



CITY COUNCIL AGENDA

JANUARY 28, 2014

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:03 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:16 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 1)**
Pastor Chris Nallan, International Christian Center presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed accompanied by the Third Graders, Country Lane Elementary School led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

- Closed Session Report
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation celebrating Lunar New Year in the City of San José. (Chu/ Nguyen/Kalra)
Mayor Reed, Vice Mayor Nguyen and Council Members Chu and Kalra recognized the Chinese Lunar New Year in the City of San José.
- 1.2 Presentation of a proclamation recognizing January 27, 2014 as “International Holocaust Remembrance Day” in the City of San José. (Herrera)
Mayor Reed and Council Member Herrera recognized January 27, 2014 as “International Holocaust Remembrance Day” in the City of San José. Holocaust survivors shared their touching experiences.
- 1.3 Presentation of a commendation to the San José Earthquakes on the occasion of its 40th anniversary in the North American Soccer League, the Western Soccer Alliance, and as a charter member of Major League Soccer. (Mayor)
Mayor Reed and Council Member Liccardo recognized and commended the San José Earthquakes.
- 1.4 Presentation of a proclamation for “San José Firefighter’s Day” on the Department’s 160th anniversary in the City of San José. (Kalra)
(Rules Committee referral 1/22/14)
Heard in the Evening.
Mayor Reed and Council Member Kalra recognized the San José Fire Department on their 160th anniversary in the City of San José.
- 1.5 Presentation of a commendation to Taylor Palmaffy for his heroic actions in saving two lives while vacationing with his family in Hawaii. (Khamis)
(Rules Committee referral 1/22/14)
Heard in the Evening.
Mayor Reed and Council Member Khamis recognized and commended Taylor Palmaffy for his heroic actions.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.

2. CONSENT CALENDAR

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29363 – Making certain findings pursuant to government code Section 84615 relating to the implementation of Section 12.06.915 of Chapter 12.06 of Title 12 of the San José Municipal Code as it relates to campaign finance.

Ordinance No. 29363 adopted.

- (b) ORD. NO. 29364 - Amending title 20 of the San José Municipal Code (the Zoning Ordinance) to amend Section 20.10.060 of Chapter 20.10 (general provisions and zoning districts) to add the PQP public/quasi-public zoning district to Table 20-10; to amend Section 20.20.300 of Chapter 20.20 (Open Space & Agricultural Zoning Districts) to change the permit requirement from a conditional use permit to a special use permit for exceedence of decibel levels in table 20-45; to amend the Title of Chapter 20.40 to read “Commercial Zoning Districts and Public/Quasi-Public Zoning District”; to amend Part 1 (General and Part 2 (Uses Allowed) of Chapter 20.40 to add land uses applicable to urban villages to the description of purpose of the CP Commercial Pedestrian Zoning District, to establish the PQP Public/Quasi-Public Zoning District and enumerate uses allowed therein, and to add or change enumerated uses allowed in the commercial zoning districts more generally and in specific commercial zoning districts, including adding aquaculture/aquaponics as a special use, adding auction as a conditional use in the cg and PQP Zoning Districts, adding stadiums (2,000 seats or fewer) as a conditional use and stadiums (more than 2,000 seats) as a conditional use requiring city council approval in the PQP and all commercial zoning districts except the CO Zoning District, adding neighborhood agriculture and fuel cells as permitted uses, adding plant nursery as a permitted use in the CO and PQP Zoning Districts, making animal grooming and indoor animal boarding a permitted use as incidental to neighborhood agriculture in the CO and PQP Zoning Districts, changing bail bond establishment from a permitted use to a special use in the CP Zoning District where located within an urban village, changing mixed use residential/commercial from a conditional use to a special use in the CP Zoning District where located within an urban village, changing ancillary installation, sale or lease of commercial vehicles, and tires, batteries, oil change and smog check servicing from prohibited uses to conditional uses in the CP Zoning District, changing sale of vehicle parts from a conditional use to a special use in the CP Zoning District, and adding utility facilities including corporation yards as a conditional use in the PQP Zoning District; to amend Section 20.40.120 to allow outdoor animal care as an incidental use to neighborhood agriculture; to amend Section 20.40.200 to establish development standards for the PQP Zoning District and to modify development standards in the CP Zoning District where located within an urban village; to amend Section 20.40.250 to exempt lots in the CP and PQP Zoning Districts from the front setback provisions of this Section; to amend Section 20.40.400 to clarify applicable allowances for minor projections into setback areas; to amend Section

