that the Registrar of Voters of the County of Santa Clara Has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Names of the Persons and offices Voted for, the Name of the Measure Voted for, the Number of Votes Given at Each Precinct to Each Person and the Measure; and Finding and Declaring Who Received the Highest Number of Votes of the Votes Cast And that Measure B Received a Majority of the Votes Cast”, was adopted. (11-0.)

**2.11 Adopt a resolution amending the 2014-2015 Schedule of Fees and Charges (Resolution No. 72737, as amended), to establish the Special Event Permit Fee in the amount of \$40.00 per permit for the use of public paseos and plazas for limited special event or guaranteed simple assembly. CEQA: Not a Project, File No. PP10-066(a), Increase or Adjustment to Fees, Rates & Fares. (Economic Development/City Manager)**

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer Maguire, dated July 14, 2014, recommending adoption of a resolution.

Action: Resolution No. 77102, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72737 as Previously Amended by Resolutions Nos. 73019, 73056, 73242, 73637, 73831, 73879, 73881, 74035, 74047, 74452, 74839, 74841, 74981, 75135, 75334, 75338, 75442, 75502, 75509, 75600, 75610, 75639, 75641, 75684, 75725, 75783, 75863, 75913, 76085, 76230, 76282, 76397, 76476, 76611, 76663, 76953, and 77018 to Establish the Special Event Permit Fee, to be Effective August 5, 2014”, was adopted. (11-0.)

- 2.12 (a) **Adopt a resolution authorizing the City Manager to execute the Third Amendment to the Agreement between the City of San José and Conroy & Associates, Inc. for financial background investigation services for the Division of Gaming Control, for the period of October 1, 2014 through March 31, 2015; and**
- (b) **Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the estimate for Licenses and Permits in the amount of \$80,000; and**
  - (2) **Increase the Police Department's Non-Personal/Equipment appropriation in the amount of \$80,000.**

**CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment, and File No. PP10-067(b), Appropriation Ordinance. (Police/City Manager)**

Documents Filed: Memorandum from Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated July 14, 2014, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 77103, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Third Amendment to the Agreement with Conroy & Associates, Inc. for the Provision of Financial Background Investigation Services for the Division of Gaming Control"; Resolution No. 77104, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the General Fund"; and Ordinance No. 29445, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Fund for the Police Department Non-Personal/Equipment Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

- 2.13 **Approve a contract change order in the amount of \$401,137 for the 2010 STP Resurfacing and Rehabilitation Project. CEQA: Exempt, File No. PP11-035. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans Larsen, dated August 5, 2014, recommending approval of a contract change order.

Action: A contract change order in the amount of \$401,137 for the 2010 STP Resurfacing and Rehabilitation Project, was approved. (11-0.)

- 2.14 Adopt a resolution to authorize the City Manager to exercise the second one-year option to extend the Agreement for August 17, 2014, through August 16, 2015 for a maximum compensation not to exceed \$998,000, and for the authority to exercise the two remaining one-year options to extend the Agreement through August 16, 2017, subject to the appropriation of funds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)**

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated June 2, 2014, recommending adoption of a resolution. (2) Letter from Treatment Plant Advisory Committee Chair Chuck Reed, dated June 13, 2014, stating concurrence with the Staff recommendations.

Action: Resolution No. 77105, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Second One-Year Option to Extend the Agreement with Telstar Instruments for Wastewater Pollution Control Plant Staffing Services to Extend the Term From August 17, 2014 through August 16, 2015 for a Maximum Compensation Not To Exceed \$998,000, Subject to the Appropriation of Funds”, was adopted. (11-0.)

**2.15 Authorize the City Manager to:**

- (a) Execute a Purchase Order with Coast Counties Truck & Equipment Company (San José, CA) for the purchase of five sewer flushing/cleaning and vacuum trucks for the Department of Transportation, in an amount not to exceed \$1,791,697;**
- (b) Approve a contingency of approximately 10% per truck or \$180,000 for five trucks, subject to the appropriation of funds; and**
- (c) Purchase additional sewer trucks, at the same bid price and 10% contingency, subject to the appropriation of funds.**

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

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated July 21, 2014, recommending execution of a purchase order.

Action: Execution of a Purchase Order with Coast Counties Truck & Equipment Company (San José, CA) for the purchase of five sewer flushing/cleaning and vacuum trucks for the Department of Transportation, in an amount not to exceed \$1,791,697, with related contingencies, was approved. (11-0.)

