



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 28, 2014

The Council of the City of San José convened in Regular Session at 9:40 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:41 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 Subsection (d)(1) with respect to initiation of litigation in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Goldsmith; Amount of Money or Other Relief Sought: Administrative Appeal. (2) City v. RossDrulisCusenbery Architecture, Inc., et al. Names of Parties Involved: City of San José, RossDrulisCusenbery Architecture, Inc. aka Michael Ross Charles Drulis Architects & Planners, a purported California Corporation and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV- 237767; Amount of Money or Other Relief Sought: Damages according to proof. (3) Sipple, et al. v. City of Alameda, et al. Names of Parties Involved: Donald Sipple, John Simon, Karl Simonsen, Christopher Jacobs, Settlement Class Representatives, New Cingular Wireless PCS LLC, City of Alameda, County of Alameda, City of Albany, City of Alhambra, City of Arcadia, City of Baldwin Park, City of Beaumont, City of Bell, City of Bellflower, City of Benecia, City of Berkeley, City of Burbank, City of Calabasas, City of Cathedral, City of Ceres, City of Chico,

CLOSED SESSION (Cont'd.)

City of Chula Vista, City of Citrus Heights, City of Claremont, City of Colton, City of Compton, City of Covina, City of Cudahy, City of Culver City, City of Cupertino, City of Daly City, City of Desert Hot Springs, City of Dinuba, City of Downey, City of East Palo Alto, City of El Cerrito, City of El Monte, City of El Segundo, City of Emeryville, City of Eureka, City of Exeter, City of Fairfax, City of Fairfield, City of Gardena, City of Gilroy, City of Glendale, City of Gonzales, City of Greenfield, City of Grover Beach, City of Guadalupe, City of Gustine, City of Hawthorne, City of Hayward, City of Hercules, City of Hermosa Beach, City of Holtville, City of Huntington Beach, City of Huron, City of Indio, City of Inglewood, City of Irwindale, City of La Habra, City of Lakewood, City of La Palma, City of La Verne, City of Lawndale, City of Lindsey, City of Long Beach, City of Los Alamitos, City of Los Altos, City of Los Angeles, Los Angeles County, City of Lynwood, City of Malibu, City of Mammoth Lakes, City of Maywood, City of Menlo Park, City of Modesto, City of Montclair, City of Monterey, City of Monterey Park, City of Moreno Valley, City of Mountain View, City of Norwalk, City of Oakland, City of Orange Cove, City of Oroville, City of Pacific Grove, City of Palm Springs, City of Palo Alto, City of Paramount, City of Pasadena, City of Pico Rivera, City of Piedmont, City of Pinole, City of Placentia, City of Pleasant Hill, City of Pomona, City of Port Hueneme, City of Porterville, City of Rancho Palos Verde, City of Redondo Beach, City of Redwood City, City of Rialto, City of Richmond, City of Riverside, City of Sacramento, City of Salinas, City of San Bernardino, City of Buena Ventura (Ventura), City of San Francisco, City of San Gabriel, City of San José, City of San Leandro, City of San Luis Obispo, City of San Marino, City of San Pablo, City of Sanger, City of Santa Ana, City of Santa Barbara, City of Santa Cruz, City of Santa Monica, City of Seal Beach, City of Seaside, City of Sierra Madre, City of Soledad, City of South Pasadena, City of Stanton, City of Stockton, City of Sunnyvale, City of Torrance, City of Tulare, City of Waterford, City of Watsonville, City of Westminster, City of Whittier, City of Winters, City of Woodlake, Does 1-50; Court: Superior Court of California, County of Los Angeles; Case No: BC462270; Amount of Money or Other Relief Sought: Damages according to proof. (C) To confer with Airport Director regarding Potential Threat to Public Services or Facilities Pursuant to Government Code Section 54957(a).

