

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 04, 2014

The Council of the City of San José convened in Regular Session at 9:04 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chu, Constant, Herrera (9:08 a.m.), Kalra, Khamis (9:08 a.m.), Liccardo (9:06 a.m.), Oliverio (9:07 a.m.), Rocha (9:07 a.m.), Nguyen; Reed.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:05 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel with respect to Public Employment/Public Employee Appointment pursuant to Government Code Section 54957: Title: City Auditor; Name: Sharon Erickson. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 with respect to initiation of litigation in one (1) matter. (C) to confer with Legal Counsel pursuant to subsection (b) of Section 54956.9 of the Government Code with respect to anticipated litigation of significant exposure (Claim Not Filed) in one (1) matter. (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Romero, et al. v. Harris, et al. Names of Parties Involved: Nicholas Romero, a minor, by and through his Guardian ad Litem Nicole Romero-Villarruel, Scott Harris, San José Police Officer, Sergeant Davis, San José Police Officer, Sergeant Grant, San José Police Officer, Lieutenant Weger, San José Police Officer, Robert Davis, individually and in his capacity as Chief of Police, Chris Moore, individually and in capacity as Chief of Police for the City of San José, John Doe and Richard Roe, individually and in their capacities as San José Police Officers, the true names and exact numbers of whom are unknown at this

CLOSED SESSION (Cont'd.)

time; City of San José, a municipal corporation; Court: U.S. District Court, Northern District of California, San José Division; Case No: CV12-04322 EJD; Amount of Money or Other Relief Sought: Damages According to Proof. (2) Stand for San José, et al. v. City, et al. Names of Parties Involved: Stand for San José and Eileen Hannan, City of San José, City Council of the City of San José, Redevelopment Agency of the City of San José; Diridon Development Authority; Court: Santa Clara County Superior Court; Case No: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive Relief. (3) Stand for San José, et al. v. City, et al. Names of Parties Involved: Stand for San José, Eileen Hannan, Michelle Brenot, City of San José, City Council of the City of San José, Redevelopment Agency of the City of San José; Diridon Development Authority, Does 1-10, inclusive, Athletics Investment Group, LLC, Does 1-20, inclusive; Court: Superior Court for the State of California in and for the County of Santa Clara; Case No: 1-13-CV-250372; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorneys Fees. (4) San José Police Officers' Association v. City, et al. Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (5) San José Retired Employees Association, et al. v. City, et al. Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1-50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (6) Sapien, et al. v. City of San José, et al. Names of Parties Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenges to Measure B. (7) Harris, et al. v. City of San José, et al. Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone, in her Capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (8) Mukhar, et al, v. City of San José, et al. Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) AFSCME, et al. v. City of San José, et al. Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone in her

CLOSED SESSION (Cont'd.)

official capacity as City Manager, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-2255928; Amount of Money or Other Relief Sought: Challenge to Measure B. (E) to confer with Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, 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.

(F) to confer with Legal Counsel pertaining to the Successor Agency to the Redevelopment Agency of the City of San José pursuant to subsection (c) of Section 54956.9 of the Government Code with respect to initiation of litigation in one (1) matter.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:32 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio (1:42 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Reverend Jethroe Moore, NAACP President offered a prayer for the Invocation. (District 2)

PLEDGE OF ALLEGIANCE

Mayor Reed accompanied by third grade students, Country Lane Elementary School led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 3.4 was deferred to February 11, 2014. (10-0-1. Absent: Oliverio.)

CEREMONIAL ITEMS

1.1 Presentation of Commendation to Downtown Streets Team for their dedicated work in cleaning the streets of the Mayfair area and throughout District 5. (Campos)

Mayor Reed and Council Members Campos and Liccardo recognized and commended the Downtown Streets Team for their enthusiasm and commitment in helping to keep the streets clean in Mayfair and District 5.

