



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 29, 2014

The Council of the City of San José convened in Regular Session at 9:36 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

None.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:36 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: in re: Claim of Ghenis; City Department: PRNS; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (d)(1) with respect to existing litigation; (1) Umar v. Storlie, et al.; Names of Partie(s) Involved: Ammir Umar, Craig Storlie, individually and as an Officer of the San José Police Department, and Does 1-20; United States District Court, Northern District of California; Case No: CV12-6071 HRL; Amount of Money or Other Relief Sought: Damages according to proof; (2) Binkovitch v. Barthelmy, et al.; Names of Partie(s) Involved: Aleksandr Binkovich, City of San José, Officer Barthelemy, Officer Grondahl, Officer Panighetti, Officer Craig, Officer Jabob and Officer Bollendorf; United States District Court, Northern District of California; Case No.: C 11-03774 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (3) In re: Claim of San José Police Officers' Association v. City, et al.; Names of Partie(s) 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- 1 through 50, Board of Administration for the Federated City Employees Retirement

CLOSED SESSION (Cont'd.)

CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief; (4) San José Retired Employees Association, et al. v. City, et al.; Names of Partie(s) 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 System; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate; (5) Sapien, et al. v. City of San José, et al.; Names of Partie(s) 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 through 15, the Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (6) Harris, et al. v. City of San José, et al.; Names of Partie(s) 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 through 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; (7) Mukhar, et al. v. City of San José, et al., Names of Partie(s) 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, and Does 1 through 15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B; (8) AFSCME, et al. v. City of San José, et al.; Names of Partie(s) Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone, in her 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-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in two (2) matters; (D) 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 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: City of San José – Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Benefit & Compensation Summary - City of San

CLOSED SESSION (Cont'd.)

José and City Association of Management Personnel Agreement; (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: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing 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.

(A) To confer with Legal Counsel pertaining to the Successor Agency to the Redevelopment Agency of the City of San José pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter.

By unanimous consent, Council recessed from the Closed Session at 11:01 a.m. and reconvened to Regular Session at 1:36 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo (1:45 p.m.), Nguyen, Oliverio (1:48 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Pastor Dick Bernal, Jubilee Christian Church, provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Khamis, seconded by Vice Mayor Nguyen, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 8.1, Revisions to Title 16 (Gaming) deferred to June 10, 2014. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to John Hogan and his organization, TeenForce, for helping teens and young adults find employment in the City of San José. (Liccardo)

Mayor Reed and Council Member Liccardo recognized John Hogan and his organization, TeenForce, for helping teens and young adults find employment in the City of San José.

1.2 Presentation of the commendation to Judge Teresa Guerrero-Daly for her groundbreaking work as the first Independent Police Auditor. (Mayor)

Action: Item dropped per Administration.

1.3 Presentation of a commendation to Luis Omar Villalobos Beltrán in recognition of his selection as “Consul for a Day” as part of the Día de Los Niños celebration. (Campos)

Mayor Reed and Council Members Campos and Rocha recognized Luis Omar Villalobos Beltrán in recognition of his selection as “Consul for a Day” as part of the Día de Los Niños celebration.

1.4 Presentation of a proclamation declaring April 30, 2014 as “Dia de los Niños” in the City of San José. (Campos)

Mayor Reed and Council Members Campos and Rocha recognized April 30, 2014 as “Dia de los Niños” in the City of San José.

CONSENT CALENDAR

Upon motion by Council Member Constant, 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.

None provided.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29398** – Amending Chapter 12.04 of Title 12 of the San José Municipal Code relating to the San José Ethics Commission and amending Section 12.16.040 of Chapter 12.16 of Title 12 to make a technical correction to the date to file disclosure reports for fundraising solicitations by elected city officials on a quarterly basis.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29398 executed on April 18, 2014, submitted by the City Clerk.

Action: Ordinance No. 29398 was adopted. (11-0.)

- (b) **ORD. NO. 29399** - Rezoning certain real property situated on the south side of Turturici Way, approximately 1,200 feet northeast of Turturici Court on a 3.13 gross-acre site from the A Agricultural and A(PD) Planned Development Zoning Districts to the R-1-2 Single Family Residence Zoning District.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29399 executed on April 18, 2014, submitted by the City Clerk.