2. CONSENT CALENDAR

2.2 Final Adoption of Ordinances. (Cont'd.)

Recommendation:

- (b) 20.40.600 to require a special use permit for exceedence of applicable decibel levels and to apply the performance standards to the PQP Zoning District; to amend Section 20.40.520 to exempt neighborhood agriculture from the limits on outdoor uses within 150 feet of residentially zoned property; to amend Sections 20.80.1700, 20.80.1750 and 20.80.1760 of Chapter 20.80, Part 18 (specific use regulations – temporary trailers) to change regulations and permit requirements for temporary antennae; to amend Section 20.100.220 of Chapter 20.100 (administration and permits) to designate the director of planning as the initial decision making body and the city council as the appeal decision making body for special use permits for school, church/religious assembly, and privately-operated museum, library, park, playground and community center uses, and incidental commercial uses in the PQP Zoning District; to amend Section 20.120.110 of Chapter 20.120 (zoning changes and amendments) to add the PQP general plan designation and the PQP Zoning District as the corresponding conforming zoning district to table 20-270; and to amend Chapter 20.200 (definitions) to add new sections defining “Fuel Cell” and “Signature Project” and to amend definitions of “business support”, “Co-Generation Facility”, “Downtown Core Area” and “Solar Photovoltaic Power System”; all to further and implement the urban agriculture, economic development, urban village, public-quasi-public, and zoning 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.

Ordinance No. 29364 adopted.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of December 11, 2013. (Mayor)
Approved.

- (b) Rules and Open Government Committee Report of January 8, 2014. (Mayor)
Approved.

Staff was referred to the next Closed Session to discuss the labor aspects and how to proceed concerning Item (g)(4), Paid Parent Leave. Staff was directed to report back to Council within 30 to 45 days for an open discussion.

Noes: Constant, Khamis, Oliverio.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2. CONSENT CALENDAR

2.5 City Council Travel Reports.

Mayor Reed attended the United States Conference of Mayors' Winter Meeting in Washington D.C. to discuss issues impacting cities and metropolitan areas nationwide and to speak on pension reform. Mayor Reed also attended the Build America Mutual Municipal Leadership Forum in Phoenix, Arizona.

Council Members Constant and Herrera presented highlights of their attendance at the League of California Cities.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Housing and Community Development Commission Appointments.

Recommendation: Approve appointments to the Housing and Community Development Commission. (City Clerk)

(Deferred from 1/14/14 – Item 2.7)

Deferred to February 4, 2014 per City Clerk.

2.8 Agreement with San José State University for the Martin Luther King, Jr. Library.

Recommendation: Approve the continuation of the Cost Share Agreement between the City of San José and San José State University for the operation of the joint Martin Luther King, Jr. Library. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. Council District 3. (Library)

(Deferred from 1/14/14 – Item 2.15)

Approved.

2.9 Calling for Municipal Elections on June 3, 2014 and November 4, 2014.

Recommendation: Adopt a resolution calling for a Regular Municipal Election on June 3, 2014 and a Run-Off Municipal Election on November 4, 2014, if need be, for the purpose of electing a Mayor and Council Members for Districts 1, 3, 5, 7 and 9 and requesting consolidation with the County of Santa Clara. (City Clerk)

Resolution No. 76907 adopted.

2. CONSENT CALENDAR

2.10 Continuation Agreement with Renne Sloan Holtzman & Sakai LLP for Legal Services and Adoption of Appropriation Ordinance Amendments in the General Fund for Fiscal Reform Plan Legal Services.

Recommendation:

- (a) Adopt a resolution authorizing the City Attorney to negotiate and execute a Continuation Agreement with Renne Sloan Holtzman & Sakai LLP (“Renne Sloan”) for legal services in connection with labor relations matters, increasing compensation by \$425,000 for a total amount not to exceed \$975,000, subject to appropriation of funds as recommended below, and extending the term through December 31, 2014.

Resolution No. 76908 adopted.

Noes: Constant, Kalra.

- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:
- (1) Increase the city-wide appropriation to the City Attorney’s Office for Fiscal Reform Plan Outside Legal Counsel by the amount of \$525,000.
 - (2) Decrease the Fiscal Reform Plan Implementation Earmarked Reserve by the amount of \$525,000.

CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney's Office/City Manager's Office)

Ordinance No. 29366 adopted.