1.2 Presentation of a proclamation recognizing February 7, 2014 as “National Wear Red Day” in the City of San José. (Constant)

Mayor Reed and Council Member Constant recognized Friday, February 7, 2014 as “National Wear Red Day” in the City of San José to raise awareness for the fight against heart disease in women for the past 10 years. Everyone was encouraged to wear red on Friday expressing their support.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) **Regular Minutes of October 1, 2013.**
- (b) **Minutes of the Joint Council/Successor Agency to the Redevelopment Agency Meeting of October 1, 2013.**
- (c) **Regular Minutes of October 8, 2013.**
- (d) **Minutes of the Joint City Council/Santa Clara County Board of Supervisors Meeting of October 18, 2013.**
- (e) **Regular Minutes of October 22, 2013.**
- (f) **Regular Minutes of October 29, 2013.**

Documents Filed: (1) The Regular Minutes dated October 1, 2013, October 8, 2013, October 22, 2013 and October 29, 2013. (2) Minutes of the Joint Council/Successor Agency to the Redevelopment Agency Meeting dated October 1, 2013. (3) Minutes of the Joint Council/Santa Clara County Board of Supervisors Meeting dated October 18, 2013.

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

2.2 Final Adoption of Ordinances.

There were none.

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of January 15, 2014. (Mayor)**
- (b) **Public Safety, Finance, and Strategic Support Committee Report of January 16, 2014. (Constant)**
- (c) **Economic Competitiveness Committee Report of November 4, 2013. (Mayor)**
- (d) **Economic Competitiveness Committee Report of December 2, 2013. (Mayor)**

Documents Filed: (1) The Rules and Open Government Committee Report dated January 15, 2014. (2) The Public Safety, Finance and Strategic Support Committee Report dated January 16, 2014. (3) The Economic Competitiveness Reports dated November 4, 2013 and December 2, 2013.

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

- 2.4 (a) **Request for an excused absence for Council Member Constant from the Regular Meetings of Rules and Open Government Committee on January 29, 2014, February 5, 2014 and February 12, 2014 due to Scheduling Conflict. (Constant)**
(Rules Committee referral 1/29/14)

2.4 (Cont'd.)

Documents Filed: Memorandum from Council Member Constant, dated January 23, 2014, requesting excused absences.

Action: The absences for Council Member Constant were approved. (11-0.)

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Approve an ordinance amending Section 4.46.039.10 of Chapter 4.46 of Title 4 of the San José Municipal Code and Section 4.47.095 of Chapter 4.47 of Title 4 to extend the partial suspension of the collection of the building and structure construction tax and the suspension of the collection of the commercial-residential-mobile home park building tax for tenant improvements to office research and development uses, data center uses and installation of solar photovoltaic systems until March 31, 2017. CEQA: Not a Project; File No. PP10-067 (a), Increase or Adjustment to Fees, Rates & Fares. (City Attorney's Office)

Documents Filed: City Council Action Request from City Attorney Richard Doyle, dated January 21, 2014, recommending approval of an ordinance.

Action: Ordinance No. 29374, entitled: “An Ordinance of the Council of the City of San José Amending Section 4.46.039.10 of Chapter 4.46 of Title 4 of the San José Municipal Code and Section 4.47.095 of Chapter 4.47 of Title 4 to Continue the Suspension of the Collection of the Building and Structure Construction Tax and the Commercial Residential Mobilehome Park Building Tax for Tenant Improvements to Office, Research and Development Uses, Data Center Uses and Installation of Solar Photovoltaic Systems Until March 31, 2017”, was passed for publication. (11-0.)

2.8 Adopt a resolution authorizing the City Attorney to negotiate and execute a Nineteenth Amendment to the agreement with Orrick Herrington & Sutcliffe LLP for legal services related to the City’s outstanding Airport revenue debt to increase the compensation by \$75,000 for a total compensation not to exceed \$735,000. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated January 23, 2014, recommending adoption of a resolution.

2.8 (Cont'd.)

Action: Resolution No. 76917, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Nineteenth Amendment to the Agreement with Orrick Herrington & Sutcliffe LLP for Legal Services Related to the City's Outstanding Airport Revenue Debt to Increase the Compensation by \$75,000 for a Total Compensation Not To Exceed \$735,000", was adopted. (11-0.)

- 2.9 (a) Reject all bids received on October 10, 2013 for Project 7409 – Water Valve Rehabilitation 2014 project.**
- (b) Report on bids received on December 12, 2013, and award of contract for the 7409 – Water Valve Rehabilitation Rebid project to the low bidder, San José Water Company, for the base bid and Add Alternate No. 1 in the amount of \$418,500, and approve a contingency in the amount of \$62,775.**

CEQA: Exempt, File No. PP13-089. (Environmental Services/Public Works)

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow and Director of Public Works David Sykes, dated January 13, 2014, recommending rejecting all bids for October 10, 2013, approve the report on bids received on December 12, 2013 and award of the contract to the low bidder.