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

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio (1:47 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

School of Rock, San José sang “Living on a Prayer” by Bon Jovi for the Invocation. (District 9)

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by third graders from De Vargas Elementary School, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Items 2.7 and 4.2 were deferred to November 4, 2014 and Item 4.3 was deferred to December 9, 2014 in the evening. (10-0-1. Absent: Oliverio.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the members of the Mayor's Gang Prevention Task Force Tech Team. (Mayor) (Deferred from 9/30/14 – Item 1.1)

Mayor Reed, Vice Mayor Nguyen and Council Member Herrera recognized and commended the members of the Mayor's Gang Prevention Task Force Tech Team.

1.2 Presentation of a commendation to Ron Roberts for being selected as one of the official 2014 Little League World Series umpires. (Chu)

Mayor Reed and Council Member Chu recognized and commended Mr. Ron Roberts.

1.3 Presentation of a proclamation to recognize the month of October as "Filipino History Month" in the City of San José. (Chu) (Rules Committee referral 10/22/14)

Mayor Reed and Council Members Chu, Herrera, Kalra and Campos recognized the month of October as "Filipino History Month" in San José.

CONSENT CALENDAR

Upon motion by Council Member Constant, 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 August 5, 2014.**
 - (b) Regular Minutes of August 12, 2014.**
 - (c) Regular Minutes of August 19, 2014.**
 - (d) Regular Minutes of August 26, 2014.**

2.1 (Cont'd.)

Documents Filed: The Regular Minutes dated August 5, 2014, August 12, 2014, August 19, 2014 and August 26, 2014.

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

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29507 – Rezoning certain real property of approximately 4.73 acres situated on the southeast corner of West San Carlos Street And Sunol Street (800 West San Carlos Street) from the Hi Heavy Industrial Zoning District to the RM(PD) Planned Development Zoning District. PDC14-007**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29507 executed on October 24, 2014, submitted by the City Clerk.

Action: Ordinance No. 29507 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Transportation and Environment Committee Report of October 6, 2014. (Liccardo)**
- (b) **Rules and Open Government Committee Report of October 8, 2014. (Mayor)**
- (c) **Rules and Open Government Committee Report of October 1, 2014. (Mayor) [Deferred from 10/21/14 – Item 2.3(c)]**

Documents Filed: (1) The Transportation and Environment Committee Report dated October 6, 2014. (2) The Rules and Open Government Committee Reports dated October 8, 2014 and October 1, 2014.

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

2.4 Request for an excused absence for Council Member Herrera from the Regular and Evening Sessions of the City Council Meeting on October 21, 2014 due to illness. (Herrera) (Rules Committee referral 10/22/14)

Documents Filed: Memorandum from Council Member Herrera, dated October 21, 2014, requesting an excused absence due to illness

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

2.5 City Council Travel Reports.

There was no report.

2.6 Report from the Council Liaison to the Retirement Boards.

There was no report.

2.7 Adopt a resolution to:

(a) Amend the City of San José Pay Plan effective October 28, 2014, to create the following classification:

(1) Planner IV (4127)

(b) Amend the City of San José Pay Plan effective October 28, 2014, to change the salary range and title for the following classification:

(1) Planner I/II/III (4121/4122/4125) (formerly Planner I/II)

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)

Action: Deferred to November 4, 2014.

2.8 As recommended by the Rules and Open Government Committee on October 8, 2014, adopt a resolution stating that the Mayor, City Council and City Manager in their official capacity for the City of San José shall not meet, welcome, or engage with any members of the government of the Socialist Republic of Vietnam. (Mayor/Nguyen/Liccardo)

Item 2.8 was renumbered to Item 3.6. See Item 3.6 for action.

2.9 (a) Approve an agreement with Dal Properties, LLC to fund and perform a maintenance district annexation for the maintenance of landscape and open space improvements for an area within the Silver Creek Valley area.

(b) Adopt the following 2014-2015 Appropriation Ordinance amendments and Funding Sources Resolution amendments in the Maintenance District No. 15 Fund:

(1) Increase the estimate for Earned Revenue by \$15,000.

(2) Establish an appropriation to the Department of Public Works for the Maintenance District No. 15 Annexation Project in the amount of \$15,000.

