

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 19, 2014

The Council of the City of San José convened in Regular Session at 9:33 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chu, Constant, Herrera (9:35 a.m.), Kalra (9:36 a.m.), Khamis, Liccardo (9:34 a.m.), Nguyen, Oliverio; Reed.

Absent: Council Members - Rocha. (Excused.)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:34 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Storms; Amount of Money or Other Relief Sought: Administrative Appeal. (2) In re: Claim of Albin; Amount of Money or Other Relief Sought: Administrative Appeal. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 Subsection (d)(1) with respect to initiation of litigation in one (1) matter. (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: Property: APN 264-11-107 and 264-11-108; Negotiating Parties: Julie Edmonds-Mares and Matt Cano, City of San José and Scott Connelly, Green Valley Corporation; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values. (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 (ABMEI); Nature of

CLOSED SESSION (Cont'd.)

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.

By unanimous consent, Council recessed from the Closed Session at 11:50 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, Nguyen, Oliverio, Rocha; Reed.

Absent: Council Members - Liccardo. (Excused)

INVOCATION

Pastor Danny Sanchez, The City Peace Project, offered a prayer for the Invocation.
(District 7)

PLEDGE OF ALLEGIANCE

Mayor Reed 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, Ceremonial Item 1.1 was dropped; to be rescheduled and Item 2.13 was deferred to September 9, 2014. (9-0-2. Absent: Liccardo, Oliverio.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the three six grade classes at Renaissance Academy at Fischer for their beautification of the community through their artwork. (Campos)**

Action: Dropped; To Be Rescheduled per Orders of the Day.

- 1.3 Presentation of a commendation for the Job Corps's 50th anniversary and 36 years of service in the City of San José. (Kalra)
(Rules Committee referral 8/13/14)**

Mayor Reed and Council Members Kalra and Campos recognized and commended Job Corps on its 50th anniversary and for its exemplary dedication to the community.

CONSENT CALENDAR

Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Liccardo.)

2.1 Approval of Minutes.

- (a) **Regular Minutes of May 6, 2014.**
- (b) **Minutes of the FY 2014-2015 Budget Study Sessions of May 7, 2014 – May 12, 2014.**
- (c) **Regular Minutes of May 13, 2014.**
- (d) **Regular Minutes of May 20, 2014.**

Documents Filed: (1) The Regular Minutes dated May 6, 2014, May 13, 2014 and May 20, 2014. (2) The Minutes of the Fiscal Year 2014-2015 Budget Study Sessions dated May 7, 2014 through May 12, 2014.

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

- ## 2.2
- (a) **ORD. NO. 29446 – Rezoning certain real property of approximately 0.83 acres situated approximately 120 feet northwest of the intersection of Old Piedmont Road and Rowley Drive (2203, 2205, 2207 Old Piedmont Road) from the A Agriculture Zoning District to the R-1-8 Single-Family Residence Zoning District.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29446 executed on August 13, 2014, submitted by the City Clerk.

Action: Ordinance No. 29446 was adopted. (10-0-1. Absent: Liccardo.)

- (b) **ORD. NO. 29447 – Amending Title 20 of the San José Municipal Code to add new Sections 20.200.342, 20.200.542 and 20.200.578 and amend Section 20.200.1265 of Chapter 20.200; to add a new Part 22 to Chapter 20.80; to amend Section 20.40.100 of Chapter 20.40; to amend Section 20.50.100 of Chapter 20.50; and to amend Section 20.70.100 of Chapter 20.70, all to permit and regulate use of existing hotels and motels for supportive housing for various targeted populations with a Conditional Use Permit until December 31, 2026, to further implement the housing 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 including but not limited to Sections 20.40.100 and 20.70.100.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29447 executed on August 13, 2014, submitted by the City Clerk.

Action: Ordinance No. 29447 was adopted. (10-0-1. Absent: Liccardo.)

2.3 Approval of Council Committee Reports.

(a) Rules and Open Government Committee Report of July 30, 2014. (Mayor)

Documents Filed: The Rules and Open Government Committee Report dated July 30, 2014.

