

CITY COUNCIL AGENDA

DECEMBER 16, 2014

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
VACANT
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:32 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.
Vacant: District 4.

2:20 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.
Vacant: District 4.
- **Invocation (Mayor)**
Lorianna Gardere, Bible Way Christian Center sang "Jesus Loves the Little Children" for the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

- Closed Session Report
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Reverend Deacon Salvador Enrique Alvarez for his work on the Conflict Assessment Regarding Latino Overrepresentation in the Criminal Justice System. (Mayor)
(Rules Committee referral 12/10/14)
Mayor Reed, Mayor Elect Liccardo and Council Member Herrera recognized and commended Reverend Deacon Salvador Enrique Alvarez.
- 1.2 Special presentation to the “Partners in Reading Literacy Program”. (Mayor Elect)
Mayor Elect Sam Liccardo recognized and commended Mayor Chuck Reed, Vice Mayor Madison Nguyen, Council Member Pete Constant and Council Member Xavier Campos for their service and dedication to the City of San José. As customary, Mayor Elect Liccardo presented to the Library Director Jill Bourne and Staff, in honor of each Council Member, four gift baskets consisting of a varied selection of diverse children’s books for the “Partners In Reading Literacy Program”.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of September 9, 2014.
- (b) Regular Minutes of September 16, 2014.
- (c) Regular Minutes of September 23, 2014.
- (d) Regular Minutes of September 30, 2014.

Approved.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29516 – 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.

Ordinance No. 29516 adopted.

- (b) ORD. NO. 29517 – An ordinance of the City of San José granting a Commercial Solid Waste And Recyclables Collection Franchise to M & G Hauling, Inc.

Ordinance No. 29517 adopted.

2. CONSENT CALENDAR

2.2 Final Adoption of Ordinances. (Cont'd.)

- (c) ORD. NO. 29519 – Rezoning certain real property of approximately 81.0 gross acres situated on the south side of Quimby Road, Approximately 20 feet west of Capitol Expressway, from the R-1-8 Single-Family Residence and CO Commercial Office Zoning Districts to the A(PD) Planned Development Zoning District. PDC10-022

Ordinance No. 29519 adopted.

Recommendation:

- (d) ORD. NO. 29521 – Rezoning certain real property situated on the south side of Bailey Avenue, approximately 1,200 feet easterly of Mckean Road, from the R-1-1(PD) Planned Development and A Agricultural Zoning Districts to the A(PD) Planned Development Zoning District. PDC13-016

Ordinance No. 29521 adopted.

- (e) ORD. NO. 29522 – Rezoning certain real property of approximately 1.21 gross acres within a 17.4 gross acre site situated on the northeast corner of Cottle Road and Great Oaks Parkway, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC14-024

Ordinance No. 29522 adopted.

- (f) ORD. NO. 29523 – Amending Sections 20.30.110 of Chapter 20.30, 20.60.030 of Chapter 20.60 and 20.200.470 of Chapter 20.200, adding new Sections 20.40.115 of Chapter 20.40, 20.70.130 of Chapter 20.70 and 20.75.230 of Chapter 20.75, amending Part 2 of Chapter 20.80, and adding a new Part 2.5 to Chapter 20.80, all of Title 20 of the San José Municipal Code, to allow and regulate transient occupancy as an incidental use of residences and to modify permitting requirements and occupancy limitations for bed and breakfast inns, to amend and add long-term room rental limitations and to make other non substantive or formatting changes within these sections of Title 20.

Ordinance No. 29523 adopted.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of November 19, 2014. (Mayor)
[Deferred from 12/9/14 – Item 2.3(d)]
- (b) Rules In-Lieu Report of November 25, 2014. (Mayor)

Approved.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2. CONSENT CALENDAR

2.5 City Council Travel Reports.

Mayor Elect Liccardo attended a conference last weekend hosted by the Aspen Institute-Rodel Fellowships In Public Leadership programs that focused on improving communication, bipartisan cooperation and collaboration between elected officials throughout the Country.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Settlement with Alex Ghenis Regarding Claim for Personal Injuries.

Recommendation: Approve a settlement in the amount of \$1,100,000 and authorize the City Attorney to execute a Settlement Agreement with Alex Ghenis regarding a claim for personal injuries. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney)

Approved.

2.8 Agreement with Corson Studios for Public Artwork at Santa Clara and San Fernando Streets Under SR Highway 87.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Agreement with Corson Studios, LLC for public art at Santa Clara and San Fernando Streets at Highway 87 and increase the compensation by \$157,000, from \$410,000, for a total amount not to exceed \$567,000 and extend the term to December 31, 2015. CEQA: Exempt, File No. PP11-017. Council District 3. (Economic Development)

Resolution No. 77244 adopted.

2.9 Actions Related to the Agreement with Pacific Gas and Electric Company for the Silicon Valley Energy Watch Program.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute Contract Change Order No. 3 to the Master Service Agreement (MSA) with Pacific Gas and Electric Company for the Silicon Valley Energy Watch program, to extend the MSA through March 31, 2016, to update the City reimbursement rate schedule, with no change to the project scope, and to incorporate document retention policies.

