



## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 2, 2014

The Council of the City of San José convened in Regular Session at 9:30 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - Constant. (Excused)

Vacant: District 4.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:33 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 anticipated litigation (claim not filed) in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Friends of the Willow Glen Trestle v. City of San José et al; Names of Partie(s) Involved: Friends of the Willow Glen Trestle, an unincorporated association; v. City of San José and City Council of the City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-260436; Amount of Money or Other Relief Sought: Damages according to proof; (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: San José Arena, 525 W. Santa Clara Street, San José, California; Negotiating Parties: Nanci Klein, Jim Shannon, Bill Hughes, Patricia Deignan for the City of San José and Jim Goddard, Sean Morely, Luch LoFrumento for San José Arena Management; Under

## CLOSED SESSION (Cont'd.)

Negotiation: the direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and 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, 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.; 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 1:35 p.m. in the Council Chambers.

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

Absent: Councilmembers - Constant. (Excused)

Vacant: District 4.

## INVOCATION

Pastor Danny Sanchez of The City Peace Project provided the Invocation.

## PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance accompanied by third-grade students from Queen of the Apostles 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 Item 4.2 dropped. (9-0-1. Absent: Constant.)

## CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of December 2, 2014:

- A. Authority to Initiate Litigation:  
Authority to initiate litigation was given in 1 matter(s). The name of the action(s) and the defendant(s) as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action(s) is/are formally commenced.

Council Vote:

Ayes: Campos, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Noes: None.

Disqualified: None.

Absent: Pete Constant.

Vacant: District 4.

## CEREMONIAL ITEMS

### 1.1 Presentation of a Commendation to San José State University Career Center for their innovation in creating the Spartan Staffing Program. (Herrera)

Mayor Reed and Councilmember Herrera recognized the San José State University Career Center for their innovation and exemplary work in creating the Spartan Staffing Program.

## CONSENT CALENDAR

Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-1. Absent: Constant.)

### 2.1 Approval of Minutes

None provided.

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29510** – 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 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.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29510 executed on November 21, 2014, submitted by the City Clerk.

Action: Ordinance No. 29510 was adopted. (9-0-1. Absent: Constant.)

- (b) **ORD. NO. 29511** – 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.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29511 executed on November 21, 2014, submitted by the City Clerk.

Public Comment: David Wall offered that this item should be deferred.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Herrera and carried unanimously, Ordinance No. 29511 was adopted. (9-0-1. Absent: Constant.)

- (c) **ORD. NO. 29512** – Rezoning certain 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. **PDC12-028**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29512 executed on November 24, 2014, submitted by the City Clerk.

Action: Ordinance No. 29512 was adopted. (9-0-1. Absent: Constant.)

**2.3 Approval of Council Committee Reports.**

- (a) Transportation and Environment Committee Report of November 3, 2014.  
(Liccardo)**

Action: Deferred to December 9, 2014 per the City Clerk.

- (b) Rules and Open Government Committee Report of November 5, 2014.  
(Mayor)**

Documents Filed: (1) Rules and Open Government Committee Report of November 5, 2014.

Action: The Council Committee Report was accepted. (9-0-1. Absent: Constant.)

**2.4 Mayor and Council Excused Absence Requests.**

None provided.

**2.5 City Council Travel Reports.**

Councilmember Khamis reported on his trip to Washington D.C. in November to attend the Arab American Institute's Leadership Summit.

**2.6 Report from the Council Liaison to the Retirement Boards.**

No Report.

- 2.7 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)  
(Deferred from 11/18/14 – Item 2.11)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated November 10, 2014, recommending approval of an amendment to an agreement.

Action: 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, was approved. (9-0-1. Absent: Constant.)

- 2.8** (a) **Acknowledge receipt of the City Clerk’s Certification of results of nomination conducted among the retired members of the Police and Fire Department Retirement Plan;**  
(b) **Acknowledge receipt of the recommendation from the panel convened to interview candidates for the Retiree Representative on the Police and Fire Retirement Board; and**  
(c) **Appoint one retiree member to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2018.**  
**(City Clerk)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated November 17, 2014, reporting on an election and interview for an appointment of a representative to the Board of Administration of the Police and Fire Department Retirement Plan. (2) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated November 25, 2014, providing information concerning the election and interview results.

