

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 15, 2014

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

Absent: Council Members - Kalra. (Excused)

### 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) 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. (2) 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. (3) 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. (4) Harris, et al. v. City of San José, et al. Names of Parties

## CLOSED SESSION (Cont'd.)

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. (5) 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. (6) 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 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,

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

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 11:05 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio (1:43 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

## **INVOCATION**

Associate Pastor Sheila Robinson, Bible Way Christian Church offered a prayer for the Invocation. (District 4)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed 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, Item 2.7 was deferred to May 20, 2014, Item 6.1 was deferred to May 13, 2014 and Item 11.2 was deferred to the first meeting in August 2014. (10-0-1. Absent: Oliverio.)

## **CEREMONIAL ITEMS**

- 1.2 Presentation of a proclamation recognizing the week of April 14, 2014 through April 18, 2014 as "Dispatcher Week" in the City of San José in honor of the San José Police and Fire Public Safety Dispatchers who serve 24 hours a day, 365 days a year, helping those in need of emergency assistance. (Fire)**

Mayor Reed, Assistant City Manager Edward K. Shikada and Fire Chief Ruben Torres recognized the week of April 14, 2014 through April 18, 2014 as "Dispatcher Week" in the City of San José.

**1.4 Presentation of a proclamation recognizing the week of April 13-19, 2014 as "National Library Week" in the City of San José. (Library)**

Mayor Reed recognized the week of April 13-19, 2014 as "National Library Week" in the City of San José.

**1.5 Presentation of commendations to City Department teams that were recipients of the Silicon Valley Leadership Group Red Tape into Red Carpet awards. (Mayor)**

Mayor Reed recognized and commended the City Department teams that were recipients of the "Silicon Valley Leadership Group Red Tape into Red Carpet" Awards.

**COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.1 (a) Conduct a Public Hearing regarding an economic development subsidy in connection with a below-market-rate lease with the U.S. Government, pursuant to California Government Code Section 53083.**
- (b) Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a below-market-rate lease with the U.S. Government for the operation of a regional patent and trademark office to be located in approximately 35,194 square feet of space in the City Hall Wing.**
- CEQA: Exempt, File No. PP14-031. Council District 3. (Economic Development/Public Works)**

*Item 4.1 was heard following the Ceremonial Items.*

Documents Filed: (1) Replacement memorandum from Mayor Reed, dated April 11, 2014, recommending support to the Staff recommendations. (2) Memorandum from Director of Public Works David Sykes and Director of Economic Development/Chief Strategist Kim Walesh, dated April 1, 2014, recommending conducting a public hearing and adoption of a resolution.

Mayor Reed offered background information on the location of the U.S. Patent and Trademark Office in Downtown San José.

Director of Economic Development/Chief Development Officer Kim Walesh provided introductory remarks and presented the report on the Lease of City Hall Property to the Federal Government for the Regional Patent and Trademark Office.

Mayor Reed opened the Public Hearing.

Public Comments: Speaking in support to the Staff recommendations were John Cabeca, U.S. Patent and Trademark Office; Carl Guardino, Silicon Valley Leadership Group; Mo Qayoumi, San José State University and Ross Signorino.

Mayor Reed closed the Public Hearing.

#### 4.1 (Cont'd.)

Motion: Council Member Liccardo moved approval of the memorandum from Mayor Reed and the Staff recommendations. Council Member Oliverio seconded the motion.

Brief Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76952, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Negotiate and Execute a Lease with the United States Government for the Operation of a Regional Patent and Trademark Office in the City Hall Wing", was adopted. (11-0.)

### CONSENT CALENDAR

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

#### 2.1 Approval of minutes.

- (a) **Regular Minutes of December 3, 2013.**
- (b) **Regular Minutes of December 10, 2013.**
- (c) **Joint Council/San José Financing Authority Minutes of December 10, 2013.**
- (d) **Regular Minutes of December 17, 2013.**

Documents Filed: (1) The Regular Minutes dated December 3, 2013, December 10, 2013 and December 17, 2013. (2) The Joint Council/San José Financing Authority Minutes dated December 10, 2013.