Noes: Constant, Kalra.

2.11 Actions Related to the Agreement with Dan Corson for Fabrication and Installation of Public Art Projects on Santa Clara and San Fernando Streets.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement with Dan Corson for the fabrication and installation of a public artwork at San Fernando and Santa Clara Streets under Route 87 in an amount not to exceed \$410,000; and
- (b) Accept maintenance responsibility of the public artwork, as required, subject to the appropriation of funds.

CEQA: Exempt, File No. PP11-017. Council District 3. (Economic Development)

Resolution No. 76909 adopted.

2. CONSENT CALENDAR

2.12 Amendment to the Agreement with Ricoh Americas Corporation to Provide and Maintain Walk-Up Copiers/Multi-Function Devices.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute the Third Amendment with Ricoh Americas Corporation to:

- (a) Reduce the monthly rental rates to reflect negotiated cost savings of 44% or \$244,524 per year.
- (b) Reduce the black & white and color cost per copy to reflect negotiated cost savings of 6%, or \$7,236 per year, based on current paper consumption.
- (c) At no additional cost to the City, provide and install a Fax over Internet Protocol server for centralized fax functionality on all 244 Multi-Function Devices (MFD) in the City's inventory as well as desktop and mobile devices.
- (d) At no additional cost to the City, add TRAC (Trends, Reporting, Accounting, and Communication) data analytics solution to better monitor the City's MFD print environments, and manage the City's MFD inventory.
- (e) Extend the Agreement for five additional option years beginning July 1, 2014 through June 30, 2019, subject to the annual appropriation of funds.

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

Resolution No. 76910 adopted.

2.13 The 2014 Council Appointments.

Recommendation: As recommended by the Rules and Open Government Committee on January 15, 2014, approve the changes to Council Appointments:

- (a) Appoint Council Member Khamis to the Santa Clara Valley Transportation Authority Board of Directors, replacing Council Member Liccardo.
- (b) Appoint Council Member Herrera to the Santa Clara Valley Habitat Agency Implementation Board as a regular member, replacing Council Member Khamis.
- (c) Appoint Council Member Khamis to the Santa Clara Valley Habitat Agency Implementation Board as an alternate, replacing Council Member Herrera.
- (d) Reappoint Kerrie Romanow as the alternate to the Santa Clara Valley Water District – Water Commission.
- (e) Appoint Council Member Khamis to the Santa Clara County Local Agency Formation (LAFCO) as a regular member, replacing Council Member Constant.
- (f) Appoint Council Member Constant to the Santa Clara County Local Agency Formation (LAFCO) as an alternate, replacing Council Member Khamis.

(Mayor)

[Rules Committee referral 1/15/14 – Item F(1)(a)]

Approved.

2. CONSENT CALENDAR

2.14 African American History Month.

Recommendation: As recommended by Rules and Open Government Committee on January 15, 2014:

- (a) Approve the African American History Month Flag Raising as a City Council sponsored Special Event.
- (b) Approve expending funds and accepting donations from various individuals, businesses and community groups to support this event.

CEQA: Not a Project. (Kalra)

[Rules Committee referral 1/15/14 – Item G(2)]

Approved.

2.15 Actions Related to Council Member Constant's Travels to Sacramento, CA, Ontario, CA, and Los Angeles, CA.

Recommendation:

- (a) Approve travel by Council Member Constant to Sacramento, CA on January 24, 2014, Ontario, CA on April 4, 2014, and Sacramento, CA on June 20, 2014 to attend Public Safety, Finance, and Strategic Support Committee meetings. Source of Funds: Mayor & Council Travel Fund. (Constant)
- (b) Approve travel by Council Member Constant to Los Angeles, CA on September 3 - 5, 2014 to attend the League of California Cities Annual Conference. Source of Funds: Mayor & Council Travel Fund. (Constant)

(Rules Committee referral 1/22/14)

Approved.

2.16 Council Member Herrera's Travels to Sacramento, CA, Ontario, CA, and Los Angeles, CA.

Recommendation: Approve travel by Council Member Herrera to Sacramento, CA on January 23 – 24, 2014, Ontario, CA on April 3 - 4, 2014, Sacramento, CA on June 19 – 20, 2014, and Los Angeles, CA on September 3 – 5, 2014 to attend the League of California Cities Transportation, Communication & Public Works Meeting and Conferences . Source of Funds: Mayor & Council Fund. (Herrera)

(Rules Committee referral 1/22/14)

Approved.