Action: Richard Santos was appointed to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2018. (9-0-1. Absent: Constant.)

- 2.9 Approve an Agreement with Macias Gini & O’Connell LLP for audit services for the fiscal year ending June 30, 2015, for a fee not to exceed \$584,159 for fiscal year 2014-2015. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (City Auditor)**

Documents Filed: Memorandum from City Auditor Sharon Erickson, dated November 14, 2014, recommending approval of an agreement.

Action: An agreement with Macias Gini & O’Connell LLP for audit services for the fiscal year ending June 30, 2015, for a fee not to exceed \$584,159 for fiscal year 2014-2015, was approved. (9-0-1. Absent: Constant.)

- 2.10 Approve a Neighborhood Watch Meeting scheduled on Thursday, December 11, 2014 as a City Council sponsored Special Event and approve the expenditure of funds. CEQA: Not a Project. (Constant)  
(Rules Committee referral 11/19/14)**

Documents Filed: Memorandum from Councilmember Constant, dated November 18, 2014, recommending approval of a Neighborhood Watch Meeting.

Action: A Neighborhood Watch Meeting scheduled for Thursday, December 11, 2014 as a City Council sponsored Special Event and approving the expenditure of funds, was approved. (9-0-1. Absent: Constant.)

**2.11 Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund:**

- (a) Increase the estimate for Earned Revenue by \$158,059; and
- (b) Establish an appropriation to the Office of Economic Development for the Alliance for Language Learners' Integration, Education, and Success (ALLIES) Grant Project in the amount of \$158,059.

**CEQA: Not a Project; File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager)**

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer Maguire, dated November 10, 2014, recommending adoption of a recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29513, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Workforce Investment Act Fund for the Alliance for Language Learners' Integration, Education, and Success (Allies) Grant Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 77221, 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 Workforce Investment Act Fund", were adopted. (9-0-1. Absent: Constant.)

**2.12 Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund:**

- (a) Increase the estimate for Earned Revenue by \$300,000; and
- (b) Establish an appropriation to the Office of Economic Development for the Proposition 39 Pre-Apprenticeship Grant Project in the amount of \$300,000.

**CEQA: Not a Project; File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager)**

Documents Filed: Joint memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Budget Director Jennifer Maguire, dated November 10, 2014, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29514, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Workforce Investment Act Fund for the Proposition 39 Pre-Apprenticeship Grant Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 77222, 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 Workforce Investment Act Fund", were adopted. (9-0-1. Absent: Constant.)

**2.13 Adopt a resolution authorizing the City Manager to:**

- (a) Execute purchase orders with Landscape Management and Maintenance Services for public right-of way locations in special district landscape areas with Valleycrest Landscape Maintenance, Inc. (San José, CA), Bayscape Landscape Management (San José, CA), Jensen Landscape, Inc. (San José, CA) and Marina Landscape, Inc. (Livermore, CA), for an initial two-year period starting on December 1, 2014 and ending November 30, 2016 for a cumulative compensation not-to-exceed amount of \$4,069,034;**
- (b) Execute change orders to add or delete service area locations or change service levels, subject to the appropriation of funds; and**
- (c) Exercise five additional one-year options to renew the purchase orders, subject to the annual appropriation of funds.**

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

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated December 2, 2014, recommending adoption of a resolution.

Action: Resolution No. 77223, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute Purchase Orders for Landscape Management and Maintenance Services for public Right-of-Way Locations in Special District Landscape Areas with Valleycrest Landscape Maintenance, Inc., Bayscape Landscape Management, Jensen Landscape, Inc. and Marina Landscape, Inc., for an Initial Two-Year Period Starting on December 1, 2014 and Ending November 30, 2016 for a Cumulative Compensation Not-To-Exceed \$4,069,034; (2) Execute Change Orders to Add or Delete Service Area Locations or Change Service Levels, Subject to the Appropriation of Funds; and (3) Exercise Five Additional One-Year Options to Renew the Purchase Orders, Subject to the Annual Appropriation of Funds”, was adopted. (9-0-1. Absent: Constant.)