- 2.16 Adopt a resolution authorizing the City Manager, or his designee, to re-execute the California Emergency Management Agency (Cal EMA) application and all related documents, under a universal declaration, pertaining to damages at San José Family Camp as a result of the 2013 Rim Fire. CEQA: Not a Project; File No. PP10-068(a), Grant Application. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated July 14, 2014, recommending adoption of a resolution.

Action: Resolution No. 77106, entitled: “A Resolution of the Council of the City of San José Repealing Resolution No. 76855 and Authorizing the City Manager or Parks Director or City Manager’s or Parks Director’s Designee to Execute and Submit an Application to the State of California Emergency Management Agency for Disaster Assistance, to Accept the Funds if Awarded, and to Execute all Related Documents”, was adopted. (11-0.)

- 2.17 (a) Determine that a change to the term end dates as follows is in the best interest of the Commissions to realign with the City Clerk’s Office recruitment schedule to establish staggered term end dates and ensure continuity of membership on the Commissions:**
- (1) Human Services Commission: Realign the term end dates for the District 6 seat to 12/31/16;**
  - (2) Parks and Recreation Commission: Realign the term end dates for the District 6 seat to 6/30/15;**
- (b) Approve the following Board and Commission appointments:**
- (1) Appoint Fabiola DeAguinaga to the District 6 Seat on the Human Services Commission to a term ending 12/31/16; and**
  - (2) Appoint Karl Sveinsson to the District 6 Seat on the Parks and Recreation Commission to a term ending 6/30/15.**

**CEQA: Not a Project. (City Clerk)  
(Rules Committee referral 7/30/14)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated July 29, 2014, providing recommendations regarding Board and Commission appointments.

Action: A change to the term end dates as follows is in the best interest of the Commissions to realign with the City Clerk’s Office recruitment schedule to establish staggered term end dates and ensure continuity of membership on the Commissions: (1) Human Services Commission: Realign the term end dates for the District 6 seat to 12/31/16; (2) Parks and Recreation Commission: Realign the term end dates for the District 6 seat to 6/30/15; was approved, and the following Board and Commission appointments: (1) Appointment of Fabiola DeAguinaga to the District 6 Seat on the Human Services Commission to a term ending 12/31/16; and (2) Appointment of Karl Sveinsson to the District 6 Seat on the Parks and Recreation Commission to a term ending 6/30/15, were approved. (11-0.)

- 2.18 (a) Adopt a resolution to approve the terms of a settlement agreement between the City of San José and the Municipal Employees' Federation, AFSCME Local 101 (MEF) and the Confidential Employees' Organization, AFSCME Local 101 (CEO) relating to an unfair practice charge before the Public Employees Relations Board, and authorize the City Manager to execute the settlement agreement.**
- (b) Adopt a resolution to amend the City of San José Pay Plan effective the beginning of the second pay period after City Council approval of the settlement agreement in part (a) above, to reconcile the base pay of classifications represented by MEF and corresponding classifications represented by CEO.**

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

*Note: Renumbered from Item 3.9*

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated July 18, 2014, recommending adoption of resolutions.

Action: Resolution No. 77107, entitled: "A Resolution of the Council of the City of San José Approving the Terms of a Settlement Agreement Between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 (MEF) and the Confidential Employees' Organization, AFSCME Local 101 (CEO) Relating to an Unfair Practice Charge Before the Public Employee Relations Board"; and Resolution No. 77108, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan", were adopted. (11-0.)

- 2.19 As recommended by the Rules and Open Government Committee on July 30, 2014, approve the appointment of Louise Auerhahn as a representative on the work2future Board of Directors. (Mayor)**  
**[Rules Committee referral 7/30/14 – Item F(1)(a)]**

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

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

- 2.20 As recommended by the Rules and Open Government Committee on July 30, 2014, appoint the following to the Association of Bay Area Governments Executive Board:**
- (a) Representatives:**
- (1) Sam Liccardo (term ending 12/31/14)**
  - (2) Kansen Chu (term ending 6/30/16)**
  - (3) Ash Kalra (term ending 6/30/16)**
- (b) Alternates:**
- (1) Rose Herrera (term ending 6/30/14)**
  - (2) Donald Rocha (term ending 6/3/16)**
  - (3) Chuck Reed (term ending 12/31/14)**
- (Mayor)**

**2.20 (Cont'd.)**

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

Action: Appointment of the following to the Association of Bay Area Governments Executive Board: Representatives: Sam Liccardo, Kansen Chu and Ash Kalra; and Alternates: Rose Herrera, Donald Rocha and Chuck Reed, were approved. (11-0.)