Action: The Council Minutes were approved. (11-0.)

#### 2.2 Final Adoption of Ordinances.

There were none.

#### 2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of March 19, 2014. (Mayor)**

Documents Filed: the Rules and Open Government Committee Report dated March 19, 2014.

Action: The Council Committee Report was approved. (11-0.)

- (b) **Rules and Open Government Committee Report of March 26, 2014. (Mayor)**

Action: Deferred to April 22, 2014 per City Clerk.

- 2.4 (a) **Request for an excused absence for Council Member Constant from the Closed Session and Regular Meeting of the City Council on March 25, 2014 due to a mandatory court appearance. (Constant)**

Documents Filed: Memorandum from Council Member Constant, dated March 28, 2014, requesting an excused absence.

Action: The absence for Council Member Constant was excused. (11-0.)

2.5 **City Council Travel Reports.**

There were none.

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

There were none.

- 2.7 **Approve an ordinance amending Section 10.32.140 of Chapter 10.32 of Title 10 and Section 13.44.200 of Chapter 13.44 of Title 13 of the San José Municipal Code to permit the operation of model warships armed with low-velocity gas or compressed-air projectile launchers at times and locations designated by the City. CEQA: Exempt, File No. PP14-032. (City Attorney)**

Action: Deferred to May 20, 2014 per Orders of the Day.

- 2.8 **Adopt a resolution authorizing the City Manager to extend the suspension of the collection of gate fees for ticketed outdoor special events effective July 1, 2014 through June 30, 2016. CEQA: Not a Project, File No. PP10-067(a), Adjustment to Fee, Rates or Fares. (Economic Development)**

Documents Filed: City Council Action Request from Director of Economic Development/Chief Strategist Kim Walesh, dated May 28, 2014, recommending adoption of a resolution.

Action: Resolution No. 76953, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Extend the Suspension of the Collection of Gate Fees for Ticketed Outdoor Special Events Through June 30, 2016", was adopted. (11-0.)

- 2.9 (a) **Award of a construction contract for the 7407 - BNR-2 Clarifiers Guardrail Replacement to the low bidder, Tucker Construction, Inc., in the amount of \$320,793.**  
(b) **Approve a contingency in the amount of \$32,100.**  
**CEQA: Exempt, File No. PP13-039. (Environmental Services)**

Action: Deferred to April 22, 2014 per Administration.

- 2.10 Report on bids and award of a construction contract for 7157 – Digester Gas Storage Replacement Project to the low bidder, Anderson Pacific Engineering Construction Inc., for the base bid and Add Alternate No. 1 in the amount of \$1,825,100, and approval of a ten percent contingency in the amount of \$182,510. CEQA: Exempt, File No. PP13-086. (Environmental Services)**

Action: Deferred to April 22, 2014 per Administration.

- 2.11 Approve a Master Agreement with Neil O. Anderson & Associates, Inc. for design services, including preparation of architectural, civil, mechanical, electrical, and landscape architectural design and construction documents for capital projects for a term from the date of execution through June 30, 2017, in an amount not to exceed \$500,000. CEQA: Not a Project, File No. PP10-066(d), Consultant services for design to determine the feasibility of a project with no commitment to future action. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated March 28, 2014, recommending approval of a master agreement.

Action: A Master Agreement with Neil O. Anderson & Associates, Inc. for design services, including preparation of architectural, civil, mechanical, electrical, and landscape architectural design and construction documents for capital projects for a term from the date of execution through June 30, 2017, in an amount not to exceed \$500,000, was approved. (11-0.)

- 2.12 Approve an increase in the project contingency for the 2013 Slurry Seal Project in the amount of \$50,000, from \$58,632 to a total contingency amount of \$108,632, and a total contract amount from \$1,172,635 to \$1,281,267. CEQA: Exempt, File No. PP11-035. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans F. Larsen, dated March 28, 2014, recommending approval of an increase in the project contingency.

Action: An increase in the project contingency for the 2013 Slurry Seal Project in the amount of \$50,000, from \$58,632 to a total contingency amount of \$108,632, and a total contract amount from \$1,172,635 to \$1,281,267, was approved. (11-0.)