**2.14 Approve a Second Amendment to the Agreement with the Health Trust for Destination: Home to extend the contract to June 30, 2015, expand the scope of services to increase the number of clients served, and increase the compensation by \$490,151, from \$1,045,000, for a total \$1,535,151. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Housing)**

Documents Filed: City Council Action Request from Director of Housing Leslye Corsiglia, dated December 2, 2014, recommending approval of a Second Amendment to an agreement.

Action: A Second Amendment to the Agreement with the Health Trust for Destination: Home to extend the contract to June 30, 2015, expand the scope of services to increase the number of clients served, and increase the compensation by \$490,151, from \$1,045,000, for a total \$1,535,151, was approved. (9-0-1. Absent: Constant.)



**2.15 Adopt a resolution to:**

- (a) **Amend the City of San José Pay Plan effective December 2, 2014, to create the following classifications:**
  - (1) **Zoo Education Specialist (6171)**
  - (2) **Zoo Educator (6172)**
  - (3) **Rides & Attractions Safety Coordinator (6175)**
  - (4) **Food & Beverage Services Supervisor (6163)**
- (b) **Amend the City of San José Pay Plan effective December 2, 2014, to change the salary range and title for the following classification:**
  - (1) **Entertainment Coordinator FT/PT(6863/6864) (formerly Puppet Theatre Coordinator FT/PT)**

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

Documents Filed: Memorandum from Director of Human Resources, Joe Angelo, dated November 10, 2014, recommending adoption of a resolution.

Action: Resolution No. 77224, 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. (9-0-1. Absent: Constant.)

**2.16 Approve a Second Amendment to the Master Agreement with West Yost & Associates, Inc. for the Nordale Pump Station Replacement Project, extending the term of the agreement from December 31, 2014 to December 31, 2015 at no additional cost to the City. 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 December 2, 2014, recommending approval of a Second Amendment to an agreement.

Action: A Second Amendment to the Master Agreement with West Yost & Associates, Inc. for the Nordale Pump Station Replacement Project, extending the term of the agreement from December 31, 2014 to December 31, 2015 at no additional cost to the City, was approved. (9-0-1. Absent: Constant.)

**2.17 As recommended by the Rules and Open Government Committee on November 12, 2014, rename a plaza located in Downtown San José on Market Street, from Circle of Palms Plaza to The Janet Gray Hayes Circle of Palms Plaza. (City Clerk)  
[Rules Committee referral 11/12/14 – Item G(2)]**

*Renumbered to Item 4.5 – Per Orders of the Day*

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

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

City Manager, Edward K. Shikada urged employee participation in the Workforce Engagement Survey.

### 3.3 Discuss the options for filling the anticipated vacancy in District 4, and

(a) Direct the City Clerk to open recruitment for an appointment, or

No action taken.

(b) Adopt resolutions calling for a Special Election to be held on April 7, 2015, with a runoff, if necessary, on June 23, 2015.

(City Clerk)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 12, 2014, regarding the District 4 Upcoming Vacancy.

Motion: Councilmember Liccardo moved approval of option “B” to call for a Special Election to be held on April 7, 2015 and a runoff, if necessary, on June 23, 2015, and to defer an interim appointment for the District 4 vacancy until December 9, 2014 unless otherwise instructed by the Open Rules and Government Committee. Vice Mayor Nguyen seconded the motion.

City Clerk Toni J. Taber, CMC, and City Attorney Richard Doyle further clarified the process.

Public Comments: David Wall offered support to a Special Election. Steven Hazel expressed disappointment with the process.

