

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 18, 2013

The Council of the City of San José convened in Regular Session at 9:06 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chu, Constant, Liccardo, Khamis, Nguyen; Reed.

Absent: Council Members - Herrera, Kalra, Oliverio, Rocha. (Excused)

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

Documents Filed: (1) 2013 AFSCME MEF/CEO Negotiations Union Package Proposal B dated June 13, 2013. (2) 2013 AFSCME MEF/CEO Negotiations Union Package Proposal C dated June 13, 2013.

Deputy Director of Employee Relations Jennifer Schembri presented a brief report on labor negotiations. Deputy City Manager Alex Gurza was present.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:07 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in two (2) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)1) with respect to existing litigation: (1) San José Police Officers' Association v. City, et al. Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (2) San José Retired Employees Association, et al. v. City, et al. Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming,

## CLOSED SESSION (Cont'd.)

Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José, Does 1-50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (3) Sapien, et al. v. City of San José, et al. Names of Parties Involved: Robert Sapien, Mary Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (4) Harris, et al. v. City of San José, et al. Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone, in her capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (5) Mukhar, et al. v. City of San José, et al. Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (6) AFSCME, et al. v. City of San José, et al. Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the Federated City Employees' Retirement Plan, Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (7) In re Claim of Robinson; Amount of Money or Other Relief Sought: Administrative Appeal. (8) Gonzales-Guerrero, Javier v. City, Brian Johst, Mark Stephens, et al. Names of Parties Involved: Javier Gonzales-Guerrero, City of San José, Brian Johst, Mark Stephens, Gary Petrakovitz and Tim Stephens; Court: United States District Court, Northern District of California; Case No: CV12-03541 PSG; Amount of Money or Other Relief Sought: Damages according to proof. (9) Pacific Gas and Electric Company v. Peery, Richard T, et al. Names of Parties Involved: Pacific Gas and Electric Company, a California Corporation, Richard T. Peery, as Trustee under Trust Agreement dated July 20, 1977 (Richard T. Peery Separate Property Trust), as amended; John Arrillaga, as Trustee of the John Arrillaga Survivor's Trust under Trust Agreement dated July 20, 1977, as amended, City of San José, Pacific Bell Telephone Company and Does 1-30, inclusive and all persons unknown claiming an interest in the property described in the complaint; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-221342; Amount of Money or Other Relief Sought: Damages according to proof. (10) Great Oaks Water, Inc. v. City, et al. Names of Parties Involved: Great Oaks Water Company, Inc., John W.S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and

## CLOSED SESSION (Cont'd.)

Betty B. Roeder, Trustees of the Walter S. Roeder Trust B, the City of San José, the San José Redevelopment Agency, Southbay Water Recycling, Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-04-CV012008; Amount of Money or Other Relief Sought: Damages according to proof. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/employeerelations/moa.asp>; Telephone for Employee Relations: 408-535-8150. (D) to confer with Legal Counsel pertaining to the Successor Agency to the Redevelopment Agency of the City of San José pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter. (E) to confer with Legal Counsel pertaining to the San José Diridon Development Authority pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter.

## **CLOSED SESSION (Cont'd.)**

By unanimous consent, Council recessed from the Closed Session at 11:20 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Council Members - All Present.

## **INVOCATION**

Reverend Maly Hughes, St. Francis Episcopal Church presented the Invocation. (District 6)

## **PLEDGE OF ALLEGIANCE**

Mayor Reed led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Order of the Day and the Amended Agenda were approved. (11-0.)

## **CLOSED SESSION REPORT**

City Attorney Doyle disclosed the following Closed Session actions of June 18, 2013:

### **A. Authority to Initiate Litigation:**

Authority to initiate litigation was given in one (1) matter: City of San José et al. v. Office of the Commissioner of Baseball, et al.

Council Vote: Ayes: Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Noes: None.

Abstain: None.

Not Present: None.

## CEREMONIAL ITEMS

- 1.2 Presentation of a commendation recognizing the Loma Prieta Chapter of the Sierra Club on their 80<sup>th</sup> Anniversary of protecting our environment as a committed and effective advocate for the planet. (Liccardo)**

Mayor Reed and Council Members Liccardo, Herrera, Chu and Kalra recognized and commended the Loma Prieta Chapter of the Sierra Club.

- 1.3 Presentation of a commendation to Jess Morgan for her dedication to the development of San José Beyond the Bell. (Mayor)**

Mayor Reed recognized and commended Jess Morgan for her exceptional dedication.

- 1.4 Presentation of a proclamation recognizing June 22 – 23, 2013 as “Radio Amateur Civil Emergency Service (R.A.C.E.S.) Field Day” in the City of San José. (Mayor)**

Mayor Reed recognized June 22 through June 23, 2013 as “Radio Amateur Civil Emergency Service Field Day” in San José.

## REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 Approve the Fiscal Year 2012-13 Reimbursement Agreement between the City of San José and the Successor Agency to the Redevelopment Agency of the City of San José for the purpose of establishing enforceable obligations to repay the City for future expenditures made on behalf of the Successor Agency in the amount of \$18,842,000, subject to approval by the Oversight Board. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Finance)**

Documents Filed: (1) Memorandum from Director of Finance/Chief Financial Officer of Successor Agency Julia H. Cooper, dated June 7, 2013, recommending approval of the reimbursement agreement. (2) Supplemental memorandum from Director of Finance/Chief Financial Officer of Successor Agency Julia H. Cooper, dated June 14, 2013, providing an update on the results of the continued discussions between the City and the County, and actions by the Successor Agency Oversight Board.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera and carried unanimously, the Fiscal Year 2012-13 Reimbursement Agreement between the City of San José and the Successor Agency to the Redevelopment Agency of the City of San José for the purpose of establishing enforceable obligations to repay the City for future expenditures made on behalf of the Successor Agency in the amount of \$18,842,000, subject to approval by the Oversight Board, was approved. (10-0-1. Absent: Liccardo.)

## STRATEGIC SUPPORT SERVICES

- 3.3 Adopt 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in the General Fund and Special/Capital Funds attachments to the Staff memorandum. CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Jennifer A. Maguire, dated June 10, 2013, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29270, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the General Fund, Various Special Funds and Various Capital Funds to Reflect Estimated 2012-2013 Revenue Receipts, Expenses and Encumbrances; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 76674, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 76302 To Implement the 2012-2013 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds", were adopted. (10-0-1. Absent: Liccardo.)

- 3.4 (a) Adopt a resolution setting the following Sewer Service and Use Charge rates for 2013-2014:**

<u>Category</u>	<u>2013-2014 Monthly Rates</u>
Single-Family Residential	\$33.83
Multi-Family Residential	\$19.35 per unit
Mobile Home	\$19.39 per unit
Non-Monitored Commercial and Industrial	See Attachment A
Monitored Industrial	See Attachment A

- (b) Adopt a resolution setting the following Storm Sewer Service Charge rates for 2013-2014:**

<u>Category</u>	<u>2013-2014 Monthly Rates</u>
Single-Family Residential and Duplex	\$7.87
Mobile Home	\$3.94 per unit
Residential Condominium	\$4.30 per unit
Large Multi-Family Residential (5 or more units)	\$4.30 per unit
Small Multi-Family Residential (3-4 units)	\$14.95
Commercial, Institutional and Industrial	See Attachment B

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

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated May 28, 2013, recommending adoption of resolutions.

### 3.4 (Cont'd.)

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76675, entitled: “A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges for Fiscal Year 2013-2014” and Resolution No. 76676, entitled: “A Resolution of the Council of the City of San José Setting Schedules of Storm Sewer Service Charges for Fiscal Year 2013-2014”, were adopted. (10-0-1. Absent: Liccardo.)

- 3.5
- (a) **Adopt the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2013-2014 and the Manager’s Final Budget Addendum.**
  - (b) **Adopt the Annual Funding Sources Resolution for Fiscal Year 2013-2014 and the Manager’s Final Budget Addendum.**
  - (c) **Adopt a resolution taking the following actions with respect to the City’s 2013-2014 “Gann Limit”:**
    - (1) **Elect the per capita income index as the inflation factor for 2013-2014 on a provisional basis, with the option to adjust the Limit, if necessary, once the non-residential assessment data is available from the County Assessor.**
    - (2) **Elect the County population growth index as the population factor for 2013-2014.**
    - (3) **Establish the Fiscal Year 2013-2014 Appropriation Limit at \$922,831,397 in compliance with Article XIII B of the State Constitution.**

**CEQA: Not a Project, File No. PPI0-067(b), Appropriation Ordinance. (City Manager’s Office)**

Documents Filed: (1) Memorandum from Budget Director Jennifer A. Maguire, dated June 14, 2013, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Ordinance No. 29271, entitled: “An Annual Appropriation Ordinance of the City of San José for City’s Fiscal Year Beginning July 1, 2013 and Ending June 30, 2014, Appropriating and Authorizing the Expenditure of Monies for the Operation of Each of the Offices, Departments and Agencies of the City During Said Fiscal Year and For Various Other Purposes and Objects for Said Fiscal Year; and Providing for Transfers From Various City Funds to Other City Funds as May be Necessary During Said Fiscal Year”; Resolution No. 76677, entitled: “A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 2013-2014” and Resolution No. 76678, entitled: “A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 2013-2014 Appropriations Limit of the City of San José Pursuant to California Constitution Article XIII B and Section 7900 Et Seq. of the California Government Code”, were adopted. (10-0-1. Absent: Liccardo.)

- 3.10 (a) Adopt a resolution:**
- (1) Authorizing the issuance and sale of the City of San José 2013 Tax and Revenue Anticipation Note (the “2013 Note”) in the not to exceed principal amount of \$100,000,000 to be sold through a private placement.**
  - (2) Approving, in substantially final form, the Note Purchase Agreement and authorizing the Director of Finance or other authorized officers to execute the Note Purchase Agreement and other related documents, as necessary, in connection with the issuance of the 2013 Note and authorizing other related actions in connection therewith.**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2013-2014:**
- (1) Increase the estimate for Other Revenue in the amount of \$100,000,000.**
  - (2) Increase the City-Wide expenses to the Finance Department for TRANs Debt Service by the amount of \$100,000,000.**

**CEQA: Not a Project, File No.PP10-069, City Organizational and Administrative Activities. (Finance/City Manager’s Office)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper and Budget Director Jennifer A. Maguire, dated May 28, 2013, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76679, “A Resolution of the Council of the City of San José Providing for the Borrowing of Funds for Fiscal Year 2013-2014 and the Issuance and Sale of the City of San José 2013 Tax and Revenue Anticipation Note In An Amount Not To Exceed \$100,000,000 and Approving the Execution of a Note Purchase Agreement Relating to Such Note and Authorizing Other Actions in Connection Therewith”; Ordinance No. 29272, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the General Fund: Citywide – Strategic Support for the Trans Debt Service; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 76680, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76677 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2013-2014 To Adjust Revenues in the General Fund”, were adopted. (10-0-1. Absent: Liccardo.)

## **CONSENT CALENDAR**

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



**2.1 Approval of minutes.**

- (a) **Regular Meeting Minutes of January 8, 2013**
- (b) **Regular Meeting Minutes of January 15, 2013**
- (c) **Regular Meeting Minutes of January 29, 2013**

Documents Filed: The Regular Minutes dated January 8, 2013, January 15, 2013 and January 29, 2013.

Action: The City Council Minutes were approved. (10-0-1. Absent: Liccardo.)

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 29258 – Amending Chapter 4.80 of Title 4 of the San José Municipal Code to add new parts to establish new funds, to take effect retroactively on June 30, 2013.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29258 executed on June 11, 2013, submitted by the City Clerk.

Action: Ordinance No. 29258 was adopted. (10-0-1. Absent: Liccardo.)

- (b) **ORD. NO. 29259 – Repealing various parts of Chapter 4.80 of Title 4 of the San José Municipal Code to eliminate funds which have been closed out or are scheduled to be closed out in Fiscal Year 2012-2013, and amending Section 17.02.300 of Chapter 17.02 of Title 17, to take effect retroactively on June 30, 2013.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29259 executed on June 11, 2013, submitted by the City Clerk.

Action: Ordinance No. 29259 was adopted. (10-0-1. Absent: Liccardo.)

- (c) **ORD. NO. 29261 – Amending Section 1.13.050 of Chapter 1.13 of Title 1 of the San José Municipal Code to clarify the definition of public nuisance to include the conduct of business or the operation of a hotel on property in the City of San Jose for which certain taxes assessed by the Director of Finance remain delinquent.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29261 executed on June 11, 2013, submitted by the City Clerk.

Action: Ordinance No. 29261 was adopted. (10-0-1. Absent: Liccardo.)

- 2.2 (d) **ORD. NO. 29262 – Amending Section 4.66.250 of Chapter 4.66 of Title 4 of the San José Municipal Code to increase the rate of taxation for marijuana businesses from 7% to 10% of gross receipts.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29262 executed on June 11, 2013, submitted by the City Clerk.

Action: Ordinance No. 29262 was adopted on June 4, 2013. (10-1. Noes: Kalra.)

- (e) **ORD. NO. 29263 – Rezoning certain real property situated on the west side of Bundy Avenue, approximately 200 feet northerly of Adra Avenue (425 Bundy Avenue, APN 303-33-035) from the R-M Multiple Residence Zoning District to the R-M(PD) Planned Development Zoning District. PDC12-014**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29263 executed on June 11, 2013, submitted by the City Clerk.

Action: Ordinance No. 29263 was adopted. (10-0-1. Absent: Liccardo.)

- (f) **ORD. NO. 29264 – Rezoning certain real property situated on the west side of Meridian Avenue 130 feet northerly of Curci Drive on a 0.38 gross-acre site (979 Meridian Avenue) to the CP Commercial Pedestrian Zoning District. C13-003**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29264 executed on June 11, 2013, submitted by the City Clerk.

Action: Ordinance No. 29264 was adopted. (10-0-1. Absent: Liccardo.)

- (g) **ORD. NO. 29265 – Amending Title 20 of the San José Municipal Code (the Zoning Ordinance) to amend Sections 20.80.1110, 20.80.1130, and 20.80.1150 of Chapter 20.80 (Specific Use Regulations, Recycling Facilities) to modify regulations for Reverse Vending Machines and Unattended Collection Containers in Small Collection Facilities, to amend Sections 20.100.1240 and 20.100.1250 of Chapter 20.100 (Administration and Permits) to modify requirements for display and terms of administrative permits, to add Section 20.80.1115 to Chapter 20.80 to establish a maximum number of allowable administrative permits for Unattended Collection Containers city-wide, and to add Sections 20.200.877 and 20.200.1303 to Chapter 20.200 (Definitions) to add definitions for “Permittee” and “Unattended Collection Container”; and establishing a retroactive effective date of May 7, 2013 for the applicability of Section 20.80.1115; all to further implement the measurable sustainability/environmental stewardship major strategy, the measurable environmental sustainability goals and policies, and the land use goals and policies set forth within the Envision San José 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20.**

2.2 (g) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29265 executed on June 14, 2013, submitted by the City Clerk.

