

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 21, 2014

The Council of the City of San José convened in Regular Session at 9:32 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - Herrera. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

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(d)(1) with respect to existing litigation; (1) in re: Claim of Spellman; Amount of Money or Other Relief Sought: Administrative Appeal; (2) City of San José v. Office of the Commissioner of Baseball, et al.; Names of Partie(s) Involved: City of San José as Successor Agency to the Redevelopment Agency of the City of San José; the San José Diridon Development Authority; Office of the Commissioner of Baseball, an unincorporated Association doing Business as Major League Baseball; Allan Huber “Bud” Selig; Court: United States Court of Appeals, Ninth Circuit; Case No: C-13-02787 RMW and 14-15139; Amount of Money or Other Relief Sought: Damages According to Proof; (3) Stand for San José, et al. v. City, et al.; Names of Partie(s) Involved: Stand for San José; Eileen Hannan; Michelle Brenot; Robert Brown; and Robert Shields; City of San José; City Council of the City of San José; Successor Agency to the Redevelopment Agency of the City of San José; Successor Agency Oversight Board; Diridon Development Authority; Does 1 through 10 Inclusive; Athletics Investment Group, LLC;

CLOSED SESSION (Cont'd.)

Does 1 through 20, Inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-250372; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorneys' Fees; (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 (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: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:15 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

Present: Councilmembers - Campos, Chu, Constant, Kalra, Khamis, Liccardo, Nguyen, Oliverio (1:42), Rocha; Reed.

Absent: Councilmembers - Herrera. (Excused)

INVOCATION

The Underserved and Gifted presented 'Let Them See', a video presentation highlighting the City-affiliated youth program working to end violence.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Councilmember Khamis, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Item 2.3(c) deferred to November 18, 2014. (9-0-2. Absent: Herrera, Oliverio.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation to recognize the week of October 23, 2014 as National Save for Retirement Week. (Constant)

Mayor Reed and Councilmember Constant recognized the week of October 23, 2014 as National Save for Retirement Week.

1.2 Presentation of a commendation to Nextdoor for its partnership with the City of San José and for its role in informing and empowering San José residents. (Herrera)

Mayor Reed commended Nextdoor for its partnership with the City of San José and for its role in informing and empowering San José residents to help make their neighborhoods safer and happier places to live.

1.3 Presentation of a proclamation declaring October 8, 2014 as “International Walk to School Day” in the City of San José. (Herrera)

Mayor Reed recognized October 8, 2014 as “International Walk to School Day” in the City of San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Nguyen, seconded by Councilmember Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Herrera.)

2.1 Approval of minutes.

None provided.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29492 – Rezoning certain real property situated at the northeast corner of Park Avenue and Laurel Grove Lane from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29492 executed on October 3, 2014, submitted by the City Clerk.

Action: Ordinance No. 29492 was adopted. (10-0-1. Absent: Herrera.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of September 24, 2014. (Mayor)**
- (b) **Public Safety, Finance, and Strategic Support Committee Report of September 25, 2014. (Constant)**

Documents Filed: (1) Rules and Open Government Committee Reports of September 24, 2014. (2) Public Safety, Finance, and Strategic Support Committee Report of September 25, 2014.

Action: The Council Committee Reports were accepted. (10-0-1. Absent: Herrera.)

- (c) **Rules and Open Government Committee Report of October 1, 2014. (Mayor)**

Action: Deferred to November 18, 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 Approve the Agreement with ReliaStar Life Insurance Company to provide voluntary insurance benefits including Accident Insurance and Critical Illness Insurance for the City's voluntary insurance benefits program for the period of January 1, 2015 to December 31, 2015, and to exercise up to three one-year options to renew the Agreement through December 31, 2018. CEQA: Not a Project, File No. PP10-068(e), Services that involve no physical changes to the environment. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Joe Angelo, dated September 8, 2014, recommending approval of an Agreement.

Action: An Agreement with ReliaStar Life Insurance Company to provide voluntary insurance benefits including Accident Insurance and Critical Illness Insurance for the City's voluntary insurance benefits program for the period of January 1, 2015 to December 31, 2015, with related contingencies, was approved. (10-0-1. Absent: Herrera.)

- 2.8 Adopt a resolution authorizing the City Attorney to do the following:**
- (a) Negotiate and execute a legal services contract with Hawkins, Delafield & Wood LLP to support the San José-Santa Clara Regional Wastewater Facility capital improvement program for an initial one-year term with compensation not to exceed \$180,000;**
 - (b) Exercise up to two one-year options extending the legal services contract with Hawkins, Delafield & Wood LLP with compensation for each option year not to exceed \$160,000 plus any funds remaining from the previous contract year, subject to appropriation of funds by the City Council.**
- CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical change to the environment. (City Attorney)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated September 29, 2014, recommending adoption of a resolution and approval of a contract. (2) Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated October 9, 2014, stating concurrence with the Staff recommendation.

Action: Resolution No. 77189, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement with Hawkins, Delafield & Wood LLP for Legal Services in Support of the San José – Santa Clara Regional Wastewater Facility Capital Improvement Program for an Initial One-Year Term in an Amount Not to Exceed \$180,000, and to Execute up to Two (2) One-Year Options to Extend the Agreement Subject to the Appropriation of Funds”, was adopted; and the recommendation to exercise up to two one-year options extending the legal services contract with Hawkins, Delafield & Wood LLP with compensation for each option year not to exceed \$160,000 plus any funds remaining from the previous contract year, subject to appropriation of funds by the City Council, was approved. (10-0-1. Absent: Herrera.)

2.9 Recommendation: Adopt a resolution to repeal Resolution No. 75401 which directed City staff to take certain actions as a result of the enactment of Arizona SB 1070 relating to immigration enforcement. CEQA: Not a Project; File No. PP10-068(c), Policy that involves no changes in the physical environment. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated October 9, 2014, recommending adoption of a resolution.