Action: On a call for the question, the motion carried unanimously, and Resolution 77225, entitled: “A Resolution of the Council of the City of San José, California, Calling for the Holding of a Special Municipal Election to be Held on Tuesday, April 7, 2015 for the Election of Certain Officers as Required by the Provisions of the Charter, and Calling for a Run-Off Election to be Held on Tuesday, June 23, 2015 if No Candidate Receives More than 50% of the Vote”; and Resolution No. 77226, entitled: “A Resolution of the Council of the City of San José, California, Requesting the Board of Supervisors of the County of Santa Clara to Render Specified Services to the City Relating to the Conduct of a Special Municipal Election to be Held on Tuesday, April 7, 2015, and a Special Run-Off Election to be Held on Tuesday, June 23, 2015 if No Candidate Receives more than 50% of the Vote and to Consolidate the Election with Any Election That May be Held on the Same Dates”, were adopted. (9-0-1. Absent: Constant.)

- 3.4 Adopt a resolution authorizing the City Manager to:**
- (a) Negotiate and execute an agreement with Brüel & Kjaer EMS Inc. (Sacramento, CA) for software and hardware maintenance and support, including flight radar data subscription for the Aircraft Noise and Flight Monitoring System for an initial five-year term ending December 31, 2019, with a maximum compensation not-to-exceed \$501,733 for the initial twelve months of the agreement, and \$1,586,485 for the five-year term, subject to the annual appropriation of funds;**
  - (b) Execute one-year options to extend the term of the agreement to provide ongoing maintenance and technical support services after the initial five-year term, subject to the appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated November 10, 2014, recommending adoption of a resolution.

Action: Upon motion by Councilmember Liccardo, seconded by Councilmember Herrera and carried unanimously, Resolution No. 77227, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Bruel & Kjaer EMS Inc. for an Aircraft Noise and Flight Track Monitoring System at the Norman Y. Mineta San José International Airport”, was adopted. (9-0-1. Absent: Constant.)

- 3.5 As recommended by the Public Safety, Finance, and Strategic Support Committee on November 20, 2014, adopt a resolution authorizing the Director of Finance to write off uncollectible Debts in an amount up to \$3,725,263.90. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities. (Finance)**

**[Public Safety, Finance, and Strategic Support Committee referral 11/20/14 – Item D(8)]**

Documents Filed: Memorandum from City Clerk Toni Taber, dated November 25, 2014, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Public Comment: David Wall expressed concerns regarding money owed the City.

Director of Finance Julia H. Cooper discussed the launch of the Property Assessed Clean Energy (PACE) Program.

Action: Upon motion by Councilmember Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 77228, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Write Off Uncollectible Accounts”, was adopted. (9-0-1. Absent: Constant.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 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 and 11/18/14 – Item 4.3)**

Documents Filed: (1) Memorandum from City Clerk Toni Taber, dated November 20, 2014, transmitting the recommendations of the Community and Economic Development Committee. (2) Supplemental memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Director of Planning, Building and Code Enforcement, Harry Freitas, dated November 20, 2014, providing additional analysis supporting the recommendation.

Director of Economic Development/Chief Strategist Kim Walesh outlined the proposal as presented to the Community and Economic Development Committee, and Council discussion followed.

Motion: Councilmember Liccardo moved approval of the staff's recommendations. Councilmember Herrera seconded the motion.

Substitute Motion: Councilmember Campos moved approval of staff's recommendation with direction to staff to provide an analysis on requirements for pursuing local preferences for contractors. The motion was seconded by Councilmember Kalra.

Councilmember Rocha requested to amend the substitute motion by moving ahead on pursuing local preferences and returning to Council at a later date. Councilmembers Campos and Kalra accepted the amendment.

Public Comment: Offering support to pursuing local preferences were Ross Signorino and Scott Knies. David Wall spoke in opposition to tax breaks.

Action: On a call for the question, the substitute motion carried unanimously, and Staff recommendations 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 were accepted, with direction to staff to provide an analysis on requirements for pursuing local preferences for contractors, to moving ahead on pursuing local preferences, and with staff to return to Council in late January or early February for final action. (9-0-1. Absent: Constant.)

- 4.2 (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)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated November 10, 2014, regarding the Downtown High-Rise and Mid-Rise Incentive Program and Parks District. (2) Letter from Sergio Jiminez, City of San José Parks and Recreation Commission, dated November 24, 2014, expressing concerns on behalf of the Commission.