Action: All bids received on October 10, 2013 for Project 7409 – Water Valve Rehabilitation 2014 project were rejected and the report on bids received on December 12, 2013, and award of contract for the 7409 – Water Valve Rehabilitation Rebid project to the low bidder, San José Water Company, for the base bid and Add Alternate No. 1 in the amount of \$418,500, with related contingency, were approved. (11-0.)

2.10 Authorize the City Manager to:

- (a) Amend Purchase Order 48837 with Buckles Smith Electric (San José, CA), for the purchase of new and reconditioned supplies and electrical parts, to increase maximum compensation by \$700,000, for a revised total amount not-to-exceed \$1,780,000 for the current term ending June 30, 2014.**
- (b) Amend Purchase Order 48837 to increase the not-to-exceed amount for the remainder of the current term ending on June 30, 2014, in the event that the usage exceeds estimates, subject to the appropriation of funds.**
- (c) Exercise the remaining one-year options to issue a new purchase order for the period July 1, 2014 through June 30, 2015, subject to the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(a), Purchase of Supplies, Equipment and Professional Services with no changes in the physical environment. (Finance)

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated January 13, 2014, recommending amending the purchase orders and exercising the one year options to issue a new purchase order.

Council Member Khamis highlighted the fact that the City has been having serious problems with copper wire theft and noted the amount is now up to \$1.78 Million.

2.10 (Cont'd.)

Council Member Herrera pointed out that the copper wire item was heard recently at the Transportation and Environment Committee Meeting and Staff has found ways to keep people out of the wires and smart lights, including alerts when the copper wire is cut. Council Member Herrera added that that more information will be coming to Council at a future meeting.

Action: Upon motion by Council Member Khamis, seconded by Council Member Herrera and carried unanimously, Purchase Order 48837 with Buckles Smith Electric (San José, CA), for the purchase of new and reconditioned supplies and electrical parts, to increase maximum compensation by \$700,000, for a revised total amount not-to-exceed \$1,780,000 for the current term ending June 30, 2014 and Purchase Order 48837 to increase the not-to-exceed amount for the remainder of the current term ending on June 30, 2014, in the event that the usage exceeds estimates, subject to the appropriation of funds were amended and the remaining one-year options to issue a new purchase order for the period July 1, 2014 through June 30, 2015, subject to the appropriation of funds was approved. (11-0.)

2.11 Approve an agreement with Santa Clara Valley Transportation Authority for the Sanitary Sewer Relocation Project on Alum Rock Avenue from the date of execution to June 30, 2015, in an amount not to exceed \$643,000. CEQA: Exempt, File No. PP13-076. Council District 5. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated January 13, 2014, recommending approval of the agreement.

Action: An agreement with Santa Clara Valley Transportation Authority for the Sanitary Sewer Relocation Project on Alum Rock Avenue from the date of execution to June 30, 2015, in an amount not to exceed \$643,000, was approved. (11-0.)

- 2.12 (a) Approve travel by Council Member Chu to San Francisco, CA on February 20 - 21, 2014 to attend the League of California Cities League Board of Director's Meeting. Source of Funds: League of California Cities. (Chu)**
- (b) Request for an excused absence for Council Member Chu from the Regular Meeting of Public Safety, Finance and Strategic Support Committee on February 20, 2014 due to Authorized City Business: League of California Cities Annual Conference and Board of Director's Meeting. (Chu)**

Documents Filed: Two memoranda from Council Member Chu, both dated January 23, 2014, requesting approval of travel and an excused absence.

Action: The travel request for Council Member Chu was approved and the absence was excused. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Edward K. Shikada reported that Monday, February 10, 2014, Council and Senior Staff will be attending the 2014-2015 Budget Planning Study Session to hear and discuss the Telephone Budget Survey Results, the Neighborhood Associations/Youth Commission Priority Setting Results, the General Fund Forecast Review and Potential Revenue Measures and the General Fund Budget Priorities.

3.3 Adopt a resolution authorizing the City's designated officers to negotiate, execute and deliver the following agreements related to the City of San José, San José International Airport Subordinated Commercial Paper Notes:

- (a) Letter of credit and reimbursement agreement with Barclays Bank PLC, and the associated fee letter.
- (b) Third Amended and Restated Issuing and Paying Agent Agreement with U.S. Bank National Association.
- (c) Third amended and restated dealer agreements with each of Barclays Capital Inc., Citigroup Global Markets Inc. and a fourth amended and restated dealer agreement with Morgan Stanley & Co., LLC and authorizing the City's designated officers to take other necessary actions in connection therewith.