Action: Resolution No. 77190, entitled: “A Resolution of the Council of the City of San José Repealing Resolution No. 75401 which Directed City Staff to Take Certain Actions as a Result of the Enactment of Arizona SB 1070 Relating to Immigration Enforcement”, was adopted. (10-0-1. Absent: Herrera.)

2.10 As referred by the Rules and Open Government Committee on October 1, 2014, approve the recommended City position for Propositions 1, 2, 45 – 48, on the November 4, 2014 California General Election ballot.

<u>Propositions</u>	<u>Recommended City Position</u>
Proposition 1 - Water Bond. Water Quality, Supply and Support Infrastructure Act of 2014 (AB 1471 Ch. 188).	Support
Proposition 2 - State Budget Stabilization Account. Legislative Constitutional Amendment.	Support
Proposition 45 - Healthcare Insurance. Rate Changes. Initiative Statute.	No Position
Proposition 46 - Drug and Alcohol Testing of Doctors, Medical Negligence Lawsuits. Initiative Statute.	Oppose
Proposition 47 - Criminal Sentences. Misdemeanor Penalties. Initiative Statute.	Oppose
Proposition 48 - Indian Gaming Compacts. Referendum.	No Position

(City Manager)
[Rules Committee referral 10/1/14 – Item G(8)]

2.10 (Cont'd.)

Documents Filed: (1) Memorandum from Councilmember Kalra, dated October 16, 2014, recommending the City change its position from Oppose to Support. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated October 9, 2014, transmitting the recommendations of the Rules and Open Government Committee. (3) Letter from William Landsdowne, dated October 21, 2014, offering support of Proposition 47.

Motion: Councilmember Kalra moved approval to bifurcate Item 2.10 to consider Propositions 47 and 48 separately. Councilmember Constant seconded the motion.

Action: On a call for the question, the motion carried unanimously, the bifurcation of Item 2.10 was accepted. (10-0-1. Absent: Herrera.)

Motion: Upon motion by Councilmember Liccardo, Proposition 46 was pulled for a separate vote to accept Staffs' recommendations for Propositions 1, 2 and 45. Vice Mayor Nguyen seconded the motion.

Action: On a call for the question, the motion carried, Proposition 46 was pulled for a separate vote and Staffs' recommendations for Propositions 1, 2 and 45 were accepted. (9-1-1. Noes: Kalra. Absent: Herrera.)

Motion: Councilmember Constant moved approval to accept Staffs' recommendations for an "Oppose" position on Proposition 46. Councilmember Khamis seconded the motion.

Action: On a call for the question, the motion carried, an "Oppose" position for Proposition 46 was approved. (6-4-1. Noes: Campos, Kalra, Liccardo, Nguyen. Absent: Herrera.)

Motion: Councilmember Kalra moved approval of a "Support" position for Proposition 47. Councilmember Campos seconded the motion.

Public Comment: Speaking in support of Proposition 47, the Criminal Sentences - Misdemeanor Penalties Initiative Statute, were Reverend Peggy Bryan (St. Philips Episcopal Church); Raj Jayadev, Andrew Bigelow and Daniel Rapaien (De-Bug); Beth Gonzala (PACT); and Maria Fernandez, Robert Garcia and Sarait Martinez (Working Partnerships).

Action: On a call for the question, the motion failed, and no position was taken for Proposition 47. (5-5-1. Noes: Chu, Constant, Khamis, Liccardo, Oliverio. Absent: Herrera.)

Action: Upon motion by Councilmember Liccardo, seconded by Vice Mayor Nguyen, and carried unanimously, an "Oppose" position was taken for Proposition 48. (10-0-1. Absent: Herrera.)

- 2.11 As recommended by the Community and Economic Development Committee on September 22, 2014, adopt a resolution modifying the 2,500 units limit of the existing Parks Specific High Rise Incentive Program to add 64 units to the maximum limit of units that are eligible to receive the incentive and sunset the program by June 30, 2016, even if the unit count is not reached. CEQA: Not a Project, File No. PP10-067 (Statutory Exemption, Sec. No. 15273), Rates, Tolls, Fares, and Charges. (Economic Development/Planning, Building and Code Enforcement/Parks, Recreation and Neighborhood Services)
[Community and Economic Development Committee referral 9/22/14 – Items D(2)(a)(1)]**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated October 9, 2014, transmitting the recommendations of the Community and Economic Development Committee Meeting of September 22, 2014. (2) Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated October 17, 2014, providing a replacement recommendation for the development incentive. (3) Letter from Alice Kaufman, Committee for Green Foothills and Email from Eloy Wouters, Shasta/Hanchett Park Neighborhood Association, both dated October 21, 2014, offering criticism of the project.

Councilmember Kalra pulled Item 2.11 to recommend a continuance until further outreach is conducted. Office of Economic Development, Downtown Manager, Lee Wilcox, and City Manager, Edward K. Shikada responded to questions from Council, and discussion followed.

Public Comment: Alice Kaufman (Committee for Green Foothills), Darryl Ospring (Coyote Creek Neighborhood Association), and Jean Dresden, urged greater public input before going forward with this project.

Action: Upon motion by Councilmember Liccardo, seconded by Councilmember Rocha, and carried, Resolution No. 77191, entitled: “A Resolution of the Council of the City of San José Amending Exhibit B of Resolution No. 73587, as Amended, to Increase the 2,500 Unit Limit by 64 Units and Set a Sunset Date of June 30, 2016 for Deferral of the Payment of Parkland Fees Charged Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code for High-rise Multi-Family Residential Projects Located in the Downtown Care Area”, was adopted. (8-2-1. Noes: Campos, Kalra. Absent: Herrera.)