Action: Ordinance No. 29265 was adopted. (10-0-1. Absent: Liccardo.)

- (h) **ORD. NO. 29266 – Amending various Sections of Chapter 3.32, 3.36 and 3.44 of Title 3 of the San José Municipal Code to implement a Tier 2 Pension Plan for new employees in the Police Department of the City of San José in the Police and Fire Department Plan.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29266 executed on June 14, 2013, submitted by the City Clerk.

Action: Ordinance No. 29266 was adopted. Effective date of the Ordinance is August 4, 2013. (10-0-1. Absent: Liccardo.)

- (i) **ORD. NO. 29267 – Retroactively extending the Business Tax Amnesty and Business Improvement District Assessment Amnesty Programs (Ordinance Nos. 29166 and 29167, respectively, as amended by Ordinance No. 29219) from May 31, 2013 up through and including August 30, 2013.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29267 executed on June 14, 2013, submitted by the City Clerk.

Action: Ordinance No. 29267 was adopted. (10-0-1. Absent: Liccardo.)

- (j) **ORD. NO. 29268 – Rezoning certain real property situated on Los Esteros Road, approximately 2,500 feet east of Grand Boulevard, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. PDC12-029**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29268 executed on June 14, 2013, submitted by the City Clerk.

Action: Ordinance No. 29268 was adopted. (10-0-1. Absent: Liccardo.)

2.3 **Approval of Council Committee Reports.**

- (a) **Rules and Open Government Committee Report of May 15, 2013. (Mayor)**  
(b) **Rules and Open Government Committee Report of May 22, 2013. (Mayor)**

Action: Deferred to August 13, 2013 per City Clerk.

**2.4 (a) Request for an excused absence for Vice Mayor Nguyen from the Regular Meeting of the Rules and Open Government Committee on May 29, 2013 due to family emergency. (Nguyen)**

Documents Filed: Memorandum from Vice Mayor Nguyen, dated May 29, 2013, requesting an excused absence.

Action: The absence for Vice Mayor Nguyen was excused. (10-0-1. Absent: Liccardo.)

**2.5 City Council Travel Reports.**

Council Member Herrera and Council Member Constant offered a brief update on their attendance at the League of California Cities last week.

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

No Report.

**2.7 Adopt a resolution authorizing the City Manager to exercise the City's option to extend the Advertising Concession Agreement between the City of San José and Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports on the same terms and conditions for three years from July 1, 2014 through June 30, 2017. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)  
(Deferred from 4/30/13 – Item 6.1 and 6/4/13 – Item 6.1)**

Documents Filed: (1) Memorandum from Director of Aviation William F. Sherry, A.A.E., dated April 8, 2013, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Aviation William F. Sherry, A.A.E., dated June 11, 2013, reporting out on discussions between Clear Channel Outdoor, Inc. dba Clear Channel Airports and the City of San José.

Director of Aviation William F. Sherry, A.A.E. and City Manager Debra Figone responded to Council questions and concerns.

Action: Upon motion by Council Member Rocha, seconded by Council Member Herrera and carried unanimously, Resolution No. 76681, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Exercise the Option to Extend the Advertising Concession Agreement with Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports on the Same Terms and Conditions for Three Years From July 1, 2014 Through June 30, 2017", was adopted. (10-0-1. Absent: Liccardo.)

- 2.8 Approve settlement in the case of *Lakhbir Chahal and Baljit Chahal v. City of San José, et al.*, and authorize the City Attorney to execute a Settlement Agreement and Release with Lakhbir Chahal, Baljit Chahal and their attorney, in the amount of \$662,500. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 6, 2013, recommending approval of the settlement.

Action: The settlement in the case of *Lakhbir Chahal and Baljit Chahal v. City of San José, et al.*, was approved and the City Attorney was authorized to execute a Settlement Agreement and Release with Lakhbir Chahal, Baljit Chahal and their attorney, in the amount of \$662,500. (10-0-1. Absent: Liccardo.)

- 2.9 Adopt a resolution authorizing the City Attorney to negotiate and execute an Eighteenth Amendment to the agreement with Orrick Herrington & Sutcliffe LLP for legal services related to the City's outstanding Airport revenue debt to extend the term to June 30, 2014, with no increase in total compensation. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 4, 2013, recommending adoption of a resolution.

Action: Resolution No. 76682, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Eighteenth Amendment to the Agreement With Orrick Herrington & Sutcliffe LLP for Legal Services Related to the City's Outstanding Airport Revenue Debt To Extend the Term Through June 30, 2014, With No Increase In Total Compensation", was adopted. (10-0-1. Absent: Liccardo.)

- 2.10 Adopt a resolution authorizing the City Manager to:**

- (a) Negotiate and execute a second amendment to the agreement with Patton Boggs LLP to extend the term of the Agreement for legislative representation services on behalf of the City of San José by one year for the period July 1, 2013 through June 30, 2014, with a renewal option to extend the agreement for a one-year term commencing July 1, 2014 through June 30, 2015, for an amount not to exceed the current compensation amount of \$12,000 per month, not to exceed \$288,000 for the one-year extension and one-year optional renewal term, for a total compensation not to exceed \$926,000.**
- (b) Exercise the renewal option to extend the agreement for a one-year term commencing July 1, 2014 through June 30, 2015, subject to the appropriation of funds.**

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

## 2.10 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated May 28, 2013, recommending approval of a second amendment to the agreement. (2) Supplemental memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated June 11, 2013, providing a revised recommendation to extend the agreement between the City of San José and Patton Boggs LLP for representing the City in Washington, D.C.

Action: Resolution No. 76683, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute A Second Amendment to the Agreement With Patton Boggs LLP for Legislative Representation Services for A Term of July 1, 2013 through June 30, 2014 and To Exercise the Renewal Option for a Term of July 1, 2014 Through June 30, 2015”, was adopted. (10-0-1. Absent: Liccardo.)

## 2.11 **Approve an agreement with Vintners Distributors, Inc. for a ten-year ground lease of real property located at 1699 Story Road (APN 481-39-026) for the purpose of operating a gasoline station for a ten year period with the option to renew for an additional ten years. The annual rent beginning in Year 1 is \$78,000.00; Year 2 - \$80,340.00; Year 3 - \$82,750.20; Year 4 - \$85,232.71; Year 5 - \$87,789.69; Year 6 - \$90,423.38; Year 7 - \$93,136.08; Year 8 - \$95,930.16; Year 9 - \$98,808.07; Year 10 - \$101,772.31 for a total compensation to the City of approximately \$894,182 during the initial 10 year term. CEQA: Exempt, File No. PP13-058. Council District 5. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, dated May 28, 2013, recommending approval of an agreement.

Action: An agreement with Vintners Distributors, Inc. for a ten-year ground lease of real property located at 1699 Story Road (APN 481-39-026) for the purpose of operating a gasoline station for a ten year period with the option to renew for an additional ten years. The annual rent beginning in Year 1 is \$78,000.00; Year 2 - \$80,340.00; Year 3 - \$82,750.20; Year 4 - \$85,232.71; Year 5 - \$87,789.69; Year 6 - \$90,423.38; Year 7 - \$93,136.08; Year 8 - \$95,930.16; Year 9 - \$98,808.07; Year 10 - \$101,772.31 for a total compensation to the City of approximately \$894,182 during the initial 10 year term, was approved. (10-0-1. Absent: Liccardo.)

## 2.12 **Adopt a resolution authorizing the City Manager to execute the First Amendment to the Zero Waste Project Ground Lease by and between the City of San José and Zero Waste Energy Development Company, LLC, permitting the tenant to sublease certain portions of the ground lease area for parking at the discretion of the City Manager. CEQA: Mitigated Negative Declaration, SP09-057. Council District 4. (Economic Development/Environmental Services)**

Action: Deferred to August 20, 2013 per Administration.

**2.13 Report on bids and award of construction contract for 6835 - Handrail Replacement – Phase V Project to the apparent low bidder, Rodan Builders, in the amount of \$1,254,630, and approval of a 10% contingency in the amount of \$125,463. CEQA: Exempt, File No. PP11-028. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated May 28, 2013, recommending award of the contract to the low bidder, with related contingency.

Action: The award of construction contract for 6835 - Handrail Replacement – Phase V Project to the apparent low bidder, Rodan Builders, in the amount of \$1,254,630, with related contingency, was approved. (10-0-1. Absent: Liccardo.)

**2.14 (a) Award the construction contract for the Water Pollution Control Plant Street Treatment Phase II Project to the low bidder, Wattis Construction, Inc., in the amount of \$279,598.**

**(b) Approve a 10% contingency in the amount of \$28,000.**

**CEQA: Exempt, File No. PP13-018. (Environmental Services)**

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated May 28, 2013, recommending award of the contract to the low bidder, with related contingency.

Action: The construction contract for the Water Pollution Control Plant Street Treatment Phase II Project to the low bidder, Wattis Construction, Inc., in the amount of \$279,598, with related contingency, was approved. (10-0-1. Absent: Liccardo.)

**2.15 (a) Award the construction contract for the DCS Fiber Optics Network Expansion Project to the lowest responsive bidder, Terry Hanson Electric, in the amount of \$589,000.**

**(b) Approve a 10% contingency in the amount of \$58,900.**

**CEQA: Exempt, File Nos. PP12-027, PP13-029. (Environmental Services)**

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated May 28, 2013, recommending award of the contract to the low bidder, with related contingency.

Action: The construction contract for the DCS Fiber Optics Network Expansion Project to the lowest responsive bidder, Terry Hanson Electric, in the amount of \$589,000, with related contingency, was approved. (10-0-1. Absent: Liccardo.)

- 2.16 Approve an agreement with the San Francisco Bay Wildlife Society, fiscal agent for the Don Edwards San Francisco Bay National Wildlife Refuge, with a term from July 1, 2013 through June 30, 2015 for a maximum not to exceed amount of \$179,410, to provide public education regarding water conservation, pollution prevention, and protection of water dependent ecosystems. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated May 21, 2013, recommending approval of an agreement.

Director of Environmental Services Kerrie Romanow responded to questions from Council Member Khamis.

Action: Upon motion by Council Member Khamis, seconded by Council Member Herrera and carried unanimously, an agreement with the San Francisco Bay Wildlife Society, fiscal agent for the Don Edwards San Francisco Bay National Wildlife Refuge, with a term from July 1, 2013 through June 30, 2015 for a maximum not to exceed amount of \$179,410, to provide public education regarding water conservation, pollution prevention, and protection of water dependent ecosystems was approved. (10-0-1. Absent: Liccardo.)

- 2.17 (a) Approve an agreement with ABB Inc. for a Distributed Control System Upgrade at the San José/Santa Clara Regional Wastewater Facility, formerly referred to as the San José/Santa Clara Water Pollution Control Plant, for a term beginning from the date of execution through December 31, 2015, for a total amount not to exceed \$1,814,785 for all hardware, software, professional services, and training.**
- (b) Approve a 10% contingency in the amount of \$181,479 to cover unanticipated expense during the term of the agreement.**
- CEQA: Exempt, File No. PP13-039. (Environmental Services/Finance)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow and Director of Finance Julia H. Cooper, dated May 28, 2013, recommending approval of the agreement with related contingency.

Action: An agreement with ABB Inc. for a Distributed Control System Upgrade at the San José/Santa Clara Regional Wastewater Facility, formerly referred to as the San José/Santa Clara Water Pollution Control Plant, for a term beginning from the date of execution through December 31, 2015, for a total amount not to exceed \$1,814,785 for all hardware, software, professional services, and training, with related contingency, was approved. (10-0-1. Absent: Liccardo.)



- 2.18 Report on bids and award of contract for the 7150 – Dove Road Main Extension project to the lowest responsive bidder, Stoloski and Gonzalez, Inc., in the amount of \$704,240, and approve a contingency in the amount of \$70,424. CEQA: Exempt, File No. PP12-104. Council District 8. (Environmental Services/Public Works)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow and Director of Public Works David Sykes, dated May 28, 2013, recommending award of the contract to the low bidder, with related contingency.

Action: The award of contract for the 7150 – Dove Road Main Extension project to the lowest responsive bidder, Stoloski and Gonzalez, Inc., in the amount of \$704,240, with related contingency, was approved. (10-0-1. Absent: Liccardo.)

- 2.19 Report on bids and award of contract for the 7247 – Nortech and Trimble Reservoir Rehabilitation project to the lowest responsive bidder, Paso Robles Tank, Inc., in the amount of \$1,146,092, and approve a contingency in the amount of \$114,609. CEQA: Exempt, File No. PP13-016. Council District 4. (Environmental Services/Public Works)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow and Director of Public Works David Sykes, dated May 30, 2013, recommending award of the contract to the low bidder, with related contingency.

Action: The award of contract for the 7247 – Nortech and Trimble Reservoir Rehabilitation project to the lowest responsive bidder, Paso Robles Tank, Inc., in the amount of \$1,146,092, with related contingency, was approved. (10-0-1. Absent: Liccardo.)

- 2.20 Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Arthur J. Gallagher & Co. Insurance Brokers of California, Inc. to provide insurance brokerage and property loss control services for the period of July 1, 2013 through June 30, 2015, with authority to exercise up to three one-year options for extension through June 30, 2018, for the City of San José. The annual cost is \$79,000 and the cost for two years of service is not to exceed \$158,000 subject to the appropriation of funds. The costs for years three, four and five will be negotiated, subject to appropriation of funds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated May 31, 2013, recommending adoption of a resolution.

Action: Resolution No. 76684, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement With Arthur J. Gallagher & Co. Insurance Brokers of California, Inc. To Provide Insurance Brokerage and Property Loss Control Services for the Period of July 1, 2013 Through June 30, 2015, With Authority to Exercise Up To Three One Year Options for Extension Through June 30, 2018 For the City of San José”, was adopted. (10-0-1. Absent: Liccardo.)

- 2.21 Adopt a resolution authorizing the City Manager to:**
- (a) Execute the Second Amendment to the Agreement with RFP Depot, LLC doing business as BidSync (Provo, UT) for an Online Bid Notification and Vendor Management System to extend the term one year for the period July 1, 2013 through June 30, 2014, and maximum annual compensation not to exceed \$40,000.**
  - (b) Execute five additional one year options to extend the term of the agreement, with the final term ending on June 30, 2018, not to exceed \$40,000 per year, subject to the annual appropriation of funds.**
- CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated June 6, 2013, recommending adoption of a resolution.