Resolution No. 77245 adopted.

2. CONSENT CALENDAR

2.9 Actions Related to the Agreement with Pacific Gas and Electric Company for the Silicon Valley Energy Watch Program. (Cont'd.)

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a Change Order to the Contract Work Authorization (CWA) with Pacific Gas and Electric Company for the Silicon Valley Energy Watch program; to extend the CWA through December 31, 2015, to revise the value of the CWA by \$928,950 with no change to the project scope, and to revise various dates in the agreement to reconcile the terms of the CWA with the extension.

Resolution No. 77246 adopted.

- (c) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Establish a new City-Wide appropriation for Silicon Valley Energy Watch 2015 in the amount of \$464,475; and
- (2) Increase the Estimate for Other Revenue by \$464,475.

Ordinance No. 29524 adopted.

Resolution No. 77247 adopted.

- (d) Extend the limit date for 2.0 Environmental Service Specialist positions assigned to the Environmental Services Department through March 31, 2016.

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

Approved.

2.10 Amendment to the Agreement with MWH Americas, Inc. for Ongoing Engineering Consultant Services.

Recommendation: Approve the Second Amendment to Master Agreement with MWH Americas, Inc. by extending the term of the Agreement from December 27, 2014 to December 27, 2015, for a continuation of ongoing engineering consultant services to support Public Works Capital Improvement Program, at no additional cost to the City.

CEQA: Exempt, File No. PP08-203. (Public Works)

Approved.

2.11 Amendment to the Agreement with AECOM Technical Services, Inc. for the Montague Pump Station Rehabilitation.

Recommendation: Approve the Second Amendment to the Master Agreement with AECOM Technical Services, Inc. extending the term of the agreement from December 31, 2014 to December 31, 2016, at no additional cost to the City. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)

Approved.

2. CONSENT CALENDAR

2.12 Report on Bids and Award of Contract for Traffic Signal Modification at Cherry Avenue and Hillsdale Avenue.

Recommendation: Report on bids and award of contract for the 7629 – Traffic Signal Modification at Cherry Avenue and Hillsdale Avenue to the low bidder, Tennyson Electric, Inc., in the amount of \$272,816 and approval of contingency in the amount of \$27,282. CEQA: Exempt, File No. PP12-066. Council District 9. (Public Works)

Approved.

2.13 Vacation of a Public Service Easement on Thornton Way.

Recommendation: Adopt a resolution summarily vacating a portion of a Public Service Easement located on private property (APN 282-06-024) on the west side of Thornton Way, approximately 260 feet north of Maywood Avenue. CEQA: Mitigated Negative Declaration, File Nos. C13-026 and GP13-006, Resolution No. 76856. Council District 6. (Public Works)

Resolution No. 77248 adopted.

2.14 Review of the Fiscal Year 2013-2014 Annual Development In-Lieu Fee Report.

Recommendation: Review of the Fiscal Year 2013 – 2014 Annual Development In-Lieu Fee Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Public Works)

Approved.

2.15 District 10 Council Office Grant to Castillero Middle School PTA.

Recommendation: As recommended by the Rules and Open Government Committee on December 3, 2014, approve a grant of \$479.27 to the Andres Castillero Middle School PTA, an IRS-recognized 501(c)(3) in good standing with the IRS and the California Secretary of State, to be paid from the District 10 Council Office Budget. CEQA: Not a Project, File No. PP10-066. (Khamis)

[Rules Committee referral 12/3/14 – Item G(5)]

Approved.

2.16 Naming of the New Library Located at 4001 Evergreen Village Square.

Recommendation: As recommended by the Library and Early Education Commission, name the new library at 4001 Evergreen Village Square, as John J. Montgomery Village Square Library. CEQA: Not a Project, File No. PP10-069. (City Clerk)

Renumbered from Item 3.3.

Deferred to January 2015 per District 8 and Library.

2. CONSENT CALENDAR

2.17 Actions Related to the Agreement with Bayscape Landscape Management, Inc. for Landscaping Maintenance Services.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute the First Amendment to the Agreement with Bayscape Landscape Management Inc. for Landscaping Maintenance Services for Small Parks and Civic Grounds to:

- (a) Require paid time off for employees providing landscaping services, pursuant to the City's Living Wage Policy (Resolution No. 76653), effective on June 4, 2013, for an estimated increase in the amount of \$31,105;
- (b) Increase compensation by 7.4% effective with the first one-year option to renew the agreement beginning on December 28, 2014, through December 27, 2015, for an estimated increase in the amount of \$44,571;
- (c) Eliminate the 3% cap on annual compensation increases, and index any compensation adjustments to the increase in the City's living wage rate, subject to City approval and the appropriation of funds; and
- (d) Exercise two additional one-year options to extend the term of the Agreement, with the second and final option year ending in December 2017, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-069, Personnel Related Decisions. (Finance)

Renumbered from Item 3.5.

Resolution No. 77249 adopted.