(c) Adopt a resolution of intention to annex territory into existing Zone C of Maintenance District 15 (Silver Creek Valley), and directing the Director of Public Works to create and file an engineer's report.

CEQA: Exempt, File No. PP13-057. Council District 8. (Public Works/City Manager)

Documents Filed: Memorandum from Director of Public Works David Sykes and Deputy City Manager/Budget Director Jennifer A. Maguire, dated October 6, 2014, recommending approval of an agreement, adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: Item 2.9 was dropped.

2.10 Adopt a resolution:

- (a) **Authorizing the City Manager or designee to submit a grant application to the Metropolitan Transportation Commission (MTC) for Congestion Mitigation and Air Quality funds for Transportation Demand Management programs in the amount of \$1,500,000 with a local match of \$270,000;**
- (b) **Committing the City to provide the required local match stated above and to pay for any additional cost to complete each of the projects; and**
- (c) **Authorizing the City Manager or designee to accept any grant funding awarded from MTC and to negotiate and execute any grant documents to effectuate the grant.**

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

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen, dated October 6, 2014, recommending adoption of a resolution.

Action: Resolution No. 77196, entitled: “A Resolution of the Council of the City of San José (1) Authorizing the City Manager, or Designee, To Submit a Grant Application to the Metropolitan Transportation Commission for Congestion Mitigation and Air Quality Funds for Transportation Demand Management Programs In The Amount of \$1,500,000 With a Local Match of \$270,000; (2) Making the Certifications and Assurances Required Under the Grant Program and (3) Authorizing the City Manager, or Designee, To Accept Any Grant Funding Awarded from MTC and To Negotiate and Execute Any Grant Documents Necessary to Effectuate the Grant”, was adopted. (11-0.)

2.11 Appoint Gary Prideaux to the District 9 Seat on the Housing and Community Development Commission to an unexpired term ending June 30, 2017. (City Clerk) (Rules Committee referral 10/22/14)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 21, 2014, recommending the appointment of Gary Prideaux.

Action: Gary Prideaux was appointed to the District 9 Seat on the Housing and Community Development Commission to an unexpired term ending June 30, 2017. (11-0.)

2.12 Adopt a resolution authorizing the City Manager or his designee to submit an i6 Challenge Grant application in the amount of \$500,000 under the Economic Development Administration’s Cluster Grant program. CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Economic Development) (Rules Committee referral 10/22/14)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated October 22, 2014, recommending adoption of a resolution and information regarding the Economic Development Administration’s Cluster Grant Program.

2.12 (Cont'd.)

Action: Resolution No. 77197, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application to the U.S. Department of Commerce Economic Development Administration for an i6 Challenge Grant in the Amount of \$500,000", was adopted. (11-0.)

2.13 Adopt a resolution authorizing the City Manager to execute an agreement between the City of San José and Vitol, Inc. for the purchase of California Carbon Allowances for the San José - Santa Clara Regional Wastewater Facility as part of the California Cap-and-Trade Program for an amount not to exceed \$306,605.25. CEQA: Not a Project, File No. No. PP10-066(d), Consultant Services. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated October 24, 2014, recommending adoption of a resolution and noting that in order to meet a deadline set by the California Air Resources Board, the San José-Santa Clara Regional Wastewater Facility must purchase credits as part of the Cap and Trade program by November 3, 2014 and avoid potential penalties.

Action: Resolution No. 77198, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Vitol Inc. for the Purchase of California Carbon Allowances for the San José-Santa Clara Regional Wastewater Facility as Part of the California Cap and Trade Program in an Amount Not To Exceed \$306,605.25", was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

- (a) Negotiate and execute an Agreement with Vanderlande Industries Inc. (Wilmington, DE) for the operation, maintenance and repair of the Airport Baggage Handling Conveyor System in Terminals A and B, including all spare and replacement parts, for an initial five-year term ending October 31, 2019, with a maximum compensation not-to-exceed \$2,134,347 for the initial twelve months of the Agreement, and an estimated \$10,555,787 for the five year term, subject to the annual appropriation of funds.**
- (b) Adjust the maximum compensation annually, not to exceed 3% annually or the percentage adjustment to the City's Living Wage/Prevailing Wage whichever is greater, subject to approval by the City and the appropriation of funds.**
- (c) Execute change orders to cover any unanticipated and non-routine repairs during the initial five year term of the Agreement as may be required, not to exceed \$500,000, subject to the appropriation of funds.**

3.3 (d) Execute five one-year options to extend the term of the Agreement after the initial five year term subject to the annual appropriation of funds.

**CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)
(Deferred from 10/21/14 – Item 3.5)**

Documents Filed: Replacement memorandum from Director of Finance Julia H. Cooper, October 15, 2014, noting that the recommendation language has been amended to reflect a not to exceed increase in the first year maximum compensation of \$79,392 because there is a living wage component to the work performed under this agreement, to accept the report and adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the report on the Request for Proposal for Airport Baggage Handling Conveyor System Services was accepted and Resolution No. 77199, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager To Execute an Agreement with Vanderlande Industries Inc. To Provide Maintenance, Operations and Repair Services for the Baggage Handling System at the Norman Y. Mineta San José International Airport”, was adopted. (11-0.)

3.4 (a) Accept staff’s report analyzing “An Initiative Ordinance Amending Title 6 and Title 20 of the San José Municipal Code to Include Medical Marijuana Collectives As An Allowed Land Use In Agricultural, Commercial Pedestrian, Commercial Neighborhood, Industrial Park, Light Industrial and Heavy Industrial Zoning Districts, and to Establish a Registration Process and Zoning Code Verification Certificate Process” (Initiative) pursuant to California Elections Code Section 9212.

(b) Direct staff to return on November 4, 2014, to approve one of the following options:

- (1) Adopt the proposed initiative as submitted; or**
- (2) Adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided; or**
- (3) Adopt a resolution calling an election to submit the initiative to the voters at the next General Election on Tuesday, June 7, 2016.**

**CEQA: Not a Project, File No. PP10-069, Staff reports and informational memos.
(City Manager/City Attorney/City Clerk)**

Documents Filed: (1) Assistant to the City Manager Angelique Assistant to the City Manager Angelique Gaeta, dated October 17, 2014, recommending acceptance of the Staff report and provide direction to Staff. (2) Supplemental memorandum from City Attorney Richard Doyle, dated October 27, 2014, providing a medical marijuana matrix. (3) Existing Zoning Regulations for Medical Marijuana prepared by the Planning Division, revised date October 28, 2014, Illustrative Only. (4) Initiative Zoning Regulations for Medical Marijuana prepared by the Planning Division, revised date October 28, 2014, Illustrative Only. (5) Email from a member of the public, dated October 21, 2014, regarding illegal collectives.

3.4 (Cont'd.)

Assistant to the City Manager Angelique Assistant to the City Manager Angelique Gaeta and Director of Planning, Building and Code Enforcement Harry Freitas offered the report.

Mayor Reed pointed out that today the Council will receive the report, ask questions and obtain information about the report. Mayor Reed clarified that any Council action on this item will be on November 4, 2014.

City Attorney Richard Doyle presented background information.

Motion: Council Member Constant moved acceptance of the Staff report with direction for Staff to return to Council next week. Council Member Herrera seconded the motion.

Extensive Council discussion ensued.

Mayor opened the floor for public testimony

Public Comments: The following speakers provided comments about the Staff recommendations: Susan Landry, Caitlin Beasley, Julian Street Inn; Gabrielle Antolovich, Voices United; Scott Lane, Corinna Reyes and John Lee.

Action: On a call for the question, the motion carried unanimously, the report analyzing “An Initiative Ordinance Amending Title 6 and Title 20 of the San José Municipal Code to Include Medical Marijuana Collectives As An Allowed Land Use In Agricultural, Commercial Pedestrian, Commercial Neighborhood, Industrial Park, Light Industrial and Heavy Industrial Zoning Districts, and to Establish a Registration Process and Zoning Code Verification Certificate Process” (Initiative) pursuant to California Elections Code Section 9212, was accepted. Staff was directed to return on November 4, 2014. (11-0.)