- 2.12 Approve Master Agreements between the City of San José and the following firms for special inspection and materials testing services for various capital improvement projects at the San José-Santa Clara Regional Wastewater Facility for a 5-year term beginning upon execution of the agreements through December 31, 2019, subject to the appropriation of funds:**
- (a) Construction Testing Services, Inc. in an amount not to exceed \$500,000; and**
 - (b) Signet Testing Laboratories, Inc. in an amount not to exceed \$500,000.**
- CEQA: Exempt, File No. PP10-066(d), Consultant Services. (Environmental Services)**

2.12 (Cont'd.)

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated September 22, 2014, recommending approval of master agreements. (2) Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated October 9, 2014, stating concurrence with the Staff recommendation.

Action: Master Agreements between the City of San José and the following firms for special inspection and materials testing services for various capital improvement projects at the San José-Santa Clara Regional Wastewater Facility for a 5-year term beginning upon execution of the agreements through December 31, 2019, subject to the appropriation of funds: (a) Construction Testing Services, Inc. in an amount not to exceed \$500,000; and (b) Signet Testing Laboratories, Inc. in an amount not to exceed \$500,000, were approved. (10-0-1. Absent: Herrera.)

- 2.13 (a) **Approve the Public Safety Fair scheduled on October 20, 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. (Herrera)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 9, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Public Safety Fair as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Herrera.)

2.14 Adopt a resolution authorizing the City Manager to:

- (a) **Execute the First Amendment to the Enterprise Cashiering Software System Agreement with System Innovators, a division of Harris Computer Systems, Inc. (Jacksonville, FL) to extend the term of the agreement for an additional five years, from April 24, 2014 to April 25, 2019, to enhance functionality, add additional interfaces, provide ongoing maintenance and support, and increase compensation by \$150,687 for revised maximum compensation of \$400,142.**
(b) **Execute change orders not-to-exceed \$150,000 to cover any unanticipated changes or requirements related to the enhanced functionality, and additional interfaces, subject to the appropriation of funds.**
(c) **Execute one-year options to extend the term of the Agreement commencing in 2019 to provide ongoing maintenance and support subject to the annual appropriation of funds.**

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated September 29, 2014, recommending adoption of a resolution.

2.14 (Cont'd.)

Action: Resolution No. 77192, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a First Amendment to the Enterprise Cashiering Software System Agreement with System Innovators, A Division of Harris Computer Systems, Inc.", was adopted. (10-0-1. Absent: Herrera.)

2.15 Approve the recertification of the revised Sewer System Management Plan as required by the State Water Resources Control Board. CEQA: Exempt, Title 14, Sections 15301 and 15302. (Transportation/Public Works/Environmental Services)

Documents Filed: Joint memorandum from Director of Transportation Hans Larsen, Director of Public Works David Sykes and Environmental Services Director Kerrie Romanow, dated September 29, 2014, recommending approval of sewer system management plan recertification.

Action: Recertification of the revised Sewer System Management Plan as required by the State Water Resources Control Board, was approved. (10-0-1. Absent: Herrera.)

**2.16 (a) Approve the Peace in the Park scheduled on October 18, 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. (Campos)

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

Action: Peace in the Park 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. (10-0-1. Absent: Herrera.)

**2.17 (a) Approve the Youth Job and College Job Fair scheduled on Saturday, October 25, 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. (Khamis)

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

Action: The Youth Job and College Job Fair as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Herrera.)

STRATEGIC SUPPORT SERVICES

- 3.3 (a) Adopt a resolution to approve the terms of agreements with the bargaining units listed below that would modify retiree healthcare funding effective December 21, 2014 by extending the phase-in of the retiree healthcare Annual Required Contribution through June 21, 2015 and authorize the City Manager to execute said agreements, pending ratification by their memberships:
- (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI);
 - (2) Association of Engineers and Architects, IFPTE Local 21 (AEA Units 41/42 and 43);
 - (3) Association of Legal Professionals (ALP);
 - (4) Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP);
 - (5) City Association of Management Personnel, IFPTE Local 21 (CAMP);
 - (6) Confidential Employees' Organization, AFSCME Local 101 (CEO);
 - (7) International Brotherhood of Electrical Workers, Local No. 332 (IBEW);
 - (8) Municipal Employees' Federation, AFSCME Local 101 (MEF); and
 - (9) International Union of Operating Engineers, Local 3 (OE#3)
- (b) Adopt a resolution to approve modifications to the retiree healthcare funding phase-in for Executive Management and Professional Employees (Unit 99) effective December 21, 2014, to extend the phase-in of the retiree healthcare Annual Required Contribution through June 21, 2015.
- (c) Direct the Administration to bring forward a recommendation to place the savings from the phase-in extension into the Retiree Healthcare Solutions Reserve in the applicable City funds as part of the 2014-2015 Annual Report for the one-time savings generated from the recommendations related to the changes to the retiree healthcare funding provisions for employees in the Federated City Employees' Retirement System for 2014-2015. CEQA: Not a Project, File No. PP10-069(b.)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated September 24, 2014, recommending adoption of resolutions.

City Manager, Edward K. Shikada thanked labor representatives for working towards a long-term solution.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Khamis and carried unanimously, Resolution No. 77193, entitled: "A Resolution of the Council of the City of San José to Modify the Retiree Healthcare Funding Phase-In for the Bargaining Units Representing Employees in the 1975 Federated Employees Retirement Plan, Effective December 21, 2014"; and Resolution No. 77194, entitled: "A Resolution of the Council of the City of San José to Modify the Retiree Healthcare Funding Phase-In for Executive Management and Professional Employees (Unit 99), Effective December 21, 2014", were adopted. (9-0-2. Absent: Herrera, Kalra.)

