

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, OCTOBER 7, 2014**

The Council of the City of San José convened in Regular Session at 9:37 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - All Present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:40 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 one (1) matter; (B) 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; City of San José and City Council of the City of San José; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-14-CV-260439; Amount of Money or Other Relief Sought: Damages According to Proof; (2) Herrera, et al. v. City, et al. Names of Partie(s) Involved: Martha Herrera, Michelle Rodriguez, Jessica Rodriguez, Minors, by and through their Guardian Ad Litem Martha Herrera; City of San José, John Doe and John Doe Company, et al.; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-10-CV-165689; Damages according to proof; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex

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

## CLOSED SESSION (Cont'd.)

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. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:10 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Councilmembers - Campos, Chu, Constant (2:12 p.m.), Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Absent: Councilmembers - All Present.

## **INVOCATION**

World War II veteran, Ray Nordahl, representing the Spirit of '45, played Taps for the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance joined by third-grade students from Horace Mann Elementary School.

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Nguyen, seconded by Councilmember Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 4.1 was heard directly following the Consent Calendar, and the request to withdraw Item 2.2(a) withdrawn at the request of the Applicant. (9-0-2. Absent: Chu, Oliverio.)

## **CLOSED SESSION REPORT**

City Attorney Doyle disclosed the following Closed Session action of October 7, 2014:

### **A. Authority to Pursue Appellate Review in a Litigation Case:**

|                          |   |
|--------------------------|---|
| Case Name:               | Friends of the Willow Glen Trestle v. City of San José, et al.              |
| Adverse Party:           | Friends of the Willow Glen Trestle, an unincorporated association.          |
| Substance of Litigation: | Three Creeks Trail Pedestrian Bridge and Demolition of Willow Glen Trestle. |
| Council Vote:            |   |
| Ayes:                    | Campos, Chu, Constant, Khamis, Nguyen, Oliverio, Rocha; Reed.               |
| Noes:                    | None.   |
| Abstain:                 | None.   |
| Absent:                  | Herrera, Kalra, Liccardo.   |

## CEREMONIAL ITEMS

### 1.1 **Presentation of a proclamation declaring the week of October 5 - 11, 2014 as Fire Prevention Week in the City of San José. (Fire)**

Mayor Reed, San José Fire Marshall John Dillinger and Fire Chief Ruben Torres recognized the week of October 5 - 11, 2014 as Fire Prevention Week in the City of San José.

### 1.2 **Presentation of a proclamation declaring City of San José's participation in the 2014 Giving Campaign from October 7 - November 14, 2014. (Public Works)**

Mayor Reed and Director of Public Works David Sykes recognized the City of San José's participation in the 2014 Giving Campaign from October 7 - November 14, 2014.

### 1.3 **Presentation of a proclamation declaring October 2014 as Disability Awareness Month in San José. (Constant)**

Mayor Reed and Councilmember Constant recognized October 2014 as Disability Awareness Month in San José.

## CONSENT CALENDAR

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

### 2.1 **Approval of Minutes.**

None provided.

### 2.2 **Final Adoption of Ordinances.**

- (a) **ORD. NO. 29488 – Rezoning certain real property situated on the west side of North 10<sup>th</sup> Street, approximately 500 feet northerly of Bayshore Highway on a 0.90 gross-acre site (APN 237-06-003) from the LI Light Industrial Zoning District to the HI Heavy Industrial Zoning District. C14-041**

Documents Filed: (1) Proof of Publication of the Title of Ordinance No. 29488 executed on September 26, 2014, submitted by the City Clerk. (2) Withdrawal Request from Ray Hashimoto, HMII to Jason Rogers, San José Planning Department, dated September 22, 2014.

*Note: request was withdrawn under Orders of the Day.*

## 2.2 (Cont'd.)

Public Comment: Sean Mulligan, representing Sonora Homeowners Association, asked that the project be deferred, asserting that traffic congestion issues have not been addressed.

Councilmember Liccardo addressed Mr. Mulligan, offering that mitigating development conditions have been proposed, and Staff will meet with the Homeowners Association off-line.

Action: Upon motion by Councilmember Liccardo, seconded by Councilmember Herrera and carried unanimously, Ordinance No. 29460 was adopted. (10-0-1. Absent: Constant.)

- (b) **ORD. NO. 29489 - Rezoning certain real property situated on the northeast corner of North 1<sup>st</sup> Street and Matrix Boulevard from the CG Commercial General Zoning District to the CG(PD) Planned Development Zoning District. PDC13-017**

Documents Filed: (1) Proof of Publication of the Title of Ordinance No. 29489 executed on September 26, 2014, submitted by the City Clerk.

