

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 13, 2013

The Council of the City of San José convened in Regular Session at 9:02 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Constant, Herrera, Nguyen, Rocha; Reed.

Absent: Council Members - Chu, Kalra, Khamis, Liccardo, Oliverio. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Documents Filed: International Brotherhood of Electrical Workers (IBEW) Package Proposal #3 dated June 13, 2013.

Deputy Director of Employee Relations Jennifer Schembri presented a brief report on labor negotiations. Deputy City Manager Alex Gurza was present.

Public Comments: Dale Dapp, Association of Maintenance Supervisory Personnel (AMSP) and Kara Capaldo, City Association of Management Personnel Agreement (CAMP) spoke in support to the contracts submitted by IBEW.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:03 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation of significant exposure (Claim Not Filed) to litigation in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation of significant exposure (Claim Filed) to litigation: Claimants: In re: Claim of PG&E; City Department: Department of Transportation. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Gonzales-Guerrero, Javier v. City, Brian Johst, Mark Stephens, et al; Names of Parties Involved: Javier Gonzales-Guerrero, City of San José, Brian Johst,

CLOSED SESSION (Cont'd.)

Mark Stephens, Gary Petrakovitz and Tim Stephens; Court: United States District Court, Northern District of California; Case No: CV12-03541 PSG; Amount of Money or Other Relief Sought: Damages according to proof. (2) Marker, Mercedes v. City, Son Vu; Mercedes Marker, City of San José, Son Vu; Court: United States District Court, Northern District of California; Case No: C09-05956 RMW; Amount of Money or Other Relief Sought: Damages according to proof. (3) Noreen Salinas v. City, et al; Names of Parties Involved: Noreen Salinas, City of San José, Chief Robert Davis, Taser International, Inc., Does 1-10; Court: United States District Court, Northern District of California; Case No: C08-02625 RS (consolidated with C09-04410RS); Amount of Money or Other Relief Sought: Damages according to proof. (4) City of San José v. County of Santa Clara; Names of Parties Involved: City of San José, A Municipal Corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, Individually and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara; Court: Superior Court of California, County of Sacramento; Case No: 34-2012-80001190; Amount of Money or Other Relief Sought: Damages according to proof. (5) In re: Applegate Johnston; Names of Parties Involved: Applegate Johnston Inc. Court: Bankruptcy Court, Modesto, California; Case No: 2013-91315-E-7; Amount of Money or Other Relief Sought: Chapter 7 Bankruptcy proceedings. (6) United States, et al. v. J-M Manufacturing Co., dba JM Eagle and Formosa Plastics Corp; Names of Parties Involved: United States, The States of California, Delaware, Florida, Illinois, Indiana, Nevada, New Mexico, New York and Tennessee, the Commonwealth of Massachusetts and Virginia and the District of Columbia ex. Rel. John Hendrix; Court: United States District Court, Central District of California; Court of Appeal, State of California, Sixth Appellate District; Case No: CV-06-00055-GW(PJWx); Amount of Money or Other Relief Sought: Damages according to proof. (7) City v. IAFF Local 230, et al. Names of Parties Involved: City of San José, International Association of Firefighters Local 230; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-237635; Amount of Money or Other Relief Sought: Petition for Writ of Mandate/Petition to Compel Arbitration. (8) Colin Lee Alubowicz v. City of San José; Names of Parties Involved: Colin Lee Alubowicz, City of San José; Court: State of California Public Employees Relations Board; Case No: SF-CE-1079-M. (9) Cindy Huynh v. City of San José; Names of Parties Involved: Cindy Huynh, City of San José; Court: State of California Public Employees Relations Board; Case No: SF-CE-955-M. (10) OE#3 v. City of San José; Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No: SF-CE-1063-M. (11) OE#3 v. City of San José; Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No: SF-CE-900-M. (12) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employees Relations Board; Case No: SF-CE-969-M. (13) IFPTE Local 21, AFL-CIO v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers, City of San José; Court: State of California Public Employees Relations Board; Case No: SF-CE-966-M. (D) to confer to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations:

CLOSED SESSION (Cont'd.)

(1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

(E) To confer with Legal Counsel pertaining to the Successor Agency to the Redevelopment Agency of the City of San José pursuant to (1) Government Code Section 54956.9(d)(1) with respect to existing litigation: City of San José v. County of Santa Clara; Names of Parties Involved: City of San José, A Municipal Corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, Individually and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara; Court: Superior Court of California, County of Sacramento; Case No: 34-2012-80001190; Amount of Money or Other Relief Sought: Damages according to proof. (2) To confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation (Claim Not Filed) of significant exposure in one (1) matter.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:20 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu (1:35 p.m.), Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Monsignor Francisco Rios, Our Lady of Refuge presented the Invocation. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Reed, accompanied by Boy Scout Troops 262 and 282, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 3.12 was heard concurrently with Items 3.6 through 3.9. (10-0-1. Absent: Chu.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of August 13, 2013:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: City of San José v. Vinod Sharma and County of Santa Clara

Adverse Party of Parties: Vinod Sharma, County of Santa Clara

Substance of Litigation: Appeal

Council Vote: Ayes: Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Noes: None.

Abstain: None.

Absent: None.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring August 15, 2013 as, “South Korean Independence Day,” in the City of San José. (Constant)

Mayor Reed and Council Member Constant recognized August 15, 2013 as “South Korean Independence Day”.