2.18 Purchase Order for Public Agency Cooperative Purchase of Motorola Dual-Band Radios.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a purchase order for dual-band radios, related equipment and technical support and repair services from Motorola Solutions, Inc. under the pricing, terms and conditions obtained through the cooperative agreement dated September 25, 2012 between the County of Santa Clara and Motorola Solutions, Inc. for goods and related services for use on the Silicon Valley Regional Communications System, for a not to exceed amount of \$2,367,100 including sales tax and freight; and
- (b) Execute additional purchase orders for subsequent purchases pursuant to the Agreement between the County of Santa Clara and Motorola Solutions, Inc., dated September 25, 2012, subject to annual appropriations of funds.

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

Renumbered from Item 3.6.

Resolution No. 77250 adopted.

2. CONSENT CALENDAR

2.19 Actions Related to the Camden Pool Renovation Project.

Recommendation:

- (a) Adopt a resolution authorizing the Director of Public Works to:
 - (1) Award a construction contract for the 7273 - Camden Pool Renovation Project to the lowest responsive and responsible bidder in an amount not to exceed \$1,300,000 and to approve a contingency of fifteen percent of the contract amount not to exceed \$195,000.
 - (2) Decide any timely bid protest(s), and make the City's final determination as to the lowest responsive bidder that is responsible, or to reject all bids and re-bid the project.
 - (3) Execute change orders in excess of \$100,000 within the contingency amount.

Resolution No. 77251 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - (1) Decrease the Camden Community Center Gymnasium Upgrade Reserve by \$1,000,000.
 - (2) Increase the Camden Pool Renovation by \$1,000,000.

CEQA: Exempt, File No. PP14-081. Council District 9. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

Renumbered from Item 4.6.

Ordinance No. 29525 adopted.

2.20 Mayor's Reed's Travel to Washington, D.C.

Recommendation: Approve travel by Mayor Reed to Washington, D.C. on December 4 – 5, 2014 to attend meetings regarding pension reform. Source of Funds: Mayor's Office Fund. (Mayor)

(Rules Committee referral 12/10/14)

Approved.

2.21 Amendment to Council Policies for the Operating Budget and Capital Improvement Program Policy.

Recommendation: Adopt a resolution amending City Council Policy 1-18, Operating Budget and Capital Improvement Program Policy, to add item 20 to the Operating Budget section, entitled "Office of the Mayor and City Council District Office Budgets in Transition Years". CEQA: Not a Project, File No. PP10-068(c), Policy change that involves no physical changes to the environment. (City Clerk/City Manager)

(Rules Committee referral 12/10/14)

Resolution No. 77252 adopted.

2. CONSENT CALENDAR

2.22 2015 Legislative Guiding Principles, Priorities and Advocacy Issues.

Recommendation: As recommended by the Rules and Open Government Committee on December 10, 2014, accept the 2015 Legislative Guiding Principles and the Legislative Priorities and Advocacy Issues for the first year of the two-year Legislative Session Sacramento and the 114th Congress. (City Manager)
[Rules Committee referral 12/10/14 – Item G(3)]

Accepted.

2.23 Community Events Sponsored by Council District 4.

Recommendation: As recommended by the Rules and Open Government Committee on December 10, 2014:

- (a) Approve two community events sponsored by Council District 4 as City sponsored Special Events and approve the expenditure of funds:
 - (1) Kung Fu Tai Chi Day on May 17, 2015.
 - (2) The 10th Annual Santos Family Car Show on Saturday, September 3, 2015.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the events.

CEQA: Not a Project. (District 4)

[Rules Committee referral 12/10/14 – Item G(4)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Edward K. Shikada offered an update on the City's storm response. City Manager Shikada pointed out that the revisions to the North San José Guidelines were recently posted online in draft form, with a finalized version to be available shortly.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Heard at 9:32 a.m.

No Report.

3.3 Naming of the New Library Located at 4001 Evergreen Village Square.

Recommendation: As recommended by the Library and Early Education Commission, name the new library at 4001 Evergreen Village Square, as John J. Montgomery Village Square Library. (City Clerk)

Renumbered to Item 2.16. See Item 2.16 for Action.

3. STRATEGIC SUPPORT SERVICES

3.4 Actions Related to the Medical Marijuana Regulatory Program.

Recommendation:

- (a) Adopt a resolution amending the 2014-2015 Schedule of Fees and Charges (Resolution No. 72737, as amended) to:
- (1) Increase the fee for the Processing of a Zoning Code Verification Certificate Application from \$900 per application, plus \$154 per hour for additional Planning review services beyond 4 hours and \$125 per hour for additional Code Enforcement inspection services beyond the first hour, to \$1212 per application, plus \$154 per hour for additional Planning review services beyond 6 hours and \$125 per hour for additional Code Enforcement inspection services beyond the first hour.
 - (2) Establish a Medical Marijuana Collective (Collective) Annual Operating Fee for the cost to the City of operating a Medical Marijuana regulatory program in the amount of \$71,960 per year for each Collective that is registered with the City.
 - (3) Establish a Medical Marijuana Collective Amendment Fee for the cost to the City of receiving amendments to the registration form filed by the Collective in the amount of \$152 per amended application submitted.
 - (4) Establish a Medical Marijuana Collective Renewal Registration Fee for the cost to the City of processing an application to renew a Collective's registration in the amount of \$2,256 per application for renewal plus \$125 per hour for additional Code Enforcement inspection services beyond the first hour and a Police Department sworn hourly investigation fee in the amount of \$93 per hour beyond 15 hours and \$181 per employee above four.