Action: Ordinance No. 29489 was adopted. (10-0-1. Absent: Constant.)  
Original Vote: Noes: Liccardo.

- (c) **ORD. NO. 29490 - Rezoning certain real property situated on the southwest side of the terminus of Technology Drive, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC13-041**

Documents Filed: (1) Proof of Publication of the Title of Ordinance No. 29489 executed on September 26, 2014, submitted by the City Clerk.

Action: Ordinance No. 29490 was adopted. (10-0-1. Absent: Constant.)

## 2.3 Approval of Council Committee Reports.

- (a) **Neighborhood Services and Education Committee Report of September 11, 2014. (Nguyen)**
- (b) **Transportation and Environment Committee Report of September 15, 2014. (Liccardo)**
- (c) **Rules and Open Government Committee Report of September 17, 2014. (Mayor)**
- (d) **Community and Economic Development Committee Report of September 22, 2014. (Herrera)**

## 2.3 (Cont'd.)

Documents Filed: (1) Neighborhood Services and Education Committee Report dated September 11, 2014. (2) Transportation and Environment Committee Report dated September 15, 2014. (3) Rules and Open Government Committee Report dated September 17, 2014. (4) Community and Economic Development Committee Report dated September 22, 2014.

Action: The Council Committee Reports were accepted. (10-0-1. Absent: Constant.)

## 2.4 Mayor and Council Excused Absence Requests.

None provided.

## 2.5 City Council Travel Reports.

Vice Mayor Nguyen reported on her participation in the two-week study tour sponsored by the East-West Center which addressed the impact of climate change.

Councilmember Campos and Director of Information Technology Vijay Sameta reported on participation in the World Conference on Tourism and World Conference on Information and Technology in Guadalajara Mexico.

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

No report.

## 2.7 Adopt a resolution authorizing the City Manager to submit a grant proposal to the California Energy Commission, Electric Program Investment Charge Program, for up to \$1,500,000 to continue operations of a synthetic natural gas production demonstration unit at the Regional Wastewater Facility. CEQA: Exempt, File No. PP14-022. (Environmental Services)

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

Action: Resolution No. 77175, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Grant Proposal to the California Energy Commission, Electric Program Investment Charge Program, for Up to \$1,500,000 to Continue Operations of a Synthetic Natural Gas Production Demonstration Unit at the San José-Santa Clara Regional Wastewater Facility", was adopted. (10-0-1. Absent: Constant.)

## 2.8 Approve a Third Amendment to the Agreement with Active Acquisition Partners LLC, to conduct a comprehensive wellness program with San José Fire Department, and to increase the maximum compensation by \$100,000 from \$575,000 to \$675,000, not to exceed \$675,000. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Fire)

**2.8 (Cont'd.)**

Documents Filed: (1) Memorandum from Fire Chief Ruben Torres, dated September 15, 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.

Action: A Third Amendment to the Agreement with Active Acquisition Partners LLC, to conduct a comprehensive wellness program with San José Fire Department, and to increase the maximum compensation by \$100,000 from \$575,000 to \$675,000, not to exceed \$675,000, was approved. (10-0-1. Absent: Constant.)

**2.9 Accept and direct staff to record with the County's Office of the Clerk Recorder a conservation easement on a 0.99 gross acre portion of a 2.84 gross acre site on the east side of Quimby Road, approximately 440 feet east of Murillo Road, associated with the Evergreen No. 202 Annexation. CEQA: Mitigated Negative Declaration, File No. PDC10-002, Resolution No. 76134. Council District 8. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated September 17, 2014, recommending recording of a conservation easement.

Action: Staff was directed to record with the County's Office of the Clerk Recorder a conservation easement on a 0.99 gross acre portion of a 2.84 gross acre site on the east side of Quimby Road, approximately 440 feet east of Murillo Road, associated with the Evergreen No. 202 Annexation. (10-0-1. Absent: Constant.)

- 2.10 (a) Adopt a resolution accepting the Fiscal Year 2014-2015 Internet Crimes Against Children Task Force Invited Awards in the amount of \$399,904 and authorize the City Manager to execute the Grant Agreement and all related documents and to execute additional amendments and related documents without further Council action;**
- (b) Adopt the following 2014-2015 Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund:**
- (1) Establish a new city-wide appropriation to the Police Department for the Internet Crimes Against Children Federal Grant 2014-2015 in the amount of \$399,904;**
  - (2) Increase the estimate for Revenue from Federal Government by \$399,904.**

**CEQA: Not a Project, File No. PP10-066, Grant Agreements. (Police/City Manager)**

Documents Filed: Joint memorandum from Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated September 15, 2014, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

**2.10 (Cont'd.)**

Action: Resolution No. 77176, entitled: “A Resolution of the Council of the City of San José Accepting the Office of Juvenile Justice and Delinquency Prevention Fiscal Year 2014-2015 Internet Crimes Against Children Task Force Invited Awards in the Amount of \$399,904, and Authorizing the City Manager to Execute the Grant Agreement and all Related Documents and Amendments”; Ordinance No. 29493, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Fund for the Internet Crimes Against Children Federal Grant 2014-2015; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 77177, 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 General Fund”, were adopted. (10-0-1. Absent: Constant.)