- 3.4 (a) **Accept the report on the Request for Proposal for the purchase of a Business Tax Billing System and adopt a resolution authorizing the City Manager to:**
- (1) **Negotiate and execute an Agreement with CSDC Systems Inc. (Fort Worth, TX) for the purchase of a Business Tax 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 \$1,488,536, subject to the appropriation of funds;**
 - (2) **Execute change orders to cover any unanticipated changes or requirements in the system design and implementation not to exceed \$200,205 (15% of first year amount) as may be required, subject to the appropriation of funds; and**
 - (3) **Execute one-year options to extend the term of the Agreement to provide ongoing maintenance and technical support services after the initial five-year term at an estimated initial annual cost of \$40,181 to be adjusted each year up to 3%, subject to the annual appropriation of funds.**
- (b) **Adopt the following 2014-2015 Appropriation Ordinance amendments in the General Fund:**
- (1) **Increase the Business Tax System Replacement appropriation to the Finance Department in the amount of \$2,290,000; and**
 - (2) **Decrease the Business Tax System Replacement Reserve by \$2,290,000.**

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

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper and Budget Director Jennifer Maguire, dated September 15, 2014, recommending adoption of a resolution and an appropriation ordinance.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Khamis and carried unanimously, Resolution No. 77195, entitled: "A Resolution of the Council of the City of San José, Authorizing the City Manager to (1) Negotiate and Execute an Agreement with CSDC Systems, Inc., for the Purchase of a Business Tax Billing System for an Initial Five-Year Term; (2) Execute Changer 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"; and Ordinance No. 29498, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Fund for the Business Tax System Replacement; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0-1. Absent: Herrera.)

3.5 Recommendation: Accept the report on the Request for Proposal for Airport Baggage Handling Conveyor System Services and adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an Agreement with Vanderlande Industries Inc. (Wilmington, DE) for the operation, maintenance and repair of the Airport Baggage Handling Conveyor System in Terminals A and B, including all spare and replacement parts, for an initial five-year term ending October 31, 2019, with a maximum compensation not-to-exceed \$2,054,955 for the initial twelve months of the Agreement, and an estimated \$10,158,827 for the five year term, subject to the annual appropriation of funds;**
- (b) Adjust the maximum compensation annually, not to exceed 3% annually or the percentage adjustment to the City's Living Wage/Prevailing Wage whichever is greater, subject to the appropriation of funds;**
- (c) Execute change orders to cover any unanticipated and non-routine repairs during the initial five year term of the Agreement as may be required, not to exceed \$500,000, subject to the appropriation of funds; and**
- (d) Execute five one-year options to extend the term of the Agreement 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)

Action: Deferred to October 28, 2014 per Administration.

3.6 As recommended by the Public Safety, Finance, and Strategic Support Committee on September 25, 2014, accept the Audit of City Procurement Card: Better Oversight and Streamlined Processes Would Improve Protection of Public Resources. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 9/25/14 – Item D(6)]

Documents Filed: (1) Joint memorandum from Mayor Reed and Councilmembers Liccardo and Constant, dated October 17, 2014. (2) Memorandum from Councilmember Khamis, dated October 21, 2014 providing recommendations. (3) Memorandum from City Clerk Toni Taber, dated October 9, 2014, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon Erickson provided an overview of the Audit, and Director of Finance Julia H. Cooper continued the presentation.

Motion: Councilmember Constant moved approval of the memorandum he co-signed with Mayor Reed and Councilmember Liccardo, dated October 17, 2014. Councilmember Liccardo seconded the motion.

3.6 (Cont'd.)

Director of Information Technology Vijay Sameta responded to questions from Councilmember Oliverio regarding integration of a more robust system.

Action: On a call for the question, the motion carried unanimously, and the Audit of City Procurement Card, was accepted, with recommendations as outlined in the joint memorandum from Mayor Reed and Councilmembers Constant and Liccardo, dated October 17, 2014, that (1) staff begin posting procurement card transaction data on the City's internet site as soon as card numbers can be redacted to increase transparency and encourage compliance with the City Policies; and (2) assign the City Clerk as approving official for City Council appointees' transactions. (10-0-1. Absent: Herrera.)

3.7 **As recommended by the Public Safety, Finance, and Strategic Support Committee on September 25, 2014, accept the Audit of Development Services: Improving the Experience for Homeowners. (City Auditor)** **[Public Safety, Finance, and Strategic Support Committee referral 9/25/14 – Item D(7)]**

Documents Filed: (1) Memorandum from Councilmember Khamis, dated October 20, 2014, providing recommendations. (2) Memorandum from City Clerk Toni Taber, dated October 9, 2014, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Report provided by City Auditor Sharon Erickson, dated September 18, 2014, entitled "Development Services: Improving the Experience for Homeowners".

City Auditor Sharon Erickson provided an overview of the Audit, and Director of Planning, Building and Code Enforcement, Harry Freitas and staff continued the presentation.

Mayor Reed offered a recommendation that an analysis be provided to Council by the end of the year determining which items can be eliminated to streamline the efforts and if an ordinance would be required.

Motion: Councilmember Constant moved approval of the Audit, including the recommendation outlined by Mayor Reed. Vice Mayor Nguyen seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the Audit of Development Services: Improving the Experience for Homeowners was accepted, with direction to Staff to provide an analysis to Council by the end of the year determining which items can be eliminated, and if an ordinance will be needed. (10-0-1. Absent: Herrera.)

- 3.8 As recommended by the Public Safety, Finance, and Strategic Support Committee on September 25, 2014, accept the Audit of Senior Membership Fee Revenue, and the Follow-up Report on PRNS' Response to the Audit of Senior Membership Fee Revenue. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (City Auditor/Parks, Recreation and Neighborhood Services)
[Public Safety, Finance, and Strategic Support Committee referral 9/25/14 – Item D(8)]**

Documents Filed: Memorandum from City Clerk Toni Taber, dated October 9, 2014, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon Erickson provided an overview of the Audit of Senior Membership Fee Revenue and responded to questions from Council.

