



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, NOVEMBER 18, 2014

The Council of the City of San José convened in Regular Session at 9:09 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Campos, Constant, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Absent: Councilmembers - Chu. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:11 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 anticipated litigation in three (3) matters; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) Vietnamese-American Community of Northern California v. City of San José et al; Names of Partie(s) Involved: Vietnamese-American Community of Northern California; City of San José, California; City Council of San José; Court: Court of Appeal State of California, Sixth Appellate District; Case No.: H037748; Amount of Money or Other Relief Sought: Declaratory and injunctive relief according to Proof; (2) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s) Involved: The People of the State of California ex rel. San José Police Officers Association, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto; (3) IAFF Local 230 v. City of San José; Names of Partie(s) Involved: International Association of Firefighters Local

CLOSED SESSION (Cont'd.)

230, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (4) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (5) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (6) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-972-M; Amount of Money or Other Relief Sought: Damages According to Proof; (7) OE#3 v. City of San José; Names of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (C) to confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: (1) Property Street Address, Parcel Number, or Other Unique Reference of Property: Declaration of CC&R Agreement re: McCarthy Property (139 Acres) East of San José/Santa Clara Water Pollution Control Plant; Negotiating Parties: Kerrie Romanow for the City of San José and Joey McCarthy, Jr. for McCarthy Property; Under Negotiation: the direction will concern price and terms of early termination to CC&R; Likely Range of Value of Property: Negotiated price based on fair market value and initial purchase price for CC&R; (2) Property Street Address, Parcel Number, or Other Unique Reference of Property: 1125 Coleman Avenue, San José, CA; APN: 230-46-055, 230-46-060, 230-46-062, 230-46-063; Negotiating Parties: Nanci Klein for the City of San José and Ed Storm, Deke Hunter for Coleman Airport Partners, LLC and Lew and Keith Wolff for Earthquakes Soccer, LLC; Under Negotiation: price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (3) Property Street Address, Parcel Number, or Other Unique Reference of Property: Japantown Corporation Yard; 5.25 gross acres in size, bounded by Sixth Street, Seventh Street, Jackson Street and Taylor Street (696 North 6th Street and 675 North 6th Street); Negotiating Parties: Nanci Klein for the City of San José and Christopher Longinetti for Williams Dame; Susan Smartt for Related California Urban Residential; and Charles Thornton for Paul Hastings LLP; Under Negotiation: the direction will concern price and terms of payment; Likely Range of Value of Property; Negotiated price based on comparable rental 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 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,

CLOSED SESSION (Cont'd.)

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 11:15 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

INVOCATION

Reverend Dr. Ann Michele Rogers Brigham, Pastor, Congregational Church of Almaden Valley, UCC provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from Lynhaven Elementary School.

ORDERS OF THE DAY

Upon motion by Councilmember Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 1.5, 10.3 and 11.4 dropped per Administration.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of November 18, 2014:

- A. Authority to File Exceptions with the Public Employment Relations Board (PERB) in a Litigation Case:
1. Case Name: IAFF Local 230 v. City of San José
Adverse Party or Parties: International Association of Firefighters Local 230 (IAFF Local 230)
Substance of Litigation: Unfair Labor Practice
Council Vote:
Ayes: Constant, Herrera, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.
Noes: Campos, Kalra.
Disqualified: None.
Absent: Chu.
 2. Case Name: IFPTE Local 21 v. City of San José
Adverse Party or Parties: International Federation of Professional and Technical Engineers Local 21(IAFF Local 21)
Substance of Litigation: Unfair Labor Practice
Council Vote:
Ayes: Constant, Herrera, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.
Noes: Campos, Kalra.
Disqualified: None.
Absent: Chu.

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Mary Simon for founding Resource Area for Teaching (RAFT) and her 20-year tenure as executive director. (Chu)**

Action: Dropped per Administration

- 1.2 Presentation of a commendation to Barbara B. Kamm for her dedication and commitment to the community and achievement in receiving the “Champion of Change” award from the White House. (Nguyen)**

Mayor Reed, Vice Mayor Nguyen and Councilmember Herrera commended Barbara B. Kamm for her dedication and commitment to the community and achievement in receiving the “Champion of Change” award.

- 1.4 Presentation of a proclamation recognizing November as “Pancreatic Cancer Awareness Month” in San José. (Constant)**

Mayor Reed and Councilmember Constant recognized November as “Pancreatic Cancer Awareness Month” in San José.

- 1.5 Presentation of Commendation to Ken Schreiber for years of dedicated hard work developing and implementing the Valley Habitat Plan for the region. (Herrera)**

Action: Dropped per Orders of the Day

- 1.6 Special presentation to the “Partners in Reading Literacy Program”. (Chu)**

Mayor Reed recognized and commended Councilmember Chu for his service and dedication to the City of San José. Councilmember Chu presented to the Library Director Jill Bourne and Staff, a selection of children’s books for the “Partners In Reading Literacy Program”.

CONSENT CALENDAR

Upon motion by Councilmember Oliverio, seconded by Councilmember Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Chu.)

- 2.1 Approval of Minutes.**

None provided.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29509 – Amending Part 6 of Chapter 17.12 of Title 17 of the San José Municipal Code to add a new Section 17.12.640 to adopt local amendments to the 2013 California Fire Code Relating to Breathing Air Replenishment Systems.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29509 executed on November 7, 2014, submitted by the City Clerk.

Action: Ordinance No. 29509 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Committee on Economic Competitiveness Report of September 8, 2014. (Mayor)**
- (b) **Community and Economic Development Committee Report of October 27, 2014. (Herrera)**
- (c) **Rules and Open Government Committee Report of October 22, 2014. (Mayor)**
- (d) **Rules and Open Government Committee Report of October 29, 2014. (Mayor)**

Documents Filed: (1) Committee on Economic Competitiveness Report, dated September 8, 2014; (2) Community and Economic Development Committee Report dated October 27, 2014; (3) Rules and Open Government Committee Reports of October 22 and October 29, 2014.