- 2.13 As recommended by the Rules and Open Government Committee on April 9, 2014, approve sending Council Members to Sacramento to meet with State Legislators. (Kalra)**

**[Rules Committee referral 4/9/14 – Item G(3)]**

## 2.13 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 10, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The sending of Council Members to Sacramento to meet with State Legislators was approved. (11-0.)

## END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

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

City Manager Edward K. Shikada described the activation of one of the monitors in the Tower Lobby, adjacent to the Parking Garage that will be highlighting the “Pride of San José” Award Winners at this time.

### 3.3 As recommended by the Rules and Open Government Committee on April 2, 2014:

- (a) **Approve an ordinance of the City of San José amending Chapter 12.04 of Title 12 of the San José Municipal Code relating to the San José Ethics Commission and amending Section 12.16.040 of Chapter 12.16 of Title 12 to make a technical correction to the date to file disclosure reports for fundraising solicitations by elected City officials on a quarterly basis.**
- (b) **Adopt a resolution revising the regulations and procedures of the San José Ethics Commission, and repealing Resolution No. 75640, which sets forth the current regulations and procedures for the San José Ethics Commission’s investigations and hearings.**

**CEQA: PP10-068(c), Code or Policy change involving no physical changes to the environment. (City Clerk/City Attorney)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 3, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29398, entitled: “An Ordinance of the City of San José Amending Chapter 12.04 of Title 12 of the San José Municipal Code Relating to the San José Ethics Commission and Amending Section 12.16.040 of Chapter 12.16 of Title 12 to Make a Technical Correction to the Date to File Disclosure Reports for Fundraising Solicitations By Elected City Officials on a Quarterly Basis”, was passed for publication and Resolution No. 76954, entitled: “A Resolution of the Council of the City of San José Amending Regulations and Procedures for the San José Ethics Commission Investigations and Hearings and Repealing Resolution No. 75640”, was adopted. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 (a) Conduct a Tax Equity and Fiscal Responsibility Act (“TEFRA”) Public Hearing for the issuance of up to \$38,000,000 in tax-exempt private-activity bonds by the California Statewide Communities Development Authority (“CSCDA”) for the new construction of the proposed 200-unit Charlotte Drive Apartments located at 5600 Charlotte Drive by ROEM Development Corporation or by its related legal entity (“ROEM”).
- (b) Conduct a TEFRA Public Hearing for the issuance of up to \$26,000,000 of tax-exempt private-activity bonds by CSCDA for the new construction of the proposed 134-unit Lexington Apartments located at the Northeast corner of Lexington Avenue and Great Oaks Parkway by ROEM.
- (c) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CSCDA in an aggregate principal amount not to exceed \$64,000,000 to be used by ROEM to finance the construction of Charlotte Drive Apartments and Lexington Apartments and to pay certain expenses incurred in connection with the issuance of the bonds.

**CEQA: Not a Project, File No. PP10-069, Organizational and Administrative Activities. Council District 2. (Housing/Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper and Director of Housing Leslye Corsiglia, dated March 27, 2014, recommending holding a TEFRA public hearing and adoption of a resolution.

Mayor Reed opened the Tax Equity and Fiscal Responsibility Act Public Hearings.

Public Comments: There was no public testimony from the floor. Mayor Reed closed the Tax Equity and Fiscal Responsibility Act Public Hearing.

Mayor Reed offered meeting disclosures.

City Attorney Richard Doyle and Assistant Director of Housing Jacky Morales-Ferrand responded to Council questions and concerns.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Constant and carried, Resolution No. 76955, entitled: “A Resolution of the Council of the City of San José Approving the Issuance of Tax Exempt Revenue Bonds by the California Statewide Communities Development Authority for the Financing of the Construction of the Charlotte Drive Apartments and the Lexington Apartments Projects”, were adopted. (10-1. Noes: Oliverio.)

## NEIGHBORHOOD SERVICES

- 5.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on March 20, 2014, accept the Audit of Library Hours and Staffing. CEQA: PP10-069(a), Staff Reports. (City Auditor)  
[Public Safety, Finance, and Strategic Support Committee referral 3/20/14 – Item D(5)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 3, 2014, transmitting the recommendations of the Rules and Open Government Committee.