2. CONSENT CALENDAR

2.17 Actions Related to Mayor Reed's Travels to Washington, D.C. and Phoenix, AZ.

Recommendation:

- (a) Approve travel by Mayor Reed to Washington, D.C. and Phoenix, AZ on January 21 – 23, 2014 to attend the Conference of Mayors' Winter Meeting and the Build America Mutual Municipal Leadership Forum. Source of Funds: Mayor's Office Fund. (Mayor)
- (b) Request for an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on January 22, 2014 due to Authorized City Business: Conference of Mayors' Winter Meeting and the Build America Mutual Municipal Leadership Forum. (Mayor)

(Rules Committee referral 1/22/14)

Approved.

2.18 Documentary Screening of "Flesh".

Recommendation: As recommended by the Rules and Open Government Committee on January 22, 2014:

- (a) Approve the documentary screening of "Flesh" as a City Council sponsored Special Event and approving expenditure of city funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Rocha)

(Rules Committee referral 1/22/14)

Approved.

3. STRATEGIC SUPPORT SERVICES

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

No Report.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

Heard at 9:00 a.m.

No Report.

3. STRATEGIC SUPPORT SERVICES

3.3 Modification of Living Wage Policy to Clarify Applicability to City Leases.

Recommendation: Adopt a resolution approving a “*clarification*” to the City’s Living Wage Policy, Council Policy 3-3, to clarify that living wage requirements do not apply to leases with tenants who do not have service contracts with the City or receive direct financial assistance from the City. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (Economic Development/Public Works)
(Deferred from 12/17/13 – Item 3.3)

The replacement Staff memorandum dated January 17, 2014, was approved: replacing “modification” to “clarification”.

Resolution No. 76911 adopted, as amended.

Noes: Campos, Chu, Kalra, Rocha.

3.4 Audit of Employee Travel Expenditures.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on December 19, 2013, accept the Audit of Employee Travel Expenditures. (City Auditor)
[Public Safety, Finance, and Strategic Support Committee referral 12/19/13 – Item (d)(7)]
Accepted.

Staff was directed to return to Council with: (1) Options for a policy requirement that incorporates using the internet for learning knowledge/training through the web. (2) Revisit and clarify travel to Arizona and update City Policy if required.

3.5 Annual Summary of Labor Negotiations.

Recommendation: Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations. CEQA: Not a Project, File No. PP10-069(a), Annual Reports, that involve no approvals of any City actions. (City Manager’s Office)

Heard Immediately Following the Consent Calendar.

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.6 Comprehensive Annual Debt Report.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on December 19, 2013, accept the Comprehensive Annual Debt Report for Fiscal Year Ended June 30, 2013. CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involve no approvals of any City actions. (Finance)
[Public Safety, Finance, and Strategic Support Committee referral 12/19/13 – Item D(9)]
The memorandum from Council Members Khamis and Constant, dated January 24, 2014, was approved:

- (1) **The Comprehensive Annual Debt Report was accepted.**
- (2) **Staff was directed to draft and return to Council with a Lease Revenue Bond Financing Policy consistent with the adopted Council Policy 1-15 “Debt Management Policy”¹.**

¹ (To date: the only supplemental policy adopted by the Council is the “Policy for the Issuance of Multifamily Housing Revenue Bonds”, Council Policy 1-16. Both of these policies are included as Appendices A and B to the Comprehensive Annual Debt Report.).

Staff was further directed to revise the Council Policy 1-18 “Operating Budget and Capital Improvement Program Policy” to include reference to the Lease Revenue Bond Financing Policy.

The Lease Revenue Bond Financing Policy should include the following:

- (a) Any lease revenue financing must have an identified revenue source for repayment, which may include the general fund, special funds or project revenues.
 - (b) Prior to embarking on a lease revenue bond financing in which project revenues are identified as the repayment source, a feasibility study will be performed to determine the volatility of the revenue and provide sensitivity analysis on project revenue projections including worst/best case scenarios.
 - (c) Results of the feasibility study will be presented to the Council for review and 2/3 majority approval of a plan of finance prior to commencement of the preparation of the financing documents necessary for a bond sale and Council’s approval of the issuance of bonds.
- (3) **The City Attorney was directed to return to Council by June 2014 with the language for a City ordinance to require, for the purpose of the approval of any Lease Revenue Bonds, a 2/3 vote of the Council, instead of a simple majority vote and a 2/3 vote of the Council to alter such a decision, once adopted.**

Noes: Chu.

