



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 08, 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: Council Members - Campos, Chu (9:40 a.m.), Constant, Herrera (9:42 a.m.), Kalra (9:42 a.m.), Khamis, Liccardo (9:40 a.m.), Nguyen, Oliverio (9:42 a.m.), Rocha; Reed.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:33 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 Gibbs; Amount of Money or Other Relief Sought: Administrative Appeal. (2) Ted Smith v. City, et al. Names of Parties Involved: Ted Smith, City of San José, a municipal entity, San José Redevelopment Agency, a municipal entity, Harry Mavrogenes, in his official capacity as Executive Director of the San José Redevelopment Agency, Mayor Chuck Reed, in his official capacity as Mayor of the City of San José, Pete Constant, in his official capacity as Council Member for the City of San José, Ash Kalra, in his official capacity as Council Member for the City of San José, Sam Liccardo, in his official capacity as Council Member for the City of San José, Pierluigi Oliverio, in his official capacity as Council Member for the City of San José, Madison Nguyen, in her official capacity as Council Member for the City of San José, Judy Chirco, in her official capacity as Council Member for the City of San José, Kansen Chu, in his official capacity as Council Member for the City of San José, Nora Campos, in her official capacity as Council

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CLOSED SESSION (Cont'd.)

Member for the City of San José, Nancy Pyle, in her official capacity as Council Member for the City of San José and Does 1-20; Court: Santa Clara County Superior Court, State of California, Sixth Appellate District; Case No: 1-09-CV-150427, H039498; Amount of Money or Other Relief Sought: Damages according to proof. (3) San José Police Officers' Association v. City, et al. Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (4) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (5) Sapien, et al. v. City of San José, et al. Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (6) Harris, et al. v. City of San José, et al. Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (7) Mukhar, et al. v. City of San José, et al. Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (8) AFSCME, et al. v. City of San José, et al. Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (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

CLOSED SESSION (Cont'd.)

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 11:25 a.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo (1:41 p.m.), Nguyen, Oliverio (1:56 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Piedmont Hills High School Treblemakers sang "Butterfly" for the Invocation. (District 4)

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by Second Graders, Holy Spirit School, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 3.6 was heard following Item 3.1. (10-0-1. Absent: Oliverio.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the month of April 2014 as “National Volunteer Month” in the City of San José. (Herrera)

Mayor Reed and Council Member Herrera recognized the month of April 2014 as “National Volunteer Month” in San José.

1.2 Presentation of a proclamation declaring April 6, 2014 through April 12, 2014 as “National Crime Victims’ Rights Week” in the City of San José. (Mayor)

Mayor Reed recognized the week of April 6, 2014 through April 12, 2014 as “National Crime Victims’ Rights Week” in San José.

1.3 Presentation of a proclamation declaring the month of April 2014 as “Young Child Awareness Month” in the City of San José. (Oliverio)

Mayor Reed recognized the month of April 2014 as “Young Child Awareness Month” in San José. Council Member Oliverio was not present.

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.

There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29388 – Amending Ordinance No. 25499 to allow for the temporary installation of utility poles and overhead wires within the Story Road Phase II Underground Utility District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29388 executed on May 21, 2014, submitted by the City Clerk.

Action: Ordinance No. 29388 was adopted. (11-0.)

- (b) **ORD. NO. 29390 - Amending Chapters 21.04 and 21.07 of Title 21 of the San José Municipal Code to amend Sections 21.04.140 and 21.07.020 through 21.07.070, and to add a new Section 21.07.080 to align the City's Environmental Clearance Process for Environmental Impact Reports with the requirements of the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq and the State CEQA guidelines, and making technical changes.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29390 executed on May 21, 2014, submitted by the City Clerk.

Action: Ordinance No. 29390 was adopted. (11-0.)

- (c) **ORD. NO. 29391 - An ordinance of the City of San José granting a commercial solid waste and recyclables collection franchise to Citywide Fibers, Inc.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29391 executed on May 21, 2014, submitted by the City Clerk.