Action: Resolution No. 76685, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute the Second Amendment to the Agreement with RFP Depot, LLC Doing Business as BidSync for an Online Bid Notification and Vendor Management System to Extend the Term One Year For the Period July 1, 2013 Through June 30, 2014 and Maximum Annual Compensation Not To Exceed \$40,000; and (2) Execute Five Additional One Year Options To Extend the Term of the Agreement, With the Final Term Ending on June 30, 2018, Not To Exceed \$40,000 Per Year, Subject to the Annual Appropriation of Funds", was adopted. (10-0-1. Absent: Liccardo.)

- 2.22 Report on Request for Proposal for Homeless Encampment Clean Up and adopt a resolution authorizing the City Manager to:**
- (a) Execute an agreement with Tucker Construction Inc for the clean-up of homeless encampments, with an initial one-year term of July 1, 2013 through June 30, 2014, and maximum compensation not to exceed \$550,000.**
  - (b) Add to the maximum compensation as required during the initial term of the agreement in the event that clean-up requirements exceed staff estimates, subject to the appropriation of funds.**
  - (c) Execute up to four one-year options to extend the term of the agreements, subject to the appropriation of funds.**
- CEQA: Exempt, File No. PP13-056. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated May 28, 2013, recommending adoption of a resolution.

Public Comments: Scott Lane presented comments on the report on Request for Proposal for Homeless Encampment Clean Up.

## 2.22 (Cont'd.)

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the report on Request for Proposal for Homeless Encampment Clean Up was accepted and Resolution No. 76686, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Tucker Construction, Inc. for the Clean Up of Homeless Encampments for an Initial Term of July 1, 2013 through June 30, 2014 With a Maximum Compensation Amount of \$550,000, To Add to the Maximum Compensation Amount As Required During the Initial Term of the Agreement and To Execute Up to Four One Year Options To Extend the Term of the Agreement Subject to Appropriation of Funds”, was adopted. (10-0-1. Absent: Liccardo.)

## 2.23 Report on Request for Proposal for Internet Protocol Television (IPTV) Maintenance and Support Services at the Norman Y. Mineta San José International Airport and adopt a resolution authorizing the City Manager to:

- (a) **Execute an agreement with ID Consulting Solutions, LLC (San Diego, CA) for IPTV Maintenance and Support Services, for an initial five year term ending June 30, 2018, with maximum compensation not to exceed \$238,220 for the initial twelve months of the agreement, and an estimated \$807,100 excluding potential annual adjustments for the initial five year term, subject to annual appropriations.**
- (b) **Add or delete cameras and associated maintenance service and support levels to meet the changing security requirements at the Airport, subject to the appropriation of funds.**
- (c) **Execute five one-year options to extend the agreement subject to the appropriation of funds.**

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated June 6, 2013, recommending adoption of a resolution.

Action: The report on Request for Proposal for Internet Protocol Television Maintenance and Support Services at the Norman Y. Mineta San José International Airport Report was accepted and Resolution No. 76687, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute An Agreement with ID Consulting Solutions, LLC for Internet Protocol Television Maintenance and Support Services at the Norman Y. Mineta San José International Airport; To Add or Delete Cameras and Associated Maintenance Service and Support Levels to Meet the Changing Security Requirements at the Airport and To Execute Five One Year Options to Extend the Agreement”, was adopted. (10-0-1. Absent: Liccardo.)

**2.24 Report on Request for Proposal for Automated Access Control System Maintenance and Support Services at the Norman Y. Mineta San José International Airport and adopt a resolution authorizing the City Manager to:**

- (a) Execute an agreement with Stanley Convergent Security Solution, Inc. (San Diego, CA) for Automated Access Control System Maintenance and Support Services, for an initial five year term ending June 30, 2018, with maximum compensation not to exceed \$245,334 for the initial twelve months of the agreement, and an estimated \$720,270 excluding potential annual adjustments for the initial five year term, subject to the appropriation of funds.**
- (b) Add or delete access points and maintenance service levels to meet the changing security requirements at the Airport, subject to the appropriation of funds.**
- (c) Execute five one-year options to extend the agreement subject to the appropriation of funds.**

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated June 6, 2013, recommending adoption of a resolution.

Action: The report on Request for Proposal for Automated Access Control System Maintenance and Support Services at the Norman Y. Mineta San José International Airport was accepted and Resolution No. 76688, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement With Stanley Convergent Security Solution, Inc. for Automated Access Control System Maintenance and Support Services at the Norman Y. Mineta San José International Airport”, was adopted. (10-0-1. Absent: Liccardo.)

**2.25 Authorize the City Manager to:**

- (a) Exercise the second of four one-year options to renew an Open Purchase Order with Tucker Construction (San José, CA) for the period July 1, 2013 through June 30, 2014, with total compensation not to exceed \$300,000 for tank and walkway/concrete repair services at the San Jose-Santa Clara Regional Wastewater Facility.**
- (b) Increase funding as required based on City facility needs and availability of funding consistent with the scope of the purchase order.**
- (c) Exercise the remaining options to renew the purchase order subject to the appropriation of funds.**

**CEQA: Exempt, File No. PP13-039. (Finance)**

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated June 5, 2013, recommending executing the second of four one year options, increase funding as required and exercise the remaining options to renew the purchase order.

**2.25 (Cont'd.)**

Action: The City Manager was authorized to exercise the second of four one-year options to renew an Open Purchase Order with Tucker Construction for the period July 1, 2013 through June 30, 2014, with total compensation not to exceed \$300,000 for tank and walkway/concrete repair services at the San Jose-Santa Clara Regional Wastewater Facility, increase funding as required based on City facility needs and availability of funding consistent with the scope of the purchase order and exercise the remaining options to renew the purchase order subject to the appropriation of funds. (10-0-1. Absent: Liccardo.)

**2.26 Adopt a resolution authorizing the City Manager to execute various documents (described below) to purchase and install an Enterprise Cloud Storage Solution for a total not-to-exceed cost of \$508,906 including all hardware, software, cloud data storage and data transfer services, and six years of hardware and software maintenance and support:**

- (a) Execute purchase orders and other necessary enrollment documents that may be required under the Microsoft Enterprise Agreement to purchase enterprise cloud data storage and data transfer capacity to support the City's requirements, at an initial annual cost of \$303,906, and an ongoing cost not to exceed \$58,476 per year, based on current estimates of the City's data storage requirements.**
- (b) Execute a Standard Deployment Services Work Statement Agreement with Microsoft for all professional services and training required to implement the data storage solution.**
- (c) Execute purchase orders with Xyratex for the purchase of all hardware, software and six years of maintenance and support, not to exceed \$205,000.**
- (d) Purchase additional data storage and data transfer capacity as may be required, at the same unit prices, subject to the appropriation of funds.**
- (e) Approve a contingency of \$51,000 for hardware and professional services related to the installation and deployment of the system.**

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper and Chief Information Officer Vijay Sammeta, dated June 6, 2013, recommending adoption of a resolution.

Action: Resolution No. 76689, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Purchase Orders and Other Necessary Enrollment Documents Necessary to Purchase Enterprise Cloud Data Storage and Data Transfer Capacity, To Execute a Standard Deployment Services Work Statement Agreement with Microsoft, To Execute Purchase Orders With Xyratex, To Purchase Additional Data Storage and Data Transfer Capacity As May Be Required and To Approve a Contingency for Hardware and Professional Services Related to the Installation and Deployment of the System", was adopted. (10-0-1. Absent: Liccardo.)

- 2.27 Adopt a resolution authorizing the Director of Housing to execute a Memorandum of Agreement with the Santa Clara Valley Water District for Encampment Clean Up, Trash Removal, and Prevention for creek-side encampments within City boundaries. CEQA: Exempt, File No. PP04-248. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated May 28, 2013, recommending adoption of a resolution.

Public Comments: Steve Holmes, Friends of Los Gatos Creek; Richard Zappelli, Willow Glen Neighborhood Association and Scott Lane spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76690, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Execute a Memorandum of Agreement With the Santa Clara Valley Water District for Encampment Clean Up, Trash Removal and Prevention”, was adopted. (10-0-1. Absent: Liccardo.)

- 2.28 Adopt a resolution approving a performance-based loan commitment of up to \$240,000 from the Low and Moderate Income Housing Asset Fund to 2112 Monterey Road, L.P. to pay for carrying costs for the Metropolitan Apartments family affordable rental project being developed by Charities Housing Corporation. CEQA: Mitigated Negative Declaration, File Nos. GP08-07-04 and PDC09-015. Council District 7. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated May 30, 2013, recommending adoption of a resolution.

Action: Resolution No. 76691, entitled: “A Resolution of the Council of the City of San José Approving a Loan Commitment to Cover Carrying Costs for the Metropolitan Apartments Project”, was adopted. (10-0-1. Absent: Liccardo.)

- 2.29 Approve the Seventh Amendment to the \$600,000 Line of Credit Agreement between the City and Across the Bridge Foundation to forgive \$200,000 each year that Downtown College Preparatory adds an additional grade level at the Alum Rock campus. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts. Council Districts 3 and 5. (Housing)**

Documents Filed: (1) Memorandum from Council Member Rocha, dated June 17, 2013, recommending deferring a decision on amending the agreement with the Bridge Foundation. (2) Memorandum from Director of Housing Leslye Corsiglia, dated June 5, 2013, recommending approval of the seventh amendment to the agreement.

Motion: Council Member Rocha moved approval of his memorandum dated June 17, 2013, to defer a decision on amending the agreement with Bridge Foundation until Staff can provide an analysis and a recommendation of Downtown College Preparatory’s financial condition and ability to repay any portion or the entire loan amount. Council Member Constant seconded the motion.

## 2.29 (Cont'd.)

Public Comments: Jennifer Andaluz, Downtown College Prep (DCP), spoke about the outstanding opportunity to help expand DCP's impact in East San José. She pointed out that DCP was founded in 1999 with the explicit mission to take academically underachieving students and prepare them for college success.

Mayor Reed expressed support to the action in front of the Council today because Downtown College Prep is one of San José's most successful charter schools. He noted that encouraging and helping DCP to expand their services into other areas and to other student bodies is an important part of how the City will close the achievement gap as part of the San José 2020 effort.

Assistant Director of Housing Jacky Morales-Ferrand responded to Council questions and concerns.

Vice Mayor Nguyen concurred with Mayor Reed's comments. Vice Mayor Nguyen encouraged her colleagues to support the action in forgiving this loan and to allow Downtown College Prep to continue to educate and prepare San José's students for graduate school and college.

Council Members Liccardo and Herrera agreed with the comments expressed by Mayor Reed and Vice Mayor Nguyen.

Extensive Council discussion ensued.

Council Member Rocha withdrew motion his motion. Council Member Constant was in agreement.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried, the Seventh Amendment to the \$600,000 Line of Credit Agreement between the City and Across the Bridge Foundation to forgive \$200,000 each year that Downtown College Preparatory adds an additional grade level at the Alum Rock campus, was approved. (9-2. Noes: Constant, Rocha.)

## 2.30 **Adopt a resolution authorizing the City Manager to execute and consent to an agreement between AT&T and Team San José for the installation of a distributed antenna system at the San José Convention Center. CEQA: Resolution No. 72767 and Addenda thereto, File No. PP08-002. (Information Technology)**

Documents Filed: Memorandum from Chief Information Officer Vijay Sammeta, dated May 28, 2013, recommending adoption of a resolution.

Action: Resolution No. 76692, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Consent to an Agreement Between AT&T and Team San José for the Installation of a Distributed Antenna System at the San José Convention Center", was adopted. (10-0-1. Absent: Liccardo.)

**2.31 Adopt resolutions approving and confirming the Annual Budget Reports for Fiscal Year 2013-2014 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21 and 22 and levying the assessments therein. CEQA: Not a Project, File No. PP10-069(a), Assessments and Annual Reports. Council Districts 2, 3, 4, and 8. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 28, 2013, recommending adoption of resolutions.

Action: Resolution No. 76693, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 1 (Los Paseos) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76694, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 2 (Trade Zone Boulevard – Lundy Avenue) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76695, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 5 (Orchard Parkway – Plumeria Drive) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76696, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 8 (Zanker – Montague) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76697, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 9 (Santa Teresa – Great Oaks) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76698, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 11 (Brokaw Road from Junction Avenue to Old Oakland Road) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76699, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 13 (Karina – O’Nel) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76700, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 15 (Silver Creek Valley) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76701, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 18 (The Meadowlands) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76702, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 19 (River Oaks Area Landscaping) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76703, “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 20 (Renaissance – North First Landscaping) for Fiscal Year 2013-2014 and Levying Assessments”; Resolution No. 76704, “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 21 (Gateway Place – Airport Parkway) for Fiscal Year 2013-2014 and Levying Assessments” and Resolution No. 76705, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 22 (Hellyer Avenue – Silver Creek Valley Road) for Fiscal Year 2013-2014 and Levying Assessments”, were adopted. (10-0-1. Absent: Liccardo.)



**2.32 Adopt a resolution:**

- (a) Approving the Willow Glen Community Benefit and Improvement District Annual Report for Fiscal Year 2013-2014 as filed or modified by Council.**
- (b) Confirming the individual assessments as proposed, or modified by Council.**
- (c) Directing the City to pay the assessment on City-owned property within the district in the amount of approximately \$9,312.**
- (d) Directing the Director of Public Works to deliver the assessment roll to the County for collection with the property taxes.**

**CEQA: Not a Project, File No. PP10-069(a), Assessments and Annual Reports. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 28, 2013, recommending adoption of a resolution.

Action: Resolution No. 76706, entitled: “A Resolution of the Council of the City of San José Approving the Willow Glen Community Benefit and Improvement District Annual Report for Fiscal Year 2013-2014 As Filed, Or Modified by the City Council; Confirming the Individual Assessments as Proposed or Modified by the City Council, Including the Assessment on City Owned Property of Approximately \$9,312; And Directing that the City Assessment Payment Be Made; and Directing the Director of Public Works to Deliver the Assessment Roll to the County of Santa Clara for Collection With the Property Taxes”, was adopted. (10-0-1. Absent: Liccardo.)

**2.33 Adopt a resolution summarily and conditionally vacating a portion of a Public Storm Drain Easement located at the northerly terminus of Greenlee Drive, APN: 303-28-067. CEQA: Exempt, File No. PP13-006. Council District 1. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 28, 2013, recommending adoption of a resolution.

Action: Resolution No. 76707, entitled: “A Resolution of the Council of the City of San José Summarily and Conditionally Vacating a Public Storm Drain Easement Located at the Northern Terminus of Greenlee Drive”, was adopted. (10-0-1. Absent: Liccardo.)