Resolution No. 77253 adopted.

Noes: Campos, Kalra.

- (b) Adopt a resolution to amend the Administrative Citation Schedule of Fines to establish fine amounts for the violation of Sections 6.88.300(A) and (B) of Chapter 6.88 (Medical Marijuana) of the San José Municipal Code in the amount of \$ 10,000 for the first violation, \$25,000 for a second violation within a twelve month period from the date of previous violation, and \$50,000 for a third and each subsequent violation within a twelve month period from the date of previous violation, and repealing Resolution No. 77163.

Resolution No. 77254 adopted.

Noes: Campos, Kalra.

- (c) Approve the addition of 1.0 Analyst I/II to the Police Department.
CEQA: Exempt, File No. PP 10-067(a), CEQA Guidelines Section 15273, Rates, Toll, Fares and Charges. (City Manager)

Approved.

Noes: Campos, Kalra.

(Action Continued on the Next Page)

3. STRATEGIC SUPPORT SERVICES

3.4 Actions Related to the Medical Marijuana Regulatory Program. (Action Cont'd.)

The memorandum from Council Members Herrera and Khamis, dated December 12, 2014, was approved, with Staff directed to:

- (1) **Return to Council with the resources required to provide due process while expediting the shutdown of medical marijuana facilities that violate the City's Medical Marijuana Regulatory Program.**
- (2) **Return to Council with ways in which the City can streamline the hearing process.**
- (3) **Schedule a study session on medical marijuana issues.**
- (4) **Staff directed to return to Council with details on providing a process for allowing payment schedule ability.**

Noes: Campos, Kalra.

3.5 Actions Related to the Agreement with Bayscape Landscape Management, Inc. for Landscaping Maintenance Services.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute the First Amendment to the Agreement with Bayscape Landscape Management Inc. for Landscaping Maintenance Services for Small Parks and Civic Grounds to:

- (a) Require paid time off for employees providing landscaping services, pursuant to the City's Living Wage Policy (Resolution No. 76653), effective on June 4, 2013, for an estimated increase in the amount of \$31,105;
- (b) Increase compensation by 7.4% effective with the first one-year option to renew the agreement beginning on December 28, 2014, through December 27, 2015, for an estimated increase in the amount of \$44,571;
- (c) Eliminate the 3% cap on annual compensation increases, and index any compensation adjustments to the increase in the City's living wage rate, subject to City approval and the appropriation of funds; and
- (d) Exercise two additional one-year options to extend the term of the Agreement, with the second and final option year ending in December 2017, subject to the appropriation of funds.

CEQA: Not a Public Project, File No. PP10-069, Personnel Related Decisions. (Finance)
Renumbered to Item 2.17. See Item 2.17 for Action.

3. STRATEGIC SUPPORT SERVICES

3.6 Purchase Order for Public Agency Cooperative Purchase of Motorola Dual-Band Radios.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a purchase order for dual-band radios, related equipment and technical support and repair services from Motorola Solutions, Inc. under the pricing, terms and conditions obtained through the cooperative agreement dated September 25, 2012 between the County of Santa Clara and Motorola Solutions, Inc. for goods and related services for use on the Silicon Valley Regional Communications System, for a not to exceed amount of \$2,367,100 including sales tax and freight.
- (b) Execute additional purchase orders for subsequent purchases pursuant to the Agreement between the County of Santa Clara and Motorola Solutions, Inc., dated September 25, 2012, subject to annual appropriations of funds.

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

Renumbered to Item 2.18. See Item 2.18 for Action.

3.7 Recording Liens on Properties for Reimbursement of Cost of Sidewalk Repairs for the Fiscal Year 2015-2016 Santa Clara County Secured Property Tax Bill.

Recommendation:

- (a) Conduct a Public Hearing on recording liens on properties for the reimbursement of the cost of sidewalk repairs;

The Public Hearing was Held.

- (b) Adopt a resolution:
 - (1) Confirming the Report from the Director of Finance concerning the delinquent sidewalk repair costs and the assessments contained in the report from the Director of Finance;
 - (2) Directing the recording of liens and the placement of charges as set forth therein on the 2015-2016 Santa Clara County Secured Property Tax Bill for the cost of sidewalk repairs.

CEQA: Not a Project, File No. PP10-067(a), Specific Funding Mechanism for Increase or Adjustment to Fees, Rates and Fares. (Finance)

Resolution No. 77255 adopted.

3.8 Recording Liens on Properties for the Reimbursement of the Cost of Tree Violations for the Fiscal Year 2015-2016 Santa Clara County Secured Property Tax Bill.