**2.21 As recommended by the Rules and Open Government Committee on July 30, 2014, approve a support position for AB 1521 (Fox) – Annexations. (City Manager)  
[Rules Committee referral 7/30/14 – Item G(2)]**

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

Action: A support position for AB 1521 (Fox), was approved. (11-0.)

**2.22 As recommended by the Rules and Open Government Committee on July 30, 2014, adopt a position of support for SB 785 (Wolk). (Public Works)  
[Rules Committee referral 7/30/14 – Item G(3)]**

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

Action: A support position for SB 785 (Wolk), was approved. (11-0.)

**2.23 (a) Adopt a resolution delegating to the BAWSCA Board authority to initiate, defend, and settle arbitration related to the WSA;  
(b) Direct the City Manager to appoint a representative to serve on the Wholesale Customer Committee.  
(Mayor)  
[Rules Committee referral 7/30/14 – Item G(4)]**

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

Action: Resolution No. 77109, entitled: “A Resolution of the Council of the City of San José Authorizing the Bay Area Water Supply and Conservation Agency to Initiate, Defend and Settle Arbitration Related to the Water Supply Agreement with the City and County of San Francisco, was adopted, and the City Manager was authorized to appoint a representative to serve on the Wholesale Customer Committee. (11-0.)

- 2.24 (a) Approve the District 10 Leadership BBQ as a City Council sponsored Special Event and approve the expenditure of City funds; and**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

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

**[Rules Committee referral 7/30/14 – Item G(5)]**

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

Action: The District 10 Leadership BBQ as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

## **END OF CONSENT CALENDAR**

### **STRATEGIC SUPPORT SERVICES**

#### **3.1 Report of the City Manager, Edward Shikada (Verbal Report)**

City Manager, Edward K. Shikada acknowledged the first meeting of the new cycle and welcomed everyone back from the July break.

#### **3.3 Discuss and accept report on Polling Results for Potential November 2014 Revenue Measures. (City Manager)**

Documents Filed: Memorandum from Director of Communications, David Vossbrink, dated July 24, 2014, recommending acceptance of a report.

City Manager, Edward K. Shikada provided an introduction, and David Metz from the firm Fairbank, Maslin, Maullin & Metz & Associates offered a presentation providing the polling results.

Public Comment: David Wall offered criticism of the firm and their approach to the survey, and John Lee questioned its approach to the marijuana tax issue.

Action: No action required.

#### **3.4 Potential General and Special Sales and Use Taxes Ballot Measures**

- (a) Council discussion of survey results for potential revenue measures for the November 4, 2014 ballot including consideration of a general one-quarter percent retail sales and use tax measure (recommended), a special one-quarter percent retail sales and use tax measure for public safety (alternate recommendation), and a special one-quarter percent retail sales and use tax measure for road repair and street safety (not recommended).**

Action: No action taken.

**3.4 Potential General and Special Sales and Use Taxes Ballot Measures (Cont'd.)**

- (b) Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 4, 2014, to submit to the electors of the City of San José the following measure:**

**MEASURE – San José Local City Services**

To fund local city services such as: improving police response to violent crimes, burglary, property and other safety needs; improving 9-1-1 and medical response; improving local fire station operations; repairing potholes; maintaining city streets; expanding gang prevention; creating more jobs through economic development, shall the City of San José enact a ¼-cent (.25%) sales tax for 9 years, requiring an Independent Citizens Oversight Committee to publicly review spending, and all revenues controlled locally?	YES	
	NO	

- (1) Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 4, 2014, Voter’s Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;**
- (2) Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;**
- (3) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election;**
- (4) Direct the City Clerk to take all actions necessary to place this measure for a November 4, 2014, Special Municipal Election, if needed.**

Documents Filed: (1) Joint memorandum from Mayor Reed and Councilmembers Liccardo, Constant and Herrera, dated August 1, 2014, recommending adoption of a resolution. (2) Memorandum from Councilmember Rocha, dated August 1, 2014, recommending approval of staff recommendations. (3) Memorandum from City Clerk Toni J. Taber, CMC, dated July 14, 2014 providing analysis of one ballot measure. (4) Memorandum from City Manager, Edward K. Shikada, dated July 24, 2014, recommending adoption of a resolution.

**3.4 Potential General and Special Sales and Use Taxes Ballot Measures (Cont'd.)**

Mayor Reed offered a presentation of “San José General Fund Deficits” as it followed the adoption of the fiscal reform plan.

Public Comment: Voicing the need for a general sales tax, urging restoration of safety services and expressing concerns regarding the City’s revenue, were: Bob Brownstein, Ross Signorino, David Wall, Jerry Mungai, Aurelia Sanchez, Steve Bennette, Bob Lesininger, Nancy Pyle, Dennis Raj and Yolanda Cruz.