Action: The Rules and Open Government Committee Report was approved. (10-0-1. Absent: Liccardo.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

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 10.32.140 of Chapter 10.32 of Title 10 and Section 13.44.200 of Chapter 13.44 of Title 13 of the San José Municipal Code to permit the operation of model warships armed with low-velocity gas or compressed-air projectile launchers at times and locations designated by the City. CEQA: Exempt, File No. PP14-032. (City Attorney) (Deferred from 4/15/14 – Item 2.7 and 5/20/14 – Item 2.7)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated April 3, 2014, recommending approval of an ordinance.

Public Comments: Neil R. Anderson, Pacific Model Warship Club, inquired about the status of the ordinance to permit the operation of model warships with low velocity gas or compressed gas air projectile launchers at times and locations designated by the City.

Mayor Reed directed the Assistant City Manager to follow up with Mr. Anderson about the status of the ordinance.

Action: Item 2.7 was dropped.

2.8 (a) Approve Master Agreements with Seabury APG and AviaSolutions to provide on-call air service development consultant services for the Norman Y. Mineta San José International Airport in an amount not to exceed \$975,000 with a total budget for both agreements not to exceed \$975,000 and for a term of three years from the date of Council approval, with the City's option to extend each agreement for up to two additional one-year periods.

- 2.8 (b) **Adopt a resolution authorizing the Director of Aviation to exercise options to extend the agreements with Seabury APG and AviaSolutions to provide on-call air service development consultant services for up to two additional one-year periods at no increase in total compensation.**

CEQA: Not a Project, File No. PP10-066(d), Consultant Services for Design/Study/Research/Inspection. (Airport)

Action: Deferred to September 9, 2014 per Administration.

- 2.9 (a) **Approve recommended changes to the City of San José Traffic and Criminal Bail Schedules and direct the City Attorney to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee.**
- (b) **Approve an ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of infractions.**

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

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 7, 2014, recommending approval of the changes, direction to the City Attorney and approval of an ordinance.

Action: The recommended changes to the City of San José Traffic and Criminal Bail Schedules were approved, the City Attorney was directed to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee and Ordinance No. 29450, entitled: "An Ordinance of the City of San José Amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, Which Lists All Infractions, To Update the List of Infractions", was passed for publication. (10-0-1. Absent: Liccardo.)

2.10 Authorize the City Manager to:

- (a) **Execute a Purchase Order with Murphy Industrial Coatings, Inc. (Signal Hill, CA) for the coating and rehabilitation of five clarifier tanks at the San José-Santa Clara Regional Wastewater Facility for the period July 1, 2014 through June 30, 2015, in an amount not to exceed \$638,513.**
- (b) **Approve a 10% contingency for a not-to-exceed amount of \$63,851 to execute change orders for any unforeseen changes or requirements that may arise prior to the completion of services.**
- (c) **Exercise up to four additional one-year options to renew the purchase order through June 30, 2019, to provide coating and rehabilitation services for additional clarifier tanks as required for scheduled maintenance, subject to the annual appropriation of funds.**

CEQA: Exempt, File No. PP13-039. (Finance)

Documents Filed: (1) City Council Action Request from Director of Finance Julia H. Cooper, dated August 7, 2014, recommending authorization to the City Manager as indicated above in Item 2.10(a)-(c). (2) Letter from Chuck Reed, Chair, the Treatment Plant Advisory Committee, dated August 15, 2014, expressing concurrence with the Staff recommendations.

2.10 (Cont'd.)

Action: The City Manager was authorized to execute a Purchase Order with Murphy Industrial Coatings, Inc. for the coating and rehabilitation of five clarifier tanks at the San José-Santa Clara Regional Wastewater Facility for the period July 1, 2014 through June 30, 2015, in an amount not to exceed \$638,513, a 10% contingency for a not-to-exceed amount of \$63,851 was approved in order to to execute change orders for any unforeseen changes or requirements that may arise prior to the completion of services and up to four additional one-year options were approved, in order to to renew the purchase order through June 30, 2019, to provide coating and rehabilitation services for additional clarifier tanks as required for scheduled maintenance, subject to the annual appropriation of funds. (10-0-1. Absent: Liccardo.)