**2.34 Approve a Successor Agreement and terminating and releasing the Oakmead Landscape Maintenance Agreement executed on May 25, 1983, for the maintenance of landscape improvements. CEQA: Exempt, File No. PP13-057. Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 28, 2013, recommending approving a successor agreement.

Action: A Successor Agreement was approved and the Oakmead Landscape Maintenance Agreement executed on May 25, 1983, for the maintenance of landscape improvements was terminated and released. (10-0-1. Absent: Liccardo.)

- 2.35 Report on bids and award of contract for the 6429-Bird Avenue Sanitary and Storm Sewer Improvements Project to the low bidder, Ranger Pipelines, Inc., in the amount of \$1,969,967, and approval of a contingency in the amount of \$196,996. CEQA: Exempt, File No. PP12-102. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated June 6, 2013, recommending award of the contract to the low bidder, with related contingency.

Action: The award of contract for the 6429-Bird Avenue Sanitary and Storm Sewer Improvements Project to the low bidder, Ranger Pipelines, Inc., in the amount of \$1,969,967, with related contingency, was approved. (10-0-1. Absent: Liccardo.)

- 2.36 Adopt a resolution authorizing the City Manager negotiate and execute the Agreement for Consultant Services for the Los Gatos Creek Reach 5B/C in the amount of \$1,430,050 with CH2M HILL, Inc. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. Council District 6. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works David Sykes, dated June 5, 2013, recommending adoption of a resolution.

Public Comments: Larry Ames spoke in support to the Staff recommendations.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76708, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement for Consultant Services with CH2M Hill Engineers, Inc. for the Los Gatos Creek Reach 5B/C In An Amount Not To Exceed \$1,430,050”, was adopted. (10-0-1. Absent: Liccardo.)

- 2.37 Report on bids and award of contract for the 6913 - San José International Airport Northeast Parcel Development Project to the low bidder, Zovich & Sons, Inc., for the base bid and Add Alternate Nos. 1, 2, 3 and 4 in the amount of \$5,480,000, and approval of a contingency in the amount of \$548,000. CEQA: Resolution Nos. 67380 and 71451, File No. PP12-065. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated May 28, 2013, recommending award of the contract to the low bidder, with related contingency.

Action: The award of contract for the 6913 - San José International Airport Northeast Parcel Development Project to the low bidder, Zovich & Sons, Inc., for the base bid and Add Alternate Nos. 1, 2, 3 and 4 in the amount of \$5,480,000, with related contingency, was approved. (10-0-1. Absent: Liccardo.)

**2.38 Adopt a resolution summarily vacating a Public Service Easement within a private property located at 80 Montecito Vista Drive (APN 455-09-065). CEQA: Goble Lane Mixed Use Development EIR, File No. PDC02-066, Resolution No. 72877. Council District 7. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated June 6, 2013, recommending adoption of a resolution.

Action: Resolution No. 76709, entitled: "A Resolution of the Council of the City of San José Summarily Vacating a Portion of a 17 Foot Wide Public Service Easement Within a Private Property Located at 80 Montecito Vista Drive" was adopted. (10-0-1. Absent: Liccardo.)

- 2.39 (a) Reject the sole bid received on May 9, 2013, for the 5591 - Transportation Incident Management Center (TiMC) Project and authorize the Director of Public Works to re-advertise and rebid the project.**
- (b) Approve a second amendment to the agreement for consultant services with IBI Group for the TiMC Project to extend the term of the Agreement from June 30, 2013 to December 31, 2014, revise the scope of work and increase the total compensation from \$400,000 to \$485,000, and amend the fee schedule to reflect current labor rates.**
- (c) Approve a first amendment to an agreement with Siemens Industry, Inc. for consultant services for the TiMC system software design and implementation to extend the term of the agreement from December 30, 2013 to December 31, 2015, and increase the total compensation from \$997,700 to \$1,042,917, and amend the fee schedule to reflect current labor rates.**

**CEQA: Exempt, File No. PP09-108. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works David Sykes and Director of Transportation Hans F. Larsen, dated June 6, 2013, recommending rejecting the sole bid received and approve a second amendment to the agreement for consultant services with IBI Group and a first amendment to an agreement with Siemens Industry, Inc.

Action: The sole bid received on May 9, 2013, for the 5591 Transportation Incident Management Center Project Bid was rejected, a second amendment to the agreement for consultant services with IBI Group for the TiMC Project to extend the term of the Agreement from June 30, 2013 to December 31, 2014, revise the scope of work and increase the total compensation from \$400,000 to \$485,000, and amend the fee schedule to reflect current labor rates and a first amendment to an agreement with Siemens Industry, Inc. for consultant services for the TiMC system software design and implementation to extend the term of the agreement from December 30, 2013 to December 31, 2015, and increase the total compensation from \$997,700 to \$1,042,917, and amend the fee schedule to reflect current labor rates, were approved. (10-0-1. Absent: Liccardo.)

- 2.40 (a) Approve a Vehicle Registration Fee (VRF) grant agreement with the Santa Clara Valley Transportation Authority (VTA) in an amount not to exceed \$621,000 to complete traffic signal communication repair and retiming projects throughout the city.**
- (b) Adopt the following 2013-2014 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:**
- (1) Increase to the Earned Revenue estimate in the amount of \$494,000;**
  - (2) Establish an appropriation in the Department of Transportation for: ITS Monitoring and Maintenance - VRF in the amount of \$50,000.**
  - (3) Establish an appropriation in the Department of Transportation for Signal Retiming - VRF in the amount of \$444,000.**

**CEQA: Exempt, File Nos. PP10-158 and PP10-113. (Transportation/City Manager's Office)**

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen and Budget Director Jennifer A. Maguire, dated May 28, 2013, recommending approval and execution of a grant agreement and adoption of appropriation ordinance and funding sources resolution amendments.

Action: A Vehicle Registration Fee grant agreement with the Santa Clara Valley Transportation Authority in an amount not to exceed \$621,000 to complete traffic signal communication repair and retiming projects throughout the city was approved, Ordinance No. 29273, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Construction Excise Tax Fund for the Intelligent Transportation System Monitoring and Maintenance – Vehicle Registration Fee Project and for the Signal Retiming – Valley Transportation Authority Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 76710, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 76677 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2013-2014 To Adjust Revenues in the Construction Excise Tax Fund", were adopted. (10-0-1. Absent: Liccardo.)

**2.41 Adopt a resolution:**

- (a) Approving a Donation Agreement between the City and Autumn Terrace at College Owner's Association ("Autumn Terrace HOA") for the granting of easement rights to the City across property owned by the Autumn Terrace HOA for purposes relating to the installation and maintenance of a monitoring well for Story Road Landfill.**
- (b) Authorizing the City Manager or her designee to execute the donation agreement, the easement deed, and all other documents necessary to complete the transaction.**

**CEQA: Exempt, File No. PP13-041. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Welsh, dated May 28, 2013, recommending adoption of a resolution.

**2.41 (Cont'd.)**

Action: Resolution No. 76711, entitled: "A Resolution of the Council of the City of San José Approving a Donation Agreement Between the City and Autumn Terrace at College Owner's Association for the Granting to the City of Easement Rights Across Property Owned by the Autumn Terrace HOA for Purposes Relating to the Installation and Maintenance of a Monitoring Well for Story Road Landfill and Authorizing the City Manager to Execute the Donation Agreement, the Easement Deed and All Other Documents Necessary to Complete the Transaction", was adopted. (10-0-1. Absent: Liccardo.)

- 2.42 (a) Reject all bids received on March 7, 2013, for 6656 San Fernando Street Enhanced Bikeway and Pedestrian Access (Between Cahill Street and Tenth Street) Federal Project No. STPL-5005(105).**
- (b) Report on bids and award the contract for the Rebid: 6656 San Fernando Street Enhanced Bikeway and Pedestrian Access (Between Cahill Street and Tenth Street), Federal Project No. STPL-5005(105) to the low bidder, American Asphalt Repair and Resurfacing Company Inc., for the base bid and Add Alternate Nos. 1 and 2 in the amount of \$1,638,859, and approval of a ten percent contingency in the amount of \$163,885.**
- (c) Adopt the following 2013-2014 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:**
- (1) Establish an appropriation to the Department of Transportation for San Fernando Street Enhanced Bikeway and Pedestrian Access in the amount of \$397,000.**
- (2) Decrease the Ending Fund Balance in the amount of \$397,000.**

**CEQA: Exempt, File No. PP10-124. Council District 3. (Public Works/Transportation/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works David Sykes, Director of Transportation Hans F. Larsen and Budget Director Jennifer A. Maguire, dated May 28, 2013, recommending rejection of all bids, award of the contract to the low bidder, with related contingency and adoption of appropriation ordinance amendments.

Action: All bids received on March 7, 2013, for 6656 San Fernando Street Enhanced Bikeway and Pedestrian Access (Between Cahill Street and Tenth Street) Federal Project No. STPL-5005(105), were rejected, the award the contract for the Rebid: 6656 San Fernando Street Enhanced Bikeway and Pedestrian Access (Between Cahill Street and Tenth Street), Federal Project No. STPL-5005(105) to the low bidder, American Asphalt Repair and Resurfacing Company Inc., for the base bid and Add Alternate Nos. 1 and 2 in the amount of \$1,638,859, with related contingency, was approved, and Ordinance No. 29274, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Building and Structure Construction Tax Fund for the San Fernando Street Enhanced Bikeway and Pedestrian Access Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0-1. Absent: Liccardo.)

- 2.43 Adopt a resolution authorizing the City Manager to negotiate and execute actions associated with the California Identification Program:**
- (a) Negotiate and execute the agreement with Santa Clara County to provide Local Law Enforcement Agency access to the California Identification System.**
  - (b) Negotiate and execute the associated Agreement for Transfer of Program Assets from the City of San José to the County of Santa Clara.**
- CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Police)**

Documents Filed: Memorandum from Acting Chief of Police Larry Esquivel, dated June 5, 2013, recommending adoption of a resolution.

Action: Resolution No. 76712, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Santa Clara County To Provide Local Law Enforcement Agency Access to the California Identification Program and To Negotiate and Execute the Associated Agreement for Transfer of Program Assets from the City of San José to the County of Santa Clara”, was adopted. (10-0-1. Absent: Liccardo.)

- 2.44 Adopt a resolution authorizing the City Manager to execute a second amendment to the Agreement with Renne Sloan Holtzman & Sakai, LLP for labor consulting services in connection with labor matters, increasing the contract amount by \$650,000 to a total amount not to exceed \$1,300,000. CEQA: Not a Project, File No. PP10-069(e), Services that involve no physical change to the environment. (City Manager’s Office)**

*Renumbered from Item 3.6.*

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated June 4, 2013, recommending adoption of a resolution.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76713, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Second Amendment to the Agreement with Renne Sloan Hotzman & Sakai, LLP for Labor Consulting Services”, was adopted. (7-3-1. Noes: Campos, Chu, Kalra. Absent: Liccardo.)

- 2.45 Adopt a resolution to establish a Hiring Incentive Referral Pilot Program for employees, effective July 1, 2013. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities. (Human Resources)**

*Item 2.45 was renumbered from Item 3.12.*

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated June 7, 2013, recommending adoption of a resolution

**2.45 (Cont'd.)**

Action: Resolution No. 76714, entitled: "A Resolution of the Council of the City of San José Establishing a Hiring Incentive Referral Pilot Program Effective July 1, 2013", was adopted. (10-0-1. Absent: Liccardo.)

**2.46 Accept the report on a pilot program for fleet management services and adopt a resolution authorizing the City Manager to:**

- (a) Negotiate and execute an agreement with Enterprise Fleet Management Services to lease and service 20 vehicles for a five-year term, with maximum compensation not to exceed \$654,300.**
- (b) Negotiate and execute an agreement with ARI to service City owned vehicles, for a three-year term, not to exceed \$150,000.**
- (c) Approve a contingency of \$75,000 for unforeseen repairs and expenses.**

**CEQA: Not a Project, File No. PP10-066(a), Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment. (Public Works/ Finance)**

*Item 2.46 was renumbered from Item 3.13.*

Documents Filed: Memorandum from Director of Public Works David Sykes and Director of Finance Julia H. Cooper, dated June 6, 2013, recommending acceptance of the pilot program and adoption of a resolution.

Action: The report on a pilot program for fleet management services was accepted and Resolution No. 76715, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement With Enterprise Fleet Management Services to Lease and Service Twenty Vehicles for a Five Year Term With Maximum Compensation Not To Exceed \$654,300, To Negotiate and Execute An Agreement With Automotive Resource International To Service City Owned Vehicles for a Three Year Term With Maximum Compensation Not To Exceed \$150,000 and To Approve A Contingency of \$75,000 for Unforeseen Repairs and Expenses", was adopted. (10-0-1. Absent: Liccardo.)

**2.47 (a) Adopt a resolution authorizing the City Manager to enter into an agreement to terminate the current naming rights agreement for the San José Arena among HP, San José Arena Management and the City of San José (i) at no additional cost to the City, and (ii) subject to SJAM and the City immediately entering into a subsequent naming rights agreement for the same or greater terms and naming rights fee.**

- (b) Approve a five-year Naming Rights Agreement by and between SAP Global Marketing, Inc., San José Arena Management, LLC and the City of San José for the naming of the San José Arena to SAP Center at San José for an annual payment to the City of \$1,625,000, with total revenues to the City for a total amount of \$8,175,000 over five years.**

**CEQA: Resolution No. 72767, Downtown Strategy EIR. (Economic Development)**

## 2.47 (Cont'd.)

*Item 2.47 was renumbered from Item 4.2.*

Documents Filed: (1) Memorandum from Mayor Reed, Council Members Liccardo and Oliverio, dated June 13, 2013, recommending approving the recommendations as outlined in the Staff Report dated May 29, 2013 to effectuate renaming of the San José Arena to SAP Center at San José. (2) Memorandum from Assistant to the City Manager/Downtown Manager Lee Wilcox, dated May 29, 2013, recommending adoption of a resolution and approval of a five year naming rights agreement.

Public Comments: John Turturro, San José Sharks and Jonathan Becker, SAP, thanked the Council and the City Staff for their support and for their ongoing commitment to the Sharks and SAP.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76716, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Enter Into An Agreement To Terminate the Current Naming Rights Agreement for the San José Arena Among HP, San José Arena Management (SJAM) and the City of San José: (i) At No Additional Cost to the City and (ii) Subject To SJAM and the City Immediately Entering Into A Subsequent Naming Rights Agreement For the Same or Greater Term and Naming Rights Fees”, was adopted and a five-year Naming Rights Agreement by and between SAP Global Marketing, Inc., San José Arena Management, LLC and the City of San José for the naming of the San José Arena to SAP Center at San José for an annual payment to the City of \$1,625,000, with total revenues to the City for a total amount of \$8,175,000 over five years, was approved. (10-0-1. Absent: Liccardo.)