Action: The Council Committee Reports were 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 Adopt a resolution authorizing the City Manager to negotiate and execute an Other Transaction Agreement with the Transportation Security Administration to partially reimburse Airport funded Police Department costs for four explosive detection canine teams for a total amount not-to-exceed \$202,000 per year at the Norman Y. Mineta San José International Airport for a five-year period commencing January 1, 2015, in a total reimbursement amount to the City not to exceed \$1,010,000. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Kim Becker Aguirre, dated October 27, 2014, recommending adoption of a resolution.

Action: Resolution No. 77213, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Transportation Security Administration to Partially Reimburse the Norman Y. Mineta San José International Airport for Costs Related to the Use of the Police Department’s Explosives Detection Canine Team”, was adopted. (11-0.)

- 2.8 Approve a settlement in the amount of \$190,000, inclusive of attorney’s fees, and authorize the City Attorney to execute a Settlement Agreement to settle the case of *Ammir Umar v. Craig Storlie*. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 5, 2014, recommending approval of a settlement in a lawsuit.

Action: The settlement in the amount of \$190,000, inclusive of attorney’s fees, with authorization for the City Attorney to execute a Settlement Agreement to settle the case of *Ammir Umar v. Craig Storlie*, was approved. (11-0.)

- 2.9 Approve an ordinance amending Title 14 of the San José Municipal Code to add a new Chapter 14.09 to:**

- (a) Provide that City contracts involving public works will follow State prevailing wage law (California Labor Code Sections 1720 – 1815) with certain modifications to allow for City enforcement; and**
- (b) Provide that the City’s prevailing wage policy set forth in Resolution Nos. 61144, 61716, 71584, 72518, 75848 and 76242 no longer apply to any City contracts involving public works covered by the ordinance.**

CEQA: Not a Project, File No. PP10-068(c), ordinance amendment that has no effect on the environment. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 6, 2014, recommending approval of an ordinance.

2.9 (Cont'd.)

Action: Ordinance No. 29510, entitled: “An Ordinance of the City of San José Amending Title 14 of the San José Municipal Code to Add a New Chapter 14.09 to Provide That City Contracts Involving Public Works will Follow State Prevailing Wage Law (California Labor Code Sections 1720 – 1815) With Certain Modifications to Allow for the City Enforcement, and to Provide that the City’s Prevailing Wage Policy Set Forth in Resolution Nos. 61144, 61716, 71584, 72518, 75848 and 76242 No Longer Applies to Any City Contract Involving Public Works Covered by This Ordinance”, was passed for publication. (11-0.)

2.10 Approve an ordinance amending various sections of Chapters 3.36 of Title 3 of the San José Municipal Code to implement a Tier 2 pension plan for new Fire employees of the City of San José in the Police and Fire Department Retirement Plan. CEQA: Not a Project, File No. PP10-068(b), Ordinance Amendment to Title 3. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 7, 2014, recommending approval of an ordinance.

Action: Ordinance No. 29511, entitled: “An Ordinance of the City of San José Amending Sections 3.36.020.15, 3.36.808, and 3.36.1020 of Chapter 3.36 of Title 3 of the San José Municipal Code to Implement a Tier 2 Pension Plan for New Employees in the Fire Department of the City of San José in the Police and Fire Department Retirement Plan”, was passed for publication. (11-0.)

2.11 Approve a Seventh Amendment to the Agreement with AmeriNational Community Services, increasing the amount of the agreement by \$100,000 from \$425,000 to \$525,000 and extending the term from December 31, 2014, to December 31, 2015. CEQA: Not a Project, File No. PP10-066(e), Contracts and Agreements for Services. (Housing)

Action: Deferred to December 2, 2014 per Administration

**2.12 (a) Approve the Dove Hill Park Grand Re-Opening Ceremony as a City Council sponsored Special Event; and
(b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project. (Nguyen) [Rules Committee referral 11/5/14 – Item G(3)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 6, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Dove Hill Park Grand Re-Opening Ceremony 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.)

- 2.13 (a) Approve the District 7 Neighborhoods Commission Appreciation Reception as a City Council sponsored Special Event;**
(b) Approve and accept donations from various individuals, businesses or community groups to support the District 7 Neighborhoods Commission Appreciation Reception; and
(c) Approve the expenditure of donations and City funds to provide incentives for participants.

CEQA: Not a Project. (Nguyen) [Rules Committee referral 11/5/14 – Item G(4)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 6, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 7 Neighborhoods Commission Appreciation Reception 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.)

- 2.14 Adopt a resolution authorizing the City Manager or designee to accept grant funding from the Metropolitan Transportation Commission and the Valley Transportation Authority for urban village planning for the Stevens Creek, Santana Row/Valley Fair, and Winchester Urban Villages, and negotiate and execute all documents required to accept the grant funds, including the authority to negotiate and execute any local matching funds, subject to the appropriation of such funds. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041. Council Districts 1 and 6. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated October 27, 2014, recommending adoption of a resolution.

Action: Resolution No. 77214, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Accept Grant Funding of \$1,570,434 from the Metropolitan Transportation Commission (MTC) and the Santa Clara Valley Transportation Authority (VTA) for Urban Village Planning for the Stevens Creek, Santana Row/Valley Fair, and Winchester Urban Villages and to Negotiate and Execute Any Documents Necessary to Effectuate the Grant”, was adopted. (11-0.)

- 2.15 Approve the Second Amendment to the Master Agreement with HDR Engineering Inc. for the Sanitary Sewer Condition Assessment Program, extending the term of the agreement from December 27, 2014, to June 30, 2015, at no additional cost to the City. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)**

Action: The Second Amendment to the Master Agreement with HDR Engineering Inc. for the Sanitary Sewer Condition Assessment Program was Approved. (11-0.)