Recommendation:

- (a) Conduct a Public Hearing on recording liens on properties for the reimbursement of the cost of tree violations.

The Public Hearing was Held.

3. STRATEGIC SUPPORT SERVICES

3.8 Recording Liens on Properties for the Reimbursement of the Cost of Tree Violations for the Fiscal Year 2015-2016 Santa Clara County Secured Property Tax Bill. (Cont'd.)

(b) Adopt a resolution:

- (1) Confirming the approval of the Report from the Director of Finance concerning the cost of tree violations, and the assessments contained in the Director's Report.
- (2) Directing the recording of liens and the placement of charges as set forth therein on the 2015-2016 Santa Clara County Secured Property Tax Bill for the cost of tree violations.

CEQA: Not a Project, File No PP10-067(a), Specific Funding mechanism for Increase or Adjustment to Fees, Rates and Fares. (Finance)

Resolution No. 77256 adopted.

3.9 Comprehensive Annual Financial Report for Fiscal Year End June 30, 2014.

Recommendation: As recommended by Public Safety, Finance, and Strategic Support Committee on December 11, 2014, accept the Fiscal Year 2013-2014 Comprehensive Annual Financial Report for the City of San José. CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Finance)

[Public Safety, Finance, and Strategic Support Committee referral 12/11/14 – Item D(5)]

Accepted.

3.10 Comprehensive Annual Debt Report for Fiscal Year End June 30, 2014.

Recommendation: As recommended by Public Safety, Finance, and Strategic Support Committee on December 11, 2014, accept the Fiscal Year 2013-2014 Comprehensive Annual Debt Report for the City of San José. CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Finance)

[Public Safety, Finance, and Strategic Support Committee referral 12/11/14 – Item D(6)]

Accepted.

3.11 San José Fire Department Response to the Draft Limited Scope Management Audit by the County of the Emergency Response Function of the San José Fire Department.

Items 3.11 and 3.12 were heard together.

Recommendation: Accept the San José Fire Department staff response to the Limited Scope Management Audit of the Emergency Response Function of the San José Fire Department prepared by the County of Santa Clara. CEQA: Not a Project; File No. PP10-069(a), Staff Reports. (Fire)

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.12 Second Amendment to the 911 Emergency Medical Services Provider Agreement.

Recommendation: Adopt a resolution authorizing the City Manager or designee to execute the Second Amendment to the “911 Emergency Medical Services Agreement between the City of San José and the County of Santa Clara Emergency Medical Services Agency” pending approval of the Santa Clara County Board of Supervisors. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Fire)

Resolution No. 77257 adopted.

Staff directed to confer with the County to provide guidance for calling on facilities, during the preliminary Memorandum of Understanding (MOU) discussions with the County beginning in 2015.

3.13 Interim Appointment to Vacant District 4 Seat.

Recommendation: As recommended by the Rules and Open Government Committee on December 10, 2014, appoint an interim representative for Council District 4 to serve until a new Council Member has been elected. (Mayor/Liccardo)

[Rules Committee referral 12/10/14 – Item G(7)]

The memorandum from Council Member Liccardo, dated December 15, 2014, was approved.

The hearing and consideration of an interim appointment of a Council District 4 Representative was deferred to Friday, December 19, 2014 at 1:30 p.m.

The City Clerk was directed to continue to accept applications for appointment until Thursday, December 18, 2014, 5:00 p.m. and to publicize this information through the local media.

Noes: Campos, Kalra, Oliverio, Rocha.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Actions Related to the 6405-Coleman Soccer Fields Design-Build Rebid Project.

Recommendation:

- (a) Approve the termination of the construction contract with Interstate Grading and Paving, Inc. for the 6405-Coleman Soccer Fields Design-Build Rebid Project for convenience.

Approved.

- (b) Adopt a resolution authorizing the Director of Public Works to:

- (1) Re-bid the Project.
- (2) Negotiate and execute an agreement with Bellinger Foster Steinmetz Landscape Architecture not to exceed \$300,000 to make any necessary revisions to the final plans for re-bid.

Resolution No. 77258 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Actions Related to the 6405-Coleman Soccer Fields Design-Build Rebid Project. (Cont'd.)

- (c) Adopt a resolution authorizing the City Attorney to negotiate and execute a Settlement Agreement with Interstate Grading and Paving, Inc. in an amount not to exceed \$120,000.

CEQA: Mitigated Negative Declaration, File No. PP10-155, Resolution No. 75798.

(Public Works/Parks, Recreation and Neighborhood Services)

(Deferred from 12/9/14 – Item 2.15)

Resolution No. 77259 adopted.

4.2 31st Street Parcel (Land Acquisition).

Recommendation: As recommended by the Rules and Open Government Committee on December 3, 2014, direct the City Manager to consider acquisition of the 1.5 acre parcel located on 31st Street and Highway 101 for park purposes and return to Council with a recommendation. CEQA: Not a Project, File No. PP10-066, Services that require no change to the environment. (Campos)

[Rules Committee referral 12/3/14 – Item G(3)]

Approved.

