



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 9, 2013

The Council of the City of San José convened in Regular Session at 9:03 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Office of Employee Relations Senior Executive Analyst, Jennifer Schembri reported on the San José Police Officers' Association (SJPOA) Wage Proposal.

Action: The report was accepted.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:05 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation (claim filed) in one (1) matter; Claimant: Claim of PG&E; City Department: DOT; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 (d)(1) with respect to existing litigation: (1) Ortiz, et al. v. City of San José, et al; Names of Parties Involved: Esmeralda Galan and José Ortiz, husband and wife, individually and as parents and successors in interest of their deceased minor son Mateo Ortiz; City of San José, a Charter City, David Alvernaz, Alycia Saaveda-Alvernaz, and Does 1 through 20; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-199150; Amount of Money or Other Relief Sought: Damages according to proof. (2) Chahal v. City of San José, Bach Thai Tran; Names of Parties Involved: Lakhbir Singh Chahal; Baljit Chahal, City of

Access the video, the agenda and related reports for this meeting by visiting the City's website at accessed at <http://www.sanjoseca.gov/civiccentervt>. 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.)

San José, Bach Thai Tran and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-199202; (3) Garden City, Inc. dba Casino M8trix, et al. v. City, et al.; Names of Partie(s) Involved: Garden City, Inc., dba Casino M8trix a California Corporation, Airport Parkway Two, LLC., a California limited liability company, and Airport Opportunity Fund, LLC., a Delaware limited liability company, City of San José, a California Municipal Corporation, San José Police Department, for the City of San José, Richard Teng, individually and as Administrator of the San José Police Department Division of Gaming Control, and Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-240941; Amount of Money or Other Relief Sought: Damages According to Proof; (4) Garden City, Inc. dba Casino M8trix, et al. v. City, et al.; Names of Partie(s) Involved: Garden City, Inc., dba Casino M8trix a California Corporation, Airport Parkway Two, LLC., a California limited liability company, and Airport Opportunity Fund, LLC., a Delaware limited liability company, City of San José, a California Municipal Corporation, San José Police Department, for the City of San José, Richard Teng, individually and as Administrator of the San José Police Department Division of Gaming Control, and Does 1 through 100; Court: U.S. District Court; Case No: CV-13-0577 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (5) Ted Smith. v. City, et al.; Names of Partie(s) Involved: Ted Smith, City of San José, a municipal entity; San José Redevelopment Agency, a municipal entity; Harry Mavrogenes, in his official capacity as Executive Director of the San José Redevelopment Agency; Mayor Chuck Reed in his official capacity as Mayor of the City of San José; Pete Constant, in his official capacity as a Councilmember for the City of San José; , Ash Kalra, in his official capacity as a Councilmember for the City of San José; Sam Liccardo, in his official capacity as a Councilmember for the City of San José; Pierluigi Oliverio, in his official capacity as a Councilmember for the City of San José; Madison Nguyen, in her official capacity as a Councilmember for the City of San José; Rose Herrera, in her official capacity as a Councilmember for the City of San José; Judy Chirco, in her official capacity as a Councilmember for the City of San José; Kansen Chu, in his official capacity as a Councilmember for the City of San José; Nora Campos, in her official capacity as a Councilmember for the City of San José; Nancy Pyle, in her official capacity as a Councilmember for the City of San José; and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-150427; Amount of Money or Other Relief Sought: Damages According to Proof; (6) Ted Smith v. City, San José Elections Commission; Names of Partie(s) Involved: Ted Smith; City of San José, San José Elections Commission; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-089167; Amount of Money or Other Relief Sought: Damages According to Proof; (7) City of San José v. County of Santa Clara; Names of Partie(s) Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, individually and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara, and Does 1 through 100; Court: Superior Court of California, County of Sacramento; Case No: 34-2012-80001190; Amount of Money or Other Relief Sought: Damages According

CLOSED SESSION (Cont'd.)

to Proof; (8) Citizens Against Airport Pollution v. City, et al.; Names of Partie(s) Involved: Citizens Against Airport Pollution, an unincorporated association, and Does 1 to 5, City of San José, City Council of the City of San José, and Does 6 to 10, Does 10 to 30; Real Parties in Interest; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-177290; Amount of Money or Other Relief Sought: City to set aside and void approvals relating to 8th addendum to Airport Master Plan; (9) Deisenroth v. City; Names of Partie(s) Involved: Lorie Deisenroth, City of San José; Court: Santa Clara County Superior Court; Case No.: 1-12-CV-224197; Amount of Money or Other Relief Sought: (C) Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8; (1) Property Street Address, Parcel Number or Other Unique Reference of Property: Ice Centre of San José (Logitech Ice), 1500 S. Tenth Street, San José, California; Negotiating Parties: Nancy Klein and Arn Andrews for the City of San José and Charlie Faas, Jim Goddard and John Tortora for the Ice Centre; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated Price based on appraisal and comparable Property Values; (2) Property Street Address, Parcel Number or Other Unique Reference of Property: San José Arena (HP Pavillion), 525 W. Santa Clara Street, San José, California; Negotiating Parties: Ed Shikada for the City of San José and John Tortora for the Arena; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated Price based on appraisal and comparable Property Values; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors 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: City of San José – Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Benefit & Compensation Summary - City of San José and City Association of Management Personnel Agreement; (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,

CLOSED SESSION (Cont'd.)