Motion: Councilmember Rocha moved approval of the Measure as outlined in his memorandum of August 1, 2014. Councilmember Campos seconded the motion.

Vice Mayor Nguyen and Councilmembers Constant and Khamis offered support to a dedicated sales tax, and respectfully declined to support the motion on the floor.

Councilmembers Kalra, Chu and Campos offered support to the motion.

Action: On a call for the question, the motion failed. (4-7. Noes: Constant, Herrera, Khamis, Liccardo, Nguyen, Oliverio; Reed.)

- (c) **ALTERNATE RECOMMENDATION: Adopt a resolution of the City Council calling and giving notice, on its own motion, a Special Municipal Election to be held on November 4, 2014, to submit to the electors of the City of San José the following measure:**

**MEASURE - San José Public Safety Improvement**

To fund public safety improvements, including increasing the number of police officers patrolling City streets; improving 911 response times; expanding neighborhood safety, crime/gang prevention programs; and equipping police with modern police radios and other technologies to fight crime, shall the City of San José enact a ¼-cent (.25%) sales tax for nine years dedicated to public safety, requiring an Independent Citizens Oversight Committee to publicly review spending and all revenues controlled locally?	YES	
	NO	

- (1) **Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 4, 2014, Voter’s Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;**

**MEASURE - San José Public Safety Improvement (Cont'd.)**

- (c) (2) **Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;**
- (3) **Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and**
- (4) **Direct the City Clerk to take all actions necessary to place this measure for a November 4, 2014, Special Municipal Election, if needed.**

**CEQA: Not a Project per Section 15378(b)(4) of the CEQA Guidelines. (City Manager)**

*Note: Requires a 2/3 Vote.*

Motion: Councilmember Liccardo moved approval of the Measure as outlined in the memorandum he co-signed with Mayor Reed and Councilmembers Constant and Herrera. Councilmember Constant seconded the motion.

Councilmember Khamis requested to amend the motion to include pavement maintenance on key emergency routes. Councilmember Liccardo respectfully declined to accept the amendment, citing it would change the original motion too significantly.

Action: On a call for the question, the motion failed. (6-5. Noes: Campos, Chu, Kalra, Oliverio, Rocha.)

Council Member Rocha left the meeting at 4:15 p.m.

Motion: Councilmember Khamis moved approval of the San José Public Safety Improvements Measure, with inclusion of "Transportation" Improvements. Councilmember Herrera seconded the motion, clarifying that she was doing so only for the sake of discussion.

Considerable discussion ensued, and David Metz responded to questions. Councilmember Herrera provided that she could no longer support the motion on the floor, as the message was diluted and would not pass by the voters.

Director of Transportation Hans Larsen responded to questions from Council.

Motion: On a call for the question, the motion failed. (3-7-1. Noes: Campos, Chu, Herrera, Kalra, Liccardo, Nguyen, Oliverio. Absent: Rocha.)

### 3.5 Marijuana Fees and Potential Business Tax Increase

- (a) **Adopt a resolution amending the 2014-2015 Schedule of Fees and Charges (Resolution No. 72737, as amended) to:**
- (1) **Establish a fee for the Receipt of an Application for Registration as a Medical Marijuana Collective in the amount of \$152 per application;**
  - (2) **Establish a fee for the Processing of a Zoning Code Verification Certificate Application in the amount of \$900 per application plus \$154 per hour for additional Planning review services beyond 4 hours and \$125 per hour for additional Code Enforcement inspection services beyond the first hour;**
  - (3) **Establish a fee for the Processing of an Application for Registration as a Medical Marijuana Collective in the amount of \$2,256 per application plus \$125 per hour for additional Code Enforcement inspection services beyond the first hour and a Police Department Sworn Hourly Investigation fee in the amount of \$93 per hour beyond 15 hours, and \$181 per employee above four;**

Documents Filed: (1) City Clerk Toni J. Taber, CMC, dated July 14, 2014 providing cost analysis of a ballot measure. (2) Memorandum from City Manager, Edward K. Shikada, dated July 24, 2014, recommending adoption of a resolution. (3) Supplemental memorandum from City Manager, Edward K. Shikada, dated August 1, 2014, clarifying the Recommendation language submitted.

Public Comment: John Lee, David Wall and Jerry Mungai offered opinions of the proposed ballot measure.

Director of Finance Julia H. Cooper and City Manager, Edward K. Shikada responded to questions from the Council, and discussion ensued.

Motion: Councilmember Liccardo moved approval of adopting a resolution amending the 2014-2015 Schedule of Fees and Charges as presented by Staff. Vice Mayor Nguyen seconded the motion.