Action: Ordinance No. 29399 was adopted. (11-0.)

- (c) **ORD. NO. 29400** - Rezoning certain real property situated on the east side of Klein Road, approximately 160 feet southerly of Murillo Avenue (2510 Klein Avenue) from the A Agricultural Zoning District to the R-1-5 Single-Family Residence Zoning District.

Documents Filed: (1) Proof of Publication of the Title of Ordinance No. 29400 executed on April 18, 2014, submitted by the City Clerk.

Action: Ordinance No. 29400 was adopted. (11-0.)

- (d) **ORD. NO. 29401** - Rezoning certain real property situated on the north side of Blossom Hill Road approximately 1000 feet easterly of Snell Avenue on a 4.05 gross-acre site (393 Blossom Hill Road) to the CN Commercial Neighborhood Zoning District.

Documents Filed: (1) Statement and Declaration of Conflict of Interest Form from Council Member Khamis, dated April 29, 2014. (2) Proof of Publication of the Title of Ordinance No. 29401 executed on April 18, 2014, submitted by the City Clerk.

2.2 (Cont'd.)

Council Member Khamis pulled Item 2.2(d) due to a conflict of interest.

Council Member Khamis recused himself from participating in the Council discussion and/or voting, disclosing that he inquired into an investment opportunity for the Skate San José facility.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried, Ordinance No. 29401 was adopted. (10-0-0-1. Abstain: Khamis.)

- (e) **ORD. NO. 29402 - Rezoning certain real property situated on the northwest corner of North Almaden Boulevard and West St. John Street on a 0.61 gross-acre site from the LI Light Industrial District to the DC Downtown Primary Commercial Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29402 executed on April 18, 2014, submitted by the City Clerk.

Action: Ordinance No. 29402 was adopted. (11-0.)

- (f) **ORD. NO. 29403 - Rezoning certain real property situated on the northwest corner of Highway 237 and North 1st Street on a 3.5 gross-acre site from the A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29403 executed on April 18, 2014, submitted by the City Clerk.

Action: Ordinance No. 29403 was adopted. (11-0.)

- 2.3 (a) **Transportation and Environment Committee Report of April 7, 2014. (Liccardo)**

Documents Filed: The Transportation and Environment Committee Report dated April 7, 2014.

Action: The Transportation and Environment Committee Report dated April 7, 2014 was accepted. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

- 2.7 (a) Determine that a change to the term end dates of the Districts 1, 2, 3, 4, 5, 6, 8, 9, 10, and Citywide seats on the Housing and Community Development Commission is in the best interest of the Commission to realign with the City Clerk's Office recruitment schedule to establish staggered term end dates and ensure continuity of membership on the Commission;**
- (b) Realign term end dates as follows:**
- (1) District 1 Seat: term end date realigned from 12/31/17 to 6/30/17;**
 - (2) District 2 Seat: term end date realigned from 12/31/17 to 6/30/15;**
 - (3) District 3 Seat: term end date realigned from 12/31/17 to 6/30/17;**
 - (4) District 4 Seat: term end date realigned from 12/31/17 to 6/30/15;**
 - (5) District 5 Seat: term end date realigned from 12/31/17 to 6/30/17;**
 - (6) District 6 Seat: term end date realigned from 12/31/17 to 6/30/15;**
 - (7) District 8 Seat: term end date realigned from 12/31/17 to 6/30/15;**
 - (8) District 9 Seat: term end date realigned from 12/31/17 to 6/30/17;**
 - (9) District 10 Seat: term end date realigned from 12/31/17 to 6/30/15;**
 - (10) Citywide Seat: term end date realigned from 12/31/17 to 6/30/17;**
- (c) Approve the following appointments to the Housing and Community Development Commission:**
- (1) District 1 Seat: Martha O'Connell;**
 - (2) District 2 Seat: Jaime Angulo;**
 - (3) District 3 Seat: Robert Gill;**
 - (4) District 4 Seat: Nicole Ruiz;**
 - (5) District 5 Seat: Patrick Ngo;**
 - (6) District 6 Seat: Winona Nash;**
 - (7) District 8 Seat: Quincy Virgilio;**
 - (8) District 9 Seat: Star Dormanesh;**
 - (9) District 10 Seat: Kassa Abay;**
 - (10) Citywide Seat: Amanda Montez;**
- CEQA: Not a Project. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 11, 2014, providing recommendations for the Housing and Community Development Commission.