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: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing 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 11:45 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo (1:43 p.m.), Nguyen, Oliverio (1:41 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Venerable Vien Thong from Tu Lam Temple provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ORDERS OF THE DAY

Upon motion by Council Member Rocha, seconded by Council Member Herrera, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 3.4 and 3.5 deferred to April 23, 2013. (9-0-2. Absent: Liccardo, Oliverio.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action of April 9, 2013:

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

Case Name:	Ted Smith v. City of San José, et al.
Council Vote:	
Ayes:	Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.
Noes:	None.
Disqualified:	None.
Absent:	None.

CEREMONIAL ITEMS

1.1 **Presentation of a proclamation declaring the Week of April 21 – 27, 2013 as “National Crime Victims’ Rights Week” in the City of San José. (Mayor)**

Mayor Reed presented a commendation to representatives from the Victim’s Assistance Program, recognizing the Week of April 21 – 27, 2013 as “National Crime Victims’ Rights Week” in the City of San José.

1.2 **Presentation of a proclamation declaring the Month of April 2013 as “Young Child Awareness Month” in the City of San José. (Oliverio)**

Mayor Reed and Council Member Oliverio recognized the Month of April 2013 as “Young Child Awareness Month” in the City of San José.

1.3 **Presentation of a commendation to the International Technological University for their accreditation by the Western Association of Schools and Colleges and for the important role that the University plays in the City of San José. (Liccardo)**

Mayor Reed and Council Members Liccardo and Chu presented a commendation to the International Technological University for their accreditation by the Western Association of Schools and Colleges.

CONSENT CALENDAR

Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of Minutes.

None provided.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29229** – Amending Section 6.64.130 of Chapter 6.64 of Title 6 of the San José Municipal Code and adding Section 6.64.465 of Part 6 of Chapter 6.64 of Title 6 to create exceptions for out of town taxi businesses and taxi drivers whose principal place of business is outside of the City, and who only drop off passengers at the airport, from obtaining an additional license under Title 6 if property permitted under Title 25.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29229 executed on March 29, 2013, submitted by the City Clerk.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen, and carried, Ordinance No. 29229 was adopted. (11-0.)

- (b) **ORD. NO. 29230** – Amending Sections 6.64.440, 6.64.620, and 6.64.630 of Chapter 6.64 of Title 6 of the San José Municipal Code regarding Police Taxicab Permits to remove outdated language and to clarify hearing requirements to ensure consistency with other permit provisions of the Code and amending Section 25.08.755 of Chapter 25 of the San José Municipal Code regarding Airport Permits to clarify requirements.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29230 executed on March 29, 2013, submitted by the City Clerk.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen, and carried, Ordinance No. 29230 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of October 3, 2012.**
(Mayor)
[Deferred from 3/26/13 – Item 2.3(a) and 3.6(a)]
- (b) **Rules and Open Government Committee Report of October 10, 2012.**
(Mayor)
[Deferred from 3/26/13 – Item 2.3(b) and 3.6(b)]
- (c) **Rules and Open Government Committee Report of October 17, 2012.**
(Mayor)
[Deferred from 3/26/13 – Item 2.3(c) and 3.6(c)]
- (d) **Rules and Open Government Committee Report of October 24, 2012.**
(Mayor)
[Deferred from 3/26/13 – Item 2.3(d) and 3.6(d)]

- 2.3**
- (e) Rules and Open Government Committee Report of October 31, 2012. (Mayor)**
[Deferred from 3/26/13 – Item 2.3(e) and 3.6(e)]
 - (f) Airport Competitiveness Committee Report of February 22, 2013. (Mayor)**
 - (g) Ad Hoc Committee on Economic Competitiveness Report of March 4, 2013. (Mayor)**
 - (h) Neighborhood Services and Education Committee Report of March 14, 2013. (Nguyen)**
 - (i) Public Safety, Finance and Strategic Support Committee Report of March 21, 2013. (Constant)**
 - (j) Community and Economic Development Committee Report of March 25, 2013. (Herrera)**

Documents Filed: (1) Rules and Open Government Committee Reports dated October 3, 10, 17, 24, 31; 2013; (2) Airport Competitiveness Committee Report dated February 22, 2013; (3) Ad Hoc Committee on Economic Competitiveness Report dated March 4, 2013; (4) Neighborhood Services and Education Committee Report dated March 14, 2013; (5) Public Safety, Finance and Strategic Support Committee Report dated March 21, 2013; (6) Community and Economic Development Committee Report dated March 25, 2013.

Action: The Council Committee Reports were approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

Council Members Constant, Herrera, Campos and Chu reported on the League of California Cities' Policy Committee meeting held in Pasadena last week. Council Member Campos gave a brief report on the Water Education for Latino Leaders (WELL) conference he attended.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Approve a support position for AB 1229 (Atkins) – Land use: zoning regulations. CEQA: Not a Project, File No. PP10-069, Administrative activities. (Housing)

Documents Filed: City Council Action Request from Director of Housing Leslye Corsiglia, dated April 9, 2013, recommending a position of support.

Action: A support position for AB 1229 (Atkins) was approved. (11-0.)