3. STRATEGIC SUPPORT SERVICES

3.7 Actions Related to the Agreements for Temporary Staffing Services for Building Inspectors, Plan Review, and Related Services.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to:
 - (1) Execute amendments to the following Master Agreements for temporary staffing to perform building inspection, plan review and related services to adjust the compensation amount for each agreement as required, for an aggregate amount not to exceed \$3,000,000 for all agreements, subject to appropriation of funds:
 - (a) West Coast Code Consultants Inc.
 - (b) Bureau Veritas North America Inc.
 - (c) California Code Check Inc.
 - (d) CSG Consultants Inc.
 - (e) Interwest Consulting Group Inc.
 - (f) TRB and Associates Inc.
 - (g) Metropolitan Planning Group
 - (h) Pacific Municipal Consultants
 - (2) Exercise all remaining option years on the agreements, with the last option year ending June 30, 2017, subject to appropriation of funds; and
 - (3) Negotiate and execute subsequent amendments to the Master Agreements to adjust the compensation amount for each agreement, subject to appropriation of funds.

Resolution No. 76912 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:
 - (1) Increase the Planning Development Fee Program – Non-Personal/Equipment appropriation to the Planning, Building and Code Enforcement Department by \$100,000.
 - (2) Decrease the Planning Development Fee Program Earmarked Reserve by \$100,000.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance/ Planning, Building and Code Enforcement/City Manager’s Office)

Ordinance No. 29367 adopted.

3.8 Follow-Up Report on Outstanding Issues Related to Gaming Control (Title 16).

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on December 19, 2013, accept the Follow-Up Report on Outstanding Issues related to Gaming Control (Title 16). (Police)
[Public Safety, Finance, and Strategic Support Committee referral 12/19/13 – Item (d)(3)]

(Action Continued on the Next Page)

3. STRATEGIC SUPPORT SERVICES

3.8 Follow-Up Report on Outstanding Issues Related to Gaming Control (Title 16). (Action Cont'd.)

The memorandum from Council Members Constant, Rocha, Khamis and Kalra, dated January 24, 2014, was approved, as amended, and accepted the Follow-Up Report on Outstanding Issues related to Gaming Control, with the following direction to the City Manager:

- (1) Transfer the permitting process for key and non-key employees to the State as previously recommended by the City Auditor and in the same manner that the State performs this function in all other municipalities (*providing for an option in City Code for non-key employees, including when and if the State can handle the capacity, there will be an option for key employees*). Involve the cardrooms in any meetings and discussions with the State until an agreement is reached.
- (2) Incorporate due process protection in Title 16 by utilizing a neutral third party, such as Judicial Arbitration and Mediation Services (JAMS) to handle all disputes including regulatory interpretation and determination of minor violations. Issue citations and violation notices to cardrooms within fifteen (15) business days from the date of the *discovery* so that all evidence is preserved, unless there are investigatory reasons that can be articulated as to why a citation or notice could not be issued in a timely manner. Include the name of the individual responsible for the alleged regulatory matter and minor violation in the citation/notice and direct Staff to determine if it should be “loser-pays” scenario.
- (3) The City Manager was directed to work with the Chief of Police *to create a process that would allow for alternate level cardroom gaming in accordance with the Council’s previous changes to Title 16.*
- (4) The City Manager was directed to work with the Chief of Police to allow reasonable occupancy for non gaming events at cardrooms. This allowance should be considered, given the City’s existing security measures, such as video surveillance and existing security measures.
- (5) Amend Title 16 to allow charitable and tournament events at the cardrooms. For these types of events where the cardrooms do not receive fees per hand played, the additional tables should not be counted against the forty nine (49) tables currently allowed. Such events should be limited to no more than six (6) per cardroom per calendar year.
- (6) Continue the efforts to completely civilianize the Division of Gaming Control as suggested by the City Auditor’s Report (April 2010) and the White Sands Gaming Regulatory Practices Report (February 2011).
- (7) The City Attorney was directed to provide advisory opinions to cardrooms on the City’s interpretation of Title 16 within thirty (30) days of a formal inquiry by a cardroom. The City Manager and City Attorney were directed to implement the above referenced recommendations by May 1, 2014, approximately ninety (90) days.

Noes: Liccardo.