2.7 (Cont'd.)

Action: Determination that a change to the term end dates of the Districts 1, 2, 3, 4, 5, 6, 8, 9, 10, and Citywide seats on the Housing and Community Development Commission is in the best interest of the Commission to realign with the City Clerk's Office recruitment schedule to establish staggered term end dates and ensure continuity of membership on the Commission, with realignment of term end dates were approved as follows: District 1 Seat: term end date realigned from 12/31/17 to 6/30/17; District 2 Seat: term end date realigned from 12/31/17 to 6/30/15; District 3 Seat: term end date realigned from 12/31/17 to 6/30/17; District 4 Seat: term end date realigned from 12/31/17 to 6/30/15; District 5 Seat: term end date realigned from 12/31/17 to 6/30/17; District 6 Seat: term end date realigned from 12/31/17 to 6/30/15; District 8 Seat: term end date realigned from 12/31/17 to 6/30/15; District 9 Seat: term end date realigned from 12/31/17 to 6/30/17; District 10 Seat: term end date realigned from 12/31/17 to 6/30/15; and Citywide Seat: term end date realigned from 12/31/17 to 6/30/17; with approval of the following appointments to the Housing and Community Development Commission: (1) District 1 Seat: Martha O'Connell; (2) District 2 Seat: Jaime Angulo; (3) District 3 Seat: Robert Gill; (4) District 4 Seat: Nicole Ruiz; (5) District 5 Seat: Patrick Ngo; (6) District 6 Seat: Winona Nash; (7) District 8 Seat: Quincy Virgilio; (8) District 9 Seat: Star Dormanesh; (9) District 10 Seat: Kassa Abay; (10) Citywide Seat: Amanda Montez. (11-0.)

2.8 **As recommended by the Rules and Open Government Committee on April 16, 2014, approve a grant of \$1,000 to Almaden Kiwanis TAS Scholarship Fund to be paid from the budgeted District 10 SAP Center at San José allocation, which is funded by the Arena Community Fund City-Wide appropriation. (Khamis)** [Rules Committee referral 4/16/14 – Item G(4)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 17, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: A grant of \$1,000 to Almaden Kiwanis TAS Scholarship Fund to be paid from the budgeted District 10 SAP Center at San José allocation, which is funded by the Arena Community Fund City-Wide appropriation was approved. (11-0.)

2.9 **As recommended by the Rules and Open Government Committee on April 16, 2014:** (a) **Approve “Free for All: Inside the Public Library” event scheduled for May 5, 2014 as a City Council sponsored Special event and approve the expenditure of funds; and** (b) **Approve and accept donations from various individuals, businesses or community groups to support the event.** **CEQA: Not a Project. (Oliverio)** [Rules Committee referral 4/16/14 – Item G(2)]

2.9 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 17, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The “Free for All: Inside the Public Library” event as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

2.10 **Adopt a resolution initiating proceedings and setting May 13, 2014 at 1:30 p.m. for a Public Hearing to order the reorganization of territory designated as Alum Rock No. 15, which involves the annexation to the City of San José of approximately 1.78 gross acres of land generally located on the south side of Alum Rock Avenue, approximately 150 feet east of Sunnyslope Avenue, and the detachment of the same from the appropriate special districts including County Sanitation District No. 2-3, Central Fire Protection, County Lighting, and Area No. 01 (Library Services) County Service. CEQA: Exempt, File No. ALUM ROCK 15. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated April 29, 2014, recommending adoption of a resolution.

Action: Resolution No. 76959, entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Alum Rock No. 15, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (11-0.)

2.11 **Approve master agreements with David J. Powers & Associates, Inc., Denise Duffy & Associates, Inc. and URS Corporation Americas from the date of execution through December 31, 2018 in an amount not to exceed \$500,000 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 April 29, 2014, recommending approval of the master agreements.