Action: Dropped per Orders of the Day.

4.3 **Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Daniel D. Tennyson House” located at 54 South 14<sup>th</sup> Street.**

- (a) **Conduct a Public Hearing and adopt a resolution designating the “Daniel D. Tennyson House” as a landmark of special historic, architectural, aesthetic or engineering interest, or value of a historic nature;**
- (b) **Conduct a Public Hearing on the Historic Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property (Barry and Maile Del Buono, Owners) and adopt a resolution approving the contract.**

**CEQA: Exempt. (Planning, Building and Code Enforcement)**

**HL14-214/MA14-002 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL14-214 and MA14-002, dated October 28, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated November 19, 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.

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

#### 4.3 (Cont'd.)

Action: Upon motion by Councilmember Liccardo, seconded by Councilmember Herrera and carried unanimously, Resolution No. 77229, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Daniel D. Tennyson House, Located at 54 South 14<sup>th</sup> Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, and Resolution No. 77230, entitled: “A Resolution of the Council of the City of San José Approving a Historical Property Contract with Barry and Maile Del Buono for the Daniel D. Tennyson House (City Landmark No. HL14-214) Located at 54 South 14<sup>th</sup> Street”, were adopted. (9-0-1. Absent: Constant.)

#### 4.4 **Approve a five-year lease with James V. Simoni for the use of approximately 8,500 square feet of office space in San José, at a rental rate of \$156,000 for the first year, \$160,200 for the second year, \$164,400 for the third year, \$168,600 for the fourth year, and \$172,800 for the fifth year. The total rental cost for the five-year term of this lease is \$822,000. The lease agreement begins on September 1, 2014 and ends on August 31, 2019. CEQA: Not a Project, File No. PP10-066(f), Lease of existing space. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated November 10, 2014, recommending approval of a five-year lease.

Action: Upon motion by Councilmember Oliverio, seconded by Vice Mayor Nguyen and carried unanimously, a five-year lease with James V. Simoni for the use of approximately 8,500 square feet of office space in San José, at a rental rate of \$156,000 for the first year, \$160,200 for the second year, \$164,400 for the third year, \$168,600 for the fourth year, and \$172,800 for the fifth year, with related contingencies, was approved. (9-0-1. Absent: Constant.)

#### 4.5 **As recommended by the Rules and Open Government Committee on November 12, 2014, rename a plaza located in Downtown San José on Market Street, from Circle of Palms Plaza to The Janet Gray Hayes Circle of Palms Plaza. (City Clerk)** **[Rules Committee referral 11/12/14 – Item G(2)]**

*Note: Renumbered from Item 2.17 – Per Orders of the Day*

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 20, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: Upon motion by Councilmember Liccardo, seconded by Councilmember Herrera and carried unanimously, the plaza located in Downtown San José on Market Street, was renamed from Circle of Palms Plaza to The Janet Gray Hayes Circle of Palms Plaza. (9-0-1. Absent: Constant.)

## NEIGHBORHOOD SERVICES

### 5.1 As recommended by Neighborhood Services and Education Committee on November 13, 2014:

- (a) Accept the report for the first-phase evaluation of Community Center Reuse Program Satellite Centers;
- (b) Accept the recommended schedule for the second-phase of the Community Center Reuse Program for Neighborhood Centers; and
- (c) Accept the Community Center Priority approach for community center services as resources become available.

**CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)**  
**[Neighborhood Services and Education Committee referral 11/13/14 – Item D(1)]**

Documents Filed: (1) Memorandum from Councilmember Herrera, dated November 26, 2014, recommending staff explore options for establishing Satellite Community Centers in Council Districts where there is a high need and a lack of Satellite Centers. (2) Memorandum from Acting City Clerk Toni Taber, dated November 20, 2014, transmitting the recommendations of the Neighborhood Services and Education Committee.

Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and staff provided a presentation on the Community Center Reuse Program.