Action: Ordinance No. 29391 was adopted. (11-0.)

- (d) **ORD. NO. 29392 - Rezoning certain real property situated on the southeast corner of Pearl Avenue and Adamo Drive (5000 Pearl Avenue) to A(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29392 executed on May 21, 2014, submitted by the City Clerk.

Action: Ordinance No. 29392 was adopted. (11-0.)

- 2.2 (e) **ORD. NO. 29393 - Rezoning certain real property situated on the east side of Monterey Road approximately 500 feet southerly of East Alma Avenue (1420-1600 Monterey Road) to CG(PD) Planned Development.**

Documents Filed: (1) Memorandum from Director of Public Works David Sykes, dated March 27, 2014, providing further background information regarding previously approved uses on the site. (2) Proof of Publication of the Title of Ordinance No. 29393 executed on May 21, 2014, submitted by the City Clerk.

Action: Ordinance No. 29393 was adopted. (11-0.)

- (f) **ORD. NO. 29394 - Rezoning certain real property situated on the West Side Monterey Road, North and South of Esfahan Drive (10024 Tract) to A(PD) Planned Development Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29394 executed on May 21, 2014, submitted by the City Clerk.

Action: Ordinance No. 29394 was adopted. (11-0.)

2.3 **Approval of Council Committee Reports.**

- (a) **Committee on Economic Competitiveness Ad Hoc Report of March 3, 2014. (Mayor)**
- (b) **Rules and Open Government Committee Report of March 12, 2014. (Mayor)**
- (c) **Neighborhood Services and Education Committee Report of March 13, 2014. (Nguyen)**
- (d) **Public Safety, Finance, and Strategic Support Committee Report of March 20, 2014. (Constant)**
- (e) **Community and Economic Development Committee Report of March 24, 2014. (Herrera)**

Documents Filed: (1) The Economic Competitiveness Ad Hoc Report dated March 3, 2014. (2) The Rules and Open Government Committee Report dated March 12, 2014. (3) The Neighborhood Services and Education Committee Report dated March 13, 2014. (4) The Community and Economic Development Committee Report dated March 24, 2014.

David Wall voiced objection to items on the Rules and Open Government Committee Report of March 12, 2014.

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

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

There was no report.

2.5 City Council Travel Reports.

Mayor Reed and Council Members Khamis and Kalra presented highlights of the Silicon Valley Leadership Group's Annual Washington, D.C. trip (March 25 – March 27, 2014) where they met with members of Congress and the Obama Administration.

Council Member Constant attended the League of California Cities Public Safety Meeting last week.

Council Member Rocha was present at the Income Inequality and Minimum Wage Symposium panel in Seattle, Washington on March 26, 2014 through March 27, 2014, which was funded solely by the Center for Popular Democracy.

2.6 Report from the Council Liaison to the Retirement Boards.

There was no report.

2.7 Authorize travel for City Attorney Richard Doyle to Denver, Colorado on June 6-8, 2014 to attend an International Municipal Lawyers Association (IMLA) Top 50 meeting. Source of Funds: City Attorney's Office Non Personal Services Appropriation. CEQA: Not a Project; File No. PP10-069, Administrative Activities. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 27, 2014, requesting authorization to travel.

Action: The travel for City Attorney Richard Doyle was approved. (11-0.)