Action: On a call for the question, the motion carried, and Resolution No. 77110, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737 as Previously Amended by Resolutions Nos. 73019, 73056, 73242, 73637, 73831, 73879, 73881, 74035, 74047, 74452, 74839, 74841, 74981, 75135, 75334, 75338, 75442, 75502, 75509, 75600, 75610, 75639, 75641, 75684, 75725, 75783, 75863, 75913, 76085, 76230, 76282, 76397, 76476, 76611, 76663, 76953, 77018 and 77102 to Revise the Medical Marijuana Collective Registration Fees, to be Effective August 5, 2014", was adopted. (9-1-1. Noes: Campos. Absent: Rocha.)

**3.5 Marijuana Fees and Potential Business Tax Increase (Cont'd.)**

- (b) **Council discussion and consideration of a proposed Marijuana Business Tax measure for the November 4, 2014 Election that would increase the current 10% maximum rate of the tax to a maximum rate of up to 20% of gross receipts;**

No Action Taken.

- (c) **Adopt a resolution of the City Council calling and giving notice of, on its own motion, a Special Municipal Election to be held on November 4, 2014, to submit to the electors of the City of San Jose the following measure:**

**MEASURE - Marijuana Business Tax Rate Increase**

To provide funding for services such as police, fire, 9-1-1, street maintenance, pothole repair, parks, libraries and youth/senior programs, shall the Marijuana Business Tax be amended to increase the 10% maximum rate to a maximum rate of up to 20% of gross receipts on marijuana businesses in San José, subject to existing independent financial audits, with all revenue controlled locally and no rate increase for any other businesses?	YES	
	NO	

- (1) **Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;**
- (2) **Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;**
- (3) **Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and**
- (4) **Direct the City Clerk to take all actions necessary to place this measure for a November 4, 2014, Special Municipal Election, if needed.**

**CEQA: Not a Project per Section 15378(b)(4) of the CEQA Guidelines. (City Manager)**

No Action Taken.

**3.6 Retirement Board Governance Ballot Measure**

- (a) **Council discussion and consideration of a Retirement Board Governance Modification ballot measure for the November 4, 2014, election;**
- (b) **Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 4, 2014, to submit to the electors of the City of San José, the following measure:**

**MEASURE - Retirement Board Governance**

Shall the Charter be amended to 1) allow the Council to establish one or more Retirement Boards with specified authority, including, hiring an at-will chief executive, 2) specify the hiring authority of the Retirement Services chief executive; 3) exclude certain future Retirement Services employees from the classified civil service and the City's defined benefit retirement plans; and 4) establish the process for setting stipends paid to non-employee Retirement Board members?	YES	
	NO	

Documents Filed: (1) Memorandum from Deputy City Manager Alex Gurza, dated July 24, 2014, recommending adoption of a resolution. (2) City Clerk Toni J. Taber, CMC, dated July 14, 2014, providing cost analysis of a ballot measure.

Public Comment: Vincent Sunzeri, Police & Fire Retirement Board, offered that this is a step towards improvement.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Herrera and carried, Resolution No. 77111, entitled: "A Resolution of the Council of the City of San José Calling and Giving Notice of, on its Own Motion, The Submission To The Electors Of The City Of San Jose, At A Special Municipal Election to be Held on November 4, 2014, a Ballot Measure Proposal to Modify the City Employee Retirement Boards Governance Structure", was adopted. (9-1-1. Noes: Campos. Absent: Rocha.)

- (1) **Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;**
- (2) **Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;**

**3.6 Retirement Board Governance Ballot Measure (Cont'd.)**

- (b) (3) **Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and**
- (4) **Direct the City Clerk to take all actions necessary to place this measure for a November 4, 2014, Special Municipal Election, if needed.**

**CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (City Manager)**

Motion: Upon motion by Councilmember Constant, seconded by Councilmember Herrera, and carried, the City Clerk was directed to take all actions necessary to place this measure for a November 4, 2014, Special Municipal Election, if needed; the City Clerk was directed *not* to print the entire text of measure in the Voter's Sample Ballot, but instead to make it easily accessible and available to the public; and no rebuttal arguments shall be accepted. Mayor Reed and Council Member Constant were designated as the authors of the ballot argument in favor. (9-1-1. Noes: Campos. Absent: Rocha.)