2.11 Adopt a resolution to:

- (a) **Amend the City of San José Pay Plan effective August 19, 2014, to create the following classifications:**
 - (1) **Principal Property Manager (3962)**
 - (2) **Senior Property Manager I (3961)**
- (b) **Amend the City of San José Pay Plan effective August 19, 2014, to retitle the following classifications:**
 - (1) **Senior Property Manager II (3960) (formerly Supervising Property Manager)**
 - (2) **Senior Public Information Representative (6338) (formerly Marketing/Public Outreach Manager)**
 - (3) **Public Information Representative I/II FT/PT (4231/4234/4233/4235) (formerly Marketing/Public Outreach Representative I/II FT/PT)**

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

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated July 28, 2014, recommending adoption of a resolution.

Action: Resolution No. 77125, 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: Liccardo.)

- ## 2.12
- (a) **Approve travel by Council Member Khamis to Copenhagen, Denmark from August 22 – 29, 2014 to participate in the Knight Foundation CPH Study Tour. Source of Funds: The Knight Foundation.**
 - (b) **Request for an excused absence for Council Member Khamis from the Regular Meeting of the City Council on August 26, 2014 and the City Council Study Session on August 29, 2014 due to Authorized City Business: Research trip to Copenhagen, Denmark.**
- (Khamis)**

Documents Filed: Memorandum from Council Member Khamis, dated July 31, 2014, requesting approval for travel and an excused absence.

2.12 (Cont'd.)

Council Member Khamis clarified that his trip to Copenhagen, Denmark was fully funded by the Knight Foundation CPH Study Tour.

Public Comments: David Wall expressed comments about Council Member Khamis' trip to Copenhagen, Denmark.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the travel for Council Member Khamis was approved and the absence was excused. (10-0-1. Absent: Liccardo.)

2.13 **Approve a Fourth Amendment to the Parking Premises Agreement between the City of San José and SP6 San José Hotel Owner, LLC as successor in interest to PR SJM Hotel, LLC (Prudential Insurance) that includes the following changes:**

- (a) **Change the party from PR SJM Hotel, LLC, an affiliate of Prudential Insurance, to SP6 San José Hotel Owner, LLC.**
- (b) **Authorize the City Manager to amend the agreement when there is an assignment or transfer in ownership.**

CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for the same use. Council District 3. (Transportation)

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen, dated July 28, 2014, recommending approval of a fourth amendment to the Parking Premises Agreement.

Action: A Fourth Amendment to the Parking Premises Agreement between the City of San José and SP6 San José Hotel Owner, LLC as successor in interest to PR SJM Hotel, LLC that includes the following changes as indicated above in Item 2.13(a)(b), was approved. (10-0-1. Absent: Liccardo.)

2.14 (a) **Approve the Indian Independence Day 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 8/13/14)**

Documents Filed: Memorandum from Council Member Kalra, dated August 12, 2014, recommending approval of the Indian Independence Day Flag Raising, approval of the expenditure of funds and acceptance of donations.

Public Comments: David Wall expressed comments about the Indian Independence Day Flag Raising.

2.14 (Cont'd.)

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, The Indian Independence Day Flag Raising as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (10-0-1. Absent: Liccardo.)

**2.15 As recommended by the Rules and Open Government Committee on August 13, 2014, reaffirm a position to oppose unless amended for SB 663 (LARA) and its Assembly counterpart bill AB 1450 (Garcia). (City Manager)
[Rules Committee referral 8/13/14 – Item G(4)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 14, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The position of opposition was reaffirmed. (10-0-1. Absent: Liccardo.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Edward K. Shikada announced that the next Council Priority Ordinances and Policy Initiatives Prioritization Process will be rescheduled to the September 9, 2014 Council Meeting and an information memorandum containing background material will be issued on August 21, 2014.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Approve a contract change order to add \$450,000 of additional funding to the contract with San José Water Company for a total amount not to exceed \$2,537,117, with no other changes to the contract. CEQA: Exempt, File No. PP12-108. (Environmental Services)

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated August 7, 2014, recommending adoption of a resolution.

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

Public Comments: David Wall commented on the total costs for the contract with San José Water Company. Mark Trout provided off topic concerns.

7.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, a contract change order to add \$450,000 of additional funding to the contract with San José Water Company for a total amount not to exceed \$2,537,117, with no other changes to the contract, was approved. (9-0-2. Absent: Kalra, Liccardo.)