City Auditor Sharon W. Erickson offered the Audit of Library Hours and Staffing Report. Library Director Jill Bourne summarized her response.

Motion: Council Member Oliverio moved approval to accept the report from the City Auditor, with direction to Staff to Begin the “Meet and Confer” process on allowing volunteers to play a greater role at the library, a role that would not require layoffs but would augment the current library staff and allow the opportunity for more open hours at the libraries, including direction to Staff to report back to Council in August 2014. Council Member Herrera seconded the motion.

Extensive Council discussion ensued.

City Auditor Sharon W. Erickson, Library Director Jill Bourne, City Manager Edward K. Shikada, Deputy City Manager Norberto Dueñas, City Attorney Richard Doyle and Deputy City Manager Alex Gurza responded to Council questions and concerns.

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

Substitute Motion: Council Member Kalra moved approval to accept the report with no additional direction. Council Member Rocha seconded the motion.

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

Discussion returned to the original motion.

Public Comments: Speaking in support to the Staff recommendations were David Hook, Ross Signorino and Judy Bender.

Action: On a call for the question, the original motion carried, the Report on the Audit of Library Hours and Staffing was accepted. Staff was directed to: (1) Begin the “Meet and Confer” process on allowing volunteers to play a greater role at the library, a role that would not require layoffs but would augment the current library staff and allow the opportunity for more open hours at the libraries. (2) Report back to Council in August 2014. (7-4. Noes: Campos, Chu, Kalra, Rocha.)

## **TRANSPORTATION & AVIATION SERVICES**

- 6.1 Conduct a Public Hearing pursuant to Section 11.18.060 of the San José Municipal Code and adopt a resolution to affirm the decision of the Appeals Hearing Board to uphold the denial by the Department of Transportation of the request for installation of all-way stop signs at the intersection of Di Salvo Avenue and Bailey Avenue located in the City of San José. CEQA: Exempt, File No. PP10-113. Council District 6. (Transportation)**

Action: Deferred to May 13, 2014 per Orders of the Day.

## **ENVIRONMENTAL & UTILITY SERVICES**

- 7.1 (a) Report on bids and award of construction contract for 6998 – Fire Main Replacement – Phase III Project to the lowest responsive bidder, Stoloski & Gonzalez, Inc., for the base bid in the amount of \$1,572,870, and approval of a 10 percent contingency in the amount of \$157,290.**
- (b) Adopt the following 2013-2014 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund:**
- (1) Decrease the Plant Infrastructure Improvements appropriation to the Environmental Services Department in the amount of \$400,000.**
  - (2) Increase the Treatment Plant Fire Main Replacement appropriation to the Environmental Services Department in the amount of \$400,000.**
- CEQA: Exempt, File No. PP13-098. (Environmental Services/Public Works/City Manager)**

Action: Deferred to April 22, 2014 Per Administration.

## **OPEN FORUM**

- (1) Ross Signorino pointed out that 75 years ago Marian Anderson, legendary African American contralto, sang at the Lincoln Memorial after she was refused a performance at Washington's Constitution Hall.
- (2) Judy Bender complained that she has not heard from Human Resources regarding her Workman's Compensation case.

Mayor Reed referred Ms. Bender to speak with City Manager Edward K. Shikada following the meeting.

## **ADJOURNMENT**

The Council of the City of San José adjourned the Afternoon Session at 3:54 p.m.

## **RECESS/RECONVENE**

The City Council recessed at 3:54 p.m. from the afternoon Council Session and reconvened at 7:00 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Constant. (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: Constant.)

## **CEREMONIAL ITEMS**

- 1.1 Presentation of a commendation to WomenNow TV for their commitment to providing the community with a wide range of women’s perspectives on health, careers, politics, fashion, entertainment, cuisine, parenting, finance and other global issues that pertain to India and South Asia. (Chu/Kalra)**

Mayor Reed and Council Members Chu and Kalra recognized and commended WomenNow TV for their dedication to the community.