2.15 (Cont'd.)

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated November 6, 2014, recommending approval of a Second Amendment to a Master Agreement.

Action: The Second Amendment to the Master Agreement with HDR Engineering Inc. for the Sanitary Sewer Condition Assessment Program, extending the term of the agreement from December 27, 2014, to June 30, 2015, at no additional cost to the City, was approved. (11-0.)

2.16 Approve Master Agreements with Verde Design, Inc., Callander Associates Landscape Architecture, Inc. and PlaceWorks for landscape architectural design services for various City facility projects from the date of execution through December 31, 2017, in an amount not to exceed \$1,000,000 for each agreement. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated November 18, 2014, recommending approval of Master Agreements.

Action: The Master Agreements with Verde Design, Inc., Callander Associates Landscape Architecture, Inc. and PlaceWorks for landscape architectural design services for various City facility projects from the date of execution through December 31, 2017, in an amount not to exceed \$1,000,000 for each agreement, were Approved. (11-0.)

2.17 Accept the Annual Status Report on the Citywide Capital Improvement Program. CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Public Works)

Documents Filed: Memorandum from Director of Public Works David Sykes, dated November 5, 2014, recommending acceptance of the Annual Status Report.

Action: The Annual Status Report on the Citywide Capital Improvement Program was accepted. (11-0.)

**2.18 (a) Approve travel by Councilmember Khamis to Washington, D.C. on November 20 – 23, 2014 to speak at the Arab American Institute's Leadership Summit.
(b) Accept gift of lodging and conference registration for the Summit in accordance with Subsection I of San José Municipal Code 12.08.030, Gift Ordinance Exceptions.**

Documents Filed: Memorandum from Councilmember Khamis, dated November 12, 2014, requesting authorizing to travel including acceptance of the gift of lodging and conference registration.

Action: The travel request and acceptance of the gift of lodging and conference registration was approved. (11-0.)

- 2.19 (a) Approve the Mayor’s Farewell Celebration as a City Council sponsored Special event; and**
(b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (Mayor)

[Rules Committee referral 11/12/14 – Item G(4)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 13, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Mayor’s Farewell Celebration 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.)

- 2.20 (a) Approve the Del Monte Park Grand Opening Ceremony as a City Council sponsored Special Event; and**
(b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (Oliverio)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 13, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Del Monte Park Grand Opening Ceremony 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.)

END OF CONSENT CALENDAR

PUBLIC SAFETY SERVICES

8.1 Discussion of Police Department Operations and Performance.

(a) Current Status of Police Department Sworn Staffing.

(b) Analysis of Recent Trends in Crime Statistics.

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

Documents Filed: (1) Memorandum from Chief of Police Larry Esquivel, dated November 6, 2014, offering Police Operations and Performance Information. (2) “Police Department Study Session” Powerpoint presentation.

Chief of Police Larry Esquivel provided an introduction and staff offered a presentation. Council discussion followed.

8.1 (Cont'd.)

Public Comment: Aurelia Sanchez offered criticism of Police Department response times. Ross Signorino thanked the Police Department for a job well done.

Chief of Police Larry Esquivel offered closing remarks.

No action was required.

COMMUNITY & ECONOMIC DEVELOPMENT

Note: Items 4.1 and 4.2 were heard concurrently

4.1 As recommended by the Community and Economic Development Committee on September 22, 2014, adopt a resolution amending the North San José Area Development Policy to:

- (a) Extend the North San José Traffic Impact Fee Incentive deadline for Tier 2 projects (build to suit projects of over one million square feet) to obtain building permits for one year to December 31, 2017; and to receive a certificate of occupancy for one year to December 31, 2017;
- (b) Limit the amount of development capacity in the incentive to a total of four million square feet across both Tiers; and
- (c) Designate the point at which the allocation of the incentive occurs is at the time of payment of the Traffic Impact Fee, or upon execution of an Industrial Project Completion Agreement upon approval of a valid development permit.

CEQA: North San José Development Policies Update EIR, Resolution No. 72768 and Addenda thereto. (Economic Development /Planning, Building and Code Enforcement/Transportation)

[Community and Economic Development Committee referral 9/22/14 – Item D(2)(b)]

(Deferred from 10/21/14 – Item 4.2 and 11/4/14 – Item 4.1)

Documents Filed: (1) Joint memorandum from Mayor Reed, Councilmembers Liccardo, Herrera and Rocha, dated November 14, 2014, recommending approval of the Staff recommendations. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated November 6, 2014, transmitting the recommendations of the Community and Economic Development Committee.

Mayor Reed offered an overview of the development policy. Director of Economic Development/Chief Strategist Kim Walesh provided a brief presentation. She indicated a correction to the memorandum noted below in “Action”.

Action: Resolution No. 77215, with a correction noted in Recommendation (a) submitted by the Office of the City Clerk, in the memorandum dated November 6, 2014 “...to obtain building permits for one year to December 31, ~~2017~~ 2015; and to receive a certificate of occupancy for one year to December 31, 2017”. (10-1. Noes: Chu.)

- 4.2 As recommended by the Committee on Economic Competitiveness on November 3, 2014, adopt a resolution to amend the North San José Design Guidelines to incorporate the changes described in the memorandum to the Committee on Economic Competitiveness dated October 24, 2014. CEQA: North San José Development Policies Update EIR, Resolution No. 72768 and Addenda thereto. (Planning, Building and Code Enforcement/Economic Development) (Economic Competitiveness referral 11/3/14 – Item C)**

Note: Items 4.1 and 4.2 were heard concurrently

Documents Filed: (1) Joint memorandum from Mayor Reed, Councilmembers Herrera and Rocha, dated November 14, 2014, recommending approval of the North San José Design Guidelines with additional direction to Staff. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated November 6, 2014, transmitting the recommendations of the Community and Economic Development Committee. (3) Letter from Benjamin Grant, Public Realm and Urban Design Program Manager, SPUR, dated November 14, 2014.