PUBLIC SAFETY SERVICES

- 8.1 (a) **Adopt a resolution authorizing the City Manager to negotiate and execute all documents necessary to accept and administer the Federal Emergency Management Agency's 2013 Assistance to Firefighters Grant (AFG) Program award of \$2,012,035 to purchase P-25 compliant mobile and portable radios for San José Fire Department and the following fire departments: Santa Clara County, Gilroy, and Mountain View.**
- (b) **Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Services:**
- (1) **Establish an appropriation to the Fire Department for the 2013 AFG Regional Radios Grant Project in the amount of \$2,367,100.**
 - (2) **Increase the estimate for Earned Revenue by \$2,065,930.**
 - (3) **Increase the Ending Fund Balance by \$53,830.**
 - (4) **Decrease the Handheld Radios – AFG Grant Reserve appropriation to the Fire Department by \$355,000.**

CEQA: Not a Project, File No PP10-066(a), Purchase of supplies that involve no physical changes to the environment. (Fire/City Manager)

Documents Filed: Memorandum from Acting Fire Chief Ruben Torres and Deputy City Manager/Budget Director Jennifer A. Maguire, dated July 28, 2014, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

City Manager Edward K. Shikada responded to questions from Council Member Constant.

Council Member Constant requested Staff to consider providing any excess of funds to the Regional Interoperability reserve, upon its establishment.

Public Comments: David Wall expressed support to the Staff recommendations.

8.1 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 77126, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute All Documents Necessary To Accept and Administer the Federal Emergency Management Agency 2013 Assistance to Firefighters Grant Program Award of \$2,012,035 For the Purchase of P-25 Compliant Mobile and Portable Radios for the San José Fire Department, The Santa Clara County Fire Department, The Gilroy Fire Department and the Mountain View Fire Department”; Ordinance No. 29451, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29432 To Appropriate Monies in the Construction and Conveyance Tax Fund: Fire Protection Purposes for the 2013 AFG Regional Radios Grant Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 77127, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 To Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes”, were adopted. Staff was directed to consider providing any excess of funds to the Regional Interoperability reserve, upon its establishment. (10-0-1. Absent: Liccardo.)

OPEN FORUM

- (1) Ross Signorino suggested that the Council urge bicyclists to use safety vests.
- (2) Mark Trout voiced his own religious views.
- (3) Stephen Hazel expressed his own views and observations.
- (4) David Wall suggested adjusting the City Auditor’s work plan to include Montgomery Watson invoices related to hiring personnel for the Environmental Services Department.
- (5) Tim Gildersleeve presented his opinions about rent control.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 2:03 p.m.

RECESS/RECONVENE

The City Council recessed at 2:03 p.m. from the afternoon Council Session and reconvened at 7:00 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - All Present.

City Clerk Toni J. Taber, CMC read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Council Member Herrera, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to San José PAL Bronco All-Star team for placing third at the 2014 PONY Zone Championships. (Campos)
(Rules Committee referral 8/13/14)**

Mayor Reed and Council Members Campos and Rocha recognized and commended the San José PAL Bronco All-Star team.

- 1.4 Presentation of a commendation to Stuti Vishwabhan, a student at Presentation High School, for creating a non-profit organization dedicated to teaching seniors how to use computers and smart phones. (Khamis)
(Rules Committee referral 8/13/14)**

Mayor Reed and Council Member Khamis recognized and commended Ms. Stuti Vishwabhan, a student at Presentation High School, for creating a non-profit organization dedicated to seniors.

PUBLIC HEARINGS

- 11.2 (a) Consideration of and vote on a Majority Protest to Rezoning C13-042 filed pursuant to Part 5 of Chapter 20.120 of Title 20 (Zoning Code) to protest a rezoning to the DC - Downtown Primary Commercial Zoning District on a 0.102 gross acre site located on the northeast corner of Lorraine Avenue and South Montgomery Street (565 Lorraine Avenue).**

Please note: To override the Majority Protest in subsection (a) requires 8 or more affirmative votes (2/3).

11.2(a)(Cont'd.)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated August 15, 2014, recommending denial of the request for conventional rezoning. (2) The Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C13-042, dated March 4, 2014. (3) Memorandum from Planning Commission Secretary David Sykes, dated March 24, 2014, transmitting the Planning Commission recommendation of denial. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated August 15, 2014, describing the implications of the protest on the procedure for the Council's consideration of the proposed rezoning. (5) Proofs of Publication of Notices of Public Hearings, executed on February 21, 2014 and August 1, 2014, submitted by the City Clerk. (6) Letter from Vince D'Arpino, dated August 19, 2014, urging the Council to reject the zoning change at this time and approve a spectacular development in the future.