1.2 Presentation of a commendation to Downtown Streets Team for their work in exceeding the Clean Creeks, Healthy Communities program outcomes, collecting over 4,000 cubic yards of trash and debris out of the Coyote Creek watershed and housing over 50 formerly homeless community members through the program. (Liccardo)

Mayor Reed and Council Member Liccardo recognized and commended the Downtown Streets Team.

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. (10-0-1. Absent: Liccardo.)

2.1 Approval of minutes.

- (a) Regular Minutes of February 5, 2013
- (b) Regular Minutes of February 11, 2013 on 2013-2014 Budget Planning
- (c) Regular Minutes of February 12, 2013
- (d) Joint Council/San José Financing Authority Minutes of February 12, 2013
- (e) Regular Minutes of February 26, 2013

Documents Filed: (1) The Regular Minutes dated February 5, 2013, February 12, 2013 and February 26, 2013. (2) The Regular Minutes dated February 11, 2013 on 2013-2014 Budget Planning. (3) The Joint Council/San José Financing Authority Minutes dated February 12, 2013.

Action: The City Council Minutes were approved. (10-0-1. Absent: Liccardo.)

2.2 (a) ORD. NO. 29277 – To amend Chapter 9.08 of Title 9 of the San José Municipal Code to updated the receiving station use permit regulations; and to amend Parts 2 and 3 of Chapter 15.14 of Title 15 of the San José Municipal Code to add new definitions, modify permitting and reporting requirements for certain industrial dischargers, and make other technical and conforming changes to the sewer use regulations.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29277 executed on June 21, 2013, submitted by the City Clerk.

2.2 (a) (Cont'd.)

Action: Ordinance No. 29277 was adopted. (10-0-1. Absent: Liccardo.)

- (b) **ORD. NO. 29278 – Rezoning certain real property situated on the west side of North 2nd Street, 150-feet south of East Hedding Street (879 N. 2nd Street) from the R-M Multi-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District on a 0.16 gross acre site. C13-014**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29278 executed on June 21, 2013, submitted by the City Clerk.

Action: Ordinance No. 29278 was adopted. (10-0-1. Absent: Liccardo.)

- (c) **ORD. NO. 29279 – Prezoning certain real property situated at the southwest corner of West San Carlos Street and Leigh Avenue, from County of Santa Clara to CP Commercial Pedestrian Zoning District. C13-010**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29279 executed on June 21, 2013, submitted by the City Clerk.

Action: Ordinance No. 29279 was adopted. (10-0-1. Absent: Liccardo.)

2.3 **Approval of Council Committee Reports.**

- (a) **Rules and Open Government Committee Report of May 15, 2013. (Mayor)**

Documents Filed: (1) Memorandum from Council Member Rocha, dated August 8, 2013, requesting that Staff provide a brief update on the current status of the Three Creeks Trail Bridge Project. (2) The Rules and Open Government Committee Report dated May 15, 2013.

Mayor Reed opened the floor for public testimony.

Public Comments: Presenting comments to the Staff recommendations on the Three Creeks Trail Bridge Project and the Willow Glen Trestle were Martha Heinrichs, Larry Ames, Willow Glen Friends of the Trestle; Jeff Moore, Bruce Tichinin, Bud Beede, Scott Lane, Taisia Mehlahon, President, Saver Our Trails; Bill Rankin, Nancy Kops, Roland LeBrun, David Wall, Helen Chapman, Brian Grayson, Jack Nadeau, Preservation Action Council of San José; Jim Carter, Dick Silva, Chris Roth, Richard Zappelli, Willow Glen Neighborhood Association; Marie Anders and Jack Stallard.

Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano provided a brief status update of the Three Creeks Trail Bridge Project and the Willow Glen Trestle and summarized the action that occurred Rules and Open Government Committee on May 15, 2013.

Mayor Reed and Council Member Oliverio offered comments.

2.3 (a) (Cont'd.)

Motion: Council Member Oliverio moved approval of the Rules and Open Government Committee Report dated June 13, 2013, including the Staff recommendations for (g)(4) the Willow Glen Trestle. Council Member Kalra seconded the motion.

Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano and Director of Public Works David Sykes responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, the Rules and Open Government Committee Report, dated June 13, 2013, was approved. (11-0.)

- (b) **Rules and Open Government Committee Report of May 22, 2013. (Mayor)**
- (c) **Rules and Open Government Committee Report of May 29, 2013. (Mayor)**
- (d) **Transportation and Environment Committee of June 3, 2013. (Liccardo)**
- (e) **Rules and Open Government Committee Report of June 5, 2013. (Mayor)**
- (f) **Neighborhood Services and Education Committee Report of June 13, 2013. (Nguyen)**
- (g) **Public Safety, Finance, and Strategic Support Committee Report of June 20, 2013. (Constant)**
- (h) **Ad Hoc Committee on Economic Competitiveness Report of May 6, 2013. (Mayor)**

Documents Filed: (1) The Rules and Open Government Committee Reports dated May 22, 2013, May 29, 2013 and June 5, 2013. (2) The Transportation and Environment Committee Report dated June 3, 2013. (3) The Neighborhood Services and Education Committee Report dated June 13, 2013. (4) The Public Safety, Finance and Strategic Support Committee Report Dated June 20, 2013. (5) The Ad Hoc Committee on Economic Competitiveness Report dated May 6, 2013.