Action: The master agreements with David J. Powers & Associates, Inc., Denise Duffy & Associates, Inc. and URS Corporation Americas from the date of execution through December 31, 2018 in an amount not to exceed \$500,000 for each agreement, were approved. (11-0.)

- 2.12 Approve travel by Councilmember Chu to Sacramento, CA on April 23 – 24, 2014 to attend the League of California Cities Legislative Action Day and League Board of Director’s Meeting. Source of Funds: League of Cities. (Chu)**

Documents Filed: Memorandum from Council Member Chu, dated April 22, 2014, requesting authorization to travel on authorized City business.

Action: The travel request was approved. (11-0.)

- 2.13 Approve travel by Councilmember Herrera to Sacramento, CA on April 23, 2014 to attend the California League of Cities Legislative Action Day/Women’s Caucus Meeting. Source of Funds: Mayor and Council Travel Fund. (Herrera) (Rules Committee referral 4/23/14)**

Documents Filed: Memorandum from Council Member Herrera, dated April 23, 2014, requesting authorization to travel on authorized City business.

Action: The travel request was approved. (11-0.)

- 2.14 (a) Set a Public Meeting on June 3, 2014 at 1:30 p.m. to consider the adoption of a resolution of intention to levy increased assessments in the Hotel Business Improvement District for Fiscal Year 2014-2015;**
(b) Set a Public Hearing on June 17, 2014 at 1:30 p.m. on the levy of increased assessments for FY 2014-15; and
(c) Direct the City Clerk to publish the required notice of the public meeting and public hearing.

CEQA: Exempt, File No. PP08-048. (Economic Development) (Rules Committee referral 4/23/14)

Documents Filed: Memorandum from Assistant to the City Manager and Downtown Manager, Lee Wilcox, dated April 22, 2014, recommending adoption of a resolution.

Action: Resolution No. 76960, entitled: “A Resolution of the Council of the City of San José: (A) Setting June 3, 2014 at 1:30 p.m. as the Date and Time for the Public Meeting to Consider Adoption of a Resolution of Intention to Levy Increased Assessments in the Hotel Business Improvement District for Fiscal Year 2014-2015; (B) Setting June 17, 2014 at 1:30 p.m. as the Date and Time for the Public Hearing on the Levy of Increased Assessments for FY 2014-2015; and (C) Directing the City Clerk to Publish the Required Notice of the Public Meeting and Public Hearing”, was adopted. (11-0.)

- 2.15 As recommended by the Rules and Open Government Committee on April 23, 2014, approve an opposition to the budget proposal eliminating Bottle Bill Funding to cities and counties. (Herrera)**
[Rules Committee referral 4/23/14 – Item G(3)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 24, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of opposition to the budget proposal eliminating Bottle Bill Funding to cities and counties was approved.

END OF CONSENT CALENDAR

PUBLIC SAFETY SERVICES

Items 8.3 and 8.4 were heard concurrently.

- 8.2 Accept the 2013 Independent Police Auditor Year End Report. CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Independent Police Auditor)**

Documents Filed: (1) Joint memorandum from Council Member Liccardo and Council Member Herrera, dated April 24, 2014, recommending acceptance of the report with additional direction to staff. (2) Joint memorandum from Council Member Campos and Council Member Chu, dated April 25, 2014, recommending acceptance of the report with additional direction to staff. (3) Memorandum from Council Member Rocha, dated April 25, 2014 recommending acceptance of the report with additional direction to staff. (4) 2013 IPA Year End Report, provided by Independent Police Auditor, LaDoris Cordell, issued April 2014.

- 8.3 Accept the San José Police Department's Internal Affairs Unit (IA) report on Department Initiated Investigations for CY 2013. CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Police)**

Documents Filed: Memorandum from Acting Chief of Police Larry Esquivel, dated April 7, 2014, recommending acceptance of the San José Police Department's Internal Affairs Unit (IA) report on Department Initiated Investigations (DII).

Independent Police Auditor, Judge LaDoris Cordell offered an introduction to the Year End Report, and staff members Shivaun Nurre and Diane Doolan Diaz continued the presentation.

Judge Cordell provided clarification to Recommendation #15 pertaining to the termination of officers who provide false information during an Internal Affairs or criminal investigation, doing so intentionally for the purpose of avoiding responsibility for their misconduct.