- 2.8
- (a) **Adopt Appropriation Ordinance Amendments in the Construction Excise Tax Fund to repeal Ordinance No. 29222.**
 - (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Excise Tax Fund:**
 - (1) **Increase the Earned Revenue estimate in the amount of \$427,875; and**
 - (2) **Increase the Ending Fund Balance in the amount of \$427,875.**
 - (c) **Adopt Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund, the State Drug Forfeiture Fund, and the Federal Drug Forfeiture Fund to repeal Ordinance No. 29224, No. 29225, and No. 29226 and Funding Sources Resolution No. 76572.**
 - (d) **Adopt the following Appropriation Ordinance amendments in the General Fund effective retroactively to March 8, 2013:**
 - (1) **Decrease the Police Department's Personal Services Appropriation in the amount of \$66,238; and**
 - (2) **Establish a Transfer Appropriation to the Federal Drug Forfeiture Fund in the amount of \$66,238.**
 - (e) **Adopt the following Appropriation Ordinance amendments in the State Drug Forfeiture Fund effective retroactively to March 8, 2013:**
 - (1) **Increase the Transfer to the Federal Drug Forfeiture Fund by \$12,529; and**
 - (2) **Decrease the Unrestricted Ending Fund Balance by \$12,529.**
 - (f) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Federal Drug Forfeiture Fund effective retroactively to March 8, 2013:**
 - (1) **Increase the estimate for Transfers by \$78,767; and**
 - (2) **Increase the Unrestricted Ending Fund Balance by \$78,767.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Jennifer Maguire, dated March 26, 2013, recommending adoption of Appropriation Ordinances and Funding Sources Resolution Amendments.

Action: Ordinance No. 29231, entitled: "An Ordinance of the City of San José Repealing Ordinance No. 29222, Adopted by the City Council of the City of San José on March 2013, in its Entirety, and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Ordinance No. 29232, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Excise Tax Fund for the Ending Fund Balance; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", Ordinance No. 29233, entitled: "An Ordinance of the City of San José Repealing Ordinance No. 29224, Ordinance No. 29225, and Ordinance No. 29226, Adopted by the City Council of the City of San José on March 12, 2013, in their Entirety; And Providing that this Ordinance Shall Become Effective Immediately Upon Adoption; Ordinance No. 29234, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate

2.8 (Cont'd.)

Monies in the General Fund for the Police Department's Personal Services and for the Transfer to the Federal Drug Forfeiture Fund; and Providing that this Ordinance Shall Become Effective Retroactively to March 8, 2013", Ordinance No. 29235, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the State Drug Fund for the for the Transfer to the Federal Drug Forfeiture Fund; and Providing that this Ordinance Shall Become Effective Retroactively to March 8, 2013", Ordinance No. 29236, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Federal Drug Forfeiture Fund for the Unrestricted Ending Fund Balance; and Providing that this Ordinance Shall Become Effective Retroactively to March 8, 2013"; Resolution No. 76588, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the Construction Excise Tax Fund"; Resolution No. 76589, entitled: "A Resolution of the Council of the City of San José Repealing Resolution No. 76572, in its Entirety", and Resolution No. 76590, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the Federal Drug Forfeiture Fund, Effective Retroactively to March 8, 2013", were adopted. (11-0.)

2.9 Adopt a resolution:

- (a) **Authorizing an alternative competitive process for the sale of the property at 1015 S. Bascom Avenue, APNs: 282-11-014 and 282-11-015;**
- (b) **Approving an agreement between the City and Satellite Healthcare, Inc., for sale of the property in the amount of \$2,479,000; and**
- (c) **Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.**

CEQA: Exempt, File No. PP10-040. (Economic Development)

Documents Filed: (1) Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated March 18, 2013, recommending adoption of a resolution. (2) Letter from Randi Kinman, Sherman Oaks Neighborhood Association, dated April 8, 2013, expressing opposition to the sale. (3) Letter from Robert Solis, Burbank/Del Monte Neighborhood Advisory Committee, dated April 8, 2013, expressing opposition to the sale.

Item 2.9 was pulled from the Consent Calendar by Council Member Khamis. Deputy Director of Economic Development, Nanci J. Klein, responded to Council Member Khamis' concerns regarding the appraisal.

Public Comments: (1) Randi Kinman, Sherman Oaks Neighborhood Association, expressed opposition to the sale of the property, offering that it leaves too many questions regarding fiscal arrangements. (2) Frank Jessie urged the Council to approve the sale, as the dialysis clinic slated for this property will be an asset to the community.

2.9 (Cont'd.)

Deputy Director of Economic Development, Nanci J. Klein, Assistant City Manager Ed Shikada and Director of Planning, Building and Code Enforcement Joseph Horwedel responded to questions from Council and discussed the repayment of the library bond.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, Resolution No. 76591, entitled: "A Resolution of the Council of the City of San José Authorizing an Alternative Competitive Process for the Sale of the Property at 1015 S. Bascom Avenue, Approving an Agreement between the City and Satellite Healthcare, Inc., for the Sale of the Property in the Amount of \$2,479,000, and Authorizing the City Manager or Her Designee to Execute the Sale Agreement, the Deed and all other Documents Necessary to Complete the Transaction", was adopted. (11-0.)

2.10 Adopt a resolution:

- (a) **Authorizing an alternative competitive process for the sale of the property at 551 Keyes Street, APN: 472-12-086;**
- (b) **Approving an agreement between the City and Global Business Solutions, LLC, for sale of the property in the amount of \$421,000; and**
- (c) **Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.**

CEQA: Exempt, File No. PP10-016. Council District 3. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated March 18, 2013, recommending adoption of a resolution.

Public Comment: Aurelia Sanchez expressed concerns regarding the sale of this property.