Public Comment: Marilyn Entin and Bill Hubka (Almaden Senior Association) complained of flawed conclusions regarding the report and expressed concerns that acceptance could adversely affect the senior community. Richard McCoy offered criticism and potential mishandling of seniors' dues. Marie Hayter (City of San José Senior Commission) stressed that Centers want to maintain their independence.

Motion: Council Member Khamis moved approval of the Staff recommendations, with conditions as outlined below in "Action". Council Member Constant seconded the motion.

Action: On a call for the question, the motion carried unanimously, the Audit of Senior Membership Fee Revenue, and the Follow-up Report on PRNS' Response to the Audit of Senior Membership Fee Revenue was accepted, with Staff directed to conduct further outreach with the senior community and to continue to work and communicate with the various community associations in crafting Memorandums of Understanding (MOU's) that will satisfy the communities' needs. (7-0-4. Absent: Constant, Herrera, Oliverio, Rocha.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 As recommended by the Community and Economic Development Committee on September 22, 2014, direct the City Attorney to draft an ordinance amending Chapter 4.46 of Title of the San José Municipal Code and Chapter 4.47 of Title 4 of the San José Municipal Code to add sections to suspend the collection of the building and structure constructions tax for a single commercial high rise development project within two years. CEQA: Not a Project, File No. PP10-067 (Statutory Exemption, Sec. No. 15273), Rates, Tolls, Fares, and Charges. (Economic Development /Planning, Building and Code Enforcement/Parks, Recreation and Neighborhood Services)
[Community and Economic Development Committee referral 9/22/14 – D(2)(a)(3)]**

Action: Deferred to November 18, 2014 per Administration.

4.2 As recommended by the Community and Economic Development Committee on September 22, 2014, adopt a resolution amending the North San José Area Development Policy to:

- (a) Extend the North San José Traffic Impact Fee Incentive deadline for Tier 2 projects (build to suit projects of over one million square feet) to obtain building permits for one year to December 31, 2017; and to receive a certificate of occupancy for one year to December 31, 2017;**
- (b) Limit the amount of development capacity in the incentive to a total of four million square feet across both Tiers; and**
- (c) Designate the point at which the allocation of the incentive occurs is at the time of payment of the Traffic Impact Fee, or upon execution of an Industrial Project Completion Agreement upon approval of a valid development permit.**

CEQA: North San José Environmental Impact Report, Resolution No. 72768 and Addenda thereto. (Economic Development /Planning, Building and Code Enforcement/Transportation)

[Community and Economic Development Committee referral 9/22/14 – Items D(2)(b)]

Action: Deferred to November 14, 2014 per Rules and Open Government Committee.

4.3 Consider the comments of the Historic Landmarks Commission and provide comments to the State of California regarding the proposed nomination of the San Jose Central Fire Station (201 N. Market Street) for listing on the National Register of Historic Places. CEQA: Not a project, File No. PP10-069, City Organizational and Administrative Activities. Council District 3. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Councilmember Liccardo, dated October 21, 2014, offering support to the nomination of the property for listing on the National Register of Historic Places. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 9, 2014, transmitting the City's Historic Landmarks Commission recommendations.

Action: Upon motion by Councilmember Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, transmission of the Historic Landmarks Commission comments to the State of California regarding the proposed nomination of the San José Central Fire Station (201 N. Market Street) for listing on the National Register of Historic Places, was approved. (7-0-4. Absent: Constant, Herrera, Oliverio, Rocha.)

4.4 Report on bids and award of the contract for the 6597 – San Carlos Street Multimodal Streetscape Improvement Project – Phase II (between Market Street and South Second Street), Federal Project No. STPL-5005(104) to the low bidder Redgwick Construction Company, in an amount of \$1,540,100, and approval of a ten percent contingency in the amount of \$154,000. CEQA: Exempt, File No. PP03-08-254, Re-use of the Downtown Strategy SEIR, Resolution No. 68839. Council District 3. (Public Works/Transportation)

4.4 (Cont'd.)

Documents Filed: Joint memorandum from Director of Public Works David Sykes and Director of Transportation Hans Larsen, dated September 29, 2014, recommending award of a contract.

Action: Upon motion by Councilmember Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, the Report on bids and award of the contract for the 6597 – San Carlos Street Multimodal Streetscape Improvement Project – Phase II (between Market Street and South Second Street), Federal Project No. STPL-5005(104) to the low bidder Redgwick Construction Company, in an amount of \$1,540,100, with related contingencies, was approved. (9-0-2. Absent: Constant, Herrera.)

OPEN FORUM

- (1) Steve Bennette complained that inadequate notice was provided to homeowners that garbage bill charges would be included in their property tax.
- (2) Leon Dryden offered comments regarding the City's failure to enforce its codes and the flagging/tagging of private residences.
- (3) Yolanda Lewis offered comments regarding the speakers' timing light and City policy.

Documents Filed: Letter from Steve Bennette dated October 21, 2014, offering criticism of property tax increases.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:26 p.m.

RECESS/RECONVENE

The City Council recessed at 4:26 p.m. from the afternoon Council Session and reconvened at 7:10 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Herrera (Excused)

City Clerk Toni J. Taber, CMC read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Herrera.)

CEREMONIAL ITEMS

1.4 Presentation of a proclamation for “Hindu-American Awareness & Appreciation Month” in the City of San José. (Kalra)

Mayor Reed and Councilmember Kalra recognized “Hindu-American Awareness & Appreciation Month” in the City of San José.

1.5 Presentation of a commendation to participants of the Google Science Fair. (Mayor) (Rules Committee referral 10/15/14)

Mayor Reed and Councilmember Kalra congratulated and offered a commendation to participants of the Google Science Fair.