2.8 As recommended by the Rules and Open Government Committee on March 26, 2014:

- (a) Approve the various community events sponsored by Council District 4 as City Council sponsored Special Events and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Chu)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 26, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The various community events sponsored by Council District 4 as City Council sponsored Special Events and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.9 As recommended by the Rules and Open Government Committee on March 26, 2014:

- (a) Approve the ninth Annual West Valley Senior Walk as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Constant/Oliverio)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 26, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The ninth Annual West Valley Senior Walk as City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.10 As recommended by the Rules and Open Government Committee on March 26, 2014:

- (a) Approve the District 1 Mayoral Forum as a City Council sponsored Special Event scheduled for March 29, 2014 and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Constant)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 26, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 1 Mayoral Forum as City Council sponsored Special Event scheduled for March 29, 2014 and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.11 As recommended by Rules and Open Government Committee on March 26, 2014:

- (a) Approve the District 8 Senior Health Fair and Walk scheduled for May 17, 2014, as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Herrera)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 26, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 8 Senior Health Fair and Walk scheduled for May 17, 2014, as City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.12 As recommended by the Rules and Open Government Committee on March 26, 2014:

- (a) Approve the District 8 Israeli Independence Day Flag Raising Ceremony scheduled for May 6, 2014 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Herrera)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 26, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: Item 2.12 was dropped.

2.13 As recommended by the Rules and Open Government Committee on March 26, 2014:

- (a) Approve the Future Roots cultural festival held in Downtown San José celebrating Asian Pacific American Month, as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve expending funds and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Kalra)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 26, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Future Roots cultural festival held in Downtown San José celebrating Asian Pacific American Month, as City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.14 Adopt a resolution:

- (a) Preliminarily approving the Engineer's Report for the Formation of Zone C (Innovation Drive) to Maintenance District 19 (River Oaks Area Landscaping).**
- (b) Setting a Public Meeting to be held on May 13, 2014 at 1:30 p.m.**
- (c) Setting a Public Hearing and tabulation of property owner ballots for June 17, 2014 at 1:30 p.m.**
- (d) Directing the notice of said meeting, hearing and ballots to be mailed to the property owners in district.**

CEQA: North San José Development Policy Update EIR, Resolution No. 72768. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated March 17, 2014, recommending adoption of a resolution.

2.14 (Cont'd.)

Action: Resolution No. 76949, entitled: "A Resolution of the Council of the City of San José Preliminarily Approving the Engineer's Report for the Zone C (Innovation Drive) of Maintenance District 19 (River Oaks Area Landscaping) and Taking Certain Other Action Preliminary to the Approval of Such Zone Into Maintenance District 19", was adopted. (11-0.)

2.15 Approve travel by Council Member Rocha to Seattle, Washington on March 26 – 27, 2014 to speak on a panel at the Income Inequality and Minimum Wage Symposium. Source of Funds: Center for Popular Democracy. (Rocha)

Documents Filed: Replacement memorandum from Council Member Rocha, dated April 4, 2014, requesting approval of travel.

Action: The travel request for Council Member Rocha was approved. (11-0.)

2.16 Adopt a resolution to repeal Resolution No. 76927 and set forth the Master Parking Rate Schedule to adjust enrollment dates for applications for the City's car share parking pilot program. CEQA: Not a Project, File No. PP10-067(a), Adjustment to Fees, Rates & Fares without changes to or expansion of services. (Transportation)

Documents Filed: City Council Action Request from Director of Transportation Hans F. Larsen, dated March 17, 2014, recommending adoption of a resolution.

Action: Resolution No. 76950, entitled: "A Resolution of the Council of the City of San José Setting Forth the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities to Adjust Enrollment Dates for Applications to the Car Share Parking Pilot Program and To Repeal Resolution No. 76927", was adopted. (11-0.)

2.17 As recommended by the Rules and Open Government Committee on April 2, 2014:
(a) Approve the Willow Glen History Night: Part Two scheduled on April 7, 2014 as a City Council sponsored Special Event and approve the expenditure of funds.
(b) Approve and accept donations from various individuals, businesses or community groups to support the event.
CEQA: Not a Project. (Oliverio)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 2, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Willow Glen History Night: Part Two scheduled on April 7, 2014, as City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

- 2.18 As recommended by the Rules and Open Government Committee on April 2, 2014:**
- (a) Approve the Family Science Night scheduled on April 10, 2014, as a City Council sponsored Special Event and approve the expenditure of funds.**
 - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**
- CEQA: Not a Project. (Campos)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 4, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Family Science Night scheduled on April 10, 2014, as City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

Assistant City Manager Edward K. Shikada offered details of the “Pride of San José” Awards.