- 2.48 (a) **Adopt a resolution revising the airline fee-waiver incentive program to support the development of new air service at the Norman Y. Mineta San José International Airport by eliminating the 90-day allowance for flight replacement, giving the Director of Aviation the authority to suspend the Minimum Qualifying Period in circumstances beyond the control of the airlines, prohibiting an airline from qualifying for the promotional fee waiver more than one time during the incentive period, and repealing Resolution No. 75185.**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Marketing Reimbursement Agreement between the City of San José and All Nippon Airways to increase the City’s contribution to an Airport/Airline collaborative marketing program to promote ANA’s new Tokyo service at the Airport by \$102,722.54, for a total City contribution of \$352,722.54.**
- (c) **Adopt a resolution revising the Focus City Promotional Fee Waiver Incentive Program by eliminating the 90-day allowance for flight replacement, and repealing Resolution No. 75186.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP09-192. (Airport)**



**2.48 (Cont'd.)**

*Item 2.48 was renumbered from Item 6.1.*

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E., dated May 28, 2013, recommending adoptions of resolutions.

Action: Resolution No. 76717, entitled: “A Resolution of the Council of the City of San José Revising the City’s Airline Air Service Promotional Fee Waiver Incentive Program to Support Transportation and Environment Committee Development of New Air Service at the Norman Y. Mineta San José International Airport By Eliminating the 90 Day Allowance for Flight Replacement, Giving the Director of Aviation Authority to Suspend the Minimum Qualifying Period in Certain Circumstances, Prohibiting an Airline from Qualifying for the Promotional Fee Waiver More Than One Time During an Incentive Period and Repealing Resolution No. 75185”, Resolution No. 76718, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Marketing Reimbursement Agreement With All Nippon Airways, Co., Ltd. (ANA) To increase the City’s Contribution To An Airport/Airline Collaborative Marketing Program To Promote ANA’s New Tokyo Service for a Total City Contribution of \$352,722.54” and Resolution No. 76719, entitled: “A Resolution of the Council of the City of San José Revising the Focus City Promotional Fee Waiver Incentive Program By Eliminating the 90 Day Allowance for Flight Replacement and Repealing Resolution No. 75186”, were adopted. (10-0-1. Absent: Liccardo.)

**2.49 Approve travel by Council Member Campos to Chicago, IL on June 26-30, 2013 to attend the National Association of Latino Elected Officials (NALEO) conference. Source of Funds: District 5 Funds. (Campos)**

Documents Filed: Memorandum from Council Member Campos, dated May 30, 2013, requesting approval to travel.

Action: The travel for Council Member Campos to Chicago, Illinois on June 26 – June 30, 2013, was approved. (10-0-1. Absent: Liccardo.)

**2.50 Approve travel by Council Member Campos to Monterey, CA on July 10-12, 2013 to attend the League of California Cities Latino Caucus Mid-Year Board Retreat. Source of Funds: District 5 Funds. (Campos)**

Documents Filed: Memorandum from Council Member Campos, dated June 4, 2013, requesting approval to travel.

Action: The travel for Council Member Campos to Monterey, California on July 10 – through July 12, 2013, was approved. (10-0-1. Absent: Liccardo.)

**2.51 Approve travel by Council Member Herrera to Sacramento, CA on June 13-14, 2013 to attend the California League of Cities Transportation, Communication, and Public Works Committee Meeting as Vice Chair. Source of Funds: Mayor/Council Travel Fund. (Herrera)**

Documents Filed: Memorandum from Council Member Herrera, dated May 29, 2013, requesting approval to travel.

Action: The travel for Council Member Herrera to Sacramento, California on June 13 – June 14, 2013, was approved. (10-0-1. Absent: Liccardo.)

**2.52 Approve travel by Council Member Herrera to Sacramento, CA on September 18-20, 2013 to attend the California League of Cities Transportation, Communication, and Public Works Committee Meeting as Vice Chair and Women’s Caucus. Source of Funds: Mayor/Council Travel Fund. (Herrera)**

Documents Filed: Memorandum from Council Member Herrera, dated May 29, 2013, requesting approval to travel.

Action: The travel for Council Member Herrera to Sacramento, California on September 18 – September 20, 2013, was approved. (10-0-1. Absent: Liccardo.)

- 2.53 (a) Adopt a resolution authorizing the City Manager to accept the FEMA 2012 AFG Program award of \$382,476 for replacement of Fire Department hose inventory.**
- (b) Adopt the following 2013-2014 Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Services:**
- (1) Establish the Hose Replacement – 2012 AFG Grant project in the amount of \$382,476.**
  - (2) Increase the estimate for Earned Revenue by \$382,476.**
- CEQA: Not a Project, File No. PP10-066(c), Contract Award for purchase of supplies and equipment. (Fire/City Manager’s Office)**

Documents Filed: Memorandum from Fire Chief William L. McDonald and Budget Director Jennifer A. Maguire, dated June 6, 2013, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments and requesting approval by Council before June 23, 2013.

Action: Resolution No. 76720, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Accept the Federal Emergency Management Agency 2012 Assistance to Firefighters Grant Program Award of \$382,476 for Replacement of Fire Department Hose Inventory”, Ordinance No. 29275, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes for the Hose Replacement – 2012 Assistance to Firefighters Grant Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and

**2.53 (Action Cont'd.)**

Resolution No. 76721, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 76677 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2013-2014 To Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes", were adopted. (10-0-1. Absent: Liccardo.)

**2.54 Adopt a resolution authorizing the Director of Public Works to do the following with regard to the San José Environmental Innovation Center project:**

- (a) **To terminate the construction agreement with Applegate Johnston, Inc., in whole or in part, if the Director determines that the contractor's pace of progress continues to be inadequate to complete the project by December 31, 2013, or the contractor otherwise fails to perform in accordance with the terms of the construction contract.**
- (b) **In the event the Director terminates the construction agreement with Applegate Johnston, to develop and execute one or more appropriate construction contracts to complete the project by December 31, 2013, procured consistent with applicable requirements, and in an aggregate amount not to exceed the current appropriation for the project.**
- (c) **To negotiate and execute consultant agreements, including an agreement for a construction manager, as needed to complete the project in an aggregate amount not to exceed the current appropriation for the project.**

**CEQA: Negative Declaration, File No. PP09-138. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated June 13, 2013, recommending adoption of a resolution and requesting approval by Council on June 18, 2013.

Action: Resolution No. 76722, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Take Certain Specific Actions As Needed to Achieve Timely Completion of the Phase II San José Environmental Innovation Center Rebid Project", was adopted. (10-0-1. Absent: Liccardo.)

**2.55 As recommended by the Rules and Open Government Committee on June 12, 2013, approve appointments to the Airport Commission, Arts Commission, Council Appointment Advisory Commission, Downtown Parking Board, Historic Landmarks Commission, Library and Early Education Commission, Parks and Recreation Commission, Senior Citizens Commission, and Youth Commission as detailed in the Staff Memorandum. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities (City Clerk)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

**2.55 (Cont'd.)**

Action: The appointments to the Airport Commission, Arts Commission, Council Appointment Advisory Commission, Downtown Parking Board, Historic Landmarks Commission, Library and Early Education Commission, Parks and Recreation Commission, Senior Citizens Commission, and Youth Commission as detailed in the Staff memorandum were approved. (10-0-1. Absent: Liccardo.)

**2.56 As recommended by the Rules and Open Government Committee on June 12, 2013:**

- (a) Approve the Canadian Independence Day Flag Raising as a City Council sponsored Special Event.**
- (b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.**

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

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Canadian Independence Day Flag Raising as a City Council sponsored Special Event was approved and expenditure of funds and acceptance of donations from various individuals, businesses, and community groups to support the event were authorized. (10-0-1. Absent: Liccardo.)

**2.57 As recommended by the Rules and Open Government Committee on June 12, 2013:**

- (a) Approve the Indian Independence Day Flag Raising as a City Council sponsored Special Event.**
- (b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.**

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

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Indian Independence Day Flag Raising as a City Council sponsored Special Event was approved and expenditure of funds and acceptance of donations from various individuals, businesses, and community groups to support the event were authorized. (10-0-1. Absent: Liccardo.)

**2.58 As recommended by the Rules and Open Government Committee on June 12, 2013:**

- (a) Approve the District 6 Summer Walking as a City Council sponsored Special Event.**
- (b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.**

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

**2.58 (Cont'd.)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 6 Summer Walking as a City Council sponsored Special Event was approved and expenditure of funds and acceptance of donations from various individuals, businesses, and community groups to support the event were authorized. (10-0-1. Absent: Liccardo.)

**2.59 As recommended by the Rules and Open Government Committee on June 12, 2013:**

**(a) Approve the Everyone for Heart Event as a City Council sponsored Special Event.**

**(b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.**

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

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Everyone for Heart Event as a City Council sponsored Special Event was approved and expenditure of funds and acceptance of donations from various individuals, businesses, and community groups to support the event were authorized. (10-0-1. Absent: Liccardo.)

**2.60 As recommended by the Rules and Open Government Committee on June 12, 2013:**

**(a) Approve the Puerto Rico Flag Raising as a City Council sponsored Special Event.**

**(b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.**

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

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Puerto Rico Flag Raising as a City Council sponsored Special Event was approved and expenditure of funds and acceptance of donations from various individuals, businesses, and community groups to support the event were authorized. (10-0-1. Absent: Liccardo.)

**2.61 As recommended by the Rules and Open Government Committee on June 12, 2013, approve an oppose position for AB 616 (Bocanegra) Local Public Employee Organizations: Dispute: Fact finding Panel. (City Manager’s Office)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: An oppose position for AB 616 (Bocanegra) Local Public Employee Organizations: Dispute: Fact finding Panel was adopted. (10-0-1. Absent: Liccardo.)

**2.62 As recommended by the Rules and Open Government Committee on June 12, 2013, approve an oppose position for AB 537 (Bonta) Meyers-Milias-Brown Act, Impasse Procedures. (City Manager’s Office)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: An oppose position for AB 537 (Bonta) Meyers-Milias-Brown Act, Impasse Procedures was adopted. (10-0-1. Absent: Liccardo.)

**2.63 As recommended by the Rules and Open Government Committee on June 12, 2013, approve a support position for AB 466 (Quirk) Federal Transportation Funds. (Transportation)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: A support position for AB 466 (Quirk) Federal Transportation Funds was adopted. (10-0-1. Absent: Liccardo.)

**2.64 As recommended by the Rules and Open Government Committee on June 12, 2013, adopt a resolution establishing a new City Council Policy entitled, “Retiree Communication Policy.” (City Manager’s Office)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: Jim Spence, Association of Retired San José Police Officers and Firefighters presented comments about the new City Policy.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76723, entitled: “A Resolution of the Council of the City of San José Approving a New Council Policy Entitled City Council Retiree Communication Policy”, was adopted. (10-0-1. Absent: Liccardo.)

- 2.65 As recommended by the Rules and Open Government Committee on June 12, 2013, adopt a resolution amending the City of San José Pay Plan to provide general salary increases of 2% effective June 23, 2013 for the City Manager and City Attorney. (Mayor)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated June 14, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Resolution No. 76724, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Provide General Salary Increases of 2.00% Effective June 23, 2013 for the City Manager and City Attorney”, was adopted. (9-1-1. Noes: Kalra. Absent: Liccardo.)

## **END OF CONSENT CALENDAR**

### **STRATEGIC SUPPORT SERVICES**

#### **3.1 Report of the City Manager, Debra Figone (Verbal Report)**

City Manager Debra Figone commended Fire Chief William L. McDonald for his years of service, with congratulations on his future endeavors. City Manager Debra Figone announced that Deputy Fire Chief Ruben Torres will be appointed as Acting Fire Chief upon Chief McDonald’s departure later this summer.

- 3.6 Adopt a resolution authorizing the City Manager to execute a second amendment to the Agreement with Renne Sloan Holtzman & Sakai, LLP for labor consulting services in connection with labor matters, increasing the contract amount by \$650,000 to a total amount not to exceed \$1,300,000. CEQA: Not a Project, File No. PP10-069(e), Services that involve no physical change to the environment. (City Manager’s Office)**

Action: Renumbered to Item 2.44. See Item 2.44 for action.

- 3.7 Adopt a resolution approving compensation and benefit changes for executive management and professional employees in Unit 99 and other unrepresented employees (Units 81/82), effective June 23, 2013, including the addition of the recommendation on sick leave payout and vacation accruals as described in the supplemental staff memorandum. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)**

Documents Filed: (1) Memorandum from City Manager Debra Figone, dated June 4, 2013, recommending adoption of a resolution. (2) Supplemental memorandum from City Manager Debra Figone, dated June 13, 2013, clarifying a recommendation on sick leave payout and including a new recommendation related to vacation accruals.

**3.7 (Cont'd.)**

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76725, entitled: “A Resolution of the Council of the City of San José Implementing Changes to Compensation and Benefits for Executive Management and Professional Employees (Unit 99) and other Unrepresented Employees (Units 81/82) Effective June 23, 2103”, was adopted. (11-0.)

**3.8 Adopt a resolution approving the terms of an agreement with the Association of Legal Professionals of San José (ALP) for a term from July 1, 2012 to June 30, 2013. The agreement is subject to ratification by ALP membership. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager’s Office)**

Documents Filed: Memorandum from City Manager Debra Figone, dated June 7, 2013, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76726, entitled: “A Resolution of the Council of the City of San José Approving an Agreement with the Association of Legal Professionals (ALP) With a Term of July 1, 2012 – June 30, 2013”, was adopted. (11-0.)

**3.9 Adopt a resolution:**

- (a) **Setting a Public Hearing on Tuesday, August 13, 2013, at 1:30 p.m. for 2013-2014 Sewer Service and Use Charges and Storm Sewer Service Charges based on annual reports of the Director of Finance and direct the City Clerk to publish notice of the time and place of the hearing.**
- (b) **Allowing the Director of Finance to file, with the City Clerk, the 2013-2014 Sewer Service and Use Charges and Storm Sewer Service Charges on or before July 15, 2013.**

**CEQA: Not a Project, File No. PP10-067(a), Adjustment to fees, rates, and fares. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, recommending setting a public hearing and adoption of a resolution.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76727, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to File, With the City Clerk, The 2013-2014 Sewer Service and Use Charges and Strom Sewer Service Charges On or Before July 15, 2013 and Setting A Public Hearing on the Annual Sewer Service and Use Charge and Strom Sewer Service Charge Reports of the Director of Finance Pursuant to Sections 15.12.550 and 15.16.1410 of the San José Municipal Code”, was adopted. (11-0.)