3.5 **Adopt a resolution to authorize the City Manager to negotiate and execute the First Amendment to the Agreements with GCA Services Group Inc. for custodial services to the Departments of Environmental Services, Parks, Recreation and Neighborhood Services, Public Works, and the Office of Cultural Affairs to:**

- (a) **Require paid time off for employees providing custodial services, pursuant to the City’s Living Wage Policy (Resolution No. 76653), effective on June 4, 2013, for an estimated increase in the amount of \$47,050.**
- (b) **Increase compensation by 10.3%, effective with the first one-year option to extend the agreement beginning November 1, 2014 through October 31, 2015 for an estimated increase in the amount of \$365,323.**
- (c) **Eliminate the 3% cap on compensation increases, and index any compensation adjustments to 80% of the increase in the City’s living wage rate and fluctuations in consumables usage for the remaining option term(s), subject to the appropriation of funds.**

- 3.5 (d) **Increase compensation as required for consumables, such as paper goods and soap in restrooms, due to an unanticipated increase in consumption, for an estimated increase in the amount of \$11,750 for the first option year, effective November 1, 2014.**

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated October 15, 2014, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Rocha and carried unanimously, Resolution No. 77200, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute First Amendments to the Agreements with GCA Services Group, Inc. for Custodial Services for Various City Departments”, was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **Adopt a resolution approving Planned Development Permit, File No. PD14-012 for the approximately 4.73 gross acre site located at the southeast corner of West San Carlos Street and Sunol Street (800 West San Carlos Street) to allow the construction of up to 315 residential units and approximately 20,500 square feet of commercial uses. (Cheim, Barbara J Jr Trustee & Et Al, Owner). CEQA: Addendum to the Diridon Station Area Plan EIR. (Planning, Building and Code Enforcement)**

[Continued from 10/21/14 –Item 11.8(b)]

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD14-012 dated October 1, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 16, 2014, transmitting the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing, executed on September 19, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

Public Comments: Larry Ames expressed support to the Staff recommendations.

Mayor Reed closed the Public Hearing.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Resolution No. 77201, entitled: “A Resolution of the Council of the City of San José Granting, Subject to Conditions, A Planned Development Permit to Allow the Demolition of Three Existing Buildings and the Construction of Up To 315 Multifamily Residences, Up To 22,665 Square Feet of Commercial Use and An Associated Parking Garage on an Approximately 4.73 Gross Acre Site Located on the Southeast Corner of West San Carlos Street and Sunol Street”, was adopted. (11-0.)

- 4.2 (a) Conduct an Administrative Hearing on and consider an Appeal of the Planning Director's use of the Addendum to the Richmond Ranch Environmental Impact Report (EIR), File No. PDC91-081, and the Chaboya Ranch Mitigated Negative Declaration (MND), File No. PDC11-021, as the environmental clearance for the Director's approval of Planned Development Permit Amendments PDA94-021-01 (Richmond Ranch) and PDA13-008-01 (Chaboya Ranch), which revise the grading plan for the Chaboya Ranch project on a project site located east of San Felipe Road and west of Livery Lane, approximately 650 feet southerly of Running Springs Road.
- (b) Adopt a resolution upholding the Planning Director's use of the Addendum, adopting the Mitigation Monitoring and Reporting Program (MMRP) and finding that:
- (1) The City Council has read and considered the Addendum to the Richmond Ranch EIR and Chaboya Ranch MND prepared in connection with Planned Development Permit Amendments PDA94-021-01 and PDA13-008-01, as well as the EIR and MND;
 - (2) The Addendum, together with the EIR and MND, has been prepared and completed in compliance with the California Environmental Quality Act (CEQA) of 1970, together with state and local implementation guidelines;
 - (3) The Addendum, together with the EIR and MND, reflects the independent judgment and analysis of the City of San José;
 - (4) Preparation of a subsequent or supplemental EIR is not required because no new environmental impacts have been identified and no new mitigation measures are required; and
 - (5) The Director of Planning shall transmit copies of the EIR, MND and Addendum to any other decision-making body of the City of San José for the project.
- (c) Conduct an Administrative Hearing and consider an Appeal of the Planning Director's decision to approve the Planned Development Permit Amendments for the Chaboya Ranch grading modifications (File Nos. PDA94-021-01 and PDA13-008-01), and consider adoption of a resolution approving these Planned Development Permit Amendments.