3.6 Review the following actuarial valuation reports:

- (a) Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2013.**
- (b) Police and Fire Department Retirement Plan Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2013.**
- (c) Federated City Employees’ Retirement System Actuarial Valuation (Pension) as of June 30, 2013.**
- (d) Federated City Employees’ Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2013.**

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

Item 3.6 was heard following Item 3.1.

Documents Filed: (1) Memorandum from Director of Retirement Services Roberto Peña, dated March 17, 2014, transmitting the actuarial valuations reports for review. (2) Staff presentation dated April 8, 2014 summarizing the Actuarial Valuations as of June 30, 2013.

3.6 (Cont'd.)

Director of Retirement Services Roberto Peña offered the report and responded to Council questions and concerns.

Public Comments: Yolanda Cruz, AFSCME MEF and Kevin Hittalo presented comments to the actuarial valuation reports.

The reports were received. There was no Council action.

3.3 **Approve revised Guiding Principles for Labor Negotiations related to compensation. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy change, Title 3 (Personnel). (City Manager)**

Documents Filed: Memorandum from City Manager Edward K. Shikada, dated March 27, 2014, recommending approval of the revised Guiding Principles for Labor Negotiations related to compensation.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the revised Guiding Principles for Labor Negotiations related to compensation, were approved. (11-0.)

- 3.4
- (a) **Approve an ordinance adding a new section 3.04.490 of Title 3 of the San José Municipal Code to offer a position to a sworn employee in the Police and Fire Department Retirement Plan who under the revised definition of disability in the City Charter does not qualify for a service connected disability retirement.**
 - (b) **Direction to the City Administration to meet and confer with the San José Police Officers' Association and the San José Fire Fighters, Local 230 over an ordinance amending section 3.04.400 of Chapter 3.04 of Title 3 of the San José Municipal Code to pay a Tier 2 employee in the Police and Fire Department Retirement Plan the same salary rate in a new position as his or her previous classification. Once the meet and confer process has been completed, direct the City Administration to bring forward an ordinance with these changes.**
 - (c) **Direction to the City Administration to conduct research on the definition of disability used in other California pension plans for Council review no later than June 17, 2014, to allow for consideration of potential City Charter changes.**

CEQA: File No. PP10-068(b), Municipal Code or Policy change, Title 3 (Personnel), and File No. PP10-069(b), Personnel Related Decisions. (City Manager)

3.4 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Herrera, dated March 27, 2014, regarding the Disability Retirement and Right of Return for former City Employees, with direction to Staff as described in “Action” on Page 14. (2) Memorandum from Council Member Rocha, dated April 4, 2014, recommending Council decline to approve Items 3.4(a) and (b), approve Item 3.4(c) with direction to Staff to return on May 13, 2014 for discussion of and direction on his attached memorandum. (3) Memorandum from Deputy City Manager Alex Gurza, dated April 2, 2014, recommending approval of an orders with direction to City Administration as described in “Action” on Page 14. (4) Email from Steve Bucholtz, dated April 7, 2014, expressing opposition to the Staff recommendations.

City Manager Edward K. Shikada provided introductory comments.

Mayor Reed expressed support to the Staff recommendations. City Attorney Richard Doyle presented clarifications.

Motion: Council Member Constant moved approval of the Staff recommendations, with Staff directed to, specifically when looking at the other definitions of disability, to look at all of the different public safety agencies including the large independent agencies and the 1937 Act County Agencies as well as the California Highway Patrol (CHP) Significant Disability Retirement which is defined in the State Statute for seriously injured CHP officers. Vice Mayor Nguyen seconded the motion.