- 3.11 (a) Approve an ordinance amending Section 4.16.020 of Chapter 4.16 of Title 4 of the San José Municipal Code to designate the Director of Public Works or such other director designated by the City Manager to administer the disposition of unclaimed and surplus property.
- (b) Approve an ordinance amending Section 15.08.820 of Chapter 15.08 of Title 15 of the San José Municipal Code to specify that private developers are to obtain fire hydrants by following the City of San José Fire Hydrant Specifications and Order Information instructions outlined in the Public Works Department Fire Hydrant Procurement and Installation Process for Private Development Projects and amending Section 19.32.070 of Chapter 19.32 of Title 19 of the San José Municipal Code related to the installation of fire hydrants by private developers to make clarifying changes.
- (c) Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Decrease the Estimate for Other Revenue in the amount of \$65,000;
  - (2) Eliminate the city-wide appropriation to the Finance Department for Fire Hydrant Sales in the amount of \$65,000.

**CEQA: Not a Project, File No. PP 10-066(e), Services that involve no physical changes to the environment. (Finance/City Manager's Office)**

Action: Deferred to August 13, 2013 per Administration.

- 3.12 Adopt a resolution to establish a Hiring Incentive Referral Pilot Program for employees, effective July 1, 2013. **CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities. (Human Resources)**

Action: Renumbered to Item 2.45. See Item 2.45 for action.

- 3.13 Accept the report on a pilot program for fleet management services and adopt a resolution authorizing the City Manager to:
- (a) Negotiate and execute an agreement with Enterprise Fleet Management Services to lease and service 20 vehicles for a five-year term, with maximum compensation not to exceed \$654,300.
  - (b) Negotiate and execute an agreement with ARI to service City owned vehicles, for a three-year term, not to exceed \$150,000.
  - (c) Approve a contingency of \$75,000 for unforeseen repairs and expenses.

**CEQA: Not a Project, File No. PP10-066(a), Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment. (Public Works/ Finance)**

Action: Renumbered to Item 2.46. See Item 2.46 for action.

**3.14 Adopt a resolution to provide as follows:**

- (a) **Approve the terms of agreements (attached) with the bargaining units listed below and authorizing the City Manager to execute the agreements effective June 23, 2013, 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 Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP)**
  - (4) **City Association of Management Personnel, IFPTE Local 21 (CAMP)**
  - (5) **International Brotherhood of Electrical Workers, Local No. 332 (IBEW)**
  - (6) **Municipal Employees' Federation, AFSCME Local 101 (MEF)**
  - (7) **Confidential Employees' Organization, AFSCME Local 101 (CEO)**
  - (8) **International Union of Operating Engineers, Local 3 (OE#3)**
  - (9) **Association of Legal Professionals (ALP)**
- (b) **Modify the retiree healthcare funding for Executive Management and Professional Employees (Unit 99) approved by the City Council on June 4, 2013, to be consistent with the provisions contained herein, specifically regarding the time period of extending the phase-in and the paying of the unfunded liability new employees in Tier 2 would otherwise have paid.**
- (c) **Direct the Administration to bring forward a recommendation for establishing a Retiree Healthcare Reserve in the General Fund as part of the 2012-2013 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 2013-2014.**

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

Documents Filed: (1) Memorandum from Deputy City Manager Alex Gurza, dated June 11, 2013, recommending adoption of a resolution and requesting approval on June 18, 2013. (2) Supplemental memorandum from Deputy City Manager Alex Gurza, dated June 14, 2013, transmitting information that the City received notification from the Association of Legal Professionals (ALP) that they signed the tentative agreement and side letter agreement regarding the retiree healthcare and four tier insurance premium rates and that ALP membership ratified the agreement. (3) Statement and Declaration of Conflict of Interest Form from Council Member Constant, dated June 18, 2013, disclosing he is a recipient of retiree healthcare.

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: Council Member Herrera moved approval of the Staff recommendations. Vice Mayor Nguyen seconded the motion.

### 3.14 (Cont'd.)

City Manager Debra Figone thanked the entire coalition for their tremendous cooperation in working through these issues and added that she is looking forward to collaborating together next year to solve this challenging problem.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76728, entitled: “A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and Several Bargaining Units, Regarding Retiree Healthcare Funding and A Modification to the Implementation of Retiree Healthcare Funding for Units 99 and 81/82”, was adopted. (10-0-0-1. Abstain: Constant.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Conduct a public hearing on the proposed temporary closure of a portion of Wool Creek Drive east of Will Wool Drive to all vehicle and pedestrian traffic.**
- (b) **Adopt a resolution to temporarily close a portion of the Wool Creek Drive east of Will Wool Drive to all vehicle and pedestrian traffic to allow Franklin McKinley School District to install and maintain additional security measures for the campus of George Shirakawa Elementary School.**
- CEQA: Exempt, File No. PP13-053. Council District 7. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated June 5, 2013, recommending conducting a public hearing and adoption of a resolution.

Mayor Reed opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Reed closed the Public Hearing.

Vice Mayor Nguyen thanked Deputy City Manager Norberto Dueñas and Dr. John Porter for working together on this project. Vice Mayor Nguyen stated that there has been an increase of homelessness and criminal activities in the vicinity of the George Shirakawa Elementary School and the extra security measures will help to deter those potential activities.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, Resolution No. 76729, entitled: “A Resolution of the Council of the City of San José To Temporarily Close A Portion of Wool Creek Drive East of Will Wool Drive to All Vehicle and Pedestrian Traffic To Allow Franklin McKinley School District to Install and Maintain Additional Security Measures for the Campus of George Shirakawa Elementary School”, was adopted. (10-0-1. Absent: Constant.)

- 4.2 (a) **Adopt a resolution authorizing the City Manager to enter into an agreement to terminate the current naming rights agreement for the San José Arena among HP, San José Arena Management and the City of San José i) at no additional cost to the City, and ii) subject to SJAM and the City immediately entering into a subsequent naming rights agreement for the same or greater terms and naming rights fee.**
- (b) **Approve a five-year Naming Rights Agreement by and between SAP Global Marketing, Inc., San José Arena Management, LLC and the City of San José for the naming of the San José Arena to SAP Center at San José for an annual payment to the City of \$1,625,000, with total revenues to the City for a total amount of \$8,175,000 over five years.**

**CEQA: Downtown Strategy EIR, Resolution No. 72767. (Economic Development)**

Action: Renumbered to Item 2.47. See Item 2.47 for action.

- 4.3 (a) **Conduct public hearing and adopt a resolution approving the Hotel Business Improvement District budget report for Fiscal Year 2013-14, as filed or as modified by the Council, and to levy the Hotel BID assessments for 2013-2014. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (b) **Conduct public hearing and adopt a resolution approving the Japantown Business Improvement District budget report for Fiscal Year 2013-14, as filed or as modified by the Council, and to levy the Japantown BID assessments for 2013-2014. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**
- (c) **Conduct public hearing and adopt a resolution approving the Downtown Business Improvement District budget report for Fiscal Year 2013-14, as filed or as modified by the Council, and to levy the Downtown BID increased assessments for 2013-2014. CEQA: Exempt, File No. PP08-048. Council District 3. (Economic Development)**

Documents Filed: (1) Memoranda from Director of Economic Development/Chief Strategist Kim Walesh, all three dated May 28, 2013, recommending adoption of resolutions. (2) Three Proofs of Publications of Notices of Public Hearings, all executed on June 7, 2013, submitted by the City Clerk.

Mayor Reed asked if the City Clerk had received any written protests from the affected businesses in any of the three Business Improvement Districts. Acting City Clerk Toni Taber, CMC, replied that no written protests were received from the Hotel, Japantown or Downtown Business Improvement Districts.

Mayor Reed opened the Public Hearing.

Public Comments: There was no public testimony from the floor. Mayor Reed closed the Public Hearing.

#### 4.3 (Cont'd.)

Action: Upon motion by Council Member Khamis, seconded by Council Member Herrera and carried unanimously, Resolution No. 76732, entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Hotel Business Improvement District for Fiscal Year 2013-2014 and Levying Assessments in the Bid for Fiscal Year 2013-2014”, Resolution No. 76730, entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 2013-2014 and Levying Assessments in the Bid for Fiscal Year 2013-2014” and Resolution No. 76731, entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Downtown Business Improvement District for Fiscal Year 2013-2014 and Levying Assessments in the Bid for Fiscal Year 2013-2014”, were adopted. (10-0-1. Absent: Constant.)

#### 4.4 (a) Adopt a resolution:

##### (1) Authorizing the Director of Housing to:

- (a) **Execute a Purchase and Sale Agreement with MidPen Housing Corporation or its affiliated development entity (“MidPen”) for the Donner Lofts Property located at 156 E. St. John Street in an amount of up to \$2,300,000 funds from proceeds of the County Children’s Shelter settlement agreement, negotiate and execute a right of entry for MidPen, and to accept a grant deed for the Property.**
- (b) **Negotiate and execute an Option Agreement granting MidPen an option to obtain a long-term ground lease of the property for the Project.**
- (c) **Reserve the 31 currently unrestricted units as destination units for transferring Community Redevelopment Law affordability restrictions on certain vacant units located at the following sites—96 South 10th Street, 1072 & 1082 Vermont Street, and 1759 Hester Street—and record equivalent restrictions on the Property at or after the closing of construction financing.**

##### (2) **Authorizing use of predevelopment funds approved by Council in August 2012, for site security costs during the option period and demolition of the existing fire-damaged building on the Property and other existing improvements.**

##### (b) **Adopt the following Appropriation Ordinance amendments in the Multi-Source Housing Fund for Fiscal Year 2012-2013, subject to City Council approval of the budget actions in Item 3.3 (Approval of Various Budget Actions for Fiscal Year 2012-2013) associated with the Multi-Source Housing Fund:**

- (1) **Establish an appropriation to the Housing Department for Housing Loans and Grants in the amount of \$2,300,000.**
- (2) **Decrease the Ending Fund Balance by \$2,300,000.**

**CEQA: Downtown Strategy EIR, Resolution No. 72767, and addendum thereto, File No. H09-004. (Housing/City Manager’s Office)**

#### 4.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated June 5, 2013, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia and Budget Director Jennifer A. Maguire, dated June 14, 2013, recommending adoption of appropriation ordinance amendments.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76733, entitled: "A Resolution of the Council of the City of San José Regarding Action Related to the Development of Donner Lofts Apartments Project" and Ordinance No. 29276, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Multisource Housing Fund for the Housing Loans and Grants; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0-1. Absent: Constant.)

#### 4.5 **Adopt a resolution ordering the reorganization of territory designated as Snell No. 30, which involves the annexation to the City of San José of approximately 258.94 gross acres of land generally surrounded by Branham Lane to the north, Barron Park Drive to the west, Chynoweth Avenue to the south, and Snell Avenue to the east, and the detachment of the same from the appropriate special districts including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Envision San José 2040 General Plan Final EIR, Resolution No. 76041. Council District 10. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 28, 2013, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on May 24, 2013, submitted by the City Clerk.

Public Comments: Marilyn Rogers, VEP Community Association, spoke to the merits of the project and pointed out that work on the perimeter trails for the Marshall Cottle Regional Park will commence in August 2013.

Director of Planning, Building and Code Enforcement Joseph Horwedel presented comments and responded to Council questions.

Action: Upon motion by Council Member Khamis, seconded by Vice Mayor Nguyen and carried unanimously, Resolution No. 76734, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Snell No. 30, Subject to Liability for General Indebtedness of the City", was adopted. (11-0.)

## **NEIGHBORHOOD SERVICES**

**5.2 Adopt a resolution authorizing the following, subject to the appropriation of funds by the City Council, and on such terms and conditions as deemed appropriate by the City Manager:**

- (a) Authorize the City Manager to negotiate and execute all agreements, amendments and extensions for the Department of Parks, Recreation and Neighborhood Services (PRNS) identified in the “Compensation Paid by the City of San José” consistent with the 2013-2014 Budget.**
- (b) Authorize the City Manager to negotiate and execute agreements and amendments to accept grant funds identified in the “Compensation Paid to the City of San José”.**
- (c) Authorize the City Manager to negotiate and execute a master agreement, amendments, and/or extensions related to Mitigation and Monitoring Consulting Services with H.T. Harvey and Associates. The total amount of the master agreement may not exceed \$2,000,000 over 10 years.**
  - (1) Approval is also requested to authorize the PRNS Director to negotiate and execute related annual service orders not to exceed amount consistent with the annual Adopted Budget.**
- (d) Authorize the Director of Parks, Recreation and Neighborhood Services to apply for, accept, negotiate and execute 2013-2014 Revenue agreements and amendments with potential sponsors, grantors, and contributors that require no matching City funds.**
- (e) Authorize the Director of Parks, Recreation and Neighborhood Services to apply for, accept, negotiate and execute 2013-2014 agreements and amendments as identified in “Delegation on Contract Authority to PRNS Director” consistent with Adopted Budget amounts for the following City programs:**
  - (1) Bringing Everyone’s Strengths Together (BEST).**
  - (2) Community Center Reuse (Reuse).**
  - (3) Evaluation Consultant Agreements to assess PRNS programs/services.**
  - (4) Leisure Class Vendor Agreements.**
  - (5) Mayor’s Gang Prevention Task Force (MGPTF) Grant Revenue and related sub-contractor Agreements where applicable.**
  - (6) Mayor’s Gang Prevention Task Force Memorandums of Understanding (MGPTF MOU).**
  - (7) Safe Summer Initiative Grant (SSIG).**
  - (8) Santa Clara County Health Authority dba Santa Clara Family Health Plan for the Children’s Health Initiative.**
  - (9) School-Aged Recreation Programs including.**
    - (a) Recreation of City Kids (ROCK)**
    - (b) After School Education and Safety (ASES)**
    - (c) Camp San José**
    - (d) Sports leagues for Teens**
  - (10) Senior Education and Outreach Grant.**
  - (11) Senior Health and Wellness Grant.**

**CEQA: As referenced in the staff memorandum. (Parks, Recreation & Neighborhood Services)**

## 5.2 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated May 28, 2013, recommending adoption of a resolution.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76735, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Various Agreements and Amendments to Agreements and Authorizing the Director of Parks, Recreation and Neighborhood Services To Negotiate and Execute Various Service Orders, Agreements and Amendments to the Agreements, All Consistent With the Amounts Budgeted for These Programs in the Adopted Budget for Fiscal Year", was adopted. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) **Adopt a resolution revising the airline fee-waiver incentive program to support the development of new air service at the Norman Y. Mineta San José International Airport by eliminating the 90-day allowance for flight replacement, giving the Director of Aviation the authority to suspend the Minimum Qualifying Period in circumstances beyond the control of the airlines, prohibiting an airline from qualifying for the promotional fee waiver more than one time during the incentive period, and repealing Resolution No. 75185.**
- (b) **Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Marketing Reimbursement Agreement between the City of San José and All Nippon Airways to increase the City's contribution to an Airport/Airline collaborative marketing program to promote ANA's new Tokyo service at the Airport by \$102,722.54, for a total City contribution of \$352,722.54.**
- (c) **Adopt a resolution revising the Focus City Promotional Fee Waiver Incentive Program by eliminating the 90-day allowance for flight replacement, and repealing Resolution No. 75186.**

**CEQA: Resolution Nos. 67380 and 71451, File No. PP09-192. (Airport)**

Action: Renumbered to Item 2.48. See Item 2.48 for action.