Public Comment: Albert Estrada, representing the Boys & Girls Clubs of Silicon Valley expressed appreciation for the City’s reuse program. David Wall offered comments that the public should be informed of the funding nature of non-profits.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the report for the first-phase evaluation of Community Center Reuse Program Satellite Centers and schedule for the second phase of the Program were accepted, and the Community Center Priority approach for community center services as resources become available was approved. (9-0-1. Absent: Constant.)

### 5.2 As recommended by the Public Safety, Finance, and Strategic Support Committee on November 20, 2014, accept the Mayor’s Gang Prevention Task Force Strategic Work Plan 2015 – 2017. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (Parks, Recreation and Neighborhood Services)

**[Public Safety, Finance, and Strategic Support Committee referral 11/20/14 – Item D(11)]**

Documents Filed: (1) Memorandum from Mayor Reed, dated December 1, 2014, recommending acceptance of the Draft Work Plan with changes to the Funding and Homicides chart. (2) Memorandum from City Clerk Toni Taber, dated November 25, 2014, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

## 5.2 (Cont'd.)

Motion: Vice Mayor Nguyen moved approval of the Mayor's Gang Prevention Task Force Strategic Work Plan 2015 – 2017, with changes as outlined in Mayor Reed's memorandum of December 1, 2014. Councilmember Herrera seconded the motion.

Councilmember Rocha requested an amendment to include a ten-year minimum retrospective covering gang-related incidents and crimes. Vice Mayor Nguyen and Councilmember Herrera approved the amendment to the motion.

Public Comment: Expressing support for the Task Force and funding for outreach in the City of San José were: Pastor Sonny Lara (Firehouse Outreach Schools), Johnny GoGo (District Attorney's Office), Harley Christensen (San José Jazz Progressions), Rebecca Esparza (PRNS) and Jerry Amaro (Victory Outreach). David Wall opined the glorification of 'gang culture'.

Action: On a call for the question, the motion carried unanimously, and the Mayor's Gang Prevention Task Force Strategic Work Plan 2015 – 2017 was accepted, with changes as outlined in Mayor Reed's memorandum of December 1, 2014 to modify the chart depicting Funding and Homicides (Page 13) with a chart measuring at least a decade of statistics including a retrospective funding analysis covering gang-related incidents and violent gang crimes, and with Councilmember Rocha's recommendation to include a ten-year minimum retrospective covering gang-related incidents and crimes. (9-0-1. Absent: Constant.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **Approve an ordinance 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, and amending Section 1.08.020 of Chapter 1.08 of Title 1 to Designate a Violation of Section 11.72.190 as an Infraction.**
- (b) **(Option 1) Define the designated area as:**
- (1) **Santa Clara Street between Stockton Avenue and Eleventh Street.**
  - (2) **San Fernando Street between Cahill Street and Eleventh Street.**
  - (3) **First Street between St. John Street and San Carlos Street.**
  - (4) **Second Street between St. John Street and San Carlos Street.**
  - (5) **Third Street between St. John Street and San Carlos Street.**
  - (6) **Fourth Street between St. John Street and San Carlos Street.**



- 6.1 (c) **(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.**

**CEQA: Exempt, File No. PP14-087. (Transportation)**

**[Transportation and Environment Committee referral 10/6/14 – Item D(3) and Rules and Open Government Committee referral 10/15/14 – Item A2 ]**

**(Deferred from 11/18/14 – Item 6.1)**

Documents Filed: (1) Memorandum from Councilmember Rocha, dated November 26, 2014, regarding the Sidewalk Bicycling ordinance. (2) Memorandum from Councilmember Liccardo, dated November 26, 2014, regarding the Sidewalk Bicycling ordinance. (3) Memorandum from Councilmember Herrera, dated November 26, 2014, regarding the Sidewalk Bicycling ordinance. (4) Memorandum from Councilmember Khamis, dated November 26, 2014, regarding the Sidewalk Bicycling ordinance. (5) Replacement memorandum from Director of Transportation Hans Larsen, dated November 10, 2014, recommending approval of an ordinance and providing a revised implementation schedule from the original memorandum. (6) Petitions from ten Senior Centers, letter from the Senior Commission dated September 23, 2014, and letters and email from Sofia Mendoza, A.E. Warren, MD., Susan Strehlow and Elsvette Buenaventura, all requesting an ordinance prohibiting bicycles and skateboards on sidewalks in the downtown core area.