Public Comments: Voicing support to the motion on the floor were Jeffrey Bedolla and Ross Signorino. Expressing opposition to the Staff recommendations were Stephen Hazel and Kevin Hittalo.

City Auditor Sharon W. Erickson, Deputy City Manager Alex Gurza, City Manager Edward K. Shikada and City Attorney Richard Doyle responded to Council questions and concerns.

Vice Mayor Nguyen and Council Member Herrera voiced their support to Measure B.

Council Member Liccardo expressed support to the motion on the floor.

Substitute Motion: Council Member Rocha moved approval of his memorandum dated April 4, 2014, recommending that Council decline to approve Items 3.4(a) and (b), and only approve Item 3.4(c), with direction to Staff to return on May 13, 2014 for discussion and direction per his attached memorandum. Council Member Chu seconded the motion.

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

Mayor Reed and Council Members Oliverio, Khamis, Liccardo and Herrera voiced opposition to the substitute motion.

3.4 (Cont'd.)

Mayor Reed offered a brief presentation about the San José General Fund Budget Cycle for Fiscal Year 2002 and Fiscal Year 2018-2019.

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

The original motion was back on the floor for consideration.

Council Member Herrera requested to amend the motion to direct Staff to review and consider the memorandum from Council Member Herrera, dated March 27, 2014 (From the Rules and Open Government Committee Meeting, April 02, 2014, Item G.7), related to a proposed charter amendment that would include an option for former San José Police Officers to return to Tier 1 for a defined period and present the language of said amendment in time for Council to decide whether to place it on the ballot in November 2014 (among other requests); the entire item was authorized to be agendized at future Council Meeting for a full Council discussion. Council Member Constant and Vice Mayor Nguyen accepted the amendments.

Action: On a call for the question, the original motion carried, Ordinance No. 29396, entitled: “An Ordinance of the City of San José Amending Part 3 of Chapter 3.04 of Title 3 of the San José Municipal Code To Add Section 3.04.490 in Order to Allow the City of San José to Offer a Position to a Sworn Employee in the Police and Fire Department Retirement Plan Who, Under the Revised Definition of Disability in the City Charter, Does Not Qualify for a Disability Retirement”, was passed for publication, the City Administration was directed to meet and confer with the San José Police Officers’ Association and the San José Fire Fighters, Local 230 over an ordinance amending section 3.04.400 of Chapter 3.04 of Title 3 of the San José Municipal Code to pay a Tier 2 employee in the Police and Fire Department Retirement Plan the same salary rate in a new position as his or her previous classification. Once the meet and confer process has been completed, the City Administration was directed to bring forward an ordinance with these changes and the City Administration was directed to conduct research on the definition of disability used in other California pension plans for Council review no later than June 17, 2014, to allow for consideration of potential City Charter changes. (1) Staff was directed to, specifically when looking at the other definitions of disability, to look at all of the different public safety agencies including the large independent agencies and the 1937 Act County Agencies as well as the California Highway Patrol (CHP) Significant Disability Retirement which is defined in the State Statute for seriously injured CHP officers. (2) Staff was directed to review and consider the memorandum from Council Member Herrera, dated March 27, 2014 (From the Rules and Open Government Committee Meeting, April 02, 2014, Item G.7), related to a proposed charter amendment that would include an option for former San José Police Officers to return to Tier 1 for a defined period and present the language of said amendment in time for Council to decide whether to place it on the ballot in November 2014 (among other requests); the entire item was authorized to be agendized at future Council Meeting for a full Council discussion. (7-4. Noes: Campos, Chu, Kalra, Rocha.)

3.5 Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Director of Planning, Building and Code Enforcement as described in the staff memorandum, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)

Documents Filed: (1) Memorandum from Mayor Reed, dated April 4, 2014, recommending approval of the City Manager's recommendations with an additional question. (2) Memorandum from Council Member Rocha, dated April 7, 2014, recommending consideration of seven questions. (3) Memorandum from City Manager Edward K. Shikada, dated March 17, 2015, recommending adoption of the Statement of Policy and City Council Questions as described above.