Motion: Council Member Herrera moved approval of the Staff recommendations with direction as outlined in: (1) the November 14, 2014 memorandum she coauthored with Mayor Reed and Councilmember Rocha recommending amendments to the North San José Design Guidelines incorporating changes described in the Committee on Economic Competitiveness memorandum dated October 24, 2014, and (2) the memorandum she coauthored with Mayor Reed, Councilmembers Liccardo and Rocha, dated November 14, 2014, (see Item 4.2) to extend the North San José Traffic Impact Fee Incentive deadline for Tier 2 projects, to limit the amount of development capacity in the incentive and to designate the point at which the allocation of the incentive occurs Vice Mayor Nguyen seconded the motion.

Councilmember Liccardo requested to amend the motion to include an additional recommendation “5(d)” in the November 6, 2014 memorandum provided by City Clerk Toni J. Taber, CMC, as outlined below in “Action”. Councilmember Herrera and Vice Mayor Nguyen accepted the amendment.

Public Comment: Roland Lebrun expressed criticism of the amended guidelines.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77216 was adopted, with direction as outlined in the joint memorandum from Mayor Reed and Councilmembers Herrera and Rocha, dated November 14, 2014; outlined in the memorandum from Mayor Reed, Councilmembers Herrera, Liccardo and Rocha, dated November 14, 2014, and with direction to include a recommendation 5(d) that guidelines be returned to the City Council in June 2016 to include an analysis from staff under what conditions we could move forward with additional housing allocations where those developers would pay for some significant amount of the shortfall in transaction fees. (11-0.)

- 4.3** As recommended by the Community and Economic Development Committee on September 22, 2014, direct the City Attorney to draft an ordinance amending Chapter 4.46 of Title of the San José Municipal Code and Chapter 4.47 of Title 4 of the San José Municipal Code to add sections to suspend the collection of the building and structure constructions tax for a single commercial high rise development project within two years. CEQA: Not a Project, File No. PP10-067(a), Adjustments to Fees, Rates, and Fares. (Economic Development /Planning, Building and Code Enforcement/Parks, Recreation and Neighborhood Services)
[Community and Economic Development Committee referral 9/22/14 – Item D(2)(a)(3)]
(Deferred from 10/21/14 – Item 4.1)

Action: Deferred to December 2, 2014 per Administration.

- 4.4** (a) Per Council Direction from June 17, 2014, direct the City Attorney to draft a resolution to establish a new Downtown High-Rise and Mid-Rise Park Fee Incentive program to allow high-rise developers to pay 50% of their parkland in-lieu fees at certificate of occupancy, and to make a payment equivalent to the remaining 50% of the fee over a 5 year period; and allow mid-rise developers to pay 75% of their fee at certificate of occupancy and to make a payment equivalent to the remaining 25% of the fees over a 5 year period, with the latter payments to be set aside in a fund for downtown parks operations and maintenance;
- (b) Provide policy direction to staff for the next step to be taken in the development of a potential downtown parks district.
- CEQA: Not a project, File No. PP10-067(a), Adjustments to Fees, Rates, and Fares. Council District 3. (Parks, Recreation and Neighborhood Services)

Action: Deferred to December 2, 2014 per Administration.

- 4.5** (a) Hold a Public Hearing regarding the establishment of a Housing Impact Fee on new market-rate rental housing developments to address the need for affordable housing associated with such new development;
- (b) Accept the Expenditure Plan prepared by staff and the “Residential Nexus Analysis – San José, California” dated October 2014 and prepared by Keyser Marston Associates, Inc.; and
- (c) Establish a housing impact fee on new market-rate rental housing development, in order to increase the supply of affordable housing consistent with the City’s Housing Impact Fee Expenditure Plan, by either:
- (1) Adopting a resolution to establish the Housing Impact Fee Program;
or
- (2) Approving an ordinance adding Chapter 14.34 to Title 14 of the San José Municipal Code to establish the Housing Impact Fee Program.
- CEQA: Not a Project, File No. PP10-067(a), Adjustments to Fees, Rates, and Fares. (Housing)

4.5 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated November 17, 2014, recommending deferral of consideration of the Housing Impact Fee. (2) Joint memorandum from Vice Mayor Nguyen and Councilmember Liccardo, dated November 14, 2014, recommending approval of the staff recommendations with modifications. (3) Memorandum from Councilmember Rocha, dated November 14, 2014 recommending approval of the staff recommendations with modifications. (4) Memorandum from Director of Housing Leslye Corsiglia, dated November 6, 2014, recommending adoption of a resolution or approval of an ordinance. (5) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated November 14, 2014, providing additional information and corrections to the original report. (6) Proof of Publication of Notice of Public Hearing executed on November 7, 2014, submitted by the City Clerk. (7) Letter from the California Apartment Association dated November 18, 2014, and Fairfield Residential Company LLC, dated November 13, 2014, expressing reservations with the Housing Impact Fee; from the San José Silicon Valley Chamber of Commerce, dated November 17, 2014; Valley Oak Partners, dated November 15, 2014; Housing & Community Development Commission dated November 11, 2014; Berg & Berg Developers, Inc., dated November 13, 2014, and case Daniel Levin, et al., v. City and County of San Francisco, dated October 21, 2014, all expressing opposition to the Housing Impact Fee. (8) Letter from 33 members of community organizations, dated November 14, 2014, expressing support to the Housing Impact Fee; Letter from Breathe California of the Bay Area, dated November 18, 2014, offering support.