- 2.11 (a) Adopt a resolution to accept the State of California, Office of Traffic Safety 2014-2015 Selective Traffic Enforcement Program grant in the amount of \$350,000 and authorize the City Manager to execute the related grant agreement and to execute additional amendments and related documents without further Council action;**
- (b) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) Establish a new City-wide appropriation to the Police Department for the Selective Traffic Enforcement Program 2014-2015 grant in the amount of \$262,500; and**
- (2) Increase the Revenue Estimate from State of California by \$262,500.**
- CEQA: Not a Project, File No. PP10-066, Grant Agreements. (Police/City Manager)**

Documents Filed: Joint memorandum from Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated September 15, 2014, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 77178, entitled: “A Resolution of the Council of the City of San José Accepting the State of California Office of Traffic Safety 2014-2015 Selective Traffic Enforcement Program Grant in the Amount of \$350,000, and Authorizing the City Manager to Execute the Grant Agreement and all Related Documents and Amendments”; Ordinance No. 29494, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Fund for the Selective Traffic Enforcement Program 2014-2015 Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 77179, 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 General Fund”, were adopted. (10-0-1. Absent: Constant.)



**2.12 Adopt a resolution approving the use of the design-build project delivery method in accordance with SB 785 for the construction of the Cogeneration Facility Project, which is estimated to cost in excess of \$1,000,000. CEQA: Mitigated Negative Declaration, File No. PP14-005. (Public Works/Environmental Services)**

Documents Filed: (1) Memorandum from Director of Public Works David Sykes and Environmental Services Director Kerrie Romanow, dated September 4, 2014, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Public Works David Sykes and Environmental Services Director Kerrie Romanow, dated September 4, 2014, providing an update on the authorization and approval process.

Action: Resolution No. 77180, entitled: “A Resolution of the Council of the City of San José Approving the Use of the Design-Build Project Delivery Method in Accordance with SB 785 for the Construction of the Cogeneration Facility Project at the San José – Santa Clara Regional Wastewater Facility, Which is Estimated to Cost in Excess of \$1,000,000”, was adopted. (10-0-1. Absent: Constant.)

- 2.13 (a) Adopt a resolution authorizing the City Manager to accept Proposition 84 Stormwater Grant Program funding for the Ocala Avenue Green Street Project, and negotiate and execute a Grant Agreement with the State Water Resources Control Board to effectuate a \$1,429,355 grant with City matching funds of at least 20% of total project cost, and up to \$112,000 for construction contingency, for a total cost of \$1,919,357 relating to the Ocala Avenue Green Street Project for the term ending on or about April 30, 2018, and all related documents necessary for the grant.**
- (b) Adopt the following 2014-2015 Appropriation Ordinance amendment in the Storm Sewer Capital Fund:**
- (1) Establish an appropriation to the Public Works Department for the Ocala Avenue Green Street Project in the amount of \$130,000; and**
  - (2) Decrease the Ending Fund Balance in the amount of \$130,000.**

**CEQA: Exempt, File No. PP14-041 (Ocala Avenue). Council Districts 5 and 8.**

*Item 2.13 was Renumbered from Item 7.1*

Documents Filed: Joint memorandum from Environmental Services Director Kerrie Romanow, Director of Public Works David Sykes and Budget Director Jennifer Maguire, dated September 15, 2014, recommending adoption of a resolution and appropriation ordinance.

Action: Resolution No. 77181, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager, or Designee, to Accept a Proposition 84 Stormwater Grant in the Amount of \$1,429,355 to Fund the Design and Construction of the Ocala Avenue Green Street Project and to Negotiate and Execute a Grant Agreement with the California State Water Resources Control Board and all Related Documents Necessary to Effectuate the Grant”; and Ordinance No. 29495, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Storm Sewer Capital Fund for the Ocala Avenue Green Street Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Constant.)

- 2.14 (a) Approve the San José Gun Buyback scheduled on December 13, 2014 as a City Council sponsored Special Event and approve the expenditure of funds;**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 2, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 5's San José Gun Buyback as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Constant.)