Council Member Liccardo addressed Ms. Sanchez' concerns.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76592, entitled: "A Resolution of the Council of the City of San José Authorizing an Alternative Competitive Process for the Sale of the Property at 551 Keyes Street, Approving an Agreement between the City and Global Business Solutions, LLC, for the Sale of the Property in the Amount of \$421,000 and Authorizing the City Manager or Her Designee to Execute the Sale Agreement, the Deed and all other Documents Necessary to Complete the Transaction", was adopted. (11-0.)

2.11 Approve the Purchase and Sale Agreement for the City’s purchase of 32 square feet of land from the Santa Clara Valley Water District for the amount of \$110. CEQA: Exempt, File No. PP13-017. (Economic Development)

Documents Filed: City Action Request from Director of Economic Development/Chief Strategist Kim Walesh, dated April 9, 2013, recommending approval of the Purchase and Sale Agreement.

Action: The Purchase and Sale Agreement for the City’s purchase of 32 square feet of land from the Santa Clara Valley Water District for the amount of \$110 was approved. (11-0.)

2.12 Adopt a resolution designating Municipal Revenue Advisors, Inc. as a representative of the City, authorized to examine all sales and use tax records of the California State Board of Equalization. CEQA: Not a Project, File No. PP10-066(e), Contracts for services that involve no physical changes to the environment. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated March 18, 2013, recommending adoption of a resolution.

Action: Resolution No. 76593, entitled: “A Resolution of the Council of the City of San José Designating Municipal Revenue Advisors, Inc. as a Representative of the city Authorized to Examine all Sales and Use Tax Records of the California State Board of Equalization”, was adopted. (11-0.)

2.13 Approve an amendment to the Water Supply Agreement with the City and County of San Francisco prohibiting San Francisco from changing the conditions of the Hetch Hetchy Reservoir unless the parties agree to a future amendment to the Water Supply Agreement. CEQA: Not a Project, File No. PP10-066(a), Agreements/Contracts. (Environmental Services)

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated March 18, 2013, recommending approval of an amendment to an agreement.

Action: An amendment to the Water Supply Agreement with the City and County of San Francisco prohibiting San Francisco from changing the conditions of the Hetch Hetchy Reservoir unless the parties agree to a future amendment to the Water Supply Agreement, was approved. (11-0.)

- 2.14 Approve the first amendment to Parkland Agreement between the City and WTI, Inc., a California Corporation for Tentative Map No. PT07-101 (Final Tract Map, Tract No. 10086) to revise the private recreation improvements to be constructed under the agreement. CEQA: Resolution No. 72768, and addenda thereto, File No. PP08-193. Council District 4. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated March 18, 2013, recommending approval of a first amendment to the Parkland Agreement.

Action: The first amendment to Parkland Agreement between the City and WTI, Inc., a California Corporation for Tentative Map No. PT07-101 (Final Tract Map, Tract No. 10086) to revise the private recreation improvements to be constructed under the agreement, was approved. (11-0.)

- 2.15 (a) Adopt a resolution accepting the Senior Education and Outreach Grant from the Santa Clara County Mental Health Department in the amount of \$280,000; and authorize the Director of Parks, Recreation and Neighborhood Services to execute the Grant Agreement and all related documents.**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) Establish a City-Wide Expense appropriation to the Parks, Recreation and Neighborhood Services Department for the Senior Education and Outreach Grant in the amount of \$129,000; and**
 - (2) Increase the Revenue Estimate from Local Agencies by \$129,000.**
- CEQA: Not a Project, File No. PP10-066, Agreements/Contracts. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Joint memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and Budget Director Jennifer Maguire, dated March 14, 2013, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 76594, entitled: "A Resolution of the Council of the City of San José Accepting the Santa Clara County Mental Health Grant in the Amount of \$280,000 and Authorizing the Director of Parks, Recreation and Neighborhood Services to Execute the Grant Agreement and all Related Documents"; Ordinance No. 29237, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund – Citywide – Neighborhood Services for the Senior Education and Outreach Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 76595, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the General Fund", were adopted. (11-0.)

- 2.16 (a) Adopt a resolution accepting the CalEMA Fiscal Year 2012 Anti-Human Trafficking Task Force Program Grant in the amount of \$200,000;**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) Establish a city-wide appropriation to the Police Department for the Anti-Human Trafficking Task Force Program Grant 2012 in the amount of \$110,000; and**
 - (2) Increase the Earned Revenue Estimate from the State of California by \$110,000.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Police/City Manager's Office)

Documents Filed: Joint memorandum from Acting Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated March 18, 2013, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Council Member Rocha pulled Item 2.16 to pose questions to staff regarding reimbursement of training for safety officers.

Action: Upon motion by Council Member Rocha, seconded by Council Member Constant and carried unanimously, Resolution No. 76596, entitled: "A Resolution of the Council of the City of San José Accepting the California Emergency Management Agency Fiscal Year 2012 Anti-Human Trafficking Task Force Program Grant in the Amount of \$200,000"; Ordinance No. 29238, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund – City-Wide Public Safety for the Anti-Human Trafficking Task Force Program Grant 2012; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 76597, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the General Fund", were adopted. (11-0.)

- 2.17 Approve the first amendment to the master agreement with CH2M HILL, Inc. for engineering services for various City trail projects increasing the total compensation by \$500,000, for a total agreement amount of \$2,500,000, and extending the term of the agreement to January 31, 2016, in order to provide services for the Three Creeks Trail Pedestrian Bridge project. CEQA: Not a Project, File No. PP10-066(d), Consultant services. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated March 18, 2013, recommending approval of a first amendment to the master agreement.