CEQA: Not a Project, File No. PP10-066, Agreements/Contracts (New or Amended). (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated January 13, 2014, recommending adoption of a resolution.

Action: Upon motion by Council Member Herrera, seconded by Council Member Constant and carried unanimously, Resolution No. 76918, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager, the Director of Finance or Their Authorized Designees to Negotiate, Execute and Deliver a Letter of Credit and Reimbursement Agreement with Barclays Bank PLC and the Associated Fee Letter; A Third Amended and Restated Issuing and Paying Agent Agreement with U.S. Bank National Association; Amended and Restated Dealer Agreements With Each of Barclays Capital Inc., Citigroup Global Markets Inc., and Morgan Stanley & Co. LLC, All Related to the Norman Y. Mineta San José International Airport Commercial Paper Program and To Take Other Necessary Actions in Connection Therewith", was adopted. (11-0.)

- ### 3.4
- (a) (1) Approve appointments to the Housing and Community Development Commission; or, in the alternative
 - (2) Approve an ordinance amending Section 2.08.090 and Part 28 of Chapter 2.08 of Title 2 of the San José Municipal Code to modify the appointment process for the Housing and Community Development Commission and to make modifications to the quorum requirements for all boards and commissions.

- 3.4 (b) **Approve an ordinance amending Part 32 of Chapter 2.08 of Title 2 of the San José Municipal Code adding the appointment process for the Library and Early Education Commission.**

CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy change, Title 2 (Administration). (City Clerk/City Attorney)

Action: Deferred to February 11, 2014 per Orders of the Day.

3.5 **Adopt a resolution to:**

- (a) **Amend the City of San José Pay Plan effective February 4, 2014, to create the following classifications:**

- (1) **Assistant Communications Manager (8522)**
- (2) **Crisis Intervention Training Manager (8541)**

- (b) **Amend the City of San José Pay Plan effective February 4, 2014, to change the salary range and title for the following classifications:**

- (1) **Latent Fingerprint Examiner I/II/III (2241/2242/2246) (formerly Latent Fingerprint Examiner I/II (2241/2242))**

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

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated January 13, 2014, recommending adoption of a resolution.

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

Deputy City Manager Alex Gurza responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76919, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications”, was adopted. (10-0-1. Absent: Khamis.)

3.6 **Accept the following annual reports:**

- (a) **Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2013 and June 30, 2012.**
- (b) **Federated City Employees’ Retirement System Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2013 and June 30, 2012.**

CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involve no approvals of any City action. (Retirement)

Documents Filed: (1) Memorandum from Director of Retirement Services Roberto L. Peña, dated January 13, 2014, recommending acceptance of the annual reports. (2) The Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2013 and June 30, 2012. (3) The Federated City Employees’ Retirement System Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2013 and June 30, 2012.

3.6 (Cont'd.)

Director of Retirement Services Roberto L. Peña presented the report and responded to Council questions and concerns. Deputy Director Donna Busse, Retirement Investment Officer Ron Kumar and Accounting Division Manager Benjie Chua-Foy were present.

Motion: Council Member Liccardo moved acceptance of the Annual Reports with Staff directed to return to Council and report out the 2013 numbers, when available, related to the \$3.7 Billion unfunded liability between 2012 and 2013. Council Member Herrera seconded the motion.

Brief Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2013 and June 30, 2012 and the Federated City Employees' Retirement System Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2013 and June 30, 2012, were accepted. Staff was directed to return to Council and report out the 2013 numbers, when available, related to the \$3.7 Billion unfunded liability between 2012 and 2013. (10-0-1. Absent: Chu.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Consideration of an ordinance rezoning the real property located on the northwest corner of Charcot Avenue and Junction Avenue (521 Charcot Avenue) from the LI(PD) Planned Development Zoning District to the LI(PD) Planned Development Zoning District to allow light industrial uses, vehicle storage and warehousing, public and private events, general office, and commercial support on a 6.7 gross acre site (Club Auto Sport-Silicon Valley, LLC, Owner). CEQA: Final Program Environmental Impact Report for the North San Jose Development Policies Update, Resolution No. 72768. (Planning, Building and Code Enforcement)**
PDC13-008 – District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC13-008, dated January 14, 2014. (2) Proof of Publication of Notice of Public Hearing executed on January 17, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

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

Public Comments: Ray Hashimoto, HMH Engineering, representing the Applicant Club and Sport, explained about the additional signs and to the merits of the project.