1.6 Presentation of a commendation to Officer Huan Nguyen of the San José Police Department. (Nguyen) (Rules Committee referral 10/15/14)

Mayor Reed and Vice Mayor Nguyen commended Officer Huan Nguyen of the San José Police Department, who organized a crowd-sourcing fundraiser to aid the family of road rage victim Phuoc Lam in District 7, which garnered over \$125,000 in support from across the US as well as overseas.

PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar

- (a) **Consideration of an ordinance rezoning the real property located southerly of the terminus of Pullman Way from unincorporated County to PQP Public/Quasi-Public Zoning District and IP Industrial Park Zoning District on an approximately 9.6 gross acre site encompassing a portion of existing railroad right of way (Raisch Investment Group Ltd, Union Pacific Railroad, Owners). CEQA: Communications Hill 2 Project Subsequent Environmental Impact Report Resolution No. 77172. Planning Commission recommends approval (5-0-1-1). (Planning, Building and Code Enforcement)**
C14-046 – District 7
- (b) **Consideration of an ordinance rezoning the real property located east of Canoas Garden Avenue, north and south of Millpond Drive (County of Santa Clara, California Department of Public Transportation, Brandenburg Staedler & Moore- Mill Pond, Owners) from unincorporated County to PQP Public/Quasi-Public Zoning District and OS Open Space Zoning District on an approximately 12.4 gross acre site. CEQA: Communications Hill 2 Project Subsequent Environmental Impact Report Resolution No. 77172. Planning Commission recommends approval (5-0-1-1). (Planning, Building and Code Enforcement)**
C14-047 – District 7
- (c) **Consideration of an ordinance rezoning the real property located northeast of Saint Florian Way and Adeline Avenue (APN: 455-09-040) from unincorporated County to PQP Public/Quasi-Public Zoning District on a 2.0 gross acre site (Joaquin Bear LLC, Owner). CEQA: Communications Hill 2 Project Subsequent Environmental Impact Report Resolution No. 77172. Planning Commission recommends approval (5-0-1-1). (Planning, Building and Code Enforcement)**
C14-048 – District 7
[Deferred from 9/30/14 – 11.1 (c)]
- (d) **Consideration of an ordinance rezoning the real property located south of Batista Drive at the County Communications Facility at the terminus of Carol Drive (County of Santa Clara, Owner). CEQA: Communications Hill 2 Project Subsequent Environmental Impact Report Resolution No. 77172. Planning Commission recommends approval (5-0-1-1). (Planning, Building and Code Enforcement)**
C14-049 – District 7
[Deferred from 9/30/14 – 11.1(d)]

11.1 (Cont'd.)

Documents Filed: (1) Planning Commission Staff Report and Supplemental Memo Correspondence on Project File No. GP13-002 and PDC13-009, dated September 10, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 9, 2014, transmitting the Planning Commission recommendation for File No's: PDC13-009, C114-046, C14-047, C14-048 and C14-049. (3) Statement and Declaration of Conflict of Interest Form from Council Member Khamis, dated October 16, 2014, disclosing he holds an economic interest in real property situated in the area of the Communications Hill 2 Project. (4) Proof of Publication of Notice of Public Hearing executed on August 22, 2014, submitted by the City Clerk.

Council Member Khamis recused himself from participating in the Council discussion and/or voting due to an economic interest in referenced properties.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Constant and carried unanimously, Ordinance No. 29499, entitled: "An Ordinance of the City of San José: (1) Rezoning Certain Real Property of Approximately 1.02 Acres Situated Approximately 400 Feet South of the Southern Terminus of Pullman Way from Santa Clara County to the IP Industrial Park Zoning District; and (2) Rezoning Certain Real Property of Approximately 8.6 Acres Situated Approximately 320 Feet South of the Southern Terminus of Pullman Way from Santa Clara County to the PQP Public/Quasi-Public Zoning District"; Ordinance No. 29500, entitled: "An Ordinance of the City of San José: (1) Rezoning Certain Real Property Canoas Garden Avenue from Santa Clara County to the OS Open Space Zoning District; and (2) Rezoning Certain Real Property of Approximately 10.3 Acres Situated East of Canoas Garden Avenue, North and South of Millpond Drive from Santa Clara County to the PQP Public/Quasi-Public Zoning District", Ordinance No. 29501, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 2.0 Acres Situated Northeast of St. Florian Way and Adeline Avenue from Santa Clara County to the PQP Public/Quasi-Public Zoning District"; and Ordinance No. 29502, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 10.9 Acres Situated at the Terminus of Carol Drive to the PQP Public/Quasi-Public Zoning District", were passed for publication. (9-0-1-1. Absent: Herrera. Abstain: Khamis.)

END OF THE PUBLIC HEARINGS ON CONSENT CALENDAR

**11.2 Consideration of an ordinance rezoning and prezoning the real property located on the south side of the Union Pacific Railroad tracks, west of Hillsdale Avenue, northerly of Adeline Avenue and Altino Boulevard, and easterly of Highway 87 at the terminus of Carol Drive (Mta Properties LP Robert Bettencourt, Owner; KB Home South Bay, Inc., Peter Lezak, Developer) from A(PD) Planned Development, A Agriculture and Prezoning from unincorporated County to A(PD) Planned Development Zoning District for the proposed development of up to 2,200 residential units including single family attached and detached and multi-family units; up to 67,500 square feet of retail/commercial space; up to 1.44 million square feet of industrial park uses; parks, trails, a school site and related off-site public infrastructure of an approximately 331.6-acre site. CEQA: Communications Hill 2 Project Subsequent Environmental Impact Report Resolution No. 77172. (Planning, Building and Code Enforcement)
PDC13-009 – District 7**

Documents Filed: (1) Joint memorandum from Mayor Reed, Vice Mayor Nguyen and Councilmembers Liccardo and Rocha, dated October 16, 2014, recommending approval of the project with direction to Staff. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated October 17, 2014, addressing issues identified by the County of Santa Clara regarding the proposed Communications Hill project and proposed annexation. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated October 20, 2014, providing responses to questions regarding the Communications Hill Project. (4) Statement and Declaration of Conflict of Interest Form from Council Member Khamis, dated October 16, 2014, disclosing he holds an economic interest in real property situated in the area of the Communications Hill 2 Project. (5) Proof of Publication of Notice of Public Hearing executed on August 22, 2014, submitted by the City Clerk. (6) Letter from Jeffrey V. Smith, Office of the County Executive, dated October 21, 2014, responding to a meeting on October 9, 2014 with City of San José staff.