- 2.15 (a) Approve the Shred-a-thon and E-Waste Recycling event scheduled on October 18, 2014 as a City Council sponsored Special Event and approve the expenditure of funds;**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 2, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 1 Shred-A-Thon and E-Waste Recycling Event as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Constant.)

- 2.16 As recommended by Rules and Open Government Committee on October 1, 2014:**  
**(a) Approve the Disability Awareness Day scheduled on October 10, 2014 as a City Council sponsored Special Event and approve the expenditure of funds;**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project. (Constant)**

**[Rules Committee referral 10/1/14 – Item G(7)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 2, 2014, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 1's Disability Awareness Day as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: Constant.)

**END OF CONSENT CALENDAR**

## COMMUNITY & ECONOMIC DEVELOPMENT

*Heard out of order*

### 4.1 Adopt a resolution:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Parkview Family Apartments), Series 2014B” in an aggregate principal amount not to exceed \$14,500,000 (the “Series 2014B Bonds”);
- (b) Approving a loan of Series 2014B Bond proceeds to Parkview Family EAH II, L.P., a California limited partnership created by EAH, Inc. (the “Developer”), to finance the acquisition and rehabilitation of the Parkview Family Apartments (the “Family Project”) located at 360 Meridian Avenue in San José;
- (c) Authorizing the issuance of a tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Parkview Senior Apartments), Series 2014C” in an aggregate principal amount not to exceed \$15,000,000 (the “Series 2014C Bonds”);
- (d) Approving a loan of Series 2014C Bond proceeds to Parkview Senior EAH II, L.P., a California limited partnership created by EAH, Inc., to finance the acquisition and rehabilitation of the Parkview Senior Apartments (the “Senior Project”) located at 355 Race Street in San José;
- (e) Approving in substantially final form the Trust Indentures, Loan Agreements, Regulatory Agreements and Declaration of Restrictive Covenants, Bond Purchase Agreements and Official Statements (collectively, the “Series 2014B and C Bond Documents”);
- (f) Authorizing and directing the City Manager, Director of Finance, Assistant Director of Finance, Treasury Division Manager, Debt Administrator, and Director of Housing, or their designees, to execute and deliver the Series 2014B and C Bond Documents and other related Series 2014B and C Bond documents as necessary; and
- (g) Authorizing the Director of Housing to negotiate and execute (i) amendments to existing City loan documents relating to the Senior and Family Projects consistent with the terms described below, and (ii) a subordination agreement with the Department of Housing and Urban Development (HUD) subordinating the City’s interest in the Senior and Family Projects to an FHA-insured mortgage.

**CEQA: Negative Declaration, File No. PDC94-022. Council District 6. (Finance/Housing)**

Documents Filed: (1) Joint memorandum from Director of Housing Leslye Corsiglia and Director of Finance Julia H. Cooper, dated September 15, 2014, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated October 6, 2014, making corrections to the previous memorandum.

#### 4.1 (Cont'd.)

Public Comment: Yolanda Lewis, representing Innovative Resources, brought attention to the drought conditions and high levels of arsenic in groundwater.

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Herrera and carried unanimously, Resolution No. 77185, entitled: "A Resolution of the Council of the City of San José California, Authorizing the Issuance, Sale and Delivery of Multifamily Housing Revenue Bonds in an Aggregate Principal Amount Not To Exceed \$14,500,000 for the Purpose of Making a Loan to Provide Financing for Parkview Family Apartments and an Aggregate Principal Amount Not to Exceed \$15,000,000 for the Purpose of Making a Loan to Provide Financing for Parkview Senior Apartments; Determining and Prescribing Certain Matters Relating Thereto; and Approving and Authorizing Related Actions and the Execution and Delivery of Related Documents", was adopted. (10-0-1. Absent: Constant.)

### STRATEGIC SUPPORT SERVICES

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

City Manager, Edward K. Shikada reported on the successful launch of Small Business Ignite and noted that additional workshops will be offered.

- 3.3
- (a) **Accept the 2013-2014 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F).**
  - (b) **Adopt Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2013-2014 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section IV. Recommended Budget Adjustments and Clean-Up/Rebudget Actions.**
  - (c) **Approve the shift of 1.0 Senior Executive Analyst from the Office of Economic Development to the Planning, Building and Code Enforcement Department and reallocate this position to a Principal Planner, as detailed in Section IV. Recommended Budget Adjustments and Clean-Up/Rebudget Actions.**

**CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (City Manager)**

Documents Filed: (1) Memorandum from Councilmember Rocha, dated October 3, 2014, recommending an enhancement to the Children's Discovery Museum expansion project. (2) Memorandum from Councilmember Kalra, dated October 6, 2014, recommending exceptions to the Annual Report as presented. (3) 2013-2014 Annual Report, transmitted by City Manager Ed Shikada, dated September 30, 2014. (4) Supplemental memorandum from Budget Director Jennifer Maguire, dated October 6, 2014, providing replacement pages in the Annual Report. (5) Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated September 12, 2014, stating concurrence with the Staff recommendation.