Action: 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.

There was no report.

2.6 Report from the Council Liaison to the Retirement Boards.

There was no report.

- 2.7 Adopt a resolution authorizing the City Attorney to execute:**
- (a) The Second Amendment to the Agreement among the Board of Administration for the Federated City Employees' Retirement System, the City of San José, and Reed Smith LLP for legal services to increase the maximum compensation by \$250,000 for an amount not to exceed \$750,000.**
 - (b) The Second Amendment to the Agreement among the Board of Administration for the San José Police and Fire Department Retirement Plan, the City of San José, and Reed Smith LLP for legal services to increase the maximum compensation by \$250,000 for an amount not to exceed \$750,000.**

CEQA: File No. PP10(e), Services that involve no physical changes to the environment. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated July 29, 2013, recommending adoption of a resolution.

Council Member Kalra reiterated that the two pension boards should be combined into one.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76743, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute Second Amendments to the Legal Services Agreements Among the City, The Retirements Boards and Reed Smith, LLC", was adopted. (10-0-1. Absent: Kalra.)

- 2.8 Approve the First Amendment to the Master Agreement with Cornerstone Earth Group for Environmental Services to increase the total compensation by \$50,000 for a maximum not to exceed amount of \$300,000. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. Council District 3. (Environmental Services)**

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated July 22, 2013, recommending approval of the first amendment to the master agreement.

Action: The First Amendment to the Master Agreement with Cornerstone Earth Group for Environmental Services to increase the total compensation by \$50,000 for a maximum not to exceed amount of \$300,000, was approved. (10-0-1. Absent: Liccardo.)

- 2.9 Adopt a resolution establishing the FY 2013-14 property tax levy on all taxable property within the City of San José for the purpose of funding the City's general obligation bonded indebtedness and pay the related administration fee to the County. CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated July 22, 2013, recommending adoption of a resolution.

2.9 (Cont'd.)

Action: Resolution No.76744, entitled: “A Resolution of the Council of the City of San José Establishing the Fiscal Year 2013-2014 Property Tax Levy for the City’s General Obligation Bond Indebtedness”, was adopted. (10-0-1. Absent: Liccardo.)

2.10 Approve a Continuation of the Housing Trust Fund Grant Agreement with EHC LifeBuilders for the continued implementation of the San José Downtown Homeless Outreach and Engagement Program through FY 2013-14 in an amount not to exceed \$347,000, for a total two-year contract amount not to exceed \$607,000. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts for services that involve no physical changes to the environment. Council District 3. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated July 22, 2013, recommending approval of a continuation agreement.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, a Continuation of the Housing Trust Fund Grant Agreement with EHC LifeBuilders for the continued implementation of the San José Downtown Homeless Outreach and Engagement Program through FY 2013-14 in an amount not to exceed \$347,000, for a total two-year contract amount not to exceed \$607,000, was approved. (10-0-1. Absent: Liccardo.)

2.11 Adopt a resolution amending the City Pay Plan effective August 13, 2013, to create the Community Service Officer I/II (6131/6132) classification. CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated July 19, 2013, recommending adoption of a resolution.

Action: Resolution No. 76745, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Create the Job Classification of Community Service Officer I/II” was adopted. (10-0-1. Absent: Liccardo.)

2.12 Adopt a resolution authorizing the City Manager to negotiate and execute a Second Amendment to the agreements with Bureau Veritas North America, California Code Check, Inc., CSG Consultants, Inc., Interwest Consulting Group, Inc., TRB & Associates, Inc., and West Coast Code Consultants, and a First Amendment to the agreements with Metropolitan Planning Group and Pacific Municipal Consultants, all for peak staffing temporary personnel services for review of private development projects, to increase the total compensation for each agreement by \$250,000, from \$250,000 to an amount not to exceed \$500,000. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Planning, Building and Code Enforcement)

2.12 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 22, 2013, recommending adoption of a resolution.

Action: Resolution No. 76746, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreements with Bureau Veritas North America, California Code Check, Inc., CSG Consultants, Inc., Interwest Consulting Group, Inc., TRB & Associates, Inc., and West Coast Code Consultants and a First Amendment to the Agreements with Metropolitan Planning Group and Pacific Municipal Consultants for Peak Temporary Personnel Staffing Services", was adopted. (10-0-1. Absent: Liccardo.)

2.13 **Approve the Cooperative Agreement with the California Department of Transportation for the development of project approval and environmental documentation associated with the U.S. 101/Mabury Interchange project. CEQA: Statutorily Exempt, File No. PP10-066(d), CEQA Guidelines Section 15262, Feasibility and Planning Studies. Council Districts 3 and 4. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen, dated July 22, 2013, recommending approval of a cooperative agreement.

Action: The Cooperative Agreement with the California Department of Transportation for the development of project approval and environmental documentation associated with the U.S. 101/Mabury Interchange project was approved. (10-0-1. Absent: Liccardo.)

2.14 **As referred by the Neighborhood Services and Education Committee on June 13, 2013, accept the staff report on pending 2013 State legislation in the Neighborhood Services and Education City Service Area. (City Manager's Office) [Neighborhood Services and Education Committee referral 6/13/13 – Item D(8)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 1, 2013, transmitting the recommendations of the Neighborhood Services and Education Committee.