Motion: Council Member Rocha moved approval of the memorandum from Mayor Reed dated April 4, 2014 and his memorandum dated April 7, 2014 and including the additional questions from the Council Members as described below in "Action". Vice Mayor Nguyen seconded the motion.

Brief Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed, dated April 4, 2014 was approved and the Statement of Policy and City Council Questions related to the selection of a prospective Director of Planning, Building and Code Enforcement was adopted, including two additional questions: (1) How would you ensure that the North San José Urban Design Guidelines are interpreted and applied by your Staff and members of the City's Architectural Review Committee, as specified in the Guidelines? (2) How would you manage interdepartmental coordination to improve customer service for plan checks and inspections? The memorandum from Council Member Rocha, dated April 7, 2014, was approved, including the following questions: (1) What land use planning strategies do you believe are most important to San José's future? (2) How does affordable housing fit into your urban planning vision? (3) Do you believe that there is *ever* a circumstance in which it may be appropriate for the City to convert job lands to housing? If so, can you provide examples of policy considerations that you believe should be balanced against the policy goal of not converting job lands? (4) It is sometimes asserted that fiscal considerations should be the primary driver of City land use decision making. What is the relationship between land use and the City's fiscal health? (5) As Planning Director how would you balance fiscal considerations against other planning values? (6) Do you believe that urban design is important? If so, how? (7) Please describe your experience directly interacting with community members as part of a public decision making process on a controversial issue. What in your experience are the benefits of community outreach? What techniques do you believe make outreach effective? The following additional questions were approved: (1) How would you be proactive in maintaining the City's ordinances for Code Enforcement, for example, how would you address the issue of illegal vending? (2) How would you move at the "speed of business" for small businesses similar to the driving industries moving at the "speed of business"? (3) How would you handle and address, for example, homeowners who have made modifications to their plans based on one Code

3.5 (Action Cont'd.)

Inspector's feedback, have a second Code Inspector come for the final review and request further modifications. How could you make this process easier? (4) How would you implement a plan for twentieth century technology to make San José competitive with other cities, including electronic plan submission and other types of technology? (5) How do you see the Planning, Building and Code Department's role in facilitating and regulating projects; and how will that be transmitted throughout the organization? (11-0.)

3.7 As recommended by the Rules and Open Government Committee on March 19, 2014, accept the Retirement Board Governance Reform Ballot Measure Work Plan. (City Manager) [Rules Committee referral 3/19/14 – Item G(3)]

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Constant, dated April 4, 2014, recommending direction to Staff as described below in "Action". (2) Memorandum from City Clerk Toni J. Taber, CMC, dated March 27, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Deputy City Manager Alex Gurza presented a short overview on the Retirement Board Governance Reform Ballot Measure Work Plan.

Motion: Council Member Constant moved approval of the Staff recommendations and the memorandum he cosigned with Mayor Reed dated April 4, 2014, with a correction noted on Page 2 of the memorandum, under Analysis, Item iii. d: Strike the word "Jointly" to read: Appoint independent legal counsel. Council Member Herrera seconded the motion.

City Attorney Richard Doyle and Deputy City Manager Alex Gurza offered clarifications.

Council Member Kalra requested to amend the motion to remove Item (1)(b) from the memorandum from Mayor Reed and Council Member Constant: Do not require the consolidation of the two boards. Council Member Constant respectfully declined to accept the amendment.

Public Comments: Yolanda Cruz, AFSCME MEF, spoke in opposition to the memorandum from Mayor Reed and Council Member Constant, dated April 4, 2014.

3.7 (Cont'd.)