Councilmember Constant stated that he would have to leave, but offered comments regarding the Plan, saying that the model was fundamentally flawed.

Director of Housing Leslye Corsiglia offered a presentation before Council, and Assistant Director of Housing Jacky Morales-Ferrand elaborated on the Study.

Motion: Vice Mayor Nguyen moved approval of the memorandum she cosigned with Councilmember Liccardo dated November 14, 2014; including Items 2, 3 and 4 from Councilmember Rocha's memorandum of November 14, 2014 and portions of Councilmember Herrera's memorandum of November 14, 2014 as indicated in "Action" to be returned to Council in Spring 2015 for further review. Councilmember Liccardo seconded the motion.

Public Comment: Kevin Zwick, Housing Trust Silicon Valley, and Shiloh Ballard offered support to the Plan. JoLee Joans submitted 3000 signed letters to the Council in support of the Housing Impact Fee. Pat Sausedo and Paul Campos, BIA Bay Area expressed opposition to the Plan.

The discussion of Item 4.5 was continued to the Council Meeting evening session.

NEIGHBORHOOD SERVICES

- 5.1 As referred by the Neighborhood Services and Education Committee on October 9, 2014, accept the report and provide direction to staff. (City Manager)
[Neighborhood Services and Education Committee referral 10/9/14 – Item D(3)]**

Action: Referred to Priority Setting Session per Rules and Open Government Committee.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 5:21 p.m.

RECESS/RECONVENE

The City Council recessed at 5:21 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio (7:40), 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 Vice Mayor Nguyen and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Oliverio.)

CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to Jeff Bornefeld for 15 years of service to the California Community Partners for Youth. (Nguyen)**

Mayor Reed, Vice Mayor Nguyen and Councilmember Herrera commended Jeff Bornefeld for 15 years of service to the California Community Partners for Youth, an organization dedicated to inspiring and supporting at-risk youth.

- 1.6 Presentation of a proclamation for “Sikh American Awareness & Appreciation Month” in the City of San José. (Kalra)**

Mayor Reed and Councilmember Kalra proclaimed “Sikh American Awareness & Appreciation Month” in the City of San José.

1.7 Presentation of a commendation to the Almaden Valley Women’s Club for their commitment to donate money raised from the Almaden Valley Art & Wine Festival. (Khamis)

Mayor Reed and Councilmember Khamis presented a commendation to the Almaden Valley Women’s Club for their tireless commitment to the community in donating to schools, non-profits, and other groups in San José.

Item 4.5 was continued from the Afternoon Session.

- 4.5 (a) Hold a Public Hearing regarding the establishment of a Housing Impact Fee on new market-rate rental housing developments to address the need for affordable housing associated with such new development;**
- (b) Accept the Expenditure Plan prepared by staff and the “Residential Nexus Analysis – San José, California” dated October 2014 and prepared by Keyser Marston Associates, Inc.; and**
- (c) Establish a housing impact fee on new market-rate rental housing development, in order to increase the supply of affordable housing consistent with the City’s Housing Impact Fee Expenditure Plan, by either:**
- (1) Adopting a resolution to establish the Housing Impact Fee Program;**
 - or**
 - (2) Approving an ordinance adding Chapter 14.34 to Title 14 of the San José Municipal Code to establish the Housing Impact Fee Program.**

CEQA: Not a Project, File No. PP10-067(a), Adjustments to Fees, Rates, and Fares. (Housing)

Substitute Motion: Councilmember Khamis proposed acceptance of Mayor Reed’s memorandum of November 17, 2014 recommending deferral of the Housing Impact Fee until further analysis is considered. The motion was seconded by Councilmember Oliverio.

Councilmember Oliverio offered a friendly amendment, recommending placement of the Housing Impact Fee on the ballot for November 2015 to include a county-wide tax. Councilmember Khamis accepted the amendment to the motion.

On a call for the question, the substitute motion failed. (3-7-1. Noes: Campos, Chu, Herrera, Kalra, Liccardo, Nguyen, Rocha. Absent: Constant.)

Extensive Council discussion followed, with clarification that staff return to Council in the March/April 2015 timeframe.

4.5 (Cont'd.)

Action: On a call for the question, the original motion passed, and Resolution No. 77218, entitled: “A Resolution of the Council of the City of San José Adopting a Housing Impact Fee”, was adopted, approving Staff’s recommendations with modifications as outlined in the joint memorandum from Vice Mayor Nguyen and Councilmember Liccardo dated November 14, 2014, to: (1) Subject all market rate residential rental housing to the Housing Impact Fee, with the exception for 5 years of downtown high-rise residential housing development. After five years from the operative fee date, the exemption for high-rise housing shall sunset; modifications outlined in Councilmember Rocha’s memorandum dated November 14, 2014, to: (1) Authorize staff to do additional research on a potential non-residential development fee as an additional source of revenue for affordable housing development; (2) Schedule a review of the Housing Impact Fee to be brought along with the results of the non-residential development fee for a potential fee adjustment, as well as additional research on the following development types: (a) The economic feasibility of the fee on a micro-unit product type, and (b) Any negative impacts of the fee on small-scale infill development; (3) As part of the 2015 Major Update of the 2040 General Plan, conduct a comprehensive review of the current framework for development in Urban Villages, including the distribution of jobs and housing between villages and the Village phasing plan, in order to determine whether we need to adjust our approach in order to ensure successful implementation of the Urban Village model; with the following three changes outlined in Councilmember Herrera’s memorandum dated November 17, 2014 to be brought back to Council in Spring 2015: (1) Exempt 50% of the Fee for mixed-use developments that have a minimum Floor-Area Ratio (FAR) of 0.5 dedicated for commercial or retail use; (2) Allow City staff to waive the Fee for a development if some percentage of the units were restricted to affordable rent by a recorded covenant enforceable by a government agency other than the City of San José; and (3) For purpose of the Fee, do not include assisted living facilities as residences. (7-3-1. Noes: Khamis, Oliverio; Reed. Absent: Constant.)