Chief of Police Larry Esquivel offered his response to the recommendations.

8.3/8.4 (Cont'd.)

Chief of Police Larry Esquivel provided a presentation on internal investigations and Council followed up with a lengthy discussion and questions for staff.

Motion: Council Member Constant moved acceptance of the Independent Police Auditor's and Internal Affairs Unit reports and recommendation to allow the established process continue "as is" without the implementation of the Independent Police Officer's Recommendation #15. The motion was seconded by Council Member Oliverio.

Amendment to the Motion: Council Member Rocha requested to amend the motion to direct staff to alter the process for the next IPA report, including the Police Department's written response as indicated below in "Action" and return to the Public Safety, Finance and Strategic Support Committee with further analyses in August or September 2014. Council Members Constant and Oliverio accepted the amendment.

Public Comment: Ross Signorino offered appreciation to the Police Chief and Judge Cordell for their commitment and hard work.

Action: On a call for the question, the motion carried, and the 2013 Independent Police Auditor Year End Report and San José Police Department's Internal Affairs Unit (IA) report on Department Initiated Investigations for CY 2013 were accepted, with Staff encouraged to alter the process for the next Independent Police Auditor's report by including the department's written response; and with the Police Chief to return with any department analyses and initiated investigations to the Public Safety, Finance and Strategic Support Committee in August or September 2014. (9-2. Noes: Herrera, Liccardo.)

STRATEGIC SUPPORT SERVICES

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

City Manager, Edward K. Shikada offered that the proposed budget for the new fiscal year will be released May 1, and thanked the Budget staff for their hard work. He added that a community meeting for District 3, the first of ten community meetings to engage the public in the budget process, will also be held May 1, 2014.

- 3.3 (a) **Interview applicants for appointment to the Board of Administration of the Police and Fire Department Retirement Plan;**
(b) **Appoint one (1) member to the Board of Administration of the Police and Fire Department Retirement Plan to the remainder of a term expiring November 30, 2014; and**
(c) **At Council's discretion, re-appoint the one (1) member to the Board of Administration of the Police and Fire Department Retirement Plan to a consecutive term expiring November 30, 2018.**

(City Clerk)

3.3 (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated April 15, 2014, providing information on the Police and Fire Department Retirement Plan Board Interviews. (2) Memorandum from City Attorney Richard Doyle, dated April 25, 2014, providing analysis of potential conflicts and review of the Retirement Board applicants.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera, the motion carried, and Stephen Brennan was appointed to the Board of Administration of the Police and Fire Department Retirement Plan for the remainder of a term expiring November 30, 2014, and to a consecutive term expiring November 30, 2018. (7-4. Noes: Campos, Kalra, Nguyen, Rocha.)

- 3.4 (a) **Accept status report on the City's efforts to submit information requested by Google Fiber for its consideration of selecting San José for the future installation of a Google Fiber network; and**
- (b) **Adopt a resolution authorizing the City Manager or his designee to execute a master Network Hut License Agreement with Google Fiber, and to execute Network Hut Site Terms thereunder for individual sites following environmental review and City Council approval of such individual sites.**

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

Action: Deferred To May 6, 2014 per Administration.

- 3.5 **Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the International Union of Operating Engineers, Local No. 3 (OE#3), and authorizing the City Manager to execute an agreement with a term from July 1, 2013 to June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated April 16, 2014, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Khamis and carried unanimously, Resolution No. 76961, entitled: "A Resolution of the Council of the City of San José Approving the Terms of an Agreement Between the City of San José and the Operating Engineers, Local No. 3 (OE#3), with a Term of July 1, 2013 – June 30, 2014", was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution establishing a new City Council Policy: Greenhouse Gas Reduction Strategy Implementation. The proposed policy will further implement the Greenhouse Gas Reduction Strategy, which was adopted with the Envision San José 2040 General Plan, for new private sector development projects. This policy would establish a procedure to determine whether new private development is consistent with the City’s adopted Greenhouse Gas Reduction Strategy by requiring applicants to identify measures, which will help to reduce greenhouse gas emissions, in the application and design of projects. CEQA: Final Program Environmental Impact Report for Envision San José 2040 General Plan, EIR Resolution No. 76041. Planning Commission recommends approval (6-1). (Planning, Building and Code Enforcement)
(Deferred from 3/11/14 – Item 4.3 and 3/18/14 – Item 4.4)**

Action: Deferred to August 12, 2014 per Administration.