Public Comment: Offering objections to the proposed ordinance, suggesting alternative solutions and speaking in support to car and bike safety, were: Dale Peterson, Colin Heyne (Silicon Valley Bicycle Coalition), Thomas Aldridge, Laura Monczynski, Jerry Wilburn, Richard Corlmau, Cam Ramierez, Dora, Janet Laffhern, Andrew Fitzgerald, Hilary Nixon, Andrew Boone, Erik Ard, AnaLisa Campos and Ann Webb.

Speaking in support of the proposed ordinance, encouraging senior safety and offering alternative solutions, were: Rudy Ortega, Richard McCoy, Stephen Hazel, David Wall, Vince Tarpey, Roseanna Lavia, Rita Mora, Mona Onstead; Nancy Williamson, Warren Gannon, Joyce Rouborn and Marie Hayter (Senior Citizen Commission); Estelle Kalis, Milton Rubin, Lee Ellak, Joseph Mc Nerney, Anne Ramirez, Gary Smith, Shiloh Ballard, Martha O'Connell and Scott Knies.

Director of Transportation Hans Larsen, Paul Smith and John Brazil from the Department of Transportation offered a presentation and responded to questions from the Council.

## 6.1 (Cont'd.)

Motion: Councilmember Liccardo moved approval of staff recommendations with changes as recommended in his memorandum of November 26, 2014, along with portions of Councilmember Khamis' memorandum of November 26, 2014, which recommends adopting Option 1 of the staff recommendation with changes to exclude Santa Clara Street between Stockton Avenue and Eleventh Street due to obstruction from Bus Rapid Transit (BRT) construction; to exempt cyclists 12 years or under and those transporting someone who is 12 years or under. Councilmember Khamis seconded the motion.

Director of Transportation Hans Larsen added his intent to return to the Transportation and Environment Committee in the March/April 2015 timeframe with an update and to more clearly define reckless behavior as addressed in Councilmember Rocha's memorandum of November 26, 2014.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29515, entitled: "An Ordinance of the City of San José Renumbering and Amending Section 11.72.010 of Chapter 11.72 of Title 11 of the San José Municipal Code to be Included in Chapter 11.04 of Title 11, Adding Section 11.04.031 to Chapter 11.04 of Title 11 to Define Bicycles and Designated Areas, Adding Sections 11.72.190 and 11.72.200 to Chapter 11.72 of Title 11 to Prohibit the Riding of Bicycles on Sidewalks in Designated Areas, and Amending Section 1.08.020 of Chapter 1.08 of Title 1 to Designate a Violation of Section 11.72.190 as an Infraction", was passed for publication, adopting Option 1 of the staff recommendation with changes to exclude Santa Clara Street between Stockton Avenue and Eleventh Street due to obstruction from Bus Rapid Transit (BRT) construction; to exempt cyclists 12 years or under and those transporting someone who is 12 years or under; and with staff to return to the Transportation and Environment Committee with an update on the implementation of a behavioral rules and an education campaign, more clearly defining reckless behavior, to be included with the Department of Transportation's annual report due in the March/April 2015 timeframe. (9-0-1. Absent: Constant.)

## ENVIRONMENTAL & UTILITY SERVICES

*Note: Items 7.1 and 7.2 were heard concurrently, but bifurcated for the vote.*

### 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)**

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated October 27, 2014, recommending approval of a Third Amendment to an Agreement. (2) Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated September 12, 2014, stating concurrence with the Staff recommendation. (3) Letter from Milpitas City Manager, Thomas C. Williams, dated December 2, 2014, providing comments on Odor Control and Biosolids Transition Strategies.

## 7.1 (Cont'd.)

Staff provided a presentation, and Council discussion ensued.