Action: The Staff report on pending 2013 State legislation in the Neighborhood Services and Education City Service Area was accepted. (10-0-1. Absent: Liccardo.)

2.15 **Approve travel by Council Member Constant to Washington, D.C. on July 31 – August 3, 2013 to attend the University of Michigan Retirement Research Center's 2013 Retirement Research Consortium Annual Meeting. Source of Funds: Police & Fire Retirement, Federated City Employees Retirement, and/or District 1 Office Budget as needed. (Constant)**

2.15 (Cont'd.)

Documents Filed: Memorandum from Council Member Constant, dated August 1, 2013, requesting authorization to travel.

Action: The travel request for Council Member Constant was approved. (10-0-1. Absent: Liccardo.)

**2.16 Approve travel by Council Member Kalra to Chicago, IL on June 25-28, 2013 to attend the Air and Waste Management Associations' 106th Annual Conference as Chair of the Bay Area Air Quality Management District (BAAQMD). Source of Funds: BAAQMD. (Kalra)
(Rules Committee referral 8/7/13)**

Documents Filed: Memorandum from Council Member Kalra, dated June 17, 2013, requesting authorization to travel.

Action: The travel request for Council Member Kalra was approved. (10-0-1. Absent: Liccardo.)

**2.17 As recommended by the Rules and Open Government Committee on August 7, 2013, appoint Anthony Phan to the Library and Early Education Commission for a term ending June 30, 2017.
CEQA: Not a Project. (City Clerk)
[Rules Committee referral 8/7/13 – Item F(1)(a)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 8, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Anthony Phan was appointed to the Library and Early Education Commission for a term ending June 30, 2017. (10-0-1. Absent: Liccardo.)

**2.18 As recommended by the Rules and Open Government Committee on August 7, 2013:
(a) Approve Shakespeare in the Park as a City Council sponsored Special Event.
(b) Approve and accept donations from various individuals, businesses or community groups to support the event.
CEQA: Not a Project. (Oliverio)
[Rules Committee referral 8/7/13 – Item G(2)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 8, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Shakespeare in the Park as a City Council sponsored Special Event was approved and donations from various individuals, businesses or community groups to support the event were authorized to be accepted. (10-0-1. Absent: Liccardo.)

2.19 As recommended by the Rules and Open Government Committee on August 7, 2013:

- (a) Approve Semana Jalisco 2013 “Jalisco Magico” events as a City Council sponsored Special Event.**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

CEQA: Not a Project. (Campos)

[Rules Committee referral 8/7/13 – Item G(3)]

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 8, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Semana Jalisco 2013 “Jalisco Magico” events as a City Council sponsored Special Event were approved and donations from various individuals, businesses or community groups to support the event were authorized to be accepted. (10-0-1. Absent: Liccardo.)

2.20 As recommended by the Rules and Open Government Committee on August 7, 2013:

- (a) Approve the District 5 Immigration Fraud Awareness Event as a City Council sponsored Special Event; and**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

CEQA: Not a Project. (Campos)

[Rules Committee referral 8/7/13 – G(4)]

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 8, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 5 Immigration Fraud Awareness Event as a City Council sponsored Special Event was approved and donations from various individuals, businesses or community groups to support the event were authorized to be accepted. (10-0-1. Absent: Liccardo.)

2.21 As recommended by the Rules and Open Government Committee on August 7, 2013, approve the proposed designation of Council Member Rose Herrera as the voting delegate, and Council Member Pete Constant, as the alternate voting delegate at the September 20, Annual Business Meeting for the League of California Cities (LOCC). (City Manager)

[Rules Committee referral 8/7/13 – G(7)]

2.21 (Cont'd.)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 8, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Council Member Rose Herrera as the voting delegate, and Council Member Pete Constant, as the alternate voting delegate at the September 20, Annual Business Meeting for the League of California Cities were approved. (10-0-1. Absent: Liccardo.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

City Manager Debra Figone announced that Library Director Jill Bourne has started her new role in the Library and that Ruben Torres was currently Acting Fire Chief. City Manager Figone also noted that the Measure B trial was in July with the final submission to the Judge to be October 10, 2013; and the Comprehensive Annual Financial Report will be forthcoming.

- 3.3 (a) **Approve an ordinance amending Section 4.16.020 of Chapter 4.16 of Title 4 of the San José Municipal Code to designate the Director of Public Works or such other director designated by the City Manager to administer the disposition of unclaimed and surplus property.**
- (b) **Approve an ordinance amending Section 15.08.820 of Chapter 15.08 of Title 15 of the San José Municipal Code to specify that private developers are to obtain fire hydrants by following the City of San José Fire Hydrant Specifications and Order Information instructions outlined in the Public Works Department Fire Hydrant Procurement and Installation Process for Private Development Projects and amending Section 19.32.070 of Chapter 19.32 of Title 19 of the San José Municipal Code related to the installation of fire hydrants by private developers to make clarifying changes.**
- (c) **Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Decrease the Estimate for Other Revenue in the amount of \$65,000;**
 - (2) **Eliminate the city-wide appropriation to the Finance Department for Fire Hydrant Sales in the amount of \$65,000.**

**CEQA: Not a Project, File No. PP 10-066(e), Services that involve no physical changes to the environment. (Finance/City Manager's Office)
(Deferred from 6/18/13 – Item 3.11)**

Action: Deferred to September 10, 2013 per Administration.