Director of Planning, Building and Code Enforcement Harry Freitas offered a brief overview of the planning process for the rezoning of the real property located at 565 Lorraine Avenue.

Dean Hanson, the Applicant and Daniel Choi, Montgomery 7, described the merits of the project.

Mayor Reed opened the public hearing.

Public Comments: The following speakers expressed concerns, opposition and urged Council to reject the rezoning change, to consider more density, and an adequate plan for a large scale development: Vince D'Arpino, Jack Woodson, Kathy Sutherland and Phil Hood, Delmas Park Neighborhood Association; Ron Biagini and Martin Delson.

Kurt Anderson, Architect for the Applicant, expressed support to the development.

Mayor Reed closed the public hearing.

Extensive Council discussion ensued.

Motion: Council Member Liccardo moved approval to support the Planning Commission's recommendation to uphold the majority protest and deny the request for conventional rezoning of real property located on the northeast corner of Lorraine Avenue and South Montgomery Street. Council Member Oliverio seconded the motion.

City Attorney Richard Doyle provided clarifications.

Council Members Campos, Herrera and Chu expressed opposition to the motion on the floor.

11.2(a)(Cont'd.)

Substitute Motion: Council Member Constant moved approval to override the protest and approve the request. Council Member Herrera seconded the motion.

Council Member Rocha expressed support to the motion on the floor.

Council Member Oliverio recommended that the Council consider an enhanced, large scale, grand development for the City of San José.

Council Member Liccardo encouraged the Applicant to work with City Staff and adjoining property owners for a high-density development that conforms to the spirit and the letter of the Diridon Area Specific Plan and that cohesively integrates with the surrounding parcels.

The motion to override the Majority Protest failed. (7-4. Noes: Kalra, Liccardo, Oliverio; Reed.) *To override the Majority Protest in subsection (a) requires 8 or more affirmative votes (2/3).*

- (b) **Consideration of an ordinance rezoning the real property located on the northeast corner of Lorraine Avenue and South Montgomery Street (565 Lorraine Avenue) from the LI – Light Industrial Zoning District to the DC – Downtown Core Zoning District on a 0.102 gross acre site (Solari James Trustee, Owner). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. Planning Commission recommends denial (5-1-1). (Planning, Building and Code Enforcement)**

C13-042 – District 3

(Deferred from 12/17/13 – Item 4.5, 4/15/14 – Item 11.2, and 8/5/14 – Item 4.1)

There was no Council action.

- 11.3 Consideration of an ordinance rezoning the real property located at 263 North Autumn Street from the LI Light Industrial Zoning District to the TEC Transit Employment Center Zoning District to allow office and commercial uses for a property with a General Plan/Transportation Land Use Designation of Transit Employment Center (Zavareh Parviz, Owner). CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)**

C14-029 – District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-029, dated July 28, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on August 1, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

11.3 (Cont'd.)

Public Comments: There was no public testimony from the floor. Mayor Reed closed the Public Hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29452, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.11 Acres at the Southwest Corner of North Autumn Street and West Julian Avenue (263 North Autumn Street) from the LI Light Industrial Zoning District to the TEC Transit Employment Center Zoning District”, was passed for publication. (10-1. Noes: Oliverio.)

11.4 **Consideration of an ordinance rezoning the real property located at 595 South White Road from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District on a 0.107 gross acre site (Jaswant Singh, Owner). CEQA: Reuse of Envision San José 2040 General Plan EIR. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)** **C14-035 – District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-035, dated July 28, 2014. (2) Proof of Publication of Notice of Public Hearing, executed on August 1, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Reed closed the Public Hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29453, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of South White Road and Westboro Drive (595 South White Road) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District”, was passed for publication. (11-0.)