TRANSPORTATION & AVIATION SERVICES

6.1 Approve an ordinance amending Chapter 11.72 of Title 11 of the San José Municipal Code to prohibit the riding of bicycles on sidewalks in designated areas of Downtown San José, with exceptions for police officers and persons 12 years of age or under:

- (a) **(1) (Option 1) Defining the designated area as:**
- (a) **Santa Clara Street between Stockton Avenue and Eleventh Street.**
 - (b) **San Fernando Street between Cahill Street and Eleventh Street.**
 - (c) **First Street between St John Street and San Carlos Street.**
 - (d) **Second Street between St John Street and San Carlos Street.**
 - (e) **Third Street between St John Street and San Carlos Street.**
 - (f) **Fourth Street between St John Street and San Carlos Street.**

OR

6.1 (Cont'd.)

- (2) (Option 2) Alternatively, the City Council could define the designated area as, consistent with the Downtown Skateboard Prohibition Zone: beginning at the intersection of Julian Street and Fourth Street and then going west on Julian Street to San Pedro Street, then going south on San Pedro Street to Santa Clara Street, then going west on Santa Clara Street to Route 87, then going south along Route 87 to Woz Way, then going south along Woz Way to Balbach Street, then going east on Balbach Street to Almaden Boulevard, then going north on Almaden Boulevard to Viola Avenue, then going east on Viola Avenue to Market Street, then going south on Market Street to Reed Street, then going east on Reed Street to Second Street, then going north on Second Street to San Carlos Street, then going east on San Carlos Street to Fourth Street, then going north on Fourth Street to Julian Street; and
- (b) (Option 3) Amending Section 1.08.020 of Chapter 1.08 of Title 1 to Designate a Violation of Section 11.72.200 as an Infraction.
CEQA: Exempt, File No. PP14-087. (Transportation)

Action: Deferred to December 2, 2014 per Rules and Open Government Committee.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Approve the proposed odor control strategy at the San José-Santa Clara Regional Wastewater Facility. CEQA: San José/Santa Clara Water Pollution Control Plant Master Plan EIR, Resolution No. 72768. (Environmental Services)**

Action: Deferred to December 2, 2014 per Administration.

REDEVELOPMENT – SUCCESSOR AGENCY CONSENT CALENDAR

- 9.1 Successor Agency Board approve the Second Amendment to the Amended and Restated Lease with the Comedy Club of San José, LLC for the use of the Jose Theater located at 62 South Second Street. CEQA: New Century Block Project EIR, Resolution No. 67721. (Successor Agency to the Redevelopment Agency)**

Documents Filed: Memorandum from Successor Agency Managing Director Richard A. Keit, dated October 27, 2014, recommending approval of a Second Amendment to a Lease with the Comedy Club of San José.

Action: Upon motion by Councilmember Kalra, seconded by Councilmember Herrera, and carried unanimously, the Second Amendment to the Amended and Restated Lease with the Comedy Club of San José, LLC for the use of the Jose Theater located at 62 South Second Street was approved. (10-0-1. Absent: Constant.)

- 9.2 (a) **The Successor Agency Board adopt a resolution authorizing the Executive Officer or his designee to negotiate and execute:**
- (1) **An Amendment to the Amended and Restated Off-Site Improvement and Disbursement Agreement (“Improvement Agreement”) between the Successor Agency, North San Pedro Townhomes LLC, and San Pedro Life 1 LLC, to add First Community Housing (“FCH”), the Affordable Housing Developer for the Project, to the Improvement Agreement and to allow FCH to obtain Prop 1C Infill and Infrastructure grant funds in the amount of \$1,600,000; and**
 - (2) **Any other documents as may be necessary to effectuate and finalize the Successor Agency obligations related to the North San Pedro Housing Project.**
- (b) **The City Council adopt a resolution:**
- (1) **Approving the acquisition by the City of San José of certain real property located at the terminus of Terraine Street north of Bassett Street in San José (a portion of Assessor’s Parcel Number 259-51-066) using \$1,600,000 in previously appropriated Housing Dept funds;**
 - (2) **Authorizing the Director of Housing to negotiate and execute any additional documents as may be necessary to effectuate and finalize this transaction.**

Documents Filed: (1) Joint memorandum from Successor Agency Managing Director Richard A. Keit and Director of Housing Leslye Corsiglia, dated November 4, 2014, recommending adoption of resolutions. (2) Supplemental memorandum from Successor Agency Managing Director Richard A. Keit and Director of Housing Leslye Corsiglia, dated November 14, 2014, indicating that the City will be acquiring the Property jointly with the Successor Agency.

Action: Upon motion by Councilmember Kalra, seconded by Councilmember Herrera, and carried unanimously, Successor Agency Resolution No. 7034, A Resolution of the Successor Agency to the Redevelopment Agency of the City of San Jose Authorizing the Executive Officer or His Designee to Negotiate and Execute: (I) An Amendment to the Amended and Restated Off-Site Improvement and Disbursement Agreement Between the Successor Agency, North San Pedro Townhomes LLC, and San Pedro Life 1 LLC, to Add First Community Housing, the Affordable Housing Developer for the Project, to the Improvement Agreement and to Allow FCH To Obtain Prop 1C Infill and Infrastructure Grant Funds In the Amount Of \$1,600,000; and (II) Any Other Documents as May Be Necessary to Effectuate and Finalize the Successor Agency Obligations Related to the North San Pedro Housing Project”, and Resolution No. 77217, entitled: “A Resolution of the Council of the City of San José: (A) Approving the Acquisition by the City of San José of Certain Real Property Located at the Terminus of Terraine Street North of Bassett Street in San José (A Portion of Assessor’s Parcel Number 259-51-066) Using \$1,600,000 in Previously Appropriated Housing Department Funds; (II) Authorizing the Director of Housing to Negotiate and Execute Any Additional Documents as May Be Necessary to Effectuate and Finalize This Transaction”, were adopted. (10-0-1. Absent: Constant.)

GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10.1 (a) **General Plan Amendment: Land-Use/Transportation Diagram at East Julian Street and North Fourth Street.**

Tentative approval of a General Plan Amendment request to change the Land-Use/Transportation Diagram land use designation from Residential Neighborhood to Mixed Use Neighborhood on a 0.43 acre site, located at the southeast corner of East Julian Street and North 4th Street (298 North 4th Street) (Green Valley Corporation, Owner). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

GP14-003 – District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP14-003, dated October 28, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated November 12, 2014, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing executed on October 17, 2014, submitted by the City Clerk.

Action: Upon motion by Kalra, seconded by Councilmember Herrera and carried unanimously, the General Plan Amendment, Land-Use/Transportation Diagram at East Julia Street and North Fourth Street was tentatively approved. (9-0-2. Absent: Chu, Constant.)

END OF THE GENERAL PLAN ON CONSENT CALENDAR

10.2 **Tentative approval of a General Plan Text Amendment to modify Goal H-2 - Affordable Housing, to state that the City's goal is that 15% or more of the new housing developed in San José be affordable to low and moderate income households and to add a new policy to the Housing - Social Equity and Diversity Policies that states that the City will facilitate housing affordable to those who are employed in serving industries, driving industries and business support industries. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto. (Planning, Building and Code Enforcement)**

GPT14-007 - District: Citywide

Action: Deferred to December 9, 2014 per Administration

- 10.3 Tentative approval of a General Plan Text Amendment request to amend Policy ER-5.2 in Chapter 3 “Environmental Leadership” of the Envision San José 2040 General Plan to required that pre-construction surveys for migratory birds be conducted for certain projects that propose to disturb trees. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto. Director of Planning, Building and Code Enforcement and Planning Commission (5-0-2, Kline and Yob absent) recommend approval. (Planning, Building and Code Enforcement) GPT14-002 – District: Citywide
(Deferred from 9/23/14 – Item 10.3 and 9/30/14 – Item 10.2)**

Documents Filed: (1) Joint memorandum from Mayor Reed and Councilmembers Liccardo and Herrera, dated November 14, 2014, approving staff recommendations as indicated. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP14-002, dated September 3, 2014. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated September 25, 2014, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing executed on August 18, 2014, submitted by the City Clerk. (5) Email correspondence from Berg & Berg Developers indicating that more study is needed to justify the survey requirement.

Action: Dropped per Orders of the Day.

Note: Item 10.4 and 11.2 were heard concurrently

- 10.4 Approval of the CEQA actions in Item 10.4(a) and tentative approval of Items 10.4(b)-(d) for the project located on the east side of Perimeter Road, between Great Oaks Boulevard and Miyuki Drive (iStar San Jose LLC, Owner):**
- (a) Certify the Great Oaks Mixed Use Project Environmental Impact Report, and adopt a resolution making findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation monitoring and reporting program, and adopting a statement of overriding considerations, all in accordance with the California Environmental Quality Act.**
 - (b) Amendment to the Envision San José 2040 General Plan Land Use/Transportation Diagram from Combined Industrial/Commercial on an approximately 73 gross acre site to Combined Industrial Commercial on 28 acres, Mixed Use Neighborhood on approximately 35 acres, and Urban Residential on approximately 10 acres; and**
 - (c) Amendment to the Envision San José General Plan Text to amend the “Planned Job Capacity and Housing Growth Areas by Horizon (3 Horizons)” Table in General Plan Appendix 5 to move the growth capacity allocation from four nearby Urban Villages to the project site for up to 780 residential dwelling units; and**
 - (d) A revision of the Edenvale Area Development Policy dated April 2014 to include the Urban Residential portion of the project site into the Policy and to redistribute 1.0 million square feet of office/R&D and 450,000 square feet of commercial uses from the project site in Edenvale Area 5 to Edenvale Area 2.**

10.4 (Cont'd.)

**CEQA: Great Oaks Mixed Use Project Environmental Impact Report resolution to be considered for certification and adoption. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
GP12-001/GPT14-008/Edenvale Area Development Policy – District 2**

Documents Filed: (1) Joint memorandum from Mayor Reed and Councilmember Kalra, dated November 14, 2014, offering support to the project. (2) Memorandum from Councilmember Rocha, dated November 17, 2014, offering support with comments. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated November 12, 2014, transmitting the Planning Commission recommendation. (5) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated November 12, 2014, addressing edits made to the draft. (5) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project Files No. GP12-001, GPT14-008 and PDC12-028, dated October 24, 2014. (6) Proof of Publication of Notice of Public Hearing executed on October 24, 2014, submitted by the City Clerk. (7) Letter from UA Local Union 393, dated November 13, 2014, offering support to the project. (8) Letter from Scott Birkey, Cox Castle & Nicholson, dated November 18, 2014, responding to Councilmember Rocha's memorandum of November 17, 2014.

Director of Planning, Building and Code Enforcement, Harry Freitas provided a brief presentation.

Applicant Gerry DeYoung, representing the applicant, iStar, expressed merits of the project.

Motion: Councilmember Kalra moved approval of the Staff recommendations with key considerations as outlined in the memorandum he cosigned with Mayor Reed dated November 14, 2014. Councilmember Rocha seconded the motion.

Councilmember Oliverio remarked that he could not support the motion on the floor due to reservations with an industrial conversion.