3.4 Adopt resolutions providing certain representations to the United States Internal Revenue Service regarding the employee contributions for the Retiree Healthcare Trusts for the Police and Fire Department Retirement Plan and the Federated City Employees Retirement Plan. CEQA: Not a Project; File No. PP10-069(a), City Organizational and Administrative Activities. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 1, 2013, recommending adoption of resolutions.

Public Comments: David Wall spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76747, entitled: "A Resolution of the Council of the City of San José Providing Certain Representations to the United States Internal Revenue Service Regarding the Employee Contributions for the Health Care Trust for the Federated City Employees Retirement Plan" and Resolution No. 76748, entitled: "A Resolution of the Council of the City of San José Providing Certain Representations to the United States Internal Revenue Service Regarding the Employee Contributions for the Health Care Trusts for the Police and Fire Retirement Plan", were adopted. (11-0.)

3.5 Approve an ordinance amending various sections of Chapters 3.38 and 3.49 of Title 3 of the San José Municipal Code to implement changes to retiree healthcare benefits in the Tier 2 pension plan for new employees in the Federated City Employees Retirement Plan. CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy change that involves no changes in the physical environment. (City Attorney's Office)

Deputy City Manager Alex Gurza requested a one week deferral of Item 3.5.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Item 3.5 was deferred to August 20, 2013. (11-0.)

3.6 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Municipal Employees' Federation, AFSCME, Local 101 (MEF), and authorize the City Manager to execute an agreement with a term of July 1, 2013 to June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Note: Items 3.6, 3.7, 3.8, 3.9 and 3.12 were heard concurrently.

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated July 26, 2013, recommending adoption of a resolution.

City Manager Debra Figone presented introductory comments.

Deputy City Manager Alex Gurza offered the Staff report on the collective bargaining agreements for the various unions.

3.6 (Cont'd.)

Motion: Council Member Constant moved approval of the Staff recommendations. Vice Mayor Nguyen seconded the motion.

Council discussion ensued.

Mayor Reed provided closing remarks.

Public Comments: David Wall provided comments to the Staff recommendations.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76749, entitled: “A Resolution of the Council of the City of San José Approving An Agreement Between the City of San José and the Municipal Employees’ Federation, AFSCME, Local 101 (MEF) With A Term of July 1, 2013 through June 30, 2014”, was adopted. (11-0.)

3.7 **Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Confidential Employees’ Organization, AFSCME, Local 101 (CEO), and authorize the City Manager to execute an agreement with a term of July 1, 2013 to June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated July 26, 2013, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76750, entitled: “A Resolution of the Council of the City of San José Approving An Agreement Between the City of San José and the Confidential Employees’ Organization, AFSCME, Local 101 (CEO) With A Term of July 1, 2013 through June 30, 2014”, was adopted. (11-0.)

3.8 **Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Association of Maintenance Supervisory Personnel, IFPTE, Local 21 (AMSP), and authorize the City Manager to execute an agreement with a term of July 1, 2013 to June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated July 30, 2013, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76751, entitled: A Resolution of the Council of the City of San José Approving An Agreement Between the City of San José and the City Association of Management Personnel, IFPTE, Local 21 (CAMP) With A Term of July 1, 2013 through June 30, 2014”, was adopted. (11-0.)

- 3.9 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the City Association of Management Personnel, IFPTE, Local 21 (CAMP), and authorize the City Manager to execute an agreement with a term of July 1, 2013 to June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated July 30, 2013, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76752, entitled: A Resolution of the Council of the City of San José Approving An Agreement Between the City of San José and the City Association of Management Personnel, IFPTE, Local 21 (CAMP) With A Term of July 1, 2013 through June 30, 2014”, was adopted. (11-0.)

- 3.10 Conduct a public hearing on the Sewer Service and Use Charges and Storm Sewer Service Charges report filed by the Director of Finance with the City Clerk's Office; and adopt a resolution to confirm the approval of the annual report for Fiscal Year 2013-2014 of the Director of Finance on Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges, and the placement of charges as set forth therein on the 2013-2014 tax roll, with such modifications as the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance Julia H. Cooper, dated July 16, 2013, recommending conducting a public hearing and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on July 16, 2013 and July 23, 2013, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Mayor Reed closed the Public Hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76754, entitled: “A Resolution of the Council of the City of San José Confirming the Approval of the Annual Report for Fiscal Year 2013-2014 of the Director of Finance on Sanitary Sewer Service and Use Charges and Storm Sewer Service Changes and Confirming the Approval of the Placement of Charges as Set Forth Herein on the 2013-2104 Tax Roll”, was adopted. (10-0-1. Absent: Nguyen.)