4.1 (Cont'd.)

Mayor Reed closed the Public Hearing.

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

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29375, entitled: "An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the Northwesterly Corner of Charcot Avenue and Junction Avenue (521 Junction Avenue) from the LI(PD) Planned Development Zoning District to the LI(PD) Planned Development Zoning District", was passed for publication. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **Adopt a resolution authorizing the City Manager to:**
- (1) **Negotiate and execute a one-year agreement with IPS Group, Inc. (San Diego, CA) for the purchase of 1,200 single-space parking "Smart Meters", parking occupancy sensors, installation services, a hosted Web based application for system administration and applicable sales tax for a not-to-exceed amount of \$1,294,700.**
 - (2) **Negotiate and execute amendments and change orders to the agreement to purchase additional Smart Meters as required, maintenance and support, payment processing, and a hosted Web based application for system administration; and to add, delete or relocate Smart Meters as required, subject to the appropriation of funds.**
 - (3) **Execute up to nine additional one-year options to extend the term of the agreement for on-going hosting services, system administration, payment processing, and maintenance and support, subject to the annual appropriation of funds.**
- (b) **Adopt the following Appropriation Ordinance amendments in the General Purpose Parking Fund:**
- (1) **Increase the appropriation to the Department of Transportation for Revenue Control and Meter Upgrades in the amount of \$250,000.**
 - (2) **Decrease the appropriation to the Department of Transportation for the Minor Parking Facility Improvements by the same amount of \$250,000.**

CEQA: Exempt, File No. PP14-008. Council District 3. (Finance/Transportation/City Manager's Office)

6.1 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated February 3, 2014, recommending acceptance of the memorandum from Council Members Kalra and Chu, with direction to Staff as described in “Action” on Page 13. (2) Memorandum from Council Members Kalra and Chu, dated January 31, 2014, recommending acceptance of the Staff recommendations with direction as described in “Action”. (3) Memorandum from Council Member Rocha, dated February 3, 2014, recommending acceptance of the Staff recommendations with additions. (4) Memorandum from Director of Finance Julia H. Cooper, Director of Transportation Hans Larsen and Deputy City Manager Jennifer A. Maguire, dated January 13, 2014, recommending adoption of a resolution and appropriation ordinance amendments.

Assistant Director of Transportation James Ortbal presented brief comments and responded to Council questions and concerns.

Motion: Council Member Liccardo moved approval of his memorandum dated February 3, 2014, the memorandum from Council Members Kalra and Chu and additional direction as described below. Council Member Herrera seconded the motion.

Council discussion ensued.

Public Comments: Speaking in support to the Staff recommendations were Ross Signorino, Kathy Sakamoto and Scott Knies, San José Downtown Association.

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

Action: On a call for the question, the motion carried, Resolution No. 76920, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with IPS Group, Inc. for the Purchase of Single Space Smart Meters, Parking Sensors and Data Management System In An Amount Not To Exceed \$1,294,700” and Ordinance No. 29376, entitled: “An Ordinance of the Council of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the General Purpose Parking Fund for the Revenue Control and Meter Upgrades; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. The memorandum from Council Member Liccardo, dated February 3, 2014, was approved, as amended, eliminating the reference to Community Parking District (CPD) from his memorandum and supplanting it with the following: *a funding mechanism allowing Staff to determine what, if any, funding mechanism would be appropriate and allow that to come back in the budget process for Council to discuss whether there is a rate increase, how much and whether some funding mechanism might be created over the next 1-1/2 years before any new revenue would actually be available beyond what is required to pay for the smart meters.* (1) The memorandum from Council Members Kalra and Chu, dated January 31, 2014, was approved, with Staff directed to return to Council during the budget process with potential alternatives to increasing parking meter rates to cover cost of implementation of smart parking meters. (2) In light of the contemplated parking rate increase described on Page 6 of the Staff memorandum,

6.1 (Action Cont'd.)