4.3 Actions Related to the Sale of Property at 1123 Coleman Avenue to Coleman Airport Partners.

Recommendation:

- (a) Adopt a Resolution authorizing the City Manager to execute the following documents:
- (1) Second Amended and Restated Option Agreements and Purchase Agreements amending the terms of the existing option and purchase and sale agreements with Coleman Airport Partners LLC (Developers) to allow a two phase sale of the 42 acres of Airport West property located at 1123 Coleman Avenue.
 - (2) Amended and Restated reciprocal easements required to facilitate access and circulation over the property.
 - (3) A right of entry for the development of certain proposed streets on property owned by the City.
 - (4) A repayment plan to be negotiated with the United States Department of Housing and Urban Development.
 - (5) Funding Agreements to be negotiated with the Valley Transportation Authority and the Developers to build the Caltrain Tunnel Connection on the property.
 - (6) A First Amendment to the Parking Agreement Between the City to be negotiated with the San José Earthquakes, LLC.

Resolution No. 77260 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Actions Related to the Sale of Property at 1123 Coleman Avenue to Coleman Airport Partners. (Cont'd.)

- (b) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Increase the estimate for Other Revenue by \$39,525,562;
 - (2) Increase the appropriation to the Finance Department for FMC Debt Service Payments in the amount of \$33,552,562.
 - (3) Establish a Capital Improvement appropriation to the Office of Economic Development for the Airport West Property Caltrain Connection in the amount of \$5,973,000.
 - (4) Reduce the Airport West Property Sale Reserve in the amount of \$1,000,000.
 - (5) Establish a Capital Improvement appropriation to the Office of Economic Development for the Airport West Property Underground Abatement in the amount of \$1,000,000.

CEQA: FMC/Coleman Avenue Planned Development Rezoning (PDC98-104) EIR Adopted 8/19/2003, Resolution No. 71716, File Nos. PP08-093 and PDC09-004. Council District 3. (Economic Development/City Manager)

Ordinance No. 29526 adopted.

Resolution No. 77261 adopted.

The memorandum from Mayor Reed and Council Member Liccardo, dated December 12, 2014, was approved, approving the Seconded Amended and Restated Option Agreements and Purchase Agreements as outlined in the Staff Report dated November 24, 2014 on the sale of City owned property at 1123 Coleman Avenue, with the following modification: that any hotels developed on site provide for a 14% Transit Occupancy Tax (TOT) included in the Convention Center Facilities District. As clarified by the City Attorney, for parcels being included in the Convention Center Facilities District: any hotels developed in the site are required to pay the 4% Convention Center Facilities Special Tax. The aggregate is 14%.

4.4 Actions Related to the Consolidated Plan for the FY 2015-2016 Annual Action Plan Funding Strategy.

Recommendation: Approve the following actions:

- (a) Direct the Administration to utilize the Goals and Strategies from the 2010-2015 Consolidated Plan for the FY 2015-2016 Annual Action Plan.
- (b) Direct the Administration to incorporate into the FY 2015-2016 Annual Action Plan the following grants and extensions of existing grants prior to completion of the needs assessment for the 2015-2020 Consolidated Plan:

(Item Continued on the Next Page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Actions Related to the Consolidated Plan for the FY 2015-2016 Annual Action Plan Funding Strategy. (Cont'd.)

- (b)
 - (1) Extension of the Community Development Block Grant Community Service (CDBG) grants for Senior Services, Fair Housing and the Minor Emergency Repair program, for one additional year through FY 2015-2016.
 - (2) Three transitional neighborhood engagement grants for Place-Based Neighborhoods for one year, through FY 2015-2016.
 - (3) Extension of the grants for Housing Opportunity for Persons with AIDS programs and the HOME Tenant Based Rental Assistance Program through FY 2015-2016.
- (c) Direct the Administration to bring back recommendations for the allocation of Homeless Grants funded with CDBG and the Emergency Solutions Grant funds as part of the FY 2015-2016 Annual Action Plan approval process; and
- (d) Direct the Administration to bring back recommendations for the allocation of the remaining CDBG funding as part of the FY 2015-2016 Annual Action Plan approval process.

CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Housing)

The memorandum from Vice Mayor Nguyen, Council Member Liccardo and Council Member Rocha was approved, approving the Staff report and recommended actions related to the Consolidated Plan for the Fiscal Year 2015-2016 Annual Action Plan Funding Strategy, including further direction to Staff:

- (1) **Direct the Administration to utilize the \$2.6 Million in affordable housing funds from the North San José Development (Century Court) such that these additional funds are used to further the Consolidated Action Plan Goal #2: Support activities to end homelessness in San José and Santa Clara County.**
- (2) **Direct the Administration to use these funds to support projects and programs to address homelessness in San José, including the implementation of the previously approved motel lease program should that program turn out to be a viable method for adding temporary housing options for homeless individuals in San José.**
- (3) **Staff directed to circulate an information memorandum to the Council regarding how much money has been expended on the Draft Housing Element to date, including plans for utilizing the \$2.6 Million for future use.**

4.5 Agreements Related to the Sale and Redevelopment of the Corporation Yard Located in Japantown.

Recommendation:

- (a) Adopt a resolution:
 - (1) Declaring approximately 5.22 acres of City owned property between Taylor and Jackson Street between Sixth and Seventh Streets, Assessor's Parcel Number (APN) 249-39-039, surplus to the needs of the City.