### 3.3 (Cont'd.)

Director of Finance Julia H. Cooper offered a presentation, and Mayor Reed provided additional comments, including opining the burden of retirement cost increases and disagreement with Councilmember Kalra and Councilmember Rocha's memoranda.

Motion: Council Member Kalra moved approval of his memorandum dated October 6, 2014. Council Member Rocha seconded the motion.

Substitute Motion: Council Member Constant moved approval to accept the Staff recommendations as provided. The substitute motion was seconded by Vice Mayor Nguyen.

Councilmember Liccardo recommended stronger focus on the Transient Occupancy Tax (TOT) fund and offered support to the substitute motion on the floor.

Public Comment: Jeff Moore (San José NAACP), Maria Fernandez (Community Budget Working Group), Sergio Jimenez, Yolanda Cruz (AFSCME-MEF), and Ross Signorino expressed support to Councilmember Kalra's memorandum and urged an investment in the City's neighborhoods.

Action: On a call for the question, the substitute motion carried, and the 2013-2014 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F) was approved; Ordinance No. 29496, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in Various Funds to Implement the 2013-2014 Annual Report Recommendations and Make Appropriate Technical Adjustments, Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 77182, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77037 to Implement the 2013-2014 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds", were adopted; and the shift of 1.0 Senior Executive Analyst from the Office of Economic Development to the Planning, Building and Code Enforcement Department and reallocation of this position to a Principal Planner, as detailed in Section IV was approved. (7-4. Noes: Campos, Chu, Kalra, Rocha.)

### 3.4 Adopt resolutions to provide as follows:

- (a) **Adopt a resolution to approve the terms of agreements with the bargaining units listed below that would modify retiree healthcare funding effective December 21, 2014 by extending the phase-in of the retiree healthcare Annual Required Contribution through June 21, 2015 and authorize the City Manager to execute said agreements, pending ratification by their memberships:**
- (1) **Association of Building, Mechanical and Electrical Inspectors (ABMEI);**
  - (2) **Association of Engineers and Architects, IFPTE Local 21 (AEA Units 41/42 and 43);**
  - (3) **Association of Legal Professionals (ALP);**

3.4 (Cont'd.)

- (a) (4) Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP);
- (5) City Association of Management Personnel, IFPTE Local 21 (CAMP);
- (6) Confidential Employees' Organization, AFSCME Local 101 (CEO);
- (7) International Brotherhood of Electrical Workers, Local No. 332 (IBEW);
- (8) Municipal Employees' Federation, AFSCME Local 101 (MEF); and
- (9) International Union of Operating Engineers, Local 3 (OE#3)
- (b) Adopt a resolution to approve modifications to the retiree healthcare funding phase-in for Executive Management and Professional Employees (Unit 99) effective December 21, 2014, to extend the phase-in of the retiree healthcare Annual Required Contribution through June 21, 2015.
- (c) Direct the Administration to bring forward a recommendation to place the savings from the phase-in extension into the Retiree Healthcare Solutions Reserve in the applicable City funds as part of the 2014-2015 Annual Report for the one-time savings generated from the recommendations related to the changes to the retiree healthcare funding provisions for employees in the Federated City Employees' Retirement System for 2014-2015.

**CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Council Member Constant recused himself from participating in the Council discussion and/or voting and disclosed that he is a recipient of retiree healthcare.

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

Deputy City Manager Alex Gurza responded to questions from the Council, and discussion followed.

Substitute Motion: Councilmember Liccardo moved a two-week deferral of the item to allow Council an opportunity to discuss the matter in Closed Session. Councilmember Herrera seconded the motion.

Action: On a call for the question, the substitute motion carried unanimously, and the item was deferred to October 21, 2014. (10-0-0-1. Abstain: Constant.)