Council Member Khamis recused himself from participating in the Council discussion and/or voting due to an economic interest in referenced properties.

Director of Planning, Building and Code Enforcement, Harry Freitas and Staff provided a presentation.

Mayor Reed opened the public hearing.

Peter Lezak, representing the applicant, KB Homes, spoke in support of the project.

Public Comments: Jeremy Jonas and Tom Brown, Tuscany Hills HOA; Eli Porat; and Donald Larkin and Bert Hildebrand, Santa Clara County Communications, offered support as long as the neighborhoods' concerns are addressed.

Mayor Reed closed the public hearing.

11.2 (Cont'd.)

Motion: Vice Mayor Nguyen moved approval of the Staffs' recommendations, with direction to staff to continue to work with the developer and property owner to implement recommendations as outlined below in "Action". Councilmember Liccardo seconded the motion.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29503, entitled: "An Ordinance of the City of San José Rezoning and Rezoning Certain Real Property Situated on the South Side of the Union Pacific Railroad Tracks, West of Hillsdale Avenue, Northerly of Adeline Avenue and Altino Blvd., and Easterly of Highway 87 at the Terminus of Carol Drive to A(PD) Planned Development Zoning District", was passed for publication, with the Staff's recommendation accepted and approval of the zoning and pre-zoning for Communications Hill 2 Project, with direction to staff to (1) implement the measures outlined in the memorandum authored by Mayor Reed, Vice Mayor Nguyen and Councilmembers Liccardo and Rocha dated October 16, 2014 related to the Grand Staircase, Jobs and Transportation; (2) work with elected representatives in Sacramento to pass legislation to allow for the legal transfer or conversion of the Grand Staircase to parkland or trail; and (3) to return by December 9, 2014 with a proposed ordinance to enforce nuisance and other threats to public safety at the Grand Staircase. (9-0-1-1. Absent: Herrera. Abstain: Khamis.)

11.3 **Consideration of an ordinance rezoning the real property located on the southwest side of Dove Hill Road, approximately 1370 feet southerly of Yerba Buena Avenue (0 Dove Hill Road) from A Agricultural to R-1-2 Zoning on an approximately 0.87 gross acre site. CEQA: Re-use of San José 2040 General Plan FEIR, Resolution No. 76041. (Planning, Building and Code Enforcement)** **C14-031 – District 8**

Documents Filed: (1) Planning Commission Staff Report on Project File No. C14-031 dated September 29, 2014. (2) Proof of Publication of Notice of Public Hearing executed on October 3, 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 Oliverio, seconded by Council Member Constant and carried unanimously, Ordinance No. 29504, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.87 Acre on the Southwest Side of Dove Hill Road, Approximately 1,370 Feet Southerly of Yerba Buena Avenue (0 Dove Hill Road) from the A Agricultural Zoning District to the R-1-2 Single-Family Residence Zoning District", was passed for publication. (10-0-1. Absent: Herrera.)

11.4 Consideration of an ordinance rezoning the real property located on the west side of San Felipe Road, approximately 90 feet north of Fowler Road from the A Agriculture Zoning District to the R-1-5 Single-Family Residence Zoning District of an approximately 0.24 gross acre property (APN 676-33-013) and the northern portion of a contiguous property to the east (APN 676-33-014) of approximately 0.17 acres. CEQA: Re-Use of Envision San José 2040 General Plan FEIR (Reso. No. 76041). (Planning, Building and Code Enforcement) C14-034- District 8

Mayor Reed opened the public hearing.

Public Comment: Expressing criticism of the plan due to issues with effects on the riparian corridor and size of the lot, were: Krista Deweese, Sid Mcaulay and Jean Dresden.

Mayor Reed closed the public hearing.

Councilmember Liccardo recommended that Staff gather additional information on the setback and its effect on the riparian corridor to better inform this decision.

Motion: Councilmember Oliverio moved approval to defer Item 11.4 for one week at the request of Councilmember Herrera, who was not in attendance. The motion was seconded by Councilmember Khamis.

Action: On a call for the question, the motion carried unanimously, Item 11.4 was continued to October 28, 2014 as requested by Councilmember Herrera, with Staff directed to return at that time prepared to discuss the setback's impact on the riparian corridor. (10-0-1. Absent: Herrera.)

11.5 Consideration of an ordinance rezoning the real property located on the east side of the Stone Avenue approximately 650 feet northerly of Cimino Street (1850 Stone Avenue) from the IP-Industrial Park to the HI-Heavy Industrial Zoning District on a 4.64 gross acre site (KT 2 Stone LLC, Owners). CEQA: Re-use of San José 2040 General Plan FEIR, Resolution No. 76041. (Planning, Building and Code Enforcement) C14-037 – District 7

Documents Filed: (1) Planning Commission Staff Report on Project File No. C14-037 dated September 29, 2014. (2) Proof of Publication of Notice of Public Hearing executed on September 19, 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 Vice Mayor Nguyen, seconded by Council Member Oliverio and carried unanimously, Ordinance No. 29505, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 4.64 Acres Situated on the East Side of Stone Avenue Approximately 650 Feet Northerly of Cimino Street (1850 Stone Avenue) from the IP Industrial Park Zoning District to the HI Heavy Industrial Zoning District", was passed for publication. (10-0-1. Absent: Herrera.)