4.2 Extension of the Business Cooperation Program

- (a) **Approve an ordinance amending Chapter 4.86 of Title 4 of the San José Municipal Code to extend the use tax allocation incentive under the Business Cooperation Program for an additional five years through October 15, 2019, and extending its application to businesses that establish points of sale in San José by changing their business operations for business-to-business transactions;**
- (b) **Approve the Consultant Agreement with Municipal Revenue Advisors extending the length of the contract to December 31, 2019 and increasing the amount of the agreement from \$250,000 to \$1,500,000 for reimbursement services related to technical assistance under the Business Cooperation Program subject to the appropriation of funds.**

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

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated April 15, 2014 recommending approval of an ordinance and consultant agreement.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Ordinance No. 29408, entitled: “An Ordinance of the City of San José Amending Title 4 of the San José Municipal Code to Add a New Chapter 4.86 to Create a Use Tax Incentive Program”, was passed for publication; and the Consultant Agreement with Municipal Revenue Advisors extending the length of the contract to December 31, 2019 and increasing the amount of the agreement from \$250,000 to \$1,500,000 for reimbursement services related to technical assistance under the Business Cooperation Program subject to the appropriation of funds, was approved. (11-0.)

- 4.3 (a) **Conduct a final Public Hearing regarding the approval of the City’s 2014-2015 Annual Action Plan and take public comment;**
- (b) **Adopt the 2014-2015 Annual Action Plan, including the FY 2014-2015 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program;**
- (c) **Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capital agreements and contracts not requiring CEQA review and to negotiate all capital project agreements and contracts, including any amendments or modifications, for the expenditure of CDBG, ESG, HOME and HOPWA funds on behalf of the City;**
- (d) **Authorize the Housing Department to submit the 2014-2015 Annual Action Plan to the U.S. Department of Housing and Urban Development.**
- CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated April 7, 2014, recommending adoption of the Annual Action Plan and submission to HUD and adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated April 28, 2014, providing a summary of public comments received and revisions to the draft Plan since its release for public review.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Director of Housing Leslye Corsiglia responded to questions from Council.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the 2014-2015 Annual Action Plan, including the FY 2014-2015 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program, and Resolution No. 76962, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute all non-Capital Agreements and Contracts not Requiring CEQA/NEPA Review and to Negotiate all Capital Agreements and Contracts, Including Any Amendments or Modifications, and After CEQA/NEPA Review and City Council Approval, to Execute All Documents”, were adopted. (11-0.)

- 4.4 (a) **Conduct a Public Hearing and take final public comment on a proposed amendment to the Citizen Participation Plan to allow the Housing Director, or Housing Director designee, to hold a public hearing related to approval of the Consolidated Plan, Annual Action Plan, or Substantial Amendment, if the Housing and Community Development Commission is unable to hold such a hearing due to a lack of quorum or time constraint;**
- (b) **Adopt a resolution approving the Citizen Participation Plan amendment. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated April 7, 2014, recommending conducting a public hearing and adoption of a resolution.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Director of Housing Leslye Corsiglia responded to questions from Council.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76963, entitled: “A Resolution of the Council of the City of San José Approving an Amendment to the Citizen Participation Plan”, was adopted. (11-0.)

- 4.5 **Approve the proposed Fiscal Year 2013/14 - 2018/19 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program and the Fiscal Year 2012-2013 Rule 20B Undergrounding Master Plan. CEQA: Exempt, File No. PP13-034. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated April 7, 2014, recommending approval of the Workplan.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Nguyen and carried unanimously, the proposed Fiscal Year 2013/14 - 2018/19 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program and the Fiscal Year 2012-2013 Rule 20B Undergrounding Master Plan was approved. (11-0.)