Action: On a call for the question, the motion carried, the memorandum from Mayor Reed and Council Member Constant, dated April 4, 2014, was approved; the work plan was accepted, with the following direction to Staff: (1) Pursuant to the Cortex recommendations, prepare a Charter Amendment and ordinances as necessary to: (a) Grant the retirement boards autonomy based on a Council Appointee model, with Council oversight and public accountability, as described in the memorandum. (b) Do not require the consolidation of the two boards. (2) Codify in the Municipal Code the Cortex recommendations already put into practice or agreed to by the Boards, as soon as feasible. (3) Engage with the stakeholders on a schedule to be able to return to Council with ballot measure language and draft ordinances for matters that are not required to be in the Charter, no later than August 5, 2014. (4) Correction noted on Page 2 of the memorandum, under Analysis, Item iii. d: Strike the word “Jointly” to read: Appoint independent legal counsel. (7-4. Noes: Campos, Chu, Kalra, Rocha.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 As recommended by the Community and Economic Development Committee on February 24, 2014, consider approval of the one of two alternative community special events ordinances that would add Chapter 13.14, repeal Chapters 13.12, 13.16 and 13.22, and amend Chapter 13.44 of Title 13 of the San José Municipal Code in order to establish a comprehensive permit process for outdoor special events on or at City streets, parks, paseos and plazas. CEQA: Not a Project, File No. PP10-068(c), Municipal Code amendments involving no changes to the physical environment. (City Attorney)
[Community and Economic Development Committee referral 2/24/14 – Item D(4)]**

Action: Deferred to April 22, 2014 per Administration.

- 4.2 As recommended by Community and Economic Development Committee on February 24, 2014, accept the update on the implementation of North San José Area Development Policy. CEQA: North San José Development Policies Update EIR, Resolution No. 72768 and Addenda thereto. Council Districts 3 and 4. (Planning, Building and Code Enforcement/Economic Development/ Transportation)
[Community and Economic Development Committee referral 2/24/14 – D(2)]
(Deferred from 3/11/14 – Item 4.5 and 3/25/14 – Item 4.1)**

Documents Filed: (1) Memorandum from Mayor Reed, dated April 7, 2014, with direction to Staff as described in “Action” on Page 18. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated February 26, 2014, transmitting the recommendations of the Community and Economic Development Committee.

Director of Economic Development Kim Walesh provided introductory remarks.

4.2 (Cont'd.)

Senior Business Development Manager Chris Burton provided Key Points. Director of Transportation Hans Larsen presented the recommended Funding Plan. Director of Public Works David Sykes offered comments on the Mayor's recommendation for the Urban Design Guidelines.

Motion: Vice Mayor Nguyen moved approval of the memorandum from Mayor Reed, dated April 7, 2014, with direction to Staff. Council Member Herrera seconded the motion.

City Attorney Richard Doyle, Director of Economic Development/Chief Strategist Kim Welsh, City Manager Edward K. Shikada and Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti responded to Council questions and concerns.

Council Member Chu requested to amend the motion to include the North San José Neighborhood Task Force into the discussions as part of the public outreach and to correct the typographical error in the Staff memorandum dated February 13, 2014, Page 7, Public Outreach/Interest: the North San José Community Meeting was held on *January 15, 2014*. Vice Mayor Nguyen and Council Member Herrera accepted the amendments.

Council Member Liccardo expressed opposition to the motion on the floor.

Action: On a call for the question, the motion carried, the update on the implementation of North San José Area Development Policy was accepted. The memorandum from Mayor Reed, dated April 7, 2014, was approved, with the following direction to Staff: (1) To return to the Ad Hoc Committee for Economic Competiveness in August 2014 with the revised North San José Urban Design Guidelines and a protocol to ensure the Guidelines are being applied so they encourage driving industry companies to stay in San José and expand in San José. (2) To include the North San José Neighborhood Task Force into the discussions as part of the public outreach. (3) To correct the typographical error in the Staff memorandum dated February 13, 2014, Page 7, Public Outreach/Interest: the North San José Community Meeting was held on *January 15, 2014*. (10-1. Noes: Liccardo.)