3. STRATEGIC SUPPORT SERVICES

3.9 Amendments to the Pay Plan for Chief of Police and Assistant Police Chief.

Recommendation: Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective February 2, 2014, to roll the Peace Officer Standards and Training (POST) and Holiday-in-Lieu premium pays into the base pay for the classification of Chief of Police (2227), which increases the salary range from \$129,965.356 - \$203,137.072 to \$147,568.805 - \$230,651.431.
- (b) Amend the City of San José Pay Plan effective February 2, 2014, to roll the Holiday-in-Lieu premium pay into the base pay and increase by approximately two percent (2%) the top of the salary range for the classification of Assistant Police Chief (2225), which increases the salary range from \$120,039.648 - \$187,117.929 to \$129,325.267 - \$201,592.360.

CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy change, Title 3 (Personnel). (City Manager's Office)
(Rules Committee referral 1/22/14)

Resolution No. 76913 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Actions Related to the Funding Commitment for the Creekview Inn Apartments Rehabilitation Project.

Recommendation: Adopt a resolution:

- (a) Approving a funding commitment to King Road Associates, a California Limited Partnership, for a conditional grant of up to \$920,984 for the rehabilitation of Creekview Inn Apartments, located at 965 Lundy Avenue, to provide ten studio apartments for extremely low-income (ELI) homeless individuals.
- (b) Approving a funding commitment of up to \$105,000 to King Road Associates for Project-Based Rental Assistance (PBRA) and an Operating Subsidy for the ten studio apartments for the homeless.
- (c) Authorizing the Director of Housing, or designee, to set the specific business terms and negotiate and execute all documents necessary to implement the rehabilitation, PBRA and Operating Subsidy, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection with the rehabilitation grant, rental assistance, and operating subsidy.

CEQA: Exempt, File No. PP13-108. Council District 4. (Housing)

Dropped.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Actions Related to the Allen at Steinbeck School Soccer Field Project.

Recommendation:

- (a) Report on bids and award of contract for the Allen at Steinbeck School Soccer Field Project to the low bidder, McGuire and Hester, for the base bid and one Add Alternate in the total amount of \$4,090,590 and approval of a seven percent contingency in the amount of \$286,341.

Approved.

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund:
Council District 10:

- (1) Establish an estimate for Earned Revenue in the amount of \$1,847,000; and
(2) Increase the Allen at Steinbeck School Soccer Field appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,847,000.

CEQA: Exempt, File No. PP11-009. Council District 10. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 29368 adopted.

Resolution No. 76914 adopted.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Review and Discussion of the Long-Range Property Management Plan.

Recommendation: Review and discuss the Long-Range Property Management Plan.
(Successor Agency)

(Deferred from 1/14/14 – Item 9.1)

Deferred to February 11, 2014 per Administration.

- **Open Forum**
Mitchell Loebel submitted information for the record about Kaiser Permanente's billing procedures.

- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 6:45 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

11.2 Conforming Rezoning of the Real Property Located on the South Side of West Hedding Street, Approximately 330 Feet Easterly of Spring Street.

Recommendation: Consideration of an ordinance conforming rezoning of the real property located on the south side of West Hedding Street, approximately 330 feet easterly of Spring Street (360 W. Hedding Street) from the CO Commercial Office Zoning District to the LI Light Industrial Zoning District on a 0.24 gross acre site (Orlando Nunes, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)

C13-040 – District 3

[Deferred from 11/19/13 – Item 11.1(c) and 1/14/14 Item 4.1]

Ordinance No. 29369 passed for publication.

11.3 Rezoning the Real Property Located at/on the Easterly Terminus of Skyway Drive, East of Monterey Road, Near the Southeast Corner of the Football Field.

Recommendation:

- (a) Certify the Final Environmental Impact Report for the Valley Christian Schools Planned Development Rezoning and adopt a resolution making certain findings concerning significant environmental impacts, mitigation measures and alternatives, and adopting a mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act (CEQA).
 - (1) **The memorandum from Mayor Reed and Council Member Kalra, dated January 24, 2014, was approved, the Staff recommendations were approved with a modification to require a Santa Clara Valley dudleya plant mitigation measure at 2:1 ratio. This should be reflected in the Resolution that certifies the final EIR and adopts the Mitigation Monitoring and Reporting Program and as a condition of the rezoning.**
 - (2) **Staff directed to work with Valley Christian Schools in order to facilitate Annual Community Meetings and report back to Council. CEQA Resolution No. 76915 adopted, as amended.**

(Action Continued on the Next Page)

11. PUBLIC HEARINGS

11.3 Rezoning the Real Property Located at/on the Easterly Terminus of Skyway Drive, East of Monterey Road, Near the Southeast Corner of the Football Field. (Action Cont'd.)