CEQA: Addendum to the Richmond Ranch Environmental Impact Report (EIR) and the Chaboya Ranch Mitigated Negative Declaration (MND), resolution to be adopted. (Planning, Building and Code Enforcement)

PDA94-021-01/PDA13-008-01 – District 8

Documents Filed: Memorandum from Council Member Herrera, dated October 24, 2014, recommending one week deferral of Item 4.2 to the November 4, 2014 Agenda.

Action: Deferred to November 4, 2014 per Orders of the Day.

- 4.3 Consideration of an ordinance rezoning the real property located on the west side of San Felipe Road, approximately 90 feet north of Fowler Road from the A Agriculture Zoning District to the R-1-5 Single-Family Residence Zoning District of an approximately 0.24 gross acre property (APN 676-33-013) and the northern portion of a contiguous property to the east (APN 676-33-014) of approximately 0.17 acres. CEQA: Re-Use of Envision San José 2040 General Plan FEIR (Reso. No. 76041). (Planning, Building and Code Enforcement)
C14-034- District 8
[Continued from 10/21/14 – Item 11.4]**

Action: Continued to December 9, 2014. To be heard in the Evening per Orders of the Day.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 As recommended by Transportation and Environment Committee on October 6, 2014, accept the Semi-Annual Status Report on the San José – Santa Clara Regional Wastewater Facility Capital Improvement Program for the period January through June 2014. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (Environmental Services/Public Works)
[Transportation and Environment Committee referral 10/6/14 – Item D(5)]**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated October 15, 2014, transmitting the recommendations of the Transportation and Environment Committee. (2) Staff presentation dated October 28, 2014 summarizing the Capital Improvement Program Semi-Annual Status Report. (3) Letter from Chuck Reed, Chair, the Treatment Plant Advisory Committee, dated October 9, 2014, expressing concurrence with the Staff recommendations.

Assistant Director of Environmental Services Ashwini Kantak presented the report on the Capital Improvement Program Semi-Annual Status Report.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Semi-Annual Status Report on the San José – Santa Clara Regional Wastewater Facility Capital Improvement Program for the period January through June 2014 was accepted. (10-0-1. Absent: Rocha.)

STRATEGIC SUPPORT SERVICES

- 3.6 As recommended by the Rules and Open Government Committee on October 8, 2014, adopt a resolution stating that the Mayor, City Council and City Manager in their official capacity for the City of San José shall not meet, welcome, or engage with any members of the government of the Socialist Republic of Vietnam. (Mayor/Nguyen/Liccardo)
[Rules Committee referral 10/8/14 – Item G(2)]**

Item 3.6 was renumbered from Item 2.8.

Documents Filed: (1) Memorandum from Mayor Reed, Vice Mayor Nguyen and Council Member Liccardo, dated October 24, 2014, recommending adoption of a resolution with additional points. (2) Memorandum from Council Member Rocha, dated October 27, 2014, providing analysis regarding the actions related to visits by official of the government of Vietnam. (3) Memorandum from City Clerk Toni J. Taber, CMC, dated October 15, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Vice Mayor Nguyen emphasized that the Council's action today will send a message to the Vietnamese government that the City stands united with the San José Vietnamese American community and that the City encourages the Vietnamese government to work towards respecting human rights and freedom of expression.