**3.7 Modifications to the City Charter Related to Retirement Benefits Ballot Measure.**

- (a) **Council discussion and consideration of a Retirement Benefit Modifications ballot measure for the November 4, 2014, election;**
- (b) **Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 4, 2014 to submit to the electors of the City of San José, the following measure:**

**MEASURE - Employee Pension Modification**

Shall the Charter be amended to 1) require employees rehired or reinstated before January 1, 2017 to be placed in the pension tier of benefits which applied to the employee when the employee left the City and 2) allow an alternative basis for disability retirement for police and fire employees who suffer serious bodily injury from a single event?	YES	
	NO	

### **3.7 Modifications to the City Charter Related to Retirement Benefits Ballot Measure (Cont'd.)**

- (b) (1) **Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;**
- (2) **Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;**
- (3) **Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and**
- (4) **Direct the City Clerk to take all actions necessary to place this measure for a November 4, 2014, Special Municipal Election, if needed.**

**CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (City Manager)**

Documents Filed: (1) Memorandum from Councilmember Rocha, dated August 4, 2014, regarding Measure B Changes. (2) Memorandum from City Attorney Richard Doyle, dated July 23, 2014, recommending modifications to Measure B sections of the Charter for the election. (3) City Clerk Toni J. Taber, CMC, dated July 14, 2014, providing cost analysis of a ballot measure. (4) Memorandum from Deputy City Manager Alex Gurza, recommending consideration of a ballot measure.

Public Comment: David Wall urged solicitation of bargaining units' feedback.

Assistant City Attorney Ed Moran provided clarification for the memorandum provided by the City Attorney's office. Mayor Reed recommended not taking action but directing staff to continue the meet and confer process for potential scheduling for the 2016 ballot.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Herrera and carried unanimously, the item was not recommended for the ballot, but staff was directed to continue the meet and confer process. (10-0-1. Absent: Rocha.)

### **3.8 Public Access to Employee Bargaining Negotiations Ballot Measure.**

- (a) **Council discussion and consideration of a Public Labor Negotiations ballot measure for the November 4, 2014, election;**
- (b) **Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 4, 2014, to submit to the electors of the City of San José, the following measure:**

3.8 (Cont'd.)

**MEASURE - Public Access to Employee Bargaining Negotiations**

Shall the Charter be amended to require meetings of the City and employee bargaining organizations to negotiate wages, hours, or any other term or condition of City employment be open to the public and all records of communications between these representatives related to such negotiations considered public records, except as otherwise proved by state or federal law?	YES	
	NO	

- (b) (1) **Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;**
- (2) **Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;**
- (3) **Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 4, 2014, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and**
- (4) **Direct the City Clerk to take all actions necessary to place this measure for a November 4, 2014, Special Municipal Election, if needed.**

**CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (City Manager)**

Documents Filed: (1) Memorandum from Deputy City Manager Alex Gurza, dated July 24, 2014, recommending consideration of a ballot measure. (2) City Clerk Toni J. Taber, CMC, dated July 14, 2014, providing cost analysis of a ballot measure. (3) Letter from Santa Clara County Supervisor, Dave Cortese, to Councilmember Oliverio, dated August 5, 2014, registering his support.

Motion: Councilmember Oliverio moved approval to direct staff to implement public negotiations, continuing the meet-and-confer process and returning to Council on October 7, 2014. He urged his colleagues to vote for transparency in the spirit of supporting open negotiations. Councilmember Khamis seconded the motion.

### 3.8 (Cont'd.)

Deputy City Manager Alex Gurza responded to questions, and offered that staff would continue to provide the Council updates on feedback and the responsiveness of putting it in an ordinance versus a charter requirement.

Mayor Reed offered that he could not accept the motion on the floor, as the time period outlined is insufficient, and that having the bargaining sessions in a public venue would not solve the conflicts currently encountered.

Council discussion followed.

Public Comment: David Wall questioned the practicality of extensive public records searches.

Action: On a call for the question, the motion carried, with Staff directed to continue the meet and confer process. No action was taken on the ballot measure. (8-2-1. Noes: Campos, Reed. Absent: Rocha.)

- 3.9 (a) **Adopt a resolution to approve the terms of a settlement agreement between the City of San José and the Municipal Employees' Federation, AFSCME Local 101 (MEF) and the Confidential Employees' Organization, AFSCME Local 101 (CEO) relating to an unfair practice charge before the Public Employees Relations Board, and authorize the City Manager to execute the settlement agreement.**
- (b) **Adopt a resolution to amend the City of San José Pay Plan effective the beginning of the second pay period after City Council approval of the settlement agreement in part (a) above, to reconcile the base pay of classifications represented by MEF and corresponding classifications represented by CEO.**

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

*Note: Renumbered to Item 2.18*

- 3.10 (a) **Conduct a public hearing regarding the Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges annual assessment report filed by the Director of Finance with the City Clerk on July 11, 2014; and**
- (b) **Adopt a resolution to confirm the approval of the annual assessment report for Fiscal Year 2014-2015 and the placement of such charges, as set forth therein, on the 2014-2015 County of Santa Clara Secured Property Tax Bills with such modifications as the City Council may make based on public hearing testimony.**

**CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates & Fares. (Finance)**

### 3.10 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated July 14, 2014, recommending conducting a public hearing and adoption of a resolution.