4.3 **Consideration of an ordinance rezoning the real property located on the southeast corner of Almaden Expressway and Chynoweth Avenue (Almaden Ranch) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to modify existing development standards to allow building height to be increased from 50 feet to 80 feet within a portion of a previously approved 43.5 gross acre shopping center site (Arcadia Development Company, Owner). CEQA: Almaden Ranch Retail Center Environmental Impact Report, Resolution No. 76116, and Addendum thereto. (Planning, Building and Code Enforcement)** **PDC14-001 – District 9**

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Interim Director of Planning, Building and Code Enforcement David Sykes, dated March 17, 2014, recommending approval of an ordinance and transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC14-001, revised on March 7, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on March 21, 2014, submitted by the City Clerk.

Motion: Council Member Rocha moved approval of the Staff recommendations. Council Member Oliverio seconded the motion.

Mayor Reed opened the Public Hearing.

Public Comments: Frank De Luna expressed opposition to the rezoning and to the impacts caused by the Almaden Ranch Retail Center, including the high structures and signs.

Mayor Reed closed the Public Hearing.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti responded to Council questions.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29397, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Almaden Expressway and Chynoweth Avenue, From the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District", was passed for publication. (11-0.)

4.4 **Adopt a resolution clarifying that the previous delegation of authority to the Director of Public Works to negotiate and execute an Energy Services Agreement with Chevron Energy Solutions includes the authority to execute the Energy Services Agreement before the City obtains the necessary financing and appropriation of funds provided the Agreement states that the City has no obligation to pay for any work or services performed by Chevron before the City obtains and appropriates necessary funding for the project. CEQA: Exempt, File Nos. PP13-111, PP13-112, PP13-113, PP13-114, PP13-115, PP13-116, PP13-117, PP14-003, PP14-004. (Public Works)**

Documents Filed: (1) Memorandum from Mayor Reed, dated March 28, 2014, recommending support of the Staff recommendations. (2) City Council Action Request from dated March 28, 2014, recommending adoption of a resolution. (3) Supplemental memorandum from Director of Transportation Hans F. Larsen, dated April 3, 2014, disclosing to the Council the LED streetlight conversion locations proposed for implementation by Chevron Energy Solutions.

4.4 (Cont'd.)

Director of Public Works David Sykes Director of Finance Julia H. Cooper and Director of Transportation Hans Larsen provided a brief update.

Motion: Council Member Kalra moved approval of the memorandum from Mayor Reed, dated March 28, 2014, recommending supporting the Staff recommendations to authorize an Energy Service Agreement with Chevron Energy Solutions. Council Member Herrera seconded the motion.

Brief Council discussion ensued.

Action: On a call for the question, the motion carried, the memorandum from Mayor Reed, dated March 28, 2014, was approved, the Staff recommendations were accepted and Resolution No. 76951, entitled: "A Resolution of the Council of the City of San José Clarifying the Previous Delegation of Authority to the Director of Public Works to Execute an Energy Services Agreement with Chevron Energy Solutions", was adopted. (9-1-1. Noes: Oliverio. Absent: Constant.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Section 19.16.140d of the San José Municipal Code, this is notification that the City Engineer has received the following Final Maps and is reviewing them for final approval

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9932	NW corner of Lucretia Ave and Phelan Ave	7	KB Home South Bay Inc.	21 Lots/ 20 Units	SFD

OPEN FORUM

- (1) Harry Shrader requested more information about the sidewalk ordinance and expressed concern that legal liability is the sole responsibility of the homeowner. Mayor Reed, upon request by Council Member Oliverio, directed the City Attorney to follow up with an information memorandum to Mr. Shrader.
- (2) Stephen Hazel voiced his own opinions on societal issues.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:51 p.m. in memory of Harry Salgado who passed away on February 14, 2014. Harry was a beloved teacher and coach for the Berryessa Union School District for 35 years. (Chu)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

smd/04-08-14 MIN

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