(Item Continued on the Next Page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Agreements Related to the Sale and Redevelopment of the Corporation Yard Located in Japantown. (Cont'd.)

- (a) (2) Approving a Purchase and Sale Agreement with Jackson Taylor Partners, LLC, for the sale of the City's 5.22 acre Former Corporation Yard located in Japantown between Taylor and Jackson Street between Sixth and Seventh Streets in the amount of \$18,500,000.
- (3) Authorizing the City Manager or his designee to execute the Purchase and Sale Agreement, the deed and all other documents necessary to complete the transaction.

CEQA: Japantown Corporation Yard Redevelopment Project Final Environmental Impact Report, Resolution No. 74384, and Addendum thereto.

The memorandum from Council Member Liccardo, dated December 16, 2014, was approved, approving the Staff recommendations, with the following minor modifications:

- (1) **Require that prior to any expenditure of the \$250,000 for "additional parking solutions" that Council authorization be specifically and explicitly sought for the range of projects of improvements contemplated for that expenditure.**
- (2) **The City and Developer shall agree to an interim aesthetic treatment of the 0.75 acres dedicated for use by the Center for the Creative Arts (CCA) and Taiko to ensure that it does not become a blighted lot during the multi-year period pending the construction of the CCA.**

Resolution No. 77262 adopted.

- (b) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
 - (1) Increase the estimate for Other Revenue by \$65,000.
 - (2) Increase the appropriation to the Office of Economic Development for Non-Personal/Equipment in the amount of \$65,000.

Ordinance No. 29537 adopted.

Resolution No. 77263 adopted.

- (c) Direct the City Manager to set aside \$750,000 for parking assistance for the Creative Center for the Arts and \$250,000 for a two-year pilot parking program within Japantown subsequent to the receipt of funds from the Purchase and Sale Agreement.

Approved.

CEQA: Addendum to the Japantown Corporation Yard Redevelopment Project Final Environmental Impact Report, Resolution No. 74384. Council District 3. (Economic Development/City Manager)

(Item Continued on the Next Page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Agreements Related to the Sale and Redevelopment of the Corporation Yard Located in Japantown. (Cont'd.)

- (d) Consideration of an ordinance to approve a Development Agreement between Jackson Taylor Partners, LLC, and the City of San José to develop between 425 to 600 multi-family attached residential units and between 16,000 and 25,000 square feet of commercial space for mixed-use development consistent with the provisions of the Japantown Corporation Yard Redevelopment Project Final Environmental Impact Report, Jackson-Taylor Residential Strategy, and Envision San José 2040 General Plan on a 5.22 gross acre site bounded by N. Sixth Street, E. Taylor Street, N. Seventh Street, and Jackson Street (696 N. Sixth Street) (City Of San José, owner). CEQA: Japantown Corporation Yard Redevelopment Project Final Environmental Impact Report, Resolution No. 74384, and Addendum thereto. (Planning, Building and Code Enforcement)
DA14-003 – District 3
Ordinance No. 29528 passed for publication.

4.6 Actions Related to the Camden Pool Renovation Project.

Recommendation:

- (a) Adopt a resolution authorizing the Director of Public Works to:
- (1) Award a construction contract for the 7273 - Camden Pool Renovation Project to the lowest responsive and responsible bidder in an amount not to exceed \$1,300,000 and to approve a contingency of fifteen percent of the contract amount not to exceed \$195,000.
 - (2) Decide any timely bid protest(s), and make the City's final determination as to the lowest responsive bidder that is responsible, or to reject all bids and re-bid the project.
 - (3) Execute change orders in excess of \$100,000 within the contingency amount.
- (b) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
- (1) Decrease the Camden Community Center Gymnasium Upgrade Reserve by \$1,000,000.
 - (2) Increase the Camden Pool Renovation by \$1,000,000.

CEQA: Exempt, File No. PP14-081. Council District 9. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

Renumbered to Item 2.19. See Item 2.19 for Action.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Memorandum of Understanding with McCarthys for an Amendment to the Declaration of Covenants, Conditions, & Restrictions Agreements.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a Memorandum of Understanding between the City of San José and McCarthy Ranch Limited Partnership, LLC, successor in interest to Joseph A. McCarthy and Muriel M. Harris as successor Trustees of the RLM Trust and MGM Trust (“McCarthys”) to negotiate an amendment to two Declaration of Covenants, Conditions, & Restrictions Agreements (“CC&Rs”) by and among McCarthys, City of San José, and Browning-Ferris Industries of California, Inc. and International Disposal Corp. of California, Inc., dated April 17, 1998 and recorded on April 28, 1998 and July 28, 2000, respectively, to provide McCarthys a process for early termination of the CC&Rs following completion of specific conditions.
- (b) *Negotiate and execute amendment(s) to the CC&Rs* with the consent of all parties and their successors or assigns to the CC&Rs to establish a process for early termination contingent on the conditions set forth in the Memorandum of Understanding.