Mayor Reed opened the public hearing.

Public Comment: David Wall offered comments.

Mayor Reed closed the public hearing.

Action: Upon motion by Councilmember Liccardo, seconded by Councilmember Khamis and carried unanimously, Resolution No. 77112, entitled: "A Resolution of the Council of the City of San José Confirming the Approval of the Annual Report for Fiscal Year 2014-2015 of the Director of Finance On Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges, and Confirming the Approval of the Placement of Charges as Set Forth Therein on the 2014-2015 Tax Roll", was adopted. (8-0-3. Absent: Herrera, Kalra, Rocha.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Consideration of and vote on a Majority Protest to Rezoning C13-042 filed pursuant to Part 5 of Chapter 20.120 of Title 20 (Zoning Code) to protest a rezoning to the DC - Downtown Primary Commercial Zoning District on a 0.102 gross acre site located on the northeast corner of Lorraine Avenue and South Montgomery Street (565 Lorraine Avenue).**  
*Please note: To override the Majority Protest in subsection (a) requires 8 or more affirmative votes (2/3)*
- (b) **Consideration of an ordinance rezoning the real property located on the northeast corner of Lorraine Avenue and South Montgomery Street (565 Lorraine Avenue) from the LI – Light Industrial Zoning District to the DC – Downtown Core Zoning District on a 0.102 gross acre site (Solari James Trustee, Owner). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. Planning Commission recommends denial (5-1-1). (Planning, Building and Code Enforcement)**

**C13-042 – District 3**

**(Deferred from 12/17/13 – Item 4.5 and 4/15/14 – Item 11.2)**

Action: Deferred to August 19, 2014 Evening Meeting per Administration.

- 4.2 (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; and**
- (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**

**(Deferred from 6/10/14 – Item 11.4)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC13-012, dated May 6, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated May 15, 2014, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing executed on April 25, 2014, submitted by the City Clerk. (4) Letter from Margaret Bard, League of Women Voters, dated May 9, 2014, expressing support to an affordable housing proposal. (5) Email correspondence from James Wilhelm and Carol Parkinson received August 4, 2014, citing additional improvements that should be addressed.

Mayor Reed opened the public hearing.

Chris Duncan, Gelfand Partners Architects, representing the Applicant, offered a presentation and spoke to the merits of the project.

Public Comment: (1) David Wall commented that action is ill-advised due to the water shortage. (2) Jonathon Martinez remarked that this development will not pay for itself with property taxes.

Mayor Reed closed the public hearing.

Motion: Councilmember Campos moved approval of the staff recommendations. The motion was seconded by Councilmember Chu.

Action: On a call for the question, the motion failed. (5-3-3. Noes: Constant, Khamis, Oliverio. Absent: Herrera, Kalra, Rocha.)

Councilmember Campos requested a reconsideration or deferral of this item when more members of the Council are present to vote. No motion to reconsider or to defer the item was presented from those registering a “no” vote.

**4.3 Consideration of an ordinance rezoning the real property located approximately 120 feet northwest of the intersection of Old Piedmont Road and Rowley Drive (2203, 2205, 2207 Old Piedmont Road) from A Agriculture to R-1-8 Single-Family Residence Zoning. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)  
C14-027 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-027, dated May 6, 2014. (2) Proof of Publication of Notice of Public Hearing executed on July 11, 2014, submitted by the City Clerk July 14, 2014

Action: Upon motion by Councilmember Constant, seconded by Councilmember Khamis and carried unanimously, Ordinance No. 29446, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.83 Acres Situated Approximately 120 Feet Northwest of the Intersection of Old Piedmont Road and Rowley Drive (2203, 2205, 2207 Old Piedmont Road) from the A Agricultural Zoning District to the R-1-8 Single-Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Kalra, Rocha.)