- 6.2 (a) **Adopt a resolution relating to the award of two pavement maintenance construction contracts that:**
- (1) **Authorizes the Director of Public Works to determine the lowest responsive and responsible bidder, and to award the construction contract for the 2013 Slurry Seal Project to slurry seal approximately 24 miles of arterial streets at various locations at an estimated cost of approximately \$1,226,000, in an amount not to exceed the funds appropriated for the project, and/or to reject all bids and re-bid the project.**



- 6.2 (a) (2) **Authorizes the Director of Public Works to determine the lowest responsive and responsible bidder, and to award the construction contract for the 2013 Resurfacing Project to resurface approximately five miles of streets at various locations at a cost of approximately \$3,945,650, in an amount not to exceed the funds appropriated for the project, and/or to reject all bids and re-bid the project.**
- (3) **Authorizes the Director of Public Works to decide any timely bid protests, including issues of bidder responsiveness or responsibility, for both of the above construction contracts.**
- (b) **Approve a contingency equal to five percent of the base contract award amount for each of the construction contracts.**

**CEQA: Exempt, File No. PP11-035. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans F. Larsen, dated May 28, 2013, recommending adoption of a resolution, and approval of related contingency.

Action: Upon motion by Council Member Constant, seconded by Council Member Herrera and carried unanimously, Resolution No. 76736, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Award Construction Contracts for the 2013 Slurry Seal Project and the 2013 Resurfacing Project to the Lowest Responsive and Responsible Bidders In An Amount Not To Exceed the Funds Appropriated for the Projects”, was adopted and a contingency equal to five percent of the base contract award amount for each of the construction contracts, was approved. (10-0-1. Absent: Rocha.)

**6.3 Adopt a resolution authorizing the City Manager or designee to:**

- (a) **Submit the following grant applications in the amounts specified, to the Metropolitan Transportation Commission (MTC) for Surface Transportation Program and Congestion Mitigation and Air Quality (CMAQ) funds:**
- (1) **OBAG - Road Rehabilitation and Complete Streets “Guarantee” Program:**
- (a) **\$11,531,000 for the San José Pavement Maintenance Program with a local match of \$1,572,000.**
- (b) **\$1,150,000 for the San José Bikeways Program with a local match of \$157,000.**
- (c) **\$1,150,000 for the San José Safe Routes to School Program with a local match of \$157,000.**
- (d) **\$1,150,000 for the San José Smart Intersections Program with a local match of \$157,000.**
- (2) **OBAG - Complete Streets Competitive Program:**
- (a) **\$2,000,000 for the East San José Bike/Pedestrian Transit Connection with a local match of \$532,000.**
- (b) **\$1,185,000 for the St. John Complete Streets Corridor-HP Pavilion to St. James Light Rail with a local match of \$339,000.**
- (c) **\$3,500,000 for The Alameda “Beautiful Way” Grand Boulevard Phase 2 with a local match of \$930,000.**

- 6.3 (a) (2) (d) **\$1,500,000 for the Almaden/Vine Livable Streets Couplet Conversion with a local match of \$315,000.**
- (e) **\$1,500,000 for the Jackson Complete Streets Project with a local match of \$399,000.**
- (f) **\$3,000,000 for the San José Priority Development Area (PDA) Pedestrian-Oriented Traffic Safety Signals with a local match of \$798,000.**
- (3) **VERBS Program:**
- (a) **In the amount of \$1,000,000 for the SJ Walk n’ Roll Phase II with a local match of \$130,000.**
- (b) **Commit the City to provide the required local match stated above and to pay for any additional cost to complete each of the projects.**
- (c) **Make the necessary assurances that each of the projects will be completed in compliance with the submitted applications, MTC’s Regional Funding Delivery Policy, and the grant program requirements.**
- (d) **Accept grant funding from the MTC for each of the submitted applications and negotiate and execute any documents to accept the grant funds, including the authority to negotiate and execute any documents that increase the amount of the grant award or require an increase of local matching funds, subject to the appropriation of such funds.**

**CEQA: As referenced in the staff memorandum. (Transportation)**

Documents Filed: (1) Memorandum from Council Member Liccardo, dated June 14, 2013, recommending approving Staff recommendations with direction as described in “Action”. (2) Memorandum from Director of Transportation Hans F. Larsen, dated May 28, 2013, recommending adoption of a resolution and other actions as described above in (b)-(d).

Motion: Council Member Liccardo moved approval of his memorandum dated June 14, 2013, recommending approving the Staff recommendations with direction as described in “Action”. Council Member Herrera seconded the motion.

Council Member Constant requested to amend the motion to include trail connections that connect to schools. The amendment was accepted by Council Members Liccardo and Herrera.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Liccardo, dated June 14, 2013, was approved, Resolution No. 76737, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit Grant Applications to the Metropolitan Transportation Commission for the One Bay Area Grant Program and the Vehicle Emissions Reduction Based at Schools Program, To Commit the City to Provide the Required Local Match, To Make the Necessary Assurances that Each of the Projects Will Comply With MTC and Grant Program Requirements, To Accept Grant Funding from the MTC and To Negotiate and Execute Any Documents Necessary for Such Acceptance”, was adopted, Staff was directed to return to the Transportation and Environment Committee this Fall with a list of streets adjacent to K-12 schools currently lacking sidewalks, and trail connections that connect to schools. (10-0-1. Absent: Rocha.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Approve an ordinance to amend Parts 1 and 9 of Chapter 9.08 of Title 9 of the San José Municipal Code to update the receiving station use permit regulations; and to amend Parts 2 and 3 of Chapter 15.14 of Title 15 of the San José Municipal Code to add new definitions, modify permitting and reporting requirements for certain industrial dischargers, and make other technical and conforming changes to the sewer use regulations. CEQA: Not a Project, File No. PP10-068(c), Code or policy change with no physical change to the environment. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated May 28, 2013, recommending approval of an ordinance.

Action: Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, Ordinance No. 29277, entitled: “An Ordinance of the City of San José To Amend Chapter 9.08 of Title 9 of the San José Municipal Code to Update the Receiving Station Use Permit Regulations; and To Amend Parts 2 and 3 of Chapter 15.14 of Title 15 of the San José Municipal Code Permitting and Reporting Requirements for Certain Industrial Dischargers and Make Other Technical and Conforming Changes to the Sewer Use Regulations”, was passed for publication. (11-0.)

## ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 3:11 p.m.

## **RECESS/RECONVENE**

The City Council recessed at 3:11 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio (7:19 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

Acting City Clerk Toni J. Taber, CMC read the requests for continuance of the applications. Upon motion by Council Member Herrera, seconded by Council Member Liccardo and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a commendation to Lynbrook High School Student Eesha Khare for her research and advancement in energy storage technology. (Constant)**

Mayor Reed and Council Member Constant recognized and commended Lynbrook High School Student Eesha Khare.

### **1.5 Administer Oaths of Office to Youth Commissioners. (City Clerk)**

Acting City Clerk Toni J. Taber, CMC administered the Oaths of Office to the Youth Commissioners.

### **1.6 Presentation of a check in the amount of \$10,000 to Parks, Recreation and Neighborhood Services Department from Youth Connections Foundation to support the upcoming San José FIT Camp. (Campos)**

Mayor Reed, Vice Mayor Nguyen and Council Member Campos congratulated the Parks, Recreation and Neighborhood Services Department for being the recipient of \$10,000 from the Youth Connections Foundation to support the upcoming San José FIT Camp.

### **1.7 Presentation of a proclamation declaring June 20, 2013 as “National Dump the Pump Day” in the City of San José. (Kalra)**

Mayor Reed and Council Member Kalra recognized June 20, 2013 as “National Dump the Pump Day” in San José.

**1.8 Presentation of a commendation to the winners of the 2013 Falcon Naming Contest. (Mayor)**

Mayor Reed recognized and commended the winners of the 2013 Falcon Naming Contest. Nate Pritchett suggested “Orion”; Dakota Nguyen recommended “Comet” and Lauren Russell and Kathleen Wagoner each proposed “Striker”.

**NEIGHBORHOOD SERVICES**

- 5.1 (a) Accept the Recommendations Report from the Neighborhoods Commission.**  
**(b) Direct staff regarding the future of the Neighborhoods Commission to either:**
- (1) End the Pilot without the creation of a permanent commission;**
  - (2) Establish a permanent commission based directly on the Recommendations Report from the Neighborhoods Commission, or;**
  - (3) Establish a permanent commission based on one of the suggested policy alternatives as set forth in the Staff memorandum.**

**CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities. (City Manager’s Office)**

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Herrera, dated June 14, 2013, recommending approval of the Staff recommendations with direction as described in “Action”. (2) Memorandum from Council Member Rocha, dated June 17, 2013, recommending approval of the memorandum from Mayor Reed and Council Member Herrera with additional amendments. (3) Replacement memorandum from Deputy City Manager Norberto Dueñas, dated June 11, 2013, providing additional clarification to the policy alternatives and requesting acceptance of the report and direction to Staff regarding the future of the Neighborhoods Commission.

Deputy City Manager Norberto Dueñas offered the report.

Public Comments: Speaking in support to the Staff recommendations were Mauricio Astasio and Robert Dolci, Neighborhoods Commission; Larry Ames and Richard Zappelli, Willow Glen Neighborhood Association.

Motion: Council Member Herrera moved approval of the memorandum she cosigned with Mayor Reed, dated June 14, 2013 and recommendations (1) and (2) from the memorandum from Council Member Rocha, dated June 17, 2013, as described in “Action”. Vice Mayor Nguyen seconded the motion.

Deputy City Manager Norberto Dueñas and Executive Analyst Ernest Guzman responded to Council questions and concerns.

City Attorney Richard Doyle provided clarifications and noted that Staff will return to Council with an ordinance.

## 5.1 (Cont'd.)

In response to concerns expressed by Council Member Herrera, Deputy City Manager Norberto Dueñas stated that Staff would be pleased to work with the commissioners to develop a process that takes into account the impact on Staff and seek to engage the commissioners' increased active participation in the caucus process.

Council Member Oliverio requested to amend the motion to include that whatever caucus process the Counts decides for one of the positions, allow the Council Member to appoint the other position ensuring that diversity includes geographic, gender or ethnicity. Council Member Herrera respectfully declined to accept the amendment.

Council Member Liccardo expressed support to the original motion.

Amendment to the Motion: Council Member Oliverio moved approval to include that whatever caucus process the Counts decides for one of the positions, allow the Council Member to appoint the other position ensuring that diversity includes geographic, gender or ethnicity. Council Member Chu seconded the motion. On a call for the question, the motion failed. (3-8. Noes: Campos, Constant, Herrera, Kalra, Liccardo, Nguyen, Rocha; Reed.)

Action: On a call for the question, the original motion carried, the memorandum from Mayor Reed and Council Member Herrera, dated June 14, 2013, was approved, accepting the Staff recommendations with the following direction: (1) Commission Implementation: Return to Council with an ordinance for a permanent Neighborhoods Commission. The Neighborhoods Commission Work Plan and Annual Accomplishments Reports will be presented to the Rules and Open Government Committee for review and approval. Neighborhoods Commission Work Plan will focus on neighborhood quality of life with particular emphasis on neighborhood safety (example: residential burglaries), transportation (example: traffic calming) and budget. (2) Commission Membership and Selection: Twenty member neighborhoods commission selecting two commissioners from each district through 10 district caucus processes of select neighborhood leaders to be held on a rotating schedule of five districts per election cycle. In case of a vacancy during a non election period, a Council appointment will be made to fill the vacancy until the next election cycle. (3) Commission Transition Period: Neighborhoods Commission becomes a permanent City of San José Advisory Group effective August or end of September 2013. The Commission will meet ten times a year with a committee structure. The pilot commission would continue to serve to support the caucus process until new members are selected during staggered caucuses in 2014 and 2016. (4) Commission Membership Terms: Follow the existing Council Policy for four year terms. The memorandum from Council Member Rocha, dated June 17, 2013, was approved, as amended: (a) Scope: Include Code Enforcement in the scope of work, as well as any other neighborhood quality of life issues referred to the Commission by the Council. (b) Commission Implementation: Limit committee structure to the Executive Committee, with all other work being accomplished through ad-hoc committees. (c) Commission Member Terms: Adopt current Council policy of four year terms, two term limits; participation in the Pilot Program should count as one term of service. (8-3. Noes: Chu, Khamis, Oliverio.)

## PUBLIC HEARINGS

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the west side of North 2<sup>nd</sup> Street, 150 feet south of East Hedding Street (879 North 2<sup>nd</sup> Street) from the R-M Multi-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District on a 0.16 gross acre site (O'Neill Debra M S, Owner). CEQA: Envision San José 2040 General Plan Final EIR, Resolution No. 76041  
C13-014 – District 3**

Documents Filed: (1) Memorandum from Council Member Liccardo, dated June 17, 2013, recommending approval of the Staff recommendations with additional direction as described in “Action”. (2) The Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C13-014, dated May 30, 2013, on the subject rezoning. (3) Proof of Publication of Notice of Public Hearing, executed on May 31, 2013, submitted by the City Clerk.

Motion: Council Member Liccardo moved approval of his memorandum dated June 17, 2013, recommending approval of the Staff recommendations with additional direction as described in “Action”. Council Member Herrera seconded the motion.

Mayor Reed opened the Public Hearing.

Public Comments: Speaking in support to the memorandum from Council Member Liccardo were, Dave Tinslow, Antonina and Judy Lo Coco.