Council Member Rocha pulled Item 2.17 to question staff on services planned for the Los Gatos Creek Bridge.

Public Comment: Larry Ames urged keeping the Los Gatos Creek Bridge trestle intact for its historical value.

- 2.17 Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, the first amendment to the master agreement with CH2M HILL, Inc. for engineering services for various City trail projects increasing the total compensation by \$500,000, for a total agreement amount of \$2,500,000, with related contingencies, was approved. (11-0.)
- 2.18 **Adopt a resolution repealing Resolution Nos. 76011 and 76012 and authorizing the City Manager or designee to execute power purchase agreements and all related documents with SolarCity Corporation through June 30, 2014, to finance, engineer, install, commission and maintain solar energy installations at City facilities, subject to the limitations (cash flow positive, private activity analysis, financing and landlord consent, parkland and CEQA clearance) as approved by Council action on September 27, 2011. CEQA: Exempt, Files No. PP11-064, PP11-065, PP11-066, PP11-067, PP11-068, PP11-069, PP11-070, PP11-071, PP11-072, PP11-073, PP11-074, PP11-075, and PP11-079. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated March 27, 2013, recommending adoption of a resolution.

Action: Resolution No. 76599, entitled: “A Resolution of the Council of the City of San José, Authorizing the City Manager or Designee to Execute Power Purchase Agreements with SolarCity Corporation to Finance, Engineer, Install, Commission and Maintain Solar Energy Installations at City Facilities Through June 30, 2014”, was adopted. (11-0.)

- 2.19 (a) **Approval to award the Rebid [6661] The Alameda – A Plan for the Beautiful Way Project (between Stockton Avenue and Fremont Street), Federal Project No. STPL-5005(103) to the low bidder, Wattis Construction Co., Inc., in the amount of \$4,016,757, and approval of a ten percent contingency in the amount of \$401,676.**
- (b) **Adopt the following Appropriation Ordinance Amendments in the Building and Structure Construction Tax Fund:**
- (1) **Increase the appropriation to the Department of Transportation for: The Alameda – A Plan for the Beautiful Way in the amount of \$936,000; and**
- (2) **Decrease the Ending Fund Balance in the amount of \$936,000.**
- CEQA: Exempt, File No. PP10-132. Council District 6. (Public Works/Transportation/City Manager’s Office)**

Documents Filed: Joint memorandum from Director of Public Works David Sykes, Director of Transportation Hans Larsen and Budget Director Jennifer Maguire, dated March 18, 2013, recommending approval of an award and adoption of appropriation ordinance amendments.

2.19 (Cont'.d)

Action: An award of the Rebid [6661] The Alameda – A Plan for the Beautiful Way Project (between Stockton Avenue and Fremont Street), Federal Project No. STPL-5005(103) to the low bidder, Wattis Construction Co., Inc., in the amount of \$4,016,757, with related contingencies, was approved, and Ordinance No. 29239, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Building and Structure Construction Tax Fund for the Alameda – A Plan for the Beautiful Way Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

2.20 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (a) Increase the estimate for Other Revenue by \$9,212; and**
- (b) Increase the appropriation to Council District 4 (Appropriation 1040) by \$9,212.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Clerk/City Manager’s Office)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, and Budget Director Jennifer Maguire, dated March 27, 2013, recommending adoption of an appropriation ordinance and funding sources resolution amendments in the General Fund.

Action: Ordinance No. 29240, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund for the Council District No. 4 Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 76599, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

2.21 As recommended by the Rules and Open Government Committee on March 27, 2013:

- (a) Approve the Great American Litter Pick-up as a City Council sponsored Special Event; and**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

CEQA: Not a Project. (City Clerk)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 27, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Great American Litter Pick-up as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.22 As recommended by the Rules and Open Government Committee on March 27, 2013, approve a support position for AB 359 (Holden) – Vehicle Rental Agreements: Customer Facility Charge. (Airport)
[Rules Committee referral 3/27/13 – Item G(4)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 27, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: A support position for AB 359 (Holden) – Vehicle Rental Agreements: Customer Facility Charge, was approved. (11-0.)

- 2.23 As recommended by the Rules and Open Government Committee on March 27, 2013:**

- (a) Approve the Senior Health Fair and Walk Sponsored by District 8 as a City Council sponsored Special Event; and**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

CEQA: Not a Project. (Herrera)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 27, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Senior Health Fair and Walk as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.24 (a) Approve the Jewish American Flag Raising Sponsored by District 8 as a City Council sponsored Special Event; and**
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (Herrera)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 27, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Jewish American Flag Raising as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.25 As recommended by the Rules and Open Government Committee on April 3, 2013:**

- (a) Approve the First Annual District 10 Community Safety Fair as a City Council sponsored Special Event; and**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

CEQA: Not a Project. (Khamis)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated April 3, 2013, transmitting the recommendations of the Rules and Open Government Committee.

2.25 (Cont'd.)

Action: The First Annual District 10 Community Safety Fair as a City Council Sponsored Special Event was approved and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

2.26 As recommended by the Rules and Open Government Committee on April 3, 2013, adopt a support position for SB 341 (DeSaulnier) – Redevelopment. (Housing)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated April 3, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: A support position for SB 341 (DeSaulnier) – Redevelopment, was approved. (11-0.)