- 3.5 (a) Adopt a resolution authorizing the City Manager to:**
- (1) Negotiate and execute an Agreement or Agreements with Kaiser Permanente to provide medical insurance plans and support services to the City for employees, retirees, dependents and eligible beneficiaries for the period from January 1, 2015 through December 31, 2015, and to exercise up to three (3) one-year options to renew the Agreements through December 31, 2018, residing within the Kaiser Permanente service areas of Northern California, Southern California, Pacific Northwest and Hawaii, to provide Medicare coordinating plans: Kaiser Permanente Senior Advantage Plan, Medicare Out-of-Area Plan for Medicare eligible retirees, dependents and beneficiaries for the period from January 1, 2015 through December 31, 2015, and to exercise up to three one-year options to renew the Agreements through December 31, 2018, for premium costs not to exceed \$57,086,554 for calendar year 2015 and with annual cost adjustments for each subsequent year based on annual premiums as determined by Kaiser Permanente, number of enrollees in the group insurance plans, coverage elected by participants, and pursuant to collective bargaining agreements, for a maximum amount not to exceed \$255,343,698 for a potential four year term, subject to the annual appropriation of funds by the City Council; and**
  - (2) Negotiate and approve annual premium renewal rates, and negotiate and execute any annual group health plan or policy contract and any ancillary documents, such as Evidences of Coverage documents and Business Associate Agreements, with Kaiser Permanente that are necessary to facilitate the medical insurance services Agreements for the period of January 1, 2015 through December 31, 2015, and the one-year options to renew through December 31, 2018; and**
  - (3) In the event that Kaiser Permanente's proposed annual renewal rates are not acceptable by the City Manager, subject to the terms of City's collective bargaining agreements, authorize the City Manager to terminate the agreement(s) or group plan contract(s).**
- (b) Adopt a resolution authorizing the City Manager to:**
- (1) Negotiate and execute an Agreement or Agreements with Blue Shield of California to provide medical insurance plans, wellness services, support services and Medicare coordinating plans to the City for employees, retirees, dependents and eligible beneficiaries for the period from January 1, 2015 through December 31, 2015, and to exercise up to three one-year options to renew the Agreements through December 31, 2018, for premium costs not to exceed \$51,010,257 for calendar year 2015 and with annual cost adjustments for each subsequent year based on the annual premiums as determined by Blue Shield of California, number of enrollees in the group insurance plans, coverage elected by participants, and pursuant to collective bargaining agreements, for a maximum amount not to exceed \$236,626,426, for a potential four year term, subject to the annual appropriation of funds by the City Council;**

3.5 (Cont'd.)

- (b) (2) **Negotiate and approve annual premium renewal rates, and negotiate and execute any annual group health plan or policy contracts and any ancillary documents, such as Evidences of Coverage documents, Business Associate Agreements, with Blue Shield of California that are necessary to facilitate the medical insurance services Agreements for the period of January 1, 2015 through December 31, 2015, and the three (3) one-year options to renew through December 31, 2018;**
- (3) **In the event that Blue Shield's proposed annual renewal rates are not acceptable by the City Manager, subject to the terms of City's collective bargaining agreements, authorize the City Manager to terminate the agreement(s) or group plan contract(s).**
- (c) **Adopt the following 2014-2015 Appropriation Ordinance amendments in the Benefits Fund:**
  - (1) **Establish an appropriation to the Human Resources Department for a Wellness Program in the amount of \$175,000; and**
  - (2) **Decrease the Ending Fund Balance in the amount of \$175,000.**

**CEQA: Not a Project, File No PP066(e), Services that involve no physical changes to the environment. (Human Resources/City Manager)**

Documents Filed: (1) Joint memorandum from Director of Human Resources, Joe Angelo and Budget Director Jennifer Maguire, dated September 22, 2014, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments. (2) Statement and Declaration of Conflict of Interest Form from Council Member Khamis, dated October 7, 2014.

Council Member Khamis recused himself from participating in the Council discussion and/or voting, disclosing that Khamis & Barbir Insurance Agency, Inc., of which he is a principle, receives income from the sale of Kaiser and Blue Shield healthcare insurance policies.

Staff responded to questions from Council.

Public Comment: Bob Leininger, representing the San José Retired Employee's Association, asked that the City reach out to other health care providers.

Motion: Councilmember Herrera moved approval of the staff's recommendations, with the inclusion of Mr. Leininger's recommendation that the administration reach out to other health care providers each enrollment period so as to not get locked into a two healthcare provider system. Vice Mayor Nguyen seconded the motion.



### 3.5 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 77183, entitled: “A Resolution of the Council of the City of San José to Authorize the City Manager to Negotiate and Execute Agreements with Kaiser Permanente to Provide Medical Insurance Plans for City of San José Employees, Retirees, Dependents and Beneficiaries for the Period of January 1, 2015 to December 31, 2015, with Options to Extend through December 31, 2018”; Resolution No. 77184, entitled: “A Resolution of the Council of the City of San José to Authorize the City Manager to Negotiate and Execute Agreements with Blue Shield of California to Provide Medical Insurance Plans for City of San José Employees, Retirees, Dependents and Beneficiaries for the Period of January 1, 2015 to December 31, 2015, with Options to Extend through December 31, 2018”; and Ordinance No. 29497, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Benefit Fund for the Wellness Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted, with Staff directed to reach out to potential health care providers for every enrollment period and on an on-going basis, to avoid getting locked into a two health care provider system (10-0-0-1. Abstain: Khamis.)