- 1.3 Presentation of a commendation to Snigdha Banda and her volunteer program, Science For Future, for promoting STEM education among low-income students in the Alum Rock Unified School District. (Herrera)**

Mayor Reed and Council Member Herrera recognized and commended Snigdha Banda for her outstanding achievements.

- 1.6 Presentation of a commendation to Willow Glen High School Mock Trial Team as the 2014 Santa Clara County Mock Trial Champions. (Oliverio)**

Mayor Reed and Council Member Oliverio recognized and commended the Willow Glen High School Mock Trial Team for their excellence.

## TRANSPORTATION & AVIATION SERVICES

- 6.2 As recommended by Transportation and Environment Committee on April 7, 2014:**
- (a) Accept the report and presentation on Santa Clara/Alum Rock Bus Rapid Transit Project.**
  - (b) Adopt the resolution approving the Santa Clara Valley Transportation Authority's *Project Communication and Outreach Plan* for the Santa Clara/Alum Rock Bus Rapid Transit Project and authorizing the Director of Public Works to approve changes, updates and modifications to the *Plan* as necessary.**

**CEQA: Exempt, File No. PP13-075. (Transportation/Public Works)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 9, 2014, transmitting the recommendations of the Transportation and Environment Committee.

Director of Transportation Hans Larsen presented the report and responded to Council questions and concerns.

Motion: Council Member Liccardo moved approval of the Staff recommendations, with Staff directed to include in the plan an explicit clause restricting noise adjacent to restaurants and cafés during the lunch hour, i.e. jack hammering and explicitly include the 72 hour restriction which entails that no driveway can be closed for 72 hours. Council Member Herrera seconded the motion.

Council Member Campos requested to amend the motion to direct Staff to provide a better outreach plan to the residents with regard to trees being cut down, noise, etc. and include Nextdoor.com, Cassell Neighborhood Association, Dorsa Neighborhood Association and Ocala BART Station. The amendment was accepted by Council Members Liccardo and Herrera.

Extensive Council discussion ensued.

Council Member Herrera requested to amend the motion to direct Staff to institute and implement a proactive plan, for example using texting and/or a rotation program that would provide a hotline for the public with follow-up after 5:00 p.m. Council Member Liccardo accepted the amendment.

## 6.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the report and presentation on Santa Clara/Alum Rock Bus Rapid Transit Project was accepted, Resolution No. 76956, entitled: “A Resolution of the Council of the City of San José Approving the Santa Clara Valley Transportation Authority’s Project Communication and Outreach Plan for the Santa Clara/Alum Rock Bus Rapid Transit Project and Authorizing the Director of Public Works to Approve Changes, Updates and Modifications to the Plan as Necessary”, was adopted, as amended. Staff was directed to: (1) Include in the plan an explicit clause restricting noise adjacent to restaurants and cafés during the lunch hour, i.e. jack hammering and explicitly include the 72 hour restriction which entails that no driveway can be closed for 72 hours. (2) Provide a better outreach plan to the residents with regard to trees being cut down, noise, etc. and include Nextdoor.com, Cassell Neighborhood Association, Dorsa Neighborhood Association and Ocala BART Station. (3) Institute and implement a proactive plan for example, using texting and/or a rotation program that would provide a hotline for the public with follow-up after 5:00 p.m. (9-0-2. Absent: Campos, Constant.)

## PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the south side of Turturici Way, approximately 1,200 feet northeast of Turturici Court (6788 San Felipe Road) from the A – Agricultural Zoning District and a portion of one parcel in the A(PD) Planned Development Zoning District to the R-1-2 Single-Family Residence Zoning District on a 3.13 gross acre site (Juventino and Adela Castaneda, Owners). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)**  
**C13-057 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C13-057, dated March 24, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on March 28, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

Mark Lazzarini, DAL Property LLC, spoke to the merits of the project and pointed out that he met with the neighbors regarding the open land.

Public Comments: Michael Mace urged the Council to protect the environment and preserve the neighborhood character.

Mayor Reed closed the Public Hearing.