Mayor Reed closed the Public Hearing.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Liccardo, dated June 17, 2013, was approved, accepting the Staff recommendations with the following direction: (1) Decline to permit demolition of the home until vetting and approval of plans for development of a new structure on that parcel. (2) Inform Applicant of the owner’s obligation to maintain the home and surrounding landscape per the Municipal Code provisions applicable to vacant homes and prioritize code enforcement for a review of Applicant’s performance under the Code within 90 days and Ordinance No. 29278, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of North 2<sup>nd</sup> Street, 150 Feet South of East Hedding Street (879 N. 2<sup>nd</sup> Street) from the R-M Multi- Family Residence Zoning District to the CP Commercial Pedestrian Zoning District on a 0.16 Gross Acre Site”, was passed for publication, as amended. (11-0.)

**11.2 Conduct an Administrative Hearing and consider an Appeal of the Planning Commission’s decision to deny a Conditional Use Permit to allow off-sale of alcohol for a proposed retail store (AJ’s Mini Market) within an existing tenant space on 0.53 gross acre site, in the CP Commercial Pedestrian Zoning District, located on the west side of White Road, approximately 210 feet northerly of Story Road (1075 S White Road) (De La Torre Props LLC, Owner). CEQA: Exempt.  
CP12-047 – District 5**

Documents Filed: (1) Memorandum from Council Member Campos, dated June 17, 2013, recommending denying the Conditional Use Permit for the off-sale of alcohol at the proposed retail store AJ Mini Market. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 31, 2013, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C12-047, dated April 29, 2013, recommending upholding the Planning Commissioner’s decision and to deny the request. (3) Proof of Publication of Notice of Public Hearing, executed on May 31, 2013, submitted by the City Clerk.

David Elliott, Architect for AJ’s Mini Market, stated that AJ’s Mini Market is primarily a grocery store, not a liquor store but the residents are in favor of the sale of alcohol. Jerry Munos, representing the Owner of the property, spoke to the merits of the project.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions and concerns.

Mayor Reed opened the Public Hearing.

Public Comments: Aaron R. Resendez, Pax Christie, East San José, expressed opposition to allow another market selling alcohol in this over-concentrated area.

Mayor Reed closed the Public Hearing.

Council Member Campos pointed out that the proposed location of the off-sale of alcohol would result in the total of more than four establishments that provide alcoholic beverages for off-site consumption within a 1,000 foot radius. Council Member Campos noted that the proposed off-sale use was also situated within 200 feet of residential uses located to the north and west of AJ’s Mini Market.

Motion: Council Member Campos moved approval to deny the appeal. Vice Mayor Nguyen seconded the motion.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Campos, dated June 17, 2013, was approved, upholding the Planning Commission’s decision, Resolution No. 76739, entitled: “A Resolution of the Council of the City of San José Denying a Conditional Use Permit to Allow the Sale of Alcoholic Beverages for Off-Site Consumption at a Proposed Retail Store Within An Existing Tenant Space on a 5.3 Gross Acre Site on the West Side of White Road Approximately 210 Feet North of Story Road (1075 South White Road)”, was adopted. (11-0.)



**11.4 Consideration of an ordinance rezoning the real property located on the southwest corner of West San Carlos Street and Leigh Avenue from County of Santa Clara to CP-Commercial Pedestrian Zoning District on a 0.31 gross acre site (Andrew and Eleanor Brunetti, Owners). CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041. Related Annexation Burbank No. 42.  
C13-010 – District 6**

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C13-010, dated April 28 2013, on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on May 31, 2013, submitted by the City Clerk.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, Ordinance No. 29279, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of West San Carlos Street and Leigh Avenue from County of Santa Clara to CP Commercial Pedestrian Zoning District”, was passed for publication. (11-0.)

**11.5 Conduct an Administrative Hearing and consider an Appeal of the Planning Director’s decision to approve a Tentative Map Permit to combine two lots into one for condominium purposes, to allow up to 248 attached residential units and commercial uses in the A(PD) Planned Development Zoning District on a 4.1 gross acre site, in the A(PD) Planned Development Zoning District, located at the southeast corner of Winchester and Stevens Creek Boulevards (388 Santana Row) (Federal Realty Investment Trust Mr. Stuart MacDonald, Owner). CEQA: Use of Mitigated Negative Declaration for File No. PDC12-009.  
PT13-002 – District 6**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 30, 2013, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PT13-002, dated April 5, 2013, and recommending upholding the Planning Director’s decision and approve the request to combine two parcels. (2) Proof of Publication of Notice of Public Hearing, executed on May 24, 2013, submitted by the City Clerk.

Mayor Reed presented opening comments.

Tony Clark representing the Appellant, expressed opposition on behalf of the neighbors of Santana Row regarding the issuance of the permit to Federal Realty Investment Trust. Mr. Clark submitted a petition of fifty seven signatures asking Council to revoke the permit.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti clarified that the decision before Council was for the Condominium Map only and was not a decision regarding new construction or a new residential project.

Mayor Reed opened the Public Hearing.

## 11.5 (Cont'd.)

Public Comments: Bill Zahrt expressed opposition and suggested that the Council defer the decision in order to review the law on this case before talking action.

Randy Paul, Federal Realty Investment Trust, representing the Applicant, stated that this project was approved by Planning in February 2012 and pointed out that the permit that was being appealed was an Administrative Permit for a tentative mapping to join Parcel 8A, which was completed as part of Phase One Build-out with 8B. Mr. Paul urged the Council to deny the appeal.

Mayor Reed closed the Public Hearing.

Motion: Council Member Oliverio moved to deny the appeal and approve the Staff recommendations. Council Member Constant seconded the motion.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76740 was adopted, denying the appeal, and approved the request to combine the two parcels into one lot for condominium purposes to allow up to 248 attached residential units and commercial uses on a 4.1 gross acre parcel at the subject location. (11-0.)

- 11.3 (a) **Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to approve a Conditional Use Permit to allow the modification of an existing church to include the addition of a public school (K-5), including four new temporary classroom buildings and a restroom building (approximately 6,240 square feet) for up to 450 students and an alternating parking arrangement, on a 2.497 gross acre site in the R-1-8 Single-Family Residence Zoning District, located on the south side of Story Road, approximately 850 feet westerly of South White Road (2962 Story Road) (Alum Rock Baptist Church, Owner).**
- (b) **If the appeal is denied, (1) adopt a resolution adopting the Mitigated Negative Declaration prepared for the Rocketship Brilliant Minds Project (File No. CP13-002), as having been completed in compliance with the California Environmental Quality Act (CEQA) reflecting the City's independent judgment and analysis, and adopting a mitigation monitoring and reporting program and (2) approve the Conditional Use Permit as described in part (a), above.**

**CEQA: Mitigated Negative Declaration, Resolution to be considered for adoption.  
CP13-002 – District 5**

## 11.5 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Rocha, dated June 17, 2013, providing recommendations and recommending deferring action on this item. (2) Statement and Declaration of Conflict of Interest Form from Council Member Liccardo, dated June 18, 2013, disclosing that his wife is an employee of Rocketship Education. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 30, 2013, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP13-002, dated April 30, 2013, and recommending conducting an Administrative Hearing and to consider the appeal to approve a Condition Use Permit for The Rocketship Brilliant Minds School Project. (4) Proof of Publication of Notice of Public Hearing, executed on May 31, 2013, submitted by the City Clerk.

Mayor Reed presented introductory remarks.

Council Member Liccardo recused himself from participating in the Council discussion and voting and disclosed that his wife is an employee of Rocketship Education. Council Member Liccardo left the Council meeting at 9:06 p.m.

Director of Planning, Building and Code Enforcement Joseph Horwedel stated that Staff recommends denying the appeal and approval of the project.

Larry Tilbury, representing Lyndale Neighborhood Association, the Appellant, stated the main objection is the traffic on Story Road and safety for the children.

Erik Schoennauer, representing the Applicant, Rocketship Education, spoke to the merits of the project

Mayor Reed opened the Public Hearing.

Public Comments: Speaking in favor of the Rocketship School on Story Road and in support to the Staff recommendations were Jessica Garcia-Kohl, Rocketship Education; Thomas Lovato, Adriana Frias, Oino Dino, Dominic Trapani, Kit Tollerson, Rocketship Public School; Rosanna Altamirano, Rocketship Brilliant Minds; Dr. Colin J. Ford, Alum Rock Christian Church; Magda Eisenberg, Juan Munoz, Aaron R. Resendez, RJ Castro, Story Road Business Association; Maria Pina-Carrasco, Kevin Ramos, Lorena Castellanos, Uzziel Martinez, Genesis Mejia, Savannah Magdaleno, Deyoi Munoz, Laura M., Jose Garcia, Ana Guitron, Peter Eisenberg, Lily Nguyen, Thien Wong, Clemente Rocha, Janet Martinez, Claire Vu and Cynthia Hernandez.

Robert A. Dolci, Ruben Resendez, Lyndale Neighborhood Association, Gilbert Estrada and Juan Estrada expressed concern about the safety of the children and suggested using a different location.

Mayor Reed closed the Public Hearing.

### 11.3 (Cont'd.)

Mayor Reed expressed his support to approve a Conditional Use Permit for The Rocketship Brilliant Minds School Project.

Vice Mayor Nguyen provided meeting disclosures.

Motion: Vice Mayor Nguyen moved approval to deny the appeal. Council Member Herrera seconded the motion.

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions and concerns.

Substitute Motion: Council Member Campos moved the memorandum from Council Member Rocha, dated June 17, 2013. Council Member Rocha seconded the motion.

Extensive Council discussion ensued.

On a call for the question, the substitute motion failed (2-8-0-1. Noes: Chu, Constant, Herrera, Kalra, Khamis, Nguyen, Oliverio; Reed. Abstain: Liccardo.)

On a call for the question for Item 11.3(a), the original motion carried and the appeal was denied. (9-1-0-1. Noes: Campos. Abstain: Liccardo.)

Motion: Vice Mayor Nguyen moved approval of: (1) adoption of a resolution adopting the Mitigated Negative Declaration prepared for the Rocketship Brilliant Minds Project (File No. CP13-002), as having been completed in compliance with the California Environmental Quality Act (CEQA) reflecting the City's independent judgment and analysis, and adopting a mitigation monitoring and reporting program and (2) approval of the Conditional Use Permit as described in part (a) previously. Council Member Herrera seconded the motion.

Council Member Campos requested to amend the motion to include Items (1) and (2) from the memorandum from Council Member Rocha, dated June 17, 2013. The amendment was accepted by Vice Mayor Nguyen and Council Member Herrera.

Action: On a call for the question, the motions carried, the appeal was denied, Resolution No. 76741, entitled: "A Resolution of the Council of the City of San José Granting, Subject to Conditions, A Conditional Use Permit To Use Certain Real Property Described Herein for the Purpose of Allowing the Modification of an Existing Church to Include the Addition of a Public School (K-5), Including Four New Temporary Classroom Buildings and a Restroom Building For Up To 450 Students and an Alternating Parking Arrangement, on a 2.497 Gross Acre Site", was adopted. (8-1-0-1. Noes: Campos. Abstain: Liccardo.) CEQA Resolution No. 76742, entitled: "A Resolution of the Council of the City of San José Adopting the Rocketship Brilliant Minds Mitigated Negative Declaration, For Which an Initial Study was Prepared, All in Accordance With the California Environmental Quality Act, As Amended, and Adopting a related

### 11.3 (Action Cont'd.)

Mitigation Monitoring and Reporting Program”, was adopted. Items (1) and (2) of the memorandum from Council Member Rocha, dated June 17, 2013, was approved, with the following to be agendized to the Council Priority Setting Session in August 2013: (1) In the interest of promoting thoughtful and informed Council decision-making on school projects, direct Staff to conduct a review of current land use regulations and policies governing school projects and bring forward recommendations for altering existing or establishing new ordinances and policies for the purposes of: (a) Maintaining the City’s land use authority over school projects to the extent possible. (b) Establishing clear land use policy criteria for evaluating school projects. Staff should have discretion in developing these criteria, but may wish to consider issues such as provision of recreational space, traffic circulation, compatibility with surrounding uses and adequacy of school classroom or other facilities. (2) In developing the recommendation described in item (1) above, direct Staff to reach out to the County Office of Education to express the City’s interest in establishing reasonable land use regulations for school sites. Staff should coordinate with the County Office in developing these regulations to ensure that the City’s land use goals and the County’s goal of promoting high quality education can both be met. (7-3-0-1. Noes: Campos, Kalra, Rocha. Abstain: Liccardo.)

### NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

*Note: This is a courtesy notice and no Council action was taken.*

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10190	West Saint John Street, Notre Dame Avenue, Almaden Avenue, and Carlisle Street	3	Livingston Block, LLC	1 Lot / 347 Units	MFA/Condo	Approve
10050	South of Mission Street, Between 10 <sup>th</sup> Street and 11 <sup>th</sup> Street	3	Standard Pacific Corp.	66 Lots / 60 Units	30 SFD / 30 MFA	Approve

**NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS (Cont’d.)**

*Note: This is a courtesy notice and no Council action was taken.*

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>
10190	West Saint John Street, Notre Dame Avenue, Almaden Avenue, and Carlisle Street	3	Livingston LLC	Block,	1 Lot / 347 Units	MFA/Condo
10169	Southeast Corner of Berryessa Road and North Jackson Road	4	Pulte Corporation	Home	22 Lots / 66 Units	SFA

**OPEN FORUM**

- (1) Jon Max Reger presented an update on the loss of personnel in the Environmental Services Department.
- (2) Mark Trout expressed his own point of view on vaccinations.

**ADJOURNMENT**

The Council of the City of San José was adjourned at 11:23 p.m. in memory of George Romero who passed away June 8, 2013 and Rene Cordero who passed away on June 9, 2013.

For George Romero, his life's passion was devoted to his family and friends, as well as serving as a Peace Corps volunteer and as a teacher or principal at San José’s Pioneer High, John Muir Middle, Steinbeck Middle, Gunderson High, Hoover Middle and San José Academy. He touched thousands of lives and always had a smile on his face and made everyone, including strangers, feel special. A friend of George’s said it best, “He was a change maker and an optimist and his life’s work will reverberate through those connections he forged.” (Rocha)

## **ADJOURNMENT (Cont'd.)**

Rene Cordero served the San José community for 27 years, working in the Departments of Public Works and Transportation. After graduating San José State University as a civil engineer, Rene helped the City manage building the Guadalupe Corridor light rail system, various freeway projects, and railroad crossing upgrades. He managed the City's Traffic Capital Improvement Program through the "decade of investment", and most recently served as the Division Manager for maintenance of the City's pavement and sewer systems. Rene was devoted and thoroughly enjoyed time with his family, especially his wife Sylvia and two daughters. Rene will be remembered for his caring and positive attitude, for his highly organized and collaborative approach to his work, and for his many significant contributions to the City and the Department of Transportation. (City Manager)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
Acting City Clerk

smd/06-18-13 MIN

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>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.