11.5 **Consideration of an ordinance rezoning the real property located at 696 North 6th Street; which is bordered on the north by Taylor Street, on the east by North 7th Street, on the south by Jackson Street, and on the west by North 6th Street, from the LI Light Industrial District to RM Residential Zoning District on a 5.25 gross acre site (City of San José, Owner). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)** **C14-039 – District 3**

11.5 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-039, dated July 28, 2014. (2) Proofs of Publication of Notices of Public Hearings, executed on August 1, 2014 and August 6, 2014 submitted by the City Clerk. (3) Letter from Jeanne Katsuro, dated August 19, 2014, regarding her concerns about the Corporation Yard Development.

Mayor Reed opened the Public Hearing.

Public Comments: Helen Hayashi, Japantown Community Congress of San José, Wisa Uemura, San José Taiko expressed support to the Staff recommendations. Jeanne Katsuro, The Classic Rock Jewelry Store, expressed concerns and requested that the rezoning be deferred until the development plan is unconditionally supported by the community.

Mayor Reed closed the Public Hearing.

Council Member Liccardo pointed out that the community has been engaged for decades on exactly what will happen for this important parcel and acknowledged that Council was only considering the rezoning at this time.

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

Brief Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29454, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 5.25 Acres, Bounded by Taylor Street on the North, North 7th Street on the East, Jackson Street on the South and North 6th Street on the West (696 North 6th Street) from the LI Light Industrial Zoning District to the R-M Multiple Residence Zoning District”, was passed for publication. (11-0.)

- 11.6 (a) **Adopt a resolution adopting a Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program.**
- (b) **Consideration of an ordinance rezoning the real property located on the east side of Almaden Road, approximately 180 feet southerly of O’Grady Drive (18966 Almaden Road) from the R-1-1 Single-Family Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to 10 single-family homes on a 0.87 gross acre site (KCS Properties LLC, Owner). CEQA: Mitigated Negative Declaration resolution to be adopted. Planning Commission recommends approval (voted 6-0-1). (Planning, Building and Code Enforcement)**

PDC13-006 – District 10

11.6 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC13-006, dated July 22, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated July 28, 2014, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on July 7, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Reed closed the Public Hearing.

Action: Upon motion by Council Member Khamis, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Commission was approved, Resolution No. 77128, entitled: "A Resolution of the Council of the City of San José Adopting the 18966 Almaden Road Residential Development Project For Which An Initial Study/Mitigated Negative Declaration Was Prepared in Accordance With the California Environmental Quality Act and Adopting a Mitigation Monitoring and Reporting Program", was adopted and Ordinance No. 29455, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Almaden Road, Approximately 180 Feet Southerly of O'Grady Drive to R-1-5(PD) Planning Development Zoning District", was passed for publication. (11-0.)

11.7 **Consideration of an ordinance rezoning the real property located on the north side of the Alameda approximately 315 feet westerly of Stockton Ave (785 The Alameda) from a recently approved A(PD) Planned Development Zoning District which allowed 70 dwelling units and 22, 651 square feet of commercial to a new A(PD) Planned Development Zoning District which will allow 140 dwelling units and 22,651 square feet of commercial. This change in unit count is a result of decreasing the amount of two (2) and (3) bedroom units and increasing the number of one bedroom and studio units; and consideration of a resolution approving a Planned Development Permit to allow the demolition of an existing building and the construction of a 140 multi-family attached residence building and a 22, 651 square feet of commercial space for a 1.04 gross acre site (785 The Alameda LLC, Owner). CEQA: Addendum to Mitigated Negative Declaration File No. PDC13-007, Resolution No. 76763, adopted 8/20/2013. Planning Commission recommends approval (voted 6-0-1). (Planning, Building and Code Enforcement)** **PDC14-020/PD14-016 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC14-020/PD14-016, dated July 16, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated July 28, 2014, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on June 27, 2014, submitted by the City Clerk.

Mayor Reed opened the Public Hearing.

11.7 (Cont'd.)

Public Comments: Andrew Batchelder, Alameda Business Association, expressed support to the Staff recommendations.

Mayor Reed closed the Public Hearing.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29456, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of the Alameda Approximately 310 Feet West of Stockton Avenue From the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District", was passed for publication. An adoption of a resolution for approving a Planned Development Permit on this project will be determined on September 9, 2014. (11-0.)