2.27 As recommended by the Rules and Open Government Committee on April 3, 2013, adopt an oppose position for AB 5 (Ammiano) – Homelessness. (Housing)

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated April 3, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: An oppose position for AB 5 (Ammiano) – Homelessness, was approved. (11-0.)

END OF CONSENT CALENDAR

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Consider the appeal by Atlantic Aviation, regarding the Report on Request for Proposals (RFP) for General Aviation Aeronautical Services Facilities at the Norman Y. Mineta San José International Airport and adopt a resolution setting forth the decision of the City Council;**
- (b) Report on RFP for General Aviation Aeronautical Services Facilities at the Norman Y. Mineta San José International Airport and adopt a resolution authorizing the City Manager to:**
- (1) Negotiate and execute a ground lease and operating agreement with Signature Flight Support for the construction and operation of a Fixed Based Operation (FBO) on approximately 29 acres at the west side of the Airport for a fifty (50) year term from the date of execution by the City and with interim construction ground rent commencing upon the date of execution by the City, in the amount of \$1,319,084 until the earlier of the twenty-fifth (25th) month from the date of execution by the City or the date a certificate of occupancy is issued for the use and occupancy of the leasehold improvements, and subsequent annual ground rent in the amount of \$2,638,168, subject to annual Consumer Price Index increases, and subject to increase by appraisal every five (5) years during the term of the lease;**

6.1 (Cont'd.)

- (b) (2) Negotiate and execute amendments to the ground lease and operating agreement at any time during the first five (5) years of the term to modify the lease boundaries of the site, and to expand or contract the lease size as necessary to maximize the use of available land on the west side of the Airport for any land included in the scope of the RFP;**
- (3) Negotiate and execute a Non-Disturbance, Consent, Estoppel and Subordination Agreement with Signature Flight Support Corporation and BCH San José LLC to provide for the continued use and occupancy of approximately nineteen (19) acres of the leasehold by BCH San José LLC pursuant to the terms of a new ground lease and operating agreement between the City and BCH San José LLC on the same terms and conditions as the ground lease and operating agreement with Signature Flight Support Corporation, in the event that the lease with Signature is rejected in bankruptcy, terminated or otherwise cancelled at any time prior to the end of its fifty (50) year term.**

CEQA: Airport Master Plan EIR, Resolution Nos. 67380 and 71451, with Addendum, File No. PP13-022. (Airport)

Documents Filed: (1) Joint memorandum from Mayor Reed and Council Members Herrera and Liccardo, dated April 5, 2013, recommending approval of the recommendations outlined in the staff report with additional direction. (2) Memorandum from Director of Aviation William F. Sherry, dated March 18, 2013, recommending award of a ground lease and operating agreement. (3) Memorandum from City Attorney Richard Doyle, dated April 4, 2013, providing legal counsel on the agreement. (4) Supplemental memorandum from Director of Aviation William F. Sherry, dated April 5, 2013, providing lease agreement curfew provisions. (5) Letter from Ash Pirayou, Rutan & Tucker, LLP, dated February 15, 2013, providing a Notice of Appeal of Disqualification of Proposal and Notice of Intended Award. (6) Email from Kathryn Mathewson, dated April 8, 2013, supporting Citizens Against Airport Pollution recommendations. (7) Letter from Matthew Mahood, President & CEO, San José – Silicon Valley Chamber of Commerce, dated April 9, 2013, supporting the proposal by Signature Flight Support. (8) Email from Tim Ritchie, President, The Tech Museum, dated April 5, 2013, supporting the proposal. (9) Letter from Carl Guardino, President & CEO, Silicon Valley Leadership Group, dated April 4, 2013, supporting the proposal.

Ash Pirayou, of Rutan & Tucker, LLP, representing Atlantic Aviation, presented their client's protest of the Cities' findings.

Director of Planning and Development, Norman Y. Mineta San José International Airport, Dave Moss, and Deputy City Attorney Kevin Fisher presented a rebuttal to the Atlantic Aviation appeal. Director of Aviation William F. Sherry responded to questions from Council.

6.1 (Cont'd.)

Public Comments: Offering support to Atlantic Aviation and contesting the disqualification of Atlantic's proposal, were: Ron Gonzales, James Mae (Atlantic Aviation Board of Directors); Bena Chang, Silicon Valley Leadership Group; Maria Sostra, Nina Hallen, Andrew Favor, Glynn Falcon (San José State Aviation), Jim Reid, Ed Hodges, Toni Burke, Carl Corden, Ken Ambrose, Dick King, and Mike Fox (Goodwill Silicon Valley). Addressing the issues of curfews, noise pollution and fossil fuel pollution were Dale Larson, Tessa Woodmansee, Chris Toolan (College Park Neighborhood), and Martin Nelson.

Discussion on the appeal by Atlantic Aviation followed, and Director of Aviation William F. Sherry responded to further questions and comments.

Motion: Council Member Liccardo moved approval of the memorandum he coauthored with Mayor Reed and Council Member Herrera, dated April 5, 2013, including modifications to the report as outlined below in "Action". Council Member Herrera seconded the motion.

Council Members Liccardo and Rocha provided meeting disclosures.

Council Member Oliverio offered that he would not be supporting the motion on the floor, as this could present a larger issue in the future.

Mayor Reed recommended that the study be held back until the stakeholders have an opportunity for full engagement.