the City Manager was directed to develop a *funding mechanism* for consideration by the Council as part of the Fiscal Year 2014-2015 budget process that would enable the creation of a *funding mechanism* where on street parking revenues would be generated, such that: (a) The *funding mechanism* would receive new on street parking revenues generated within their district after July 1, 2014. (b) The on street revenues for a *funding mechanism* use would be calculated after subtracting all annual costs of administering the *funding mechanism*, parking meter operations, meter installation and City overhead. (c) In already established meter districts (Japantown and Downtown) and potential new urban villages and other locations citywide a *funding mechanism* would control the net new funds for reinvestment in their respective business districts. (d) The Council would appoint an Advisory Board in each district to manage the *funding mechanism* and would submit annual plans and reports to Council on how revenue is spent and managed, similar to the current practice for existing Business Improvement Districts. (3) Evaluate the viability, liabilities and advantages of the creation of a *funding mechanism* for Council discussion during the review of proposed meter rate increases during the Fiscal Year 2014-2015 budget process. (10-1. Noes: Oliverio.)

PUBLIC SAFETY SERVICES

- 8.1 As recommended by Rules and Open Government Committee on January 29, 2014:
- (a) **Adopt an urgency ordinance to extend the effectiveness of Ordinance No. 29336 which amends Section 10.32.010 of Chapter 10.32 of Title 10 of the San José Municipal Code to allow persons with duly issued and approved trapping licenses and wild pig depredation permits from the California Department of Fish and Wildlife to discharge firearms within the limits of the City under specified circumstances until February 2, 2015, as recommended by staff, to prevent a gap in providing a solution to the wild pig issue within San José and to allow for evaluation of the Urgency Ordinance through full seasonal migration patterns of local wild pig populations.**
 - (b) **Direct staff to monitor complaints of wild pig incidences and record their observations on the effectiveness of the Urgency Ordinance and any challenges that ensue during the coming year.**
 - (c) **Direct staff to continue to engage with stakeholders to encourage the County to consider taking concrete steps to reduce wild pig populations, through methods such as those employed in Monterey and Alameda Counties.**
 - (d) **Direct staff to bring back to Council a recommendation for permanent ordinance, with input from the appropriate departments including Animal Services and the SJPd, in early December of 2014, so Council may consider it before the expiration of the Urgency Ordinance.**

CEQA: Use of the Final EIR for the Santa Clara Valley Habitat Conservation Plan, File No. PP13-103 (Khamis)

[Rules Committee referral 1/29/14 – Item G(5)]

8.1 (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated January 30, 2014, transmitting the recommendations of the Rules and Open Government Committee. (2) Email from Kathleen Peterson dated February 3, 2014, in support to the ordinance.

Motion: Council Member Khamis moved approval of the recommendations as described previously on Page 14 and to extend the urgency ordinance to February 2, 2015. Vice Mayor Nguyen seconded the motion.

Deputy Director of Animal Care and Services Jon Cicirelli responded to Council questions and concerns.

City Attorney Richard Doyle requested to amend the motion to include the findings into the record as part of the motion. The amendment was accepted by Council Member Khamis and Vice Mayor Nguyen.

Public Comments: Tim Gall, Wild Pig Removal, Inc. stated that he is a licensed trapper and that safety is his primary concern.

Action: On a call for the question, the motion carried, Urgency Ordinance No. 29377, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 29336, Originally Adopted by the City Council on November 5, 2013, To Extend the Effectiveness of Amendments to Section 10.32.010 of Chapter 10.32 of Title 10 of the San José Municipal Code, To Allow Persons with Duly Issued and Approved Trapping License and Wild Pig Depredation Permit from the California Department of Fish and Wildlife to Discharge Firearms Within the Limits of the City Under Specified Circumstances and Setting Forth the Facts Constituting Such Urgency", was adopted, effective until February 2, 2015. The following findings were adopted: There have been recent reports from residents in Almaden Valley and residents near Metcalf Park that due to the drought conditions feral or wild pigs continue to roam through the neighborhoods to forage for food and water. In rooting for food these pigs cause extensive property damage to residential properties. Such wild pigs have tusks, can travel in herds, and are known carriers of diseases. Their continued presence in the residential neighborhoods is a menace and can lead to confrontations that endanger the health and safety of the residents. Staff was directed to: (1) to monitor complaints of wild pig incidences and record their observations on the effectiveness of the Urgency Ordinance and any challenges that ensue during the coming year. (2) To continue to engage with stakeholders to encourage the County to consider taking concrete steps to reduce wild pig populations, through methods such as those employed in Monterey and Alameda Counties. (3) To bring back to Council a recommendation for permanent ordinance, with input from the appropriate departments including Animal Services and the SJPd, in early December of 2014, so Council may consider it before the expiration of the Urgency Ordinance. (10-1. Noes: Rocha.)