Action: On a call for the question, the motion carried, and Resolution No. 77219, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Impacts, Mitigation Measures and Alternatives, and Adopting a Statement of Overriding Considerations, all in Accordance with the California Environmental Quality Act, as Amended, In Connection With the Great Oaks Mixed Use Project (SCH# 2013032047) for which an Environmental Impact Report has been Prepared", was adopted. (8-1-2. Noes: Oliverio. Absent: Chu, Constant.)

- 11.2 (a) Consideration of an ordinance rezoning the real property located on the east side of Perimeter Road, between Great Oaks Boulevard and Miyuki Drive (iStar San José, LLC, Owner) to allow up to 720 residential units, 154,00 square feet of commercial uses, and 260,000 square feet of office and/or commercial uses.**

Note: Item 10.4 and 11.2 were heard concurrently

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated November 12, 2014, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project Files No. GP12-001, GPT14-008 and PDC12-028, dated October 24, 2014. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated November 12, 2014, addressing edits made to the draft. (4) Proof of Publication of Notice of Public Hearing executed on October 24, 2014, submitted by the City Clerk.

Action: On a call for the question the motion carried, Ordinance No. 29512, entitled: “An Ordinance of the City of San José Rezoning Real Property of Approximately 73.73 Gross Acres Situated on the East Side of Perimeter Road, between Great Oaks Boulevard and Miyuki Drive, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District”, was passed for publication. (8-1-2. Noes: Oliverio. Absent: Chu, Constant.)

- (b) Consideration of an ordinance to approve a Development Agreement with iStar San José, FWSH Partners II and Earthquakes Real Estate (Developers) to develop up to 720 residential units, including single-family detached units, townhouses, and apartments, and approximately 414,000 square feet of retail and office space, in the Edenvale Area as described in the Great Oaks Mixed Use Project Draft Environmental Impact Report for General Plan Amendment (File No. GP12-001), Planned Development Rezoning (File No. PDC12-028), and Edenvale Development Area Policy Revisions, subject to Developers performing the following obligations: (1) Prior to approval of any subdivision map for any residential development , obtaining all required building permits for (a) construction of a major retail use of approximately 125,000 square feet; and (b) construction of enhancements, to the sports stadium previously approved by Planned Development Permit (File No. PD11-002) and currently under construction by Developers; and (2) Completion of final inspection for the building permit for the shell of the building comprising the major retail use prior issuance of the certificate of occupancy, either temporary or permanent, for the 300th residential unit; and completion (stub out) of all infrastructure including water sewer, roadway and power necessary for all office and retail use, prior to the**

11.2 (Cont'd.)

issuance of building permits for the last phase of residential development. The Development Agreement also includes findings to recognize the extraordinary benefit to be provided by the project from the construction of the stadium enhancements, consisting of an upgraded exterior and seating, permanent concession buildings and a new scoreboard, at an increase in cost to the Developers.

CEQA: Great Oaks Mixed Use Project Environmental Impact Report resolution to be considered for certification and adoption. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC12-028/DA14-002- District 2

Action: 11.2(b) Dropped per Administration.

10.5 Adopt a resolution approving all of the General Plan amendment actions taken on November 18, 2014. (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember Kalra, seconded by Councilmember Rocha and carried, Resolution No. 77220, entitled: "A Resolution of the Council of the City of San José Specifying the Council's Determinations on Proposed Amendments to the Envision San Jose 2040 General Plan Pursuant to Title 18 of the San Jose Municipal Code and Proposed Revision of the Edenvale Area Development Policy", was adopted. (8-1-2. Noes: Oliverio. Absent: Chu, Constant.)

PUBLIC HEARINGS

11.3 (a) Adopt a resolution adopting a Negative Declaration for the Samaritan Medical Center Project.

(b) Consideration of an ordinance rezoning the real property located at 2506 Samaritan Court from the CO Commercial Office Zoning District to the CO(PD) Planned Development Zoning District, and a Planned Development Permit to allow a 69,250 square foot medical office building with a parking structure on a 2.24 gross acre site (Samaritan Medical Group, Owner).

CEQA: Negative Declaration to be considered for adoption. (Planning, Building and Code Enforcement)

PDC14-008/PD14-013 – District 9

Action: Dropped per Administration.

- 11.4 (a) **Adopt a resolution adopting the Mitigated Negative Declaration for the Silver Creek Valley Gas Station, File Nos. PDC14-030 and PD14-030, and the related Mitigation Monitoring and Reporting Program;**
- (b) **Consideration of an ordinance rezoning the real property located on the southside of Silver Creek Valley Road approximately 320 feet southeast of Beaumont Canyon Drive (5667 Silver Creek Valley Road) (Canyon Creek Plaza, LLC, Owner) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow the uses of the CN-Commercial Neighborhood Zoning District including a gas station, convenience store, and car wash use, on a 0.96 gross acre portion of an existing 8.33 gross acre commercial shopping center known as Canyon Creek Plaza; and**
- (c) **Consideration of a Planned Development Permit to allow the construction of a new 2,999 square foot gas station, convenience store and car wash on the subject site. Continue this subsection (c) to December 2, 2014 for action after final adoption of the rezoning ordinance in subsection (b).**

CEQA: Mitigated Negative Declaration to be considered for adoption. No recommendation from Planning Commission. (Planning, Building and Code Enforcement)

PDC14-030/PD14-030 – District 8

Action: Dropped at Request of Applicant.

ADJOURNMENT

The Council of the City of San José adjourned at 8:59 p.m. in memory of former City of San José employee Mike Frezzo, who passed away on October 17, 2014, at the age of 40. Mike Frezzo was a member of the staff in the City Manager's Office for five years and provided excellent technical support and leadership for the City's Civic Center Television that broadcasts and webstreams all meetings of the City Council and its committees. (City Manager)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/11-19-14MIN