3.11 Conduct a public hearing and adopt a resolution setting a new Fee Schedule for the City of San José's Tow Services Agreements to become effective August 13, 2013, as follows:

- (a) **Basic Tow Service: \$200.00 per tow**
- (b) **Service Call:**
 - (1) **Class "A" regular duty tow trucks \$200.00 per hour**
 - (2) **Class "A" regular duty tow trucks \$50.00 per quarter hour**
 - (3) **Class "B" medium duty tow trucks \$87.50 per quarter hour**
 - (4) **Class "C" and "D" heavy duty tow trucks \$117.50 per quarter hour**
- (c) **Extraordinary Service Tows:**
 - (1) **Class "A" regular duty tow trucks \$100.00 per hour**
 - (2) **Class "B" medium duty tow trucks \$350.00 per hour**
 - (3) **Class "C" and "D" heavy duty tow trucks \$470.00 per hour**
- (d) **After Hours Gate Fee (one hour after close of San José Police Department desk hours until 7:00 a.m.): \$85.00**
- (e) **Vehicle Storage Fee:**
 - (1) **\$85.00 per day, per space outside**
 - (2) **\$95.00 per day per space indoors**
- (f) **Contractual Rates of Compensation to the City of San José:**
 - (1) **\$80.00 per tow**
 - (2) **\$8.00 per dispatch**

CEQA: Not a Project, File No. PP10-067(a), Adjustment to Fees and Charges. (Planning, Building and Code Enforcement)

Action: Deferred to August 27, 2013 per Administration.

3.12 Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Association of Legal Professionals of San José (ALP), and authorizing the City Manager to execute an agreement with a term of July 1, 2013 through June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel-Related Decisions. (City Manager's Office) (Rules Committee referral 8/7/13)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated August 5, 2013, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76753, entitled: A Resolution of the Council of the City of San José Approving An Agreement Between the City of San José and the Association of Legal Professionals (ALP) With A Term of July 1, 2013 through June 30, 2014", was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Approve an ordinance amending Chapter 4.46 and 4.47 of Title 4 of the San José Municipal Code to include a 50% reduction of Building and Structure Construction Tax and the Commercial-Residential-Mobilehome Park Building Tax for any new Downtown Commercial or Industrial Structure within the Downtown regardless of height if the project receives building permits before December 31, 2014. CEQA: Final EIR, Downtown Strategy, Resolution No. 72767. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, dated July 22, 2013, recommending adoption of an ordinance.

Motion: Council Member Liccardo moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Director of Economic Development/Chief Strategist Kim Welsh responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29280, entitled: “An Ordinance of the City of San José Amending Chapters 4.46 and 4.47 of Title 4 of the San José Municipal Code to Suspend the Collection of a Portion of the Building and Structure Construction Tax and the Commercial Residential Mobilehome Park Building Tax on Downtown Commercial or Industrial Structures”, was passed for publication. (11-0.)

- 4.2 Conduct a public hearing and consider an ordinance amending Title 20 of the San José Municipal Code (the Zoning Ordinance) by amending Section 20.85.020 of Chapter 20.85 to change the maximum allowable Building Height on the Norman Y. Mineta San José International Airport property within the jurisdiction of the City of San José that is bounded by US Highway 101, State Route 87, Coleman Avenue, the jurisdictional boundaries of the City of Santa Clara and Interstate Freeway 880, and that is designated Public/Quasi-Public on the Envision San José 2040 General Plan Land Use/Transportation Diagram, so that the maximum allowable Building Height on the subject property would be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration (FAA), to further implement the height and economic development goals and policies set forth within the Envision San José 2040 General Plan, and to make other technical, non-substantive, or formatting changes within those sections of Title 20. CEQA: Envision San José 2040 General Plan Final PEIR, Resolution No. 76041, and Airport Master Plan Update Final EIR, Resolution Nos. 67380 and 71451. (Planning, Building, and Code Enforcement)**

4.2 (Cont'd.)

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 25, 2013, transmitting the recommendations of the Planning Commission. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 2, 2013, providing a more comprehensive response to the letter from Mr. Pirayou that was received by the Planning Commission and Staff on July 24, 2013 and clarifying in further detail the environmental clearance review and determination for the proposed ordinance in compliance with the California Environmental Quality Act (CEQA). (3) Proof of Publication of Notice of Public Hearing, executed on July 12, 2013, submitted by the City Clerk. (5) Letter from Ash Pirayou, Rutan and Tucker, LLP, dated August 12, 2013, providing objections to the proposed amendment to the Zoning Ordinance. (6) Supplemental letter from Ash Pirayou, Rutan and Tucker, LLP, dated August 13, 2013, regarding comments and objects to the proposed amendment to the Zoning Ordinance.

Mayor Reed opened the Public Hearing.

Motion: Council Member Liccardo moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

Public Comments: Ash Pirayou, Rutan and Tucker, LLP, representing Atlantic Aviation, expressed comments and objections to changing the maximum allowable heights on the Airport property. David Wall spoke in support to the Staff recommendations.

Mayor Reed closed the Public Hearing.

City Attorney Richard Doyle, Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti and Director of Aviation William F. Sherry, A.A.E. responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29281, entitled: "An Ordinance of the City of San José Amending Section 20.85.020 of Chapter 20.85 of Title 20 of the San José Municipal Code To Clarify the Maximum Allowable Building Height Within Geographical Employment Centers Including the Norman Y. Mineta San José International Airport", was passed for publication. (11-0.)