Action: On a call for the question, the motion carried, and Resolution No. 76633, entitled: "A Resolution of the Council of the City of San José Denying the Appeal by Atlantic Aviation of the Denial of its Protest Regarding the Norman Y. Mineta San José International Airport General Aviation Aeronautical Services Facilities Request for Proposals", and Resolution No. 76602, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate with Signature Flight Support for General Aviation Aeronautical Services Facilities at the Norman Y. Mineta San José International Airport", were adopted, with additional direction as outlined in the memorandum from Mayor Reed and Council Members Liccardo and Herrera, dated April 5, 2013, with Item (b) modified to: "Accept the report on the Request for Proposals (RFP) for General Aviation Aeronautical Services Facilities, and authorize the City Manager to negotiate and execute agreements with Signature Flight Support as described in the staff report," and with the inclusion of Item (f): "Return to Council on April 16, 2013 for discussion of contractual language related to the curfew, and to provide authority to the City Manager to execute an agreement." (10-1. Noes: Oliverio.)

STRATEGIC SUPPORT SERVICES

- 3.3 As recommended by the Public Safety, Finance and Strategic Support Committee on March 21, 2013, accept the audit of the City's Deferred Compensation Program. (City Auditor)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 27, 2013, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon Erickson provided an overview of the audit and responded to questions from Council.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, the audit of the City's Deferred Compensation Program was accepted. (10-0-1. Absent: Kalra.)

- 3.4 As referred by the City Council under Orders of the Day on March 12, 2013, consider adoption of a resolution in support of the Food and Drug Administration's regulation of menthol and flavored tobacco products. (Chu/Kalra/ Campos)**

Action: Deferred to April 23, 2013 per the Rules and Open Government Committee.

- 3.5 As referred by the City Council on March 26, 2013, refer to the Elections Commission the question of whether or not the City of San José should adopt a resolution calling for an amendment to the United States Constitution that states that, first, only individual human beings, not corporations no other collective entities, enjoy the First Amendment protections of the United States Constitution, and second, that money is not "speech" protected by the First Amendment. (Liccardo/Campos/Rocha)**

Action: Deferred to April 23, 2013 per the Rules and Open Government Committee.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Consideration of an ordinance to approve a Development Agreement with Century Court Schmidt CS Seufferlein, et al to develop up to 394 single-family attached residential units and 20,000 square feet of ground floor commercial retail space consistent with a previously approved Planned Development Rezoning (File No. PDC05-114) which allows up to 440 residential units and 20,000 square feet of ground floor retail commercial space at/on the Southwest corner of North First Street and Century Center (1733 N First St) in the North San José Area Development Policy area subject to performance by Century Court Schmidt CS Seufferlein, et al for payment of contributions, commencement of construction, and subsequent occupancy per deadlines of performance included in the agreement (Schmidt F James Et Al, Owner). CEQA: EIR Resolution No. 72768 (North San José Area Development Policy FEIR) and Addenda thereto, including Addendum File Number PDC05-114. An Initial Study (IS) and Addendum to the North San José Area Development Policies Update Program Environmental Impact Report (EIR) were prepared by the Director of Planning, Building, and Code Enforcement for the subject high rise residential project and proposed Development Agreement. Based on the analysis in the Initial Study and Addendum, the City concludes that the Final Program EIR adequately discloses and addresses the environmental effects of the Development Agreement as part of the 32,000 units that the Program EIR analyzed. Furthermore, the City finds that this project would not result in any significant environmental effects not already identified and addressed in the Final Program EIR.**

DA13-001 – District 3. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 21, 2013, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-114. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 2, 2013, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on March 1, 2013 submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel, provided clarification to the staff report as indicated below in “Action”.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Rocha and carried unanimously, Ordinance No. 29241, entitled: “An Ordinance of the City of San José Approving a Development Agreement with the F. James Schmidt, Charles Seufferlein and Brendan and Kelley Properties, LLC, a Limited Liability Company, and Green Valley Corporation, a California Corporation, Relative to the Development of the Century Court Residential Towers Development Project on Certain Real Property Located in North San José and Authorizing the City Clerk to Execute the Development Agreement and Cause the Same to be Recorded with the Santa Clara County Recorder’s Office”, was passed for publication, with duplicate wording in Section 3, Obligation of Parties, deleted per Staff’s request. (11-0.)

- 4.2 (a) **Direct the Housing Department and the City Attorney’s Office to draft and release a Request for Qualification (RFQ) to identify a qualified consultant to complete a nexus study to examine Housing Impact Fees, to support the Citywide Inclusionary Housing Ordinance, and to identify other tools that capture value imparted by City land use decisions, including a foregone density fee discussed in this memorandum;**
- (b) **Authorize the Director of Housing and the City Attorney to select, and enter into an agreement with, a qualified firm or individual based on the results of the RFQ;**
- (c) **Direct the Housing Department to return to the City Council upon completion of the Nexus Study to present:**
- (1) **Key findings/recommendations of the nexus study;**
 - (2) **A recommended work plan for implementing an affordable rental housing impact fee, if applicable; and**
 - (3) **Other potential mechanisms to fund affordable housing.**
- CEQA: Not a Project, File No. PP10-069(a), Staff report. (Housing)**

Action: Deferred to June 4, 2013 per Administration.

- 4.3 **Conduct a Public Hearing on the draft 2013-2014 Annual Action Plan for the Five-Year Consolidated Plan, as required by the U.S. Department of Housing and Urban Development, in order to continue receiving federal housing and community development funding, and announce that the draft Plan was released for public review and comment on March 28, 2013, and will continue through April 30, 2013. CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated March 27, 2013, recommending conducting a Public Hearing on the draft 2013-2014 Annual Action Plan for the Five-Year Consolidated Plan. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated April 5, 2013, providing input from a public meeting held on April 2, 2013. (3) Proof of Publication of Notice of Public Hearings, five executed on December 21, 2012, and two executed on March 22, 2013, submitted by the City Clerk.