- 11.6 Consideration of an ordinance rezoning the real property located at the southeast corner of South Winchester Boulevard and Williams Road (1000 South Winchester Boulevard) from the Commercial Office Zoning District to the Commercial Pedestrian Zoning District on an approximately 0.20 gross acre site (Sakai Eugene Et Al, Owner). CEQA: Exempt. Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)**
C14-043 – District 1

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated October 10, 2014, providing recommendation of the Planning Commission. (2) Planning Commission Staff Report on Project File No. C14-043 dated September 29, 2014. (3) Proof of Publication of Notice of Public Hearing executed on September 19, 2014, submitted by the City Clerk.

Action: Upon motion by Councilmember Constant, seconded by Council Member Oliverio and carried unanimously, Ordinance No. 29506, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.20 Acre Situated on the Southeast Corner of South Winchester Boulevard and Williams Road from the CO Commercial Office Zoning District to the CP Commercial Pedestrian Zoning District”, was passed for publication. (10-0-1. Absent: Herrera.)

- 11.7 Consideration of an ordinance to amend a Development Agreement with Barry Swenson Builder to develop up to 378 multi-family attached residential units and approximately 5,115 square feet of ground floor commercial space consistent with a previously approved Planned Development Rezoning (File No. PDC13-055), which allows up to 460 residential units and up to 20,000 square feet of ground floor commercial space on a 2.4 gross acre site located at the southwest corner of North First Street and Century Center Court (1729 N. First Street) in the North San José Area Development Policy area, subject to performance by Barry Swenson Builder for payment of contributions, commencement of construction and subsequent occupancy per deadlines of performance included in the previously approved Development Agreement (File No. DA13-001). The purpose of this Development Agreement amendment is to modify the findings to recognize that the extraordinary benefit to be provided by the project includes a contribution of \$2,600,000 to be used either for affordable housing or transportation infrastructure improvements (James F. Schmidt, owner). CEQA: North San José Area Development Policies Update Environmental Impact Report, Resolution No. 72768. (Planning, Building and Code Enforcement)**
DA14-001 – District 3

Deferred to December 9, 2014 per Administration.

- 11.8 (a) Adopt an ordinance rezoning the approximately 4.73 gross acre site located at the southeast corner of West San Carlos Street and Sunol Street (800 West San Carlos Street) from HI Heavy Industrial to RM(PD) Planned Development Zoning District to allow up to 315 residential units and approximately 20,500 square feet of commercial uses.
- (b) Open the hearing on Planned Development Permit, File No. PD14-012 for the approximately 4.73 gross acre site located at the southeast corner of West San Carlos Street and Sunol Street (800 West San Carlos Street) to allow the construction of up to 315 multi-family residential units and 22,665 square feet of commercial space, and continue the hearing to the October 28, 2014 Council meeting for adoption of the resolution. (Cheim, Barbara J Jr Trustee & Et Al, Owner).

**CEQA: Addendum to the Diridon Station Area Plan EIR. Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)
PDC14-007/PD14-012 – District 6**

Note: Item 11.8(b) was previously noted as “Deferred to 10/28/14.” The public hearing was opened at this meeting and continued to the 10/28/14 meeting.

Documents Filed: (1) Joint memorandum from Mayor Reed and Councilmember Oliverio, dated October 17, 2014, recommending approval of the ordinance and to continue the hearing to October 28, 2014. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC14-007, dated October 1, 2014. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated October 16, 2014, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing executed on September 9, 2014, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement, Harry Freitas read corrections to the report into the record.

Mayor Reed opened the public hearing.

Ed McCoy, representing the applicant, Fairfield Residential, concurred with conditions of the approval with changes as read into the record.

Mayor Reed closed the public hearing.

Motion: Councilmember Oliverio moved approval of Staffs’ recommendations with corrections, including continuance of the hearing as outlined in the memorandum he co-signed with Mayor Reed dated October 17, 2014. Councilmember Chu seconded the motion.

11.8 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the recommendations as outlined in the joint memorandum from Mayor Reed and Councilmember Oliverio, dated October 17, 2014, was approved, and Ordinance No. 29507, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 4.73 Acres Situated on the Southeast Corner of West San Carlos Street and Sunol Street (800 West San Carlos Street) from the HI Heavy Industrial Zoning District to the RM(PD) Planned Development Zoning District”, was passed for publication, the hearing on the Planned Development Permit to allow the development of up to 315 multi-family residential units and 22,665 square feet of commercial space was continued to October 28, 2014 for adoption of the resolution. (10-0-1. Absent: Herrera.)

OPEN FORUM

Residents of the Evergreen area, as listed below, expressed their frustration and fear in dealing with the burglaries in their neighborhood and urged the Mayor and Council to take action: Wallace Gardner, Bruce Tran, Paula Martinez, Zhefeng Du, Alice Aguilar, Susan, Duy Tu, Ed Ho, Dana Ye, June Yang, Tony Tran, Dewey Dean, Rita Jin, Anika Maturi, Trisha Maturi, Kien Lam, Hanh Tran, Ku Lo, Irma Tiejó, Le Huong, Sphie Dao, Vinod Kashyap, Rashmi Kashyap, Ghuong Va Le, Phat Lu, Ngoc Do and Tommy Fulcher.

ADJOURNMENT

The Council of the City of San José adjourned at 9:25 p.m. in memory of Haylie Lynn Jackson. At the age of nine, Haylie’s courageous fight against bone cancer inspired and educated many, especially in the Sartorette Elementary School community. Her courage and joy were virtues we should all aspire to. (Rocha)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/10-21-14MIN