- 4.3 (a) **Conduct an Administrative Hearing and consider an Appeal of the Environmental Determination of Consistency with a previously adopted Mitigated Negative Declaration prepared for Site Development Permit File No. H12-022 for an approved Vesting Tentative Map Permit to subdivide one parcel into one lot for condominium purposes to allow for the development of 312 residential units with 6,000 square feet of ground-floor commercial uses on a 0.97 gross acre site in the DC Downtown Core Zoning District, located on the southside of Santa Clara Street between Market Street and San Pedro Street (1 S. Market Street) (Essex OSM REIT, LLC, owner).**

- 4.3 (b) **Conduct an Administrative Hearing and consider an Appeal of the Planning Director's decision to approve a Vesting Tentative Map to subdivide one parcel into one lot for condominium purposes to allow for the development of 312 residential units with 6,000 square feet of ground-floor commercial uses on a 0.97 gross acre site in the DC Downtown Core Zoning District, located on the southside of Santa Clara Street between Market Street and San Pedro Street (1 S. Market Street) (Essex OSM REIT, LLC, owner).**

CEQA: Mitigated Negative Declaration prepared for Site Development Permit File No. H12-022. (Planning, Building, and Code Enforcement)

T13-025 – District 3

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 29, 2103, recommending conducting Administrative Hearings, consider the appeals and adopt resolutions upholding the Planning Director's Determinations. (2) Proof of Publication of Notice of Public Hearing, executed on July 26, 2013, submitted by the City Clerk. (3) Letter from Matthew R. Mahood, President and CEO, San José Silicon Valley Chamber of Commerce, dated August 13, 2013, expressing their support to the One South Market Project and deny the appeals. (4) Letter from Ellen Trescott, Adams, Broadwell, Joseph & Cardozo, Attorneys at Law, dated August 12, 2013, providing supplemental comments from the Santa Clara and San Benito Building and Construction Trades Council, its affiliated local unions, their members and families who live and or work in the City of San José and Santa Clara County.

Mayor Reed opened the Administrative Hearing.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti presented introductory remarks.

Senior Executive Analyst Sylvia Do for Planning, Building and Code Enforcement offered the report.

Ellen Trescott, Adams, Broadwell, Joseph & Cardozo, Attorneys at Law, spoke in support for the Appellant, Santa Clara and San Benito Building and Construction Trades Council and requested that Council deny the Tentative Map on behalf of her client.

Mark Tersini, Applicant, KT Properties, spoke to the merits of the project.

Public Comments: Neil Struthers, Santa Clara Building Trades Council and Bill Guthrie, Local 393, Plumbers and Pipefitters, spoke in support to the appeal. David Wall provided additional comments.

Mark Tersini, Applicant, KT Properties, declined to provide more comments.

Mayor Reed closed the Administrative Hearing.

Senior Executive Analyst Sylvia Do spoke to the Ellen Trescott's comments.

4.3 (Cont'd.)

Mayor Reed provided meeting disclosures.

City Attorney Richard Doyle, Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti and Senior Executive Analyst Sylvia Do responded to Council questions and concerns.

Motion: Council Member Liccardo moved approval to deny both appeals and to uphold the Planning Director's determinations. Council Member Constant seconded the motion.

Extensive Council discussion ensued.

Action: On a call for the question, the motion carried, Resolution No. 76755, entitled: "A Resolution of the Council of the City of San José Denying an Appeal of and Upholding the Director of Planning, Building and Code Enforcement's Determination of Consistency with a Previously Adopted Mitigated Negative Declaration (File No. H12-022) As the Environmental Clearance Determination for a Vesting Tentative Map To Allow for the Subdivision of One Parcel into One Lot for Condominium Purposes for the One South Market Project (File No. T13-025), All in Accordance with the California Environmental Quality Act, Together With Related State and Local Government Implementation Guidelines" and Resolution No. 76756, Entitled: "A Resolution of the Council of the City of San José Approving a Vesting Tentative Map Permit to Subdivide One Parcel into One Lot for Condominium Purposes to Allow for the Development of 312 Residential Units with Approximately 6,000 Square Feet of Ground Floor Commercial Uses in the DC Downtown Core Zoning District on a 0.97 Gross Acre Site Located on the Southside of Santa Clara Street between Market Street and San Pedro Street (1 South Market)", were adopted. (9-2. Noes: Campos, Kalra.)

4.4 **Approve the master agreements with CH2M HILL Engineers, Inc., Mark Thomas & Company, Inc. and GHD, Inc. for engineering design services from the date of execution through June 30, 2018, in an amount not to exceed \$2,000,000 for each agreement. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated July 24, 2013, recommending executing a purchase order, approval of related contingency and exercising three one year options.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the master agreements with CH2M HILL Engineers, Inc., Mark Thomas & Company, Inc. and GHD, Inc. for engineering design services from the date of execution through June 30, 2018, in an amount not to exceed \$2,000,000 for each agreement were approved. (10-0-1. Absent: Chu.)

4.5 Accept the staff report on the San José Environmental Innovation Center Project. CEQA: Negative Declaration for the renovation of the SJEIC was adopted on December 1, 2009, File No. PP09-138. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated July 24, 2013, recommending acceptance of the report.

Director of Public Works David Sykes and City Attorney Richard Doyle responded to Council questions and concerns.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the staff report on the San José Environmental Innovation Center Project was accepted. (11-0.)