- (b) Consideration of an ordinance rezoning the real property located at/on the easterly terminus of Skyway Drive, east of Monterey Road, near the southeast corner of the football field (100 Skyway Drive) from A(PD) Zoning District to the A(PD) Zoning District to allow: (1) increase student population from 1,300 to 2,300 students; (2) remove prohibition on inbound school bus access on Diamond Heights Drive; (3) remove a requirement for a transportation mitigation measure at Skyway Drive and Monterey Road; and 4) modify Santa Clara Valley dudleya plant mitigation measures on a 56.2 gross acres site (Valley Christian Schools, Owner). CEQA: Valley Christian Schools EIR to be considered for adoption. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC12-012 – District 2

(Deferred from 12/10/13 – Item 11.4)

Ordinance No. 29370 passed for publication.

11.4 Conventional Rezoning of the Real Property Located on the South Side of Park Avenue, Between Sonoma Street and Delmas Avenue.

Recommendation: Consideration of an ordinance conventionally rezoning the real property located on the south side of Park Avenue, between Sonoma Street and Delmas Avenue (Park Delmas Investors LLC, Owner) from LI Light Industrial Zoning District to DC Downtown Core Zoning District on an approximately 1.72 gross acre site. CEQA: Envision 2040 General Plan Final Program EIR, Resolution No. 76041. Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)

C13-047 – District 3

Deferred to April 8, 2014.

11.5 Conforming Conventional Rezoning the Real Property Located at/on the Northeast Corner of Williams Road and San Tomas Expressway.

Recommendation: Consideration of an ordinance conforming conventional rezoning of the real property located at/on the northeast corner of Williams Road and San Tomas Expressway (3591 Williams Road), from the A(PD) Planned Development Zoning District to the R-18 Single-family Residence Zoning to allow demolition and reconstruction of a single-family residence on a 0.294 gross acre site (Farzana Chowdhary, Qamrul Hasan, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. (Planning, Building and Code Enforcement)

C13-048 – District 1

Ordinance No. 29371 passed for publication.

11. PUBLIC HEARINGS

11.6 Rezoning the Real Property Located on the Southwest Corner of Silver Creek Valley Place and Silver Creek Valley Road, Approximately 450 Feet Easterly of U.S. Highway 101.

Recommendation: Consideration of an ordinance rezoning the real property located on the southwest corner of Silver Creek Valley Place and Silver Creek Valley Road, approximately 450 feet easterly of U.S. Highway 101 (5855 Silver Creek Valley Place), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the addition of CIC Combined Industrial/Commercial Zoning District uses to the existing Planned Development Zoning on an approximately 3.00 gross acre site (San Gabriel Interests LP, Owner). CEQA: Supplemental EIR for the Edenvale Area Development Policy Modification, Resolution No. 70021, and addenda thereto. (Planning, Building and Code Enforcement)

PDC13-023 – District 2

Ordinance No. 29372 passed for publication.

11.7 Rezoning the Real Property Located on the East Side of Boynton Avenue, Approximately 90 Feet North of Williams Road.

Recommendation:

- (a) Adopt a resolution approving the Boynton Avenue Residential Project Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program.

CEQA Resolution No. 76916 adopted.

- (b) Consideration of an ordinance rezoning the real property located on the east side of Boynton Avenue, approximately 90 feet north of Williams Road (970 Boynton Avenue), from the R-M Multiple Residence Zoning District to the R-M(PD) Planned Development Zoning District to allow up to 10 single-family detached residences (townhomes) on a 0.72 gross acre site (Kanemoto Gary M Trustee & Et Al, Owner).

CEQA: Mitigated Negative Declaration to be considered for adoption. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC13-033 – District 1

Ordinance No. 29373 passed for publication.

- **Open Forum**

There were none presented.

- **Adjournment**

The Council of the City of San José was adjourned at 8:26 p.m. in memory of Ina M. Arrañaga, who passed on January 4, 2014. A San José resident for 47 years, with a caring spirit and a warm, genuine smile, she will be deeply missed by her family and friends. (Rocha)