Motion: Vice Mayor Nguyen moved approval of the memorandum she cosigned with Mayor Reed and Council Member Liccardo, dated October 24, 2014, recommending adoption of a resolution with additional points as described in "Action". Council Member Liccardo seconded the motion.

Mayor Reed expressed support to the motion on the floor citing that this was the appropriate way to be clear to the residents, as well as people from other places what the City's position and policy is, as well as supporting the Vietnamese community in San José for all the reasons outlined in the memorandum.

Council Member Oliverio reiterated that the City should not weigh in on foreign policy.

Council Member Liccardo thanked the Mayor, Vice Mayor and expressed his appreciation to Council Member Chu who brought forth this issue to the Council over a year ago. Council Member Liccardo acknowledged that the City of San José was standing up for the community, freedom and human rights.

Council Member Chu thanked the Vietnamese Community for bringing this issue to him on February 8, 2013, recognized the memorandum from Council Member Rocha and expressed support to the motion on the floor.

Council Members Kalra, Herrera and Council Member Campos expressed their support and appreciation to their colleagues.

3.6 (Cont'd.)

Mayor Reed opened the floor for public testimony.

Public Comments: Expressing support to the resolution and the motion on the floor were: David Mack, Tien Nguyen, Johnny Lee, Dennis Do, Sutton Van Vo, Universe Tru Vin, Den Bui, Ross Signorino, Tam Kao and Ne Phan.

Mayor Reed concluded that the City of San José does not set foreign policy but the Council has the ability to determine behavior within the City and how the residents are protected.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed, Vice Mayor Nguyen and Council Member Liccardo, dated October 24, 2014, was approved, a resolution regarding relations between the City of San José and the Government of the Socialist Republic of Vietnam was approved, with the following points: (1) The City Council does not condone, welcome or sanction high-profile visits, stopovers or drive-bys by representatives and officials of the Socialist Republic of the Vietnam government or that of any delegations affiliated with or organized by the same within the physical boundary of the City of San José. This resolution prohibits the Mayor, Council, City Manager or any of their agents from meeting with any government delegation or representatives of the Socialist Republic of Vietnam. (2) The City Council is opposed to the expenditure of City funds or resources in a manner that promotes or accommodates visits from any Socialist Republic of Vietnam delegation to San Jose, and the Council expects that any such expenses will be fully borne by the Vietnamese government. This policy statement does not prevent the City from taking appropriate security and public safety measures to protect our own community. (3) The City Council hereby directs the City Manager and Chief of Police to implement a detailed "PRIOR NOTICE" policy of requesting the U.S. State Department and/or other outside organizers, agencies, and jurisdictions to inform on the nature, purpose, duration of visits, drive-bys, or stopovers of government delegations and affiliated groups from the Socialist Republic of Vietnam, at least fourteen (14) calendar days before such an occurrence. (4) The City Council further directs that the City Manager and Chief of Police at the earliest available opportunity, report to the Mayor and all Council Members of such visits, drive-bys, or stopovers, once the notification is made from the requesting organizer, agency or jurisdiction or is made known publicly and Resolution No. 77202, entitled: "A Resolution of the Council of the City of San José Regarding Relations Between the City of San José and the Government of the Socialist Republic of Vietnam", was adopted. (8-0-2. Absent: Oliverio, Rocha.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10250	N/E Corner of Juliet Park Drive and Rosemar Avenue	5	Rosemar Court 7, LLC	6/6	SFD	Approve
10257	S/E Corner of McKee Road and La Pala Drive	5	Lisa Le	1/9	SFD	Approve

OPEN FORUM

Ross Signorino recognized the San Francisco Giants and was optimistic about their chances in the World Series.

ADJOURNMENT

The Council of the City of San José was adjourned at 3:28 p.m. in memory of San José resident Lillian Gong-Guy, who passed away on September 10, 2014. Mrs. Gong-Guy founded the Chinese Historical and Cultural Project in 1987 to promote and preserve Chinese culture and history. Mrs. Gong-Guy was a devoted wife, mother, volunteer, civic leader, and philanthropist. (Nguyen)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

smd/10-28-14 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.