**4.4 Consideration of an ordinance amending Title 20 of the San José Municipal Code (the Zoning Ordinance) to add new sections 20.200.342, 20.200.542 and 20.200.578 and amend Section 20.200.1265 of Chapter 20.200; to add a new Part 22 to Chapter 20.80; to amend Section 20.40.100 of Chapter 20.40; to amend Section 20.50.100 of Chapter 20.50; and to amend Section 20.70.100 of Chapter 20.70, all to permit and regulate use of existing hotels and motels for supportive housing for various targeted populations with a conditional use permit until December 31, 2026, to further implement the housing goals and policies set forth within the Envision San José 2040 General Plan, and to make other technical, non-substantive, or formatting changes within those sections of Title 20 including but not limited to Sections 20.40.100 and 20.70.100. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto (File No. PP14-045). Council District: Citywide. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)**

Documents Filed: (1) Joint memorandum from Mayor Reed, Vice Mayor Nguyen and Councilmember Liccardo, dated June 13, 2014, recommending approval of an ordinance with modifications. (2) Supplemental memorandum from City Attorney Richard Doyle, dated July 24, 2014, summarizing revisions made to the proposed ordinance deferred by Council on June 17, 2014. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated June 13, 2014, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing executed on May 27, 2014, submitted by the City Clerk.

#### 4.4 (Cont'd.)

Public Comment: David Wall criticized the project as an ‘entitlement program’.

Director of Housing Leslye Corsiglia responded to questions from Council.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Khamis and carried unanimously, Ordinance No. 29447, entitled: “An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code to Add New Sections 20.200.342, 20.200.542 and 20.200.578 and Amend Section 20.200.1265 of Chapter 20.200; to Add a New Part 22 to Chapter 20.80; to Amend Section 20.40.100 of Chapter 20.40; to Amend Section 20.50.100 of Chapter 20.50; and to Amend Section 20.70.100 of Chapter 20.70 all to Permit and Regulate Use of Existing Hotels and Motels for Supportive Housing for Various Targeted Populations with a Conditional Use Permit until December 31, 2026, to Further Implement the Housing Goals and Policies Set Forth Within the Envision San José 2040 General Plan, and to Make Other Technical, Non-Substantive, or Formatting Changes Within Those Sections of Title 20 Including but Not Limited to Sections 20.40.100 and 20.70.100”, was passed for publication, with modifications as outlined the joint memorandum from Mayor Reed, Vice Mayor Nguyen and Councilmember Liccardo, dated June 13, 2014, as follows: (1) Exclude hotel supportive housing in the prime industrial areas, including the North San José Development Policy Area (north of Skyport), International Business Park, and the Edenvale Development Policy Area; (2) Enforce a time limit on each hotel supportive housing use not to exceed 10 years; (3) Return to Council with a progress report within 18-months of the start of the first leases; and (4) The Ordinance shall have a sunset provision of 2026. (9-0-2. Absent: Kalra, Rocha.)

## NEIGHBORHOOD SERVICES

- 5.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on March 20, 2014, accept the Audit of Library Hours and Staffing. CEQA: File No. PP10-069(a), Staff Reports. (City Auditor)  
[Public Safety, Finance, and Strategic Support Committee referral 3/20/14 – Item D(5)]**

Action: Dropped per Administration.

**PUBLIC SAFETY SERVICES**

- 8.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on May 15, 2015, accept the report on the Use of Police Reserves. (Police)  
[Public Safety, Finance, and Strategic Support Committee 5/15/14 – Item D(2)]  
(Deferred from 6/17/14 – Item 8.1)**

Action: Deferred to September 16, 2014 per Administration.

**REDEVELOPMENT – SUCCESSOR AGENCY**

- 9.1 (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, 5/13/14 – Item 9.1 and 6/3/14 – Item 9.2)**

Action: Dropped 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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10240	Northwest Corner of Charlotte Drive & Raleigh Road	2	The Haven at Cottle Station, LLC.	1/234	MFA	Approve
10225	Southeast Corner of Mabury Road & Educational Park Drive	4	Taylor Morrison of California, LLC.	22/18	SFD	Approve

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>
10266	1729 North 1 <sup>st</sup> Street	3	Barry Swenson Builder	1 / 376	MFA

## **OPEN FORUM**

1. David Wall offered criticism of the Environmental Innovation Center, Prospect Silicon and system and organizational failures at the Water Treatment Plant.
2. Stephen Hazel made personal observations on the “A’s” ballpark project.

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 5:27 p.m. in memory of George Chen, a former San José resident who graduated from Leland High School in 2012. George attended UC Santa Barbara and was killed on March 23rd in the Isla Vista tragedy. (Khamis)

George Chen’s mother, Kelly Wang spoke on compassion, kindness, and making a change to create a safer place for our children in light of the tragic event that took her son.

Document Filed: Letter from Kelly Wang entitled presenting “Raising Compassionate Children is an Effective Way to Prevent Violent Crimes in Young People”.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

rmk/8-05-14MIN