CEQA: San José/Santa Clara Water Pollution Control Plant Master Plan EIR, Resolution No. 72768. (Environmental Services)

(Rules Committee referral 12/10/14)

Resolution No. 77264 adopted.

The clarifications from the City Attorney were approved as follows:

- (1) **In Item 7.1(b) above revise the Staff recommendations: *Negotiate and execute amendment(s) to the CC&Rs* (to the City Manager).**
- (2) **The Memorandum of Understanding, Page (2) II.E: the \$6.5 Million dollars refers to the real property and not the CCR’s.**

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. GENERAL PLAN PUBLIC HEARINGS

10.1 Tentative approval of General Plan Consent Calendar items.
No General Plan Consent Calendar items at this time.

10.2 General Plan Text Amendment: Modify Goal H-2 – Affordable Housing.

Recommendation: Adopt a resolution approving 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, very low and extremely low income households and to add a new policies, including the Housing - Social Equity and Diversity Policy that states that the City will facilitate housing affordable to those who are employed in serving industries, driving industries and business support industries, and other related amendments. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto. Planning Commission recommends approval (6-1-0). (Planning, Building and Code Enforcement)
GPT14-007 - Citywide

Resolution No. 77265 adopted.

The memorandum from Mayor Reed, dated December 8, 2014, was approved, approving the proposed General Plan Text Amendment H-1.10 and H-2.8 as recommended by Staff, including adding the bold, underlined *italicized* language to the Staff recommendation on Goal H-2 Affordable Housing, as follows:

Increase, preserve and improve San José's affordable housing stock. Preserve and improve San José's existing affordable housing stock and increase its supply such that 15% or more of the new housing stock developed is affordable to low, very low and extremely low income households. Nothing in this language is intended, directly or indirectly, to impose any requirement on any individual housing project to include an amount or percentage of affordable units. Nothing in this language is intended to, directly or indirectly, result in a finding or determination that an individual housing project is inconsistent with the General Plan, if it does not contain any affordable housing units.

10. GENERAL PLAN PUBLIC HEARINGS

10.3 General Plan Text Amendment: Housing Element for 2014-2023.

Recommendation: Tentative approval of the City-initiated General Plan text amendment request to revise the Envision San José 2040 General Plan Text to incorporate the Housing Element for 2014-2023, which text amendments include but are not limited to: revising Chapter 7 “Implementation”; adding new Appendices including but not limited to Appendix 11 “Housing Element for 2014-2023”; and revising or deleting references to Appendix C “Housing Element Update 2007-2014,” of the San José 2020 General Plan, all to update demographic and housing data, goals, policies, and implementation actions and to make other minor technical, clarifying and clerical revisions, as necessary, to comply with State Housing Element Law (Government Code Sections 65580-65589.8). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041, and Addenda thereto; Downtown Strategy 2000 EIR, Resolution No. 72767, and Addenda thereto; North San José Development Policies EIR, Resolution No. 72768, and Addenda thereto; and Diridon Station Area Plan EIR, Resolution No. 77096 and Addenda thereto (collectively, the “Final Program EIRs”). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs.

GPT14-001 – Citywide

Dropped. To Be Renoticed.

- **Notice of City Engineer’s Pending Decision on Final Maps**

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

| <u>Tract</u> | <u>Location</u> | <u>Council District</u> | <u>Developer</u> | <u>Lots/Units</u> | <u>Type</u> |
|--------------|---------------------------------------|-------------------------|------------------|----------------------|-------------|
| 10280 | S/W Corner of Pearl Ave & Adamo Drive | 9 | Edenbridge, Inc. | 18 Lots/ 13 Units | SFD |

- **Open Forum**
 - (1) **David Wall thanked Mayor Reed, Vice Mayor Nguyen, Council Member Constant and Council Member Campos for their service and dedication to the residents of San José. Mr. Wall opined about another Montgomery Watson invoice.**
 - (2) **Andy Gonzalez objected to the new Tiered Multiple Housing Occupancy Parcel Fees.
Mayor Reed requested that Assistant Director of Housing Jacky Morales-Ferrand confer with Mr. Gonzalez after the meeting.**
 - (3) **Judy Bender complained about her ongoing problems at the Senior Center.**

- **Adjournment**

The Council of the City of San José was adjourned at 6:48 p.m. in memory of Captain Darryl Weeden of San José Fire Department Truck 35C. (Kalra)

The Council of the City of San José recessed to Closed Session at 6:49 p.m. and reconvened in Open Session at 6:54. There was no Closed Session Report.

The Council of the City of San José adjourned at 6:55 p.m. to reconvene in Closed Session and Open Session at 1:30 p.m. on Friday, December 19, 2014.