NEIGHBORHOOD SERVICES

- 5.1 **Accept the Park Trust Fund annual report for 2012-2013. CEQA: Not a Project, File No. PP10-069(a), Annual Reports and Assessments. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated April 7, 2014, recommending acceptance of the annual report.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the Park Trust Fund annual report for 2012-2013 was accepted. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 As recommended by the Transportation and Environment Committee on April 7, 2014, adopt a resolution to establish the wholesale recycled water service rates for the South Bay Water Recycling Program effective July 1, 2014, superseding Resolution No. 75430. CEQA: Not a Project, File No. PP10-067(a), Fares, Rates & Fees. (Environmental Services)**
[Transportation and Environment Committee referral 4/7/14 – Item D(3)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 17, 2014, transmitting the recommendations of the Transportation and Environment Committee.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76964, entitled: “A Resolution of the Council of the City of San José Adopting Wholesale Recycled Water Rates for the South Bay Water Recycling Program Effective July 1, 2014”, was adopted. (11-0.)

PUBLIC SAFETY SERVICES

- (a) **Approve an ordinance amending various sections of Title 16 of the San José Municipal Code to provide for the City Attorney to respond to requests for advisory opinions regarding Title 16 within thirty days; provide non-key employees the option of applying for dual State and City work permits; incorporate a process for the utilization of an enforcement advisor to participate in several of the regulatory processes described in Title 16; establish a schedule for providing notice of a final decision to impose a monetary penalty for a minor violation and notice of regulatory action; provide that the name(s) of the person(s) who committed violations leading to monetary fines and regulatory actions be disclosed; incorporate revisions recommended by WhiteSand Gaming; substitute use of the term “business day” for “work day” and provide a definition of “business day;” eliminate the twenty-one day waiting period for recommendations regarding specified key employee licenses to become final; and make minor corrections;**
- (b) **Accept the Administration’s report regarding alternate-level gaming, occupancy for non-gaming related events and civilianization of the Division of Gaming Control.**

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 16. (City Manager/City Attorney)

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

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 Adopt a resolution authorizing the Managing Director to execute letter agreements with the San Francisco Bay Regional Water Quality Control Board (“Regional Board”) pursuant to the Regional Board’s Expedited Payment Program to resolve wastewater discharge and reporting violations under a National Pollutant Discharge Elimination System Permit issued for Adobe Tower I and Tower II located at 345 Park Avenue in San José at a total cost of \$69,000. CEQA: Exempt, File No. PP14-034. Council District 3. (Successor Agency)**

Documents Filed: Memorandum from Successor Agency Managing Director Richard A. Keit, dated April 17, 2014, recommending adoption of a resolution.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Successor Agency Resolution No. 7028, entitled: “A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Authorizing the Managing Director to Execute Letter Agreements with the San Francisco Bay Regional Water Quality Control Board Pursuant to the Regional Board’s Expedited Payment Program to Resolve Wastewater Discharge and Reporting Violations Under a National Pollutant Discharge Elimination System Permit Issued for Adobe’s Tower I and Tower II Located at 345 Park Avenue in San José at a Total Cost of \$69,000”, was adopted. (11-0.)

- 9.2 (a) Approve a Second Amendment to Settlement Agreement and General Release with Kenneth Solis and Bonnie Torrez, doing business as Patty’s Inn (Tenant), to extend the date for Tenant to vacate the property located at 102 South Montgomery Street in San José (Property) and to allow for monthly rent payable by Tenant to be offset against the remaining relocation payment owed to Tenant;**
- (b) Approve a five (5) year lease (Lease) with Tenant for the Property with the provision that each party shall have the right to terminate the Lease upon not less than ninety (90) days written notice to the other party.**
- CEQA: Not a Project, File No. PP10-066(h), Settlement Agreements. (Successor Agency)**

Action: Deferred to May 13, 2014 per Administration

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10233	East side of Almaden Rd approx 200 feet north of Fleetwood Drive	10	Vui M Ly	7 Lots/6 units	SFD

ADJOURNMENT

The Council of the City of San José was adjourned at 5:09 p.m. in memory of former Mayor Janet Gray Hayes, who passed away on April 21, 2014. She was the first woman to be elected Mayor of San José, an inspiring role model, and a tremendous public servant. (Mayor)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/4-29-14MIN