NEIGHBORHOOD SERVICES

5.1 Hold a public hearing and adopt a resolution:

- (a) **Accepting the summary of costs and findings of the Summary 33433 Report pursuant to Health and Safety Code Section 33433 for the conveyance and disposition of the property located at the Northeast corner of Almaden Expressway and Coleman Road under the terms and conditions of the proposed Disposition and Development Agreement (“DDA”).**
- (b) **Approving a DDA between the City of San José and Sycamore Grove Terrace LLP, or its designated affiliate, enabling the development of Sycamore Terrace, a 27-unit for-sale housing development, and authorizing the Director of Housing to negotiate, execute, and record, if applicable, all documents reasonably necessary to effectuate the terms of the DDA.**

**CEQA: Mitigated Negative Declaration, File No. PD90-061. Council District 10. (Housing)
(Deferred from 6/11/13 – Item 5.1)**

Action: Deferred to August 27, 2013 per Administration.

**5.2 As recommended by the Neighborhood Services and Education Committee on June 13, 2013, accept the semi-annual report on the status of grant and bond-funded park, trail, and recreational facility projects and approve the site ranking criteria for the bond funded softball complex. (Parks, Recreation & Neighborhood Services)
[Neighborhood Services and Education Committee referral 6/13/13 – Item D(7)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 1, 2013, transmitting the recommendations of the Neighborhood Services and Education Committee.

5.2 (Cont'd.)

Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano provided the report and responded to Council questions and concerns.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the semi-annual report on the status of grant and bond-funded park, trail, and recreational facility projects and approve the site ranking criteria for the bond funded softball complex was accepted. (11-0.)

5.3 **As recommended by the Public Safety, Finance, and Strategic Support Committee on June 20, 2013, accept the Audit of Graffiti Abatement. (City Auditor)** **[Public Safety, Finance, and Strategic Support Committee referral 6/20/13 – Item D(7)]**

Action: Upon motion by Council Member Herrera, seconded by Council Member Constant and carried unanimously, Item 5.3 was deferred to August 20, 2013. (10-0-1. Absent: Chu.)

TRANSPORTATION & AVIATION SERVICES

6.1 **recommended by the Transportation and Environment Committee on June 3, 2013, accept the Audit of Taxi Service and Regulation in San José. (City Auditor)** **[Transportation and Environment Committee referral 6/3/13 – Item D(7)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 1, 2013, transmitting the recommendations of the Transportation and Environment Committee.

Action: Dropped; Referred to the Airport Competitiveness Committee.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Hold a public hearing for the purpose of accepting and responding to public comment regarding the San José Municipal Water System's 2013 Public Health Goals Report on water quality as required by the California Health and Safety Code.**
- (b) **Approve the San José Municipal Water System's 2013 Public Health Goals Report and direct staff to file the report with the California Department of Public Health.**

CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of City actions. Council Districts 2, 7 and 8. (Environmental Services)

7.1 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated July 22, 2013, recommending conducting a public hearing, approving the 2013 Public Health Goals Report and direction to Staff as indicated below in "Action".

Mayor Reed opened the Public Hearing.

Motion: Council Member Liccardo moved approval of the Staff recommendations. Council Member Herrera seconded the motion.

Public Comments: Providing comments to the Staff recommendations were David Wall, Mark Trout and Ross Signorino.

Mayor Reed closed the Public Hearing.

Division Manager of Environmental Services Jeffrey Provenzano responded to questions from Council Member Liccardo.

Action: On a call for the question, the motion carried unanimously, the San José Municipal Water System's 2013 Public Health Goals Report was accepted and Staff was directed to file the report with the California Department of Public Health. (11-0.)

7.2 **Approve the Master Agreement with AECOM Technical Services, Inc., for consultant services for citywide storm sewer master planning from the date of execution to June 30, 2017, in an amount not to exceed \$2,800,000. CEQA: Exempt, File No. PP10-066(d), CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated July 22, 2013, recommending approval of the Master Agreement.

Director of Public Works David Sykes responded to Council questions and concerns.

Public Comments: David Wall spoke in opposition to the Staff recommendations.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the Master Agreement with AECOM Technical Services, Inc., for consultant services for citywide storm sewer master planning from the date of execution to June 30, 2017, in an amount not to exceed \$2,800,000 was approved. (11-0.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

Note: This is a courtesy notice and no Council action was taken.

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 Map:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10181	Southeast corner of Olin Road and Santana Row	6	FRIT San José Town and Country Village, LLC	1 Lot/ 249 Units	SFA	Approval

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>
10186	Easterly of Charlotte Dr. and Charlotte Commons Park between Raleigh Rd. and Hwy 85	2	Lennar Homes of CA	341 Lots/ 301 Units	SFD/SFA
10199	Northerly of the intersection of Springbrook Ave. and Canyon Ridge Dr.	8	Tim Lewis Communities	13 Lots/12 Units	SFD

OPEN FORUM

Documents Filed: Conservatorship in Crisis: Civil Rights Violations & Abuses of Power dated December 2012, submitted by Linda Kincaid, MPH on August 13, 2013.

- (1) Ross Signorino expressed concern about graffiti and recommended solutions to eliminate it.
- (2) Linda Kincaid and Richard Calhoun, advocates against elder abuse, spoke about elder civil rights violations and abuses of power in Santa Clara County.
- (3) David Wall opined about issues related to Applegate Johnson, Inc.
- (4) Mark Trout voiced his own opinions on societal issues.
- (5) Tim Gildersleeve expressed concerns about pension reform.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:43 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
Acting City Clerk

smd/08-13-13 MIN

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