- 3.6 (a) **Accept the report on the Request for Proposal for the purchase of a Business Tax Billing System and adopt a resolution authorizing the City Manager to:**
- (1) **Negotiate and execute an Agreement with CSDC Systems Inc. (Fort Worth, TX) for the purchase of a Business Tax Billing System to include software, installation, implementation, data migration, training and related professional services, taxes, maintenance and support, for an initial five-year term ending June 2019, with a maximum compensation not-to-exceed \$1,488,536, subject to the appropriation of funds;**
  - (2) **Execute change orders to cover any unanticipated changes or requirements in the system design and implementation not to exceed \$200,205 (15% of first year amount) as may be required, subject to the appropriation of funds; and**
  - (3) **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 at an estimated initial annual cost of \$40,181 to be adjusted each year up to 3%, subject to the annual appropriation of funds.**
- (b) **Adopt the following 2014-2015 Appropriation Ordinance amendments in the General Fund:**
- (1) **Increase the Business Tax System Replacement appropriation to the Finance Department in the amount of \$2,290,000; and**
  - (2) **Decrease the Business Tax System Replacement Reserve by \$2,290,000.**

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

Action: Deferred to October 21, 2014 per Administration.

**3.7 As recommended by Rules and Open Government Committee on October 1, 2014, conduct a discussion on public labor negotiations. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)  
(Rules Committee referral 10/1/14)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated October 2, 2014, transmitting the recommendations of the Rules and Open Government Committee. (2) Letter from County of Santa Supervisor, Dave Cortese, dated October 7, 2014, expressing support to Councilmember Oliverio's proposal. (3) Ten emails from the public, all supporting Councilmember Oliverio's recommendations, stressing transparency and open meetings for union negotiations.

Motion: Councilmember Oliverio moved approval of his memorandum of June 5, 2014, requesting drafting a ballot measure for review at the June 17, 2014 City Council Meeting allowing members of the public to attend union negotiations. Councilmember Constant seconded the motion.

Mayor Reed advised that he could not support the motion on the floor, stating that an open process is already in place and private mediations will still be used.

Public Comment: Deborah Arant spoke on the importance of transparency in government, and Mike Donohoe, on behalf of Supervisor Dave Cortese, offered support to Councilmember Oliverio's proposal.

On a call for the question, the motion failed. (5-6. Noes: Campos, Chu, Herrera, Nguyen, Rocha; Reed.) No action was taken.

## **COMMUNITY & ECONOMIC DEVELOPMENT**

**4.2 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the "Louis and Sarah Richards House" located at 184 South 13<sup>th</sup> Street.**

- (a) Conduct a Public Hearing and adopt a resolution designating the "Louis and Sarah Richards House" as landmark of special historic, architectural, aesthetic or engineering interest, or value of a historic nature; and**
- (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 (Joseph A. Tate and Yuan Yuan Lu, Owners) and adopt a resolution approving the Contract.**

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

**HL14-213/MA14-001 – District 3**

## 4.2 (Cont'd.)

Documents Filed: (1) Historic Landmarks Commission Staff Report for Project File Numbers HL14-213 and MA14-001, dated September 11, 2014. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated September 23, 2014, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing executed on August 29, 2014, submitted by the City Clerk.

Action: Upon motion by Councilmember Liccardo, seconded by Councilmember Herrera and carried unanimously, Resolution No. 77186, 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 Louis and Sarah Richards House, Located at 184 South 13<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. 77187, entitled: "A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Joseph Tate and Yuan Yuan Lu for the Louis and Sarah Richards House (City Landmark No. HL14-213) Located at 184 South Thirteenth Street", were adopted. (11-0.)

## 4.3 **As recommended by the Rules and Open Government Committee on October 1, 2014, direct the City Manager and the City Attorney to engage in settlement discussions with the County of Santa Clara to resolve an existing dispute over the City/County Pass-through Agreement, with a new agreement to use all the funds in dispute (approximately \$20 million per year) for affordable housing (50%) and housing for the homeless (50%). CEQA: Not a Project, CEQA Guideline Section 15061(b)(3). (Mayor)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 2, 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 City Manager and the City Attorney were directed to engage in settlement discussions with the County of Santa Clara to resolve an existing dispute over the City/County Pass-through Agreement, with a new agreement to use all the funds in dispute (approximately \$20 million per year) for affordable housing (50%) and housing for the homeless (50%). (11-0.)