11.8 **Conduct an Administrative Hearing and consideration of an Appeal of the Planning Director's adoption of the Subsequent Mitigated Negative Declaration for a Special Use Permit to recognize the expansion of the Star Concrete site to include the collection and recycling of concrete materials into reusable building materials on the northern portion of the site; to allow short-term noise levels in excess of 70 dBA at the project site property lines due to concrete crushing operations; and the construction of a compressed natural gas (CNG) fueling station for on-site refueling of project CNG vehicles on a 7.93 gross acre site. Location: The southeast corner of East Alma Avenue and S. 7th Street at 1404 South Seventh Street (APN 477-09-046). (Planning, Building and Code Enforcement) SP13-065 – District 7**

Documents Filed: (1) Memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Khamis, dated August 14, 2014, recommending approving the Staff recommendation to deny the environmental appeal and adopt the Subsequent Mitigated Negative Declaration. (2) Memorandum from Council Member Liccardo, dated August 18, 2014, recommending overturning the Planning Director's adoption of the Subsequent Mitigated Negative Declaration. (3) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated July 28, 2014, recommending conducting an Administrative Hearing, consider and approve the appeal and adoption of the resolution. (4) The Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. SP13-065, Final Director's Determination, dated June 18, 2014. (5) Proof of Publication of Notice of Public Hearing, executed on August 1, 2014, submitted by the City Clerk. (6) Letter from Clancy Hogan, Davis Colors, dated August 18, 2014, regarding the expansion of Star Concrete.

11.8 (Cont'd.)

Mayor Reed opened the Administrative Hearing.

Michael Burstein, Appellant, presented his argument that based on substantial evidence the project may have significant environment effects, including but not limited to its effect on aesthetics, air quality, hazards and hazardous materials, hydrology and water quality, noise, transportation and traffic and mandatory findings of significance.

Mike Campbell, HMM Engineering, representing the Applicant Star Concrete, urged the Council to deny the environmental appeal and adopt the Subsequent Mitigated Declaration to allow the applicant to implement the Special Use Permit to continue concrete recycling operations and install a CNG fueling facility at the site.

Public Comments: Speaking in opposition due to the effects on aesthetics, air quality, hazards and hazardous materials, hydrology and water quality, noise, transportation and traffic and mandatory findings of significance were: David Martens, Rita Torres, Spartan Keyes Neighborhood Action Coalition; Aurelia Sanchez, Kimberly Echeverri and Margarita De Los Rios.

Dean Hogan, Davis Colors and John Poch, San José State University Athletics expressed support to the Staff recommendations.

Mayor Reed closed the Administrative Hearing.

Director of Planning, Building and Code Enforcement Harry Freitas provided the background on the project.

Motion: Vice Mayor Nguyen moved approval to deny the environmental appeal and adopt the Subsequent Mitigated Declaration to allow the applicant to implement the Special Use Permit to continue concrete recycling operations and install a CNG fueling facility at the site. Council Member Herrera seconded the motion.

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

Council Members Campos, Liccardo and Kalra expressed concerns about air quality, noise, transportation and traffic and various other concerns.

Action: On a call for the question, the motion carried, Resolution No. 77130, entitled: “A Resolution of the Council of the City of San José Denying An Appeal Of and Upholding the Director of Planning, Building and Code Enforcement’s Determination to Adopt a Subsequent Mitigated Negative Declaration for Special Use Permit for the Star Concrete Expansion Project, All Pursuant to the Requirements of the California Environmental Quality Act, Together With Related State and Local Government Implementation Guidelines”, was adopted. (7-4. Noes: Campos, Chu, Kalra, Liccardo.)

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>
10264	E/S Senter Rd. approx. 280’ ft southerly of Nokomis Dr. (4030 Senter Rd.)	2	Mazen Kawadri	6 Lots/5 Units	SFD

NOTICE OF WITHDRAWN ITEMS:

Item 10.2 (Amendment on a 1.4 Gross Acre Site Located on the South East Corner of Goodyear Street and Pepitone Avenue), 11.2 (Conventional Rezoning Real Property Located on the South East Corner of Goodyear Street and Pepitone Avenue) and 11.3 (Agreement with Launchpad Development Company for Construction of Rocketship Tamien Public School) from the November 19, 2013 City Council Agenda were deferred to an August 2014 City Council Meeting and subsequently withdrawn from consideration.

ADJOURNMENT

The Council of the City of San José was adjourned at 9:48 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

/smd 08-19-14 MIN

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