**11.1 (a) (Cont'd.)**

Motion: Council Member Herrera moved approval of the Staff recommendations with direction to Staff to meet with the Applicant and the residents of California Oak Creek and Meadowlands to explore opportunities and feasibility of establishing open space connectivity along Misery Creek with adjoining neighborhoods and watershed. Council Member Liccardo seconded the motion.

Brief discussion ensued.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29399, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Turturici Way, Approximately 1,200 Feet Northeast of Turturici Court On A 3.3 Gross Acre Site from the A Agricultural and A(PD) Planned Development Zoning District to R-1-2 Single Family Residence Zoning District”, was passed for publication. Staff was directed to meet with the Applicant and the residents of California Oak Creek and Meadowlands to explore opportunities and feasibility of establishing open space connectivity along Misery Creek with adjoining neighborhoods and watershed. (9-0-2. Absent: Campos, Constant.)

- (b) Consideration of an ordinance rezoning the real property located on the east side of Klein Road, approximately 160 feet southerly of Murillo Avenue (2510 Klein Road) from the A - Agricultural Zoning District to the R-1-5 Single-Family Residence Zoning District on an approximately 0.47 gross acre site (Manix, Kana and Diana, Owners). CEQA: Envision San José 2040 General Plan EIR, Resolution. No. 76041. (Planning, Building and Code Enforcement)  
C13-058 – District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C13-058, dated March 25, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on March 28, 2014, submitted by the City Clerk.

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

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29400, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Klein Road, Approximately 160 Feet Southerly of Murillo Avenue (2510 Klein Avenue from A Agricultural Zoning District to the R-1-2 Single Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Campos, Constant.)

## PUBLIC HEARINGS

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

**C13-042 – District 3**

**(Deferred from 12/17/13 – Item 4.5)**

Documents Filed: Memorandum from Council Member Liccardo, dated April 14, 2014, recommending deferring the rezoning request until after the adoption of the Diridon Plan.

Action: Deferred to the first Council Meeting in August 2014 per Orders of the Day.

- 11.3 **Consideration of an ordinance rezoning the real property located on the north side of Blossom Hill Road, approximately 1000 feet easterly of Snell Avenue (393-397 Blossom Hill Road), from the A(PD) Planned Development Zoning District to the CN - Commercial Neighborhood Zoning District on a 0.45 gross acre site (Santa Teresa Physicians Med Bldg Ltd and The Health Trust, Owner). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)**

**C13-054 – District 2**

**(Deferred from 3/11/14 – Item 4.4 and 3/18/14 – Item 11.6)**

Documents Filed: (1) Memorandum from Kalra, dated March 17, 2014, recommending approval of the Staff recommendations. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C13-054, dated February 19, 2014. (3) Supplemental memorandum from Interim Director of Planning, Building and Code Enforcement David Sykes, dated April 7, 2014, transmitting additional information on the Applicant's plans for the existing roller skating rink. (4) Proof of Publication of Notice of Public Hearing, executed on February 21, 2014, submitted by the City Clerk. (5) Statement and Declaration of Conflict of Interest from Council Member Khamis, dated April 15, 2014, explaining that he made one phone call to property owner to inquire as to the cost of leasing Skate San José Facility on property out of interest in possibly investing in skating facility to preserve it. However, the cost was prohibitive. (6) Petition dated April 15, 2014, signed by 512 residents expressing support to the preservation of San José Skate.

### 11.3 (Cont'd.)

Council Member Khamis recused himself from participating in the Council discussion and voting of this item due to a phone call to the property owner to inquire about the cost of leasing the Skate San José facility.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti offered the report.

Mayor Reed opened the Public Hearing.

Donald Imwalle, Imwalle Properties, spoke to the efforts to keep roller skating alive for the future, his plans for this building and the reason for his request to rezone the proposed development to Commercial Pedestrian.

Public Comments: Elizabeth Ruiz urged the Council to consider keeping the roller rink open for the residents and the Silicon Valley Roller Girls. Ms. Ruiz provided a petition for the record signed by 512 residents expressing support to the preservation of San José Skate.

Mayor Reed closed the Public Hearing.

Donald Imwalle, Imwalle Properties, presented closing comments.