NEIGHBORHOOD SERVICES

5.1 Accept the report which provides an update on the Measure P Bond funded softball facility site selection process and direct staff to proceed with next steps toward implementing the following recommendations:

- (a) Pursue negotiations with the owners of the Arcadia site as shown on Attachment A for the development of a bond funded softball facility at that site with a minimum of four adult sized lighted softball fields.**
- (b) Return to the City Council in late 2014 with recommendations on how to allocate any remaining reserves in the Parks and Recreation Bond Projects Fund for the softball facility.**

CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of City actions. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Mayor Reed and Council Members Herrera and Liccardo, dated January 31, 2014, recommending acceptance of the Staff recommendations with further direction. (2) Memorandum from Council Member Rocha, dated February 3, 2014, recommending acceptance of the Staff recommendations with additional direction as described in "Action". (3) Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated January 13, 2014, recommending acceptance of the report. (4) Four emails from the public all dated February 4, 2014 in support to the softball at the Arcadia site.

Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares offered introductory remarks. Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano presented the report.

Motion: Council Member Herrera moved approval of the memorandum she cosigned with Mayor Reed and Council Member Liccardo, dated January 31, 2014, recommending acceptance of the Staff report and to pursue negotiations with the owners of the Arcadia site for the development of a bond funded softball facility with a minimum of four adult sized lighted ball fields. Vice Mayor Nguyen seconded the motion.

Public Comments: Speaking in support to the Arcadia site for the development of a bond funded softball facility were Jerry Soriano, Pat Pizzo, Robert Sandoval, Michael Van Every, Jurgen Menge, Gracie Ramos, Nichole Edrados, Christian Lopez, Marissa Simon, Dion Rodriguez, Evergreen Little League; Mario Lopez, Joe Miranda, John Trejo, East Valley Softball League; Evangeline Sandalon, Jesse Singh, Bikram Jee Singh, Upkav Singh, Jim Zito, Richard Audon, Eastridge Little League and Angel George.

Council Member Herrera urged her colleagues to support the motion on the floor.

Mayor Reed, Vice Mayor Nguyen and Council Member Khamis expressed support to the motion on the floor.

Substitute Motion: Council Member Rocha moved approval of his memorandum dated February 3, 2014, with further direction to Staff. Council Member Campos seconded the motion.

5.1 (Cont'd.)

City Attorney Richard Doyle and Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano responded to Council questions and concerns.

Council Member Herrera requested to amend the motion to request Staff to consider, as a priority, refinishing some of the fields around the City, including Alviso. The amendment was accepted by Council Members Rocha and Campos.

Action: On a call for the question, the substitute motion carried unanimously, The memorandum from Council Member Rocha, dated February 3, 2014, was approved, as amended, and accepted the Staff recommendations, with the following additions: (1) In order to create accurate expectations, clearly state that this project is intended to be a citywide amenity that would serve all residents equally. It is not intended to be a neighborhood amenity that would primarily serve youth baseball leagues based in the Evergreen area. (2) Staff was requested to explain the shift in wording between the outcome section in their previous Staff report dated October 15, 2013 and their most recent report dated January 13, 2014. Specifically, Staff was requested to explain the reason for the change from describing the project as a “Softball Facility” to a “Ballfield Facility”. (3) Staff was directed to alert the Council if any California Environmental Quality Act of 1970 (CEQA) mitigations, approvals from the County Airport Land Use Commission or other regulatory requirements will impose additional costs, design requirements or operational restrictions that would impair the City’s ability to operate a citywide tournament complex on the site. (4) Staff was directed to inform the County of Santa Clara that the Council is still open to pursuing the Fairgrounds. (5) Staff was further requested to consider, as a priority, refinishing some of the fields around the City, including Alviso. (11-0.)

OPEN FORUM

Jeff Bedolla expressed concerns about the Emory Street Pedestrian Easement from Stockton Avenue to Laurel Street near Bellarmine College Preparatory School.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:31 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

smd/02-04-14 MIN