Public Comment: Marilyn Nickel, City of Milpitas, referenced the Milpitas City Manager's letter of December 2, 2014, asking that any strategies utilized in the Odor Control Strategy be comprehensive. Dora (no last name given) recommended the use of Biosolids for renewable energy. David Wall offered criticism of the strategies proposed.

Action: Upon motion by Councilmember Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the proposed odor control strategy at the San José-Santa Clara Regional Wastewater Facility, was approved. (9-0-1. Absent: Constant.)

*Note: Items 7.1 and 7.2 were heard concurrently, but bifurcated for the vote.*

## 7.2 **Approve the Biosolids Transition Strategy for the San José-Santa Clara Regional Wastewater Facility. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Environmental Services)**

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated November 5, 2014, recommending approval of the Biosolids Transition Strategy. (2) Supplemental memorandum from Environmental Services Director Kerrie Romanow, dated November 26, 2014, providing information from the TPAC meeting of November 20, 2014. (3) Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated November 20, 2014, stating concurrence with the Staff recommendation. (4) Letter from Milpitas City Manager, Thomas C. Williams, dated December 2, 2014, providing comments on Odor Control and Biosolids Transition Strategies.

Motion: Councilmember Rocha moved approval of the Temperature Phased Anaerobic Digestion (TPAD) upgrades, but deferral of the Thermal Drying Facility until Spring of 2015 when additional studies on the facility become available. Councilmember Kalra seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the Biosolids Transition Strategy for the San José-Santa Clara Regional Wastewater Facility was approved, with deferral of the Thermal Drying Facility until Spring of 2015 when additional studies on the facility become available. (9-0-1. Absent: Constant.)

- 7.3 (a) **Conduct a Public Hearing on the applications of the following companies for Commercial Solid Waste and Recyclables Collection Franchises for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris;**
- (b) **Approve ordinances granting the franchises;**
- (c) **Approve the Commercial Solid Waste and Recyclables Collection Franchise Agreements for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris for a term from January 1, 2015 to June 30, 2016 with the option of three one-year extensions:**
- (1) **M&G Hauling Inc.;**
- (2) **Uriel Del Toro dba Del Toro Trucking.**
- CEQA: Exempt; File No. PP08-228. (Environmental Services)**

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated November 10, 2014, recommending approval of the ordinances. (2) Proof of Publication of Notice of Public Hearing executed on November 21, 2014, submitted by the City Clerk.

Public Comment: David Wall offered comments on the franchise agreements.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29516, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Uriel Del Toro DBA Del Toro Trucking; and Ordinance No. 29517, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to M & G Hauling, Inc., were passed for publication, with approval of the TPAD upgrades approved and with action regarding thermal and greenhouse drying facilities to return to full Council in the Spring of 2015 once additional study is available, and with the new Digested Sludge Dewatering Facility to be continued to 2015-2016 after the odor strategy is completed and costs calculated. (9-0-1. Absent: Constant.)

- 7.4 **As recommended by the Transportation and Environment Committee on November 3, 2014:**
- (a) **Accept the staff report regarding the Sanitary Sewer Flow Study; and**
- (b) **Approve the proposed changes and policy recommendations for future updates to the revenue program for the San José – Santa Clara Regional Wastewater Facility.**

**CEQA: Not a Project, File No. PP10-067(a), Increases or Adjustments to Fees, Rates and Fares. (Environmental Services)**

**[Transportation and Environment Committee referral 11/3/14 – Item D(3)]**

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated November 10, 2014, recommending approval of an ordinance and approval of franchise agreements. (2) Proof of Publication of Notice of Public Hearing executed on November 21, 2014, submitted by the City Clerk.

Action: Deferred to January 2015 per Administration.

## **OPEN FORUM**

1. Steven Hazel provided personal observations.
2. David Wall expressed his opinions regarding the City's Water Pollution Control Plant.
3. Martha O'Connell urged Council to take a time certain approach when issues directly affecting seniors are to be discussed.
4. Dora offered opinions on City hiring policies.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 6:27 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

rmk/12-02-14MIN