Assistant Director of Housing Jacky Morales-Ferrand provided an introduction and responded to questions regarding the City’s response to the federal sequestration.

Mayor Reed opened the public hearing.

Public Comment: Trang Van (AIDS Services Health Trust); Matt Huerta, Neighborhood Housing Services of Silicon Valley; Sandra Murillo, Housing Trust Silicon Valley, and Annette Kirkham (Fair Housing and Law Foundation), offered comments on the continued need for foreclosure help assistance, federal housing and community development funding.

Mayor Reed closed the public hearing.

Action: No action required.

4.4 As recommended by the Community and Economic Development Committee on March 25, 2013, accept staff's report on:

- (a) The Accomplishments of Economic Strategy Workplan to date;**
- (b) The status and use of development incentives;**
- (c) The status of campus development and leasing opportunities; and**
- (d) The proposed Economic Strategy Workplan.**

CEQA: Not a Project, File No. PP10-069(a), Staff Report. (Economic Development)

Action: Deferred to April 16, 2013 per Administration.

4.5 (a) Adopt a resolution:

(1) Approving the final structure of City financial assistance, with no additional City funding, for the 95-unit San Carlos Senior Apartments Project (Senior Project or Project) located at 1535 West San Carlos Street, as follows:

- (a) A construction/permanent loan in the aggregate amount of \$6,208,420, reflecting the amount equal to the Senior Project's original conditional grant of \$4,775,000, refinance of the existing loan of \$536,238 for construction of infrastructure for the Project, and a capitalized payment in lieu of interest in the amount of \$897,182;**
- (b) Approving the extension of the term of an existing loan with a principal balance of \$2,973,834 for the Carlos Townhomes project loan ("Townhomes Loan") to match the Senior Project Loan, adding borrower, recording a deed of trust against the Senior Project to secure the Townhomes Loan and the repayment of the Townhomes Loan from residual receipts from the Seniors Project.**
- (c) Authorizing the Director of Housing to negotiate and execute all legal documents to effectuate the transaction, including loans and an option to purchase.**

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Low and Moderate Income Housing Asset Fund:

- (1) Increase the revenue estimate for Earned Revenue by \$5,700,000;**
- (2) Increase the Housing Loans and Grants appropriation by \$4,775,000; and**
- (3) Increase the Ending Fund Balance by \$925,000.**

CEQA: Mitigated Negative Declaration; File No. PD04-103. Council District 6. (Housing/City Manager's Office)

Documents Filed: Joint memorandum from Director of Housing Leslye Corsiglia and Budget Director Jennifer Maguire, dated March 29, 2013, recommending adoption of a resolution and Appropriation Ordinance and Funding Sources Resolution amendments.

- 4.5 Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried, Resolution No. 76600, entitled: “A Resolution of the Council of the City of San José Approving the Final City Financing Structure for the San Carlos Senior Apartments Project”; Ordinance No. 29242, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Low and Moderate Income Housing Asset Fund for the Housing Loans and Grants Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 76601, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2012-2013 to Adjust Revenues in the Low and Moderate Income Housing Asset Fund”, were adopted. (10-1. Noes: Oliverio).

NEIGHBORHOOD SERVICES

- 5.1 **As recommended by the Neighborhood Services and Education Committee on March 14, 2013, accept the Anti-Graffiti and Litter Program Semi-Annual Report. (Parks, Recreation and Neighborhood Services)**
[Neighborhood Services and Education Committee referral 3/14/13 – Item D(3)]

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated March 27, 2013, transmitting the recommendations of the Neighborhood Services and Education Committee.

Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares provided an introduction, and Acting Division Manager, Parks, Recreation and Neighborhood Services, Mike Will offered a presentation on the anti-graffiti program service delivery objectives and discussed community engagement and partnerships.

Public Comments: Tina Morrill gave an update on the Art Box Project and thanked staff and Council for their support. Offering accolades to the various programs including the San José Conservation Corps that furthered the goals set forth in this report were Al Morales (San José Conservation Corps), Alejo Gonzales, Dolci Alvarez, Richard Zapelli and Ross Signorino.

Staff responded to questions from Council, and discussion followed.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Anti-Graffiti and Litter Program Semi-Annual Report was accepted. (10-0-1. Absent: Kalra.)

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>
10179	South side of West Taylor Street, approximately 230 feet east of Elm Street	6	Denardi Group	5 Lots / 4 Units	SFDR

OPEN FORUM

- (1) Ross Signorino offered comments on graffiti prevention.
- (2) Yemeseratch Girma-Ayele, San Jose State University student, asked how reports could be accessed online and thanked the Council for the opportunity to participate.

ADJOURNMENT

The Council of the City of San José adjourned at 6:07 p.m. in memory of Peter S. Carter. In addition to contributing to the growth of Silicon Valley for over 30 years, Peter played a prominent role in advertising and public relations. Widely respected by government leaders and candidates, Peter was valued as a trusted advisor, fundraiser, and confidant. Peter became widely known for his beautiful photography, extreme generosity, and legendary hospitality. Peter passed away unexpectedly on March 6, 2013 at the age of 70. (Constant)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
Acting City Clerk

rmk/4-09-13MIN