Motion: Council Member Kalra moved approval of the Staff recommendations, including direction to Staff to work with the Applicant and the roller skating community during the rezoning process and direction to the Planning, Building and Code Enforcement and Office of Economic Development Staffs to help identify suitable sites for the Silicon Valley Roller Girls. Vice Mayor Nguyen seconded the motion.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti and City Manager Edward K. Shikada responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29401, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Blossom Hill Road Approximately 1,000 Feet Easterly of Snell Avenue On A 4.05 Gross Acre Site (393 Blossom Hill Road) to the CN Commercial Neighborhood Zoning District”, was passed for publication. Staff was directed to work with the Applicant and the roller skating community during the rezoning process. Planning, Building and Code Enforcement and Office of Economic Development Staffs were directed to help identify suitable sites for the Silicon Valley Roller Girls. (7-0-3-1. Absent: Campos, Constant, Herrera. Abstain: Khamis.)

- 11.4 Consideration of an ordinance rezoning the real property located on the south side of Balbach Street, 100 feet east of Almaden Avenue (110, 120, 150, 158, 160, 166, 172, 180 Balbach Street) from the A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow a mixed-use development with 101 unit multifamily residential units, a 1405 square foot retail space, and an underground parking facility on an approximately 1.5 gross acre site (Balbach Street Properties LLC, Owner). CEQA: Addendum to Downtown Strategy 2000 EIR, Resolution No. 72767. (Planning, Building and Code Enforcement)  
PDC13-027 – District 3  
(Deferred from 3/18/14 – Item 11.3)**

Action: Deferred to May 20, 2014 Per Administration.

- 11.5 Consideration of an ordinance rezoning the real property located on the northwest corner of North Almaden Boulevard and West Saint John Street (143 North Almaden Boulevard) from the LI-Light Industrial Zoning District to the DC-Downtown Primary Commercial Zoning District on a 0.74 gross acre site (One Pal Properties, Owner). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)  
C13-038 – District 3**

Documents Filed: (1) Memorandum from Interim Director of Planning, Building and Code Enforcement David Sykes, dated April 2, 2014, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C13-038, dated March 28, 2014. (2) Memorandum from Planning Commission Secretary David Sykes, dated April 10, 2014, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on March 21, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

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

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 29402, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of North Almaden Boulevard and West Saint John Street On A 0.61 Gross Acre Site from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District”, was passed for publication. (8-0-3. Absent: Campos, Constant, Herrera.)

**11.6 Consideration of an ordinance rezoning the real property located on the northwest corner of Highway 237 and North First Street (4305 North 1<sup>st</sup> Street) from the A(PD) Planned Development Zoning District to the CIC - Combined/Industrial Commercial Zoning District on a 3.5 gross acre site (237 North 1<sup>st</sup> Street Investors LLC, Owner). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)  
C14-010 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-010, dated March 25, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on March 28, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

Public Comments: Jonah Probell spoke in support to the Staff recommendations.

Mayor Reed closed the Public Hearing.

Action: Upon motion by Council Member Chu, seconded by Council Member Oliverio and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 29403, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Highway 237 and North First Street On A 3.5 Gross Acre Site from A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District”, was passed for publication. (8-0-3. Absent: Campos, Constant, Herrera.)

**NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10213	East of Charlotte Dr. & Charlotte Commons Park between Raleigh Rd. and Highway 85 ROW	2	Lennar Homes	2 Lots to 9 Roadway Parcels, 1 Common Area & 99 Units	SFD/S FA
10214	East of Charlotte Dr. & Charlotte Commons Park between Raleigh Rd. and Highway 85 Row	2	Lennar Homes	2 Lots to 5 Roadway Parcels, 1 common Area, & 54 Units	SFD/S FA
10241	2577 Fallingtree Drive North of Fallingtree Drive & West of Capitol	4	JG Building LLC	1 Lot to 7 Lots	SFD

Avenue

## **ADJOURNMENT**

The Council of the City of San José was adjourned at 8:35 p.m. in memory of Steve French, who passed away on February 04, 2014. He was a noted visual artist, a scholar of the arts, and an esteemed member of the San José Arts Community who will be greatly missed. (Liccardo)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

smd/04-15-14 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.