## NEIGHBORHOOD SERVICES

- 5.1 (a) **Accept the report for the On-Site Service Model Component to the Senior Nutrition Program Request for Proposal (RFP) and Report on Senior Nutrition Program Survey Process; and**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Agreement with Compass Group USA, Inc. (Bateman) to provide on-site cooking services at 11 City nutrition sites beginning January 2015, increase the total agreement value not to exceed \$1,800,000 for the initial term October 1, 2014 through September 30, 2015 and not to exceed \$1,934,084 for the term beginning October 1, 2015 through September 30, 2016, subject to the appropriation of funds and funding agreement with the County.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Joint memorandum from Vice Mayor Nguyen and Councilmember Liccardo, dated October 3, 2014, recommending approval of Staffs' recommendations. (2) Memorandum from Councilmember Rocha, dated October 6, 2014, recommending acceptance of the staff report with a deferral of action on Recommendation #2. (3) Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated September 15, 2014, recommending acceptance of the report and adoption of a resolution.

Public Comment: Pat Farrow, Glenice Magee, Angie Norquist and Sue Young, representing Sacred Heart Senior Action Committee; and Martha O'Connell offered support to the program. Yolanda Lewis expressed drought concerns.

Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares responded to questions and offered to report statistics as requested by Council. Councilmembers thanked advocates and staff alike for their diligence.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Liccardo and carried unanimously, Resolution No. 77188, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with Compass Group USA, Inc. (Bateman) to Provide On-Site Cooking Services at 11 City Nutrition Sites Beginning January 2015, and to Increase the Total Agreement Value Not to Exceed \$1,800,000 for the Initial Term October 1, 2014 through September 30, 2015 and Not to Exceed \$1,934,084 for the Term Beginning October 1, 2015 through September 30, 2016, Subject to the Appropriation of Funds", was adopted. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

### 6.1 **Accept the report on the Airport Concession Disadvantaged Business Enterprise Outreach Program. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (Airport)**

Documents Filed: (1) Memorandum from Councilmember Liccardo, dated October 7, 2014, recommending specific outreach efforts to the Disadvantaged Business Enterprises. (2) Memorandum from Airport Department Director of Aviation, Kim Becker Aguirre, dated September 24, 2014, recommending acceptance of the outreach plan.

Director of Aviation, Kim Becker Aguirre offered an overview of the Airport Concession Disadvantaged Business Enterprise Outreach Program and responded to questions from Council.

Motion: Councilmember Liccardo moved approval of the staff recommendations, and Councilmember Herrera seconded the motion. Councilmember Herrera requested to amend the motion to include her comments, as noted below in “action”. Councilmember Liccardo accepted the amendment to the motion.

Action: On a call for the question, the motion passed unanimously, and the report on the Airport Concession Disadvantaged Business Enterprise Outreach Program was accepted, with staff directed to review the market area data base to assure the population is well represented with no barriers to entry for those who wish to be included in the program. (10-0-1. Absent: Oliverio.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Adopt a resolution authorizing the City Manager to accept Proposition 84 Stormwater Grant Program funding for the Ocala Avenue Green Street Project, and negotiate and execute a Grant Agreement with the State Water Resources Control Board to effectuate a \$1,429,355 grant with City matching funds of at least 20% of total project cost, and up to \$112,000 for construction contingency, for a total cost of \$1,919,357 relating to the Ocala Avenue Green Street Project for the term ending on or about April 30, 2018, and all related documents necessary for the grant.**
- (b) **Adopt the following 2014-2015 Appropriation Ordinance amendment in the Storm Sewer Capital Fund:**
- (1) **Establish an appropriation to the Public Works Department for the Ocala Avenue Green Street Project in the amount of \$130,000; and**
  - (2) **Decrease the Ending Fund Balance in the amount of \$130,000.**
- CEQA: Exempt, File No. PP14-041 (Ocala Avenue). Council Districts 5 and 8. (Environmental Services/Public Works/City Manager)**

*Renumbered to Item 2.13 - see Item 2.13 for Action*

## **OPEN FORUM**

Yolanda Lewis criticized the existing meeting protocol and asked that a change in meeting procedures be considered.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 5:02 p.m. in memory of Ida Strangis who passed away on August 23, 2014. Ida was a beloved member of the community working at the Mayfair Packing Company before retiring. Her dedication to family and community will be forever missed. (Campos)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

rmk/10-07-14MIN