



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 10, 2013

The Council of the City of San José convened in Regular Session at 9:08 a.m. in the Council Chambers at City Hall.

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

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

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Deputy Director of Employee Relations Jennifer Schembri presented a brief report on labor negotiations.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:08 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel with respect to Public Employment/Public Employee Evaluation pursuant to Government Code Section 54957: Department: Office of the City Clerk; Title: City Clerk. (B) to confer with Legal Counsel with respect to Public Employment/Public Employee Evaluation pursuant to Government Code Section 54957: Title: City Manager; Name: Debra Figone. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Alcantar; Amount of Money or Other Relief Sought: Administrative Appeal. (2) Grant Seibert v. City of San José, et al. Names of Parties Involved: Grant Seibert, City of San José, San José Civil Service Commission, Debra Figone as San José City Manager, Alex Gurza as San José Director of Employee Relations, William McDonald as Fire Chief for San José Fire Department, Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-204096; Amount of Money or Other Relief Sought: Damages according to proof. (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation in one (1) matter. (E) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex

CLOSED SESSION (Cont'd.)

Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:20 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

Present: Council Members - Campos, Chu (1:37 p.m.), Constant, Herrera, Kalra, Khamis, Liccardo (1:41 p.m.), Nguyen, Oliverio (1:44 p.m.), Rocha; Reed.

Absent: Council Members - All Present.

INVOCATION

Pastor Dennis Hadley, Evergreen Valley Church presented the Invocation. (District 8)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (8-0-3. Absent: Chu, Liccardo, Oliverio.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session actions of September 10, 2013:

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

Case Name: Grant Seibert v. City of San José, et al.

Adverse Party of Parties: Grant Seibert

Substance of Litigation: Seeking Appellate Review in an Employee termination case.

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

Noes: None.

Abstain: None.

Absent: None.

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Rick Holden for 15 years of exceptional service to the Community Leadership Program. (Constant)

Action: Deferred to October 8, 2013 Per Administration.

1.2 Presentation of a proclamation recognizing September 21, 2013 as National Gymnastics Day in the City of San José. (Constant)

Mayor Reed and Council Member Constant recognized the day of September 21, 2013 as “National Gymnastics Day” in San José.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) **Regular Minutes of April 9, 2013**
- (b) **Minutes of the Housing Authority of April 9, 2013**
- (c) **Regular Minutes of April 16, 2013**
- (d) **Regular Minutes of April 23, 2013**
- (e) **Regular Minutes of April 30, 2013**

Documents Filed: (1) The Regular Minutes dated April 9, 2013, April 16, 2013, April 23, 2013 and April 30, 2013. (2) The Minutes of the Housing Authority dated April 9, 2013.

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

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29282 – Amending Section 12.05.040 of Chapter 12.05 of Title 12, amending sections 12.06.295, 12.06.510, 12.06.910, 12.06.915 and 12.06.1010 of Chapter 12.06 of Title 12, and adding Section 12.06.215 of Chapter 12.06 of Title 12 of the San José Municipal Code relating to elections and municipal campaign and officeholder contributions.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29282 executed on August 23, 2013, submitted by the City Clerk.

Action: Item 2.2(a) was dropped.

- (b) **ORD. NO. 29284 – An ordinance of the City of San José granting a commercial solid waste and recyclables collection franchise to Eco Box Recycling, Inc.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29284 executed on August 23, 2013, submitted by the City Clerk.

Action: Ordinance No. 29284 was adopted. (10-0-1. Absent: Oliverio.)

- 2.2 (c) **ORD. NO. 29285** – An ordinance of the City of San José granting a commercial solid waste and recyclables collection franchise to Peninsula Debris Box Service LLC.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29285 executed on August 23, 2013, submitted by the City Clerk.

Action: Ordinance No. 29285 was adopted. (10-0-1. Absent: Oliverio.)

- (d) **ORD. NO. 29286** – An ordinance of the City of San José granting a commercial solid waste and recyclables collection franchise to Phi Ta, an individual, doing business as TA Trucking.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29286 executed on August 23, 2013, submitted by the City Clerk.

Action: Ordinance No. 29286 was adopted. (10-0-1. Absent: Oliverio.)

- (e) **ORD. NO. 29287** – An ordinance of the City of San José rezoning certain real property situated at the southeast corner of Mabury Road and Educational Park Drive, from the A-Agriculture zoning district to the A(PD) Planned Development Zoning District. PDC12-010

Documents Filed: Proof of Publication of the Title of Ordinance No. 29287 executed on August 23, 2013, submitted by the City Clerk.

Action: Ordinance No. 29287 was adopted. (10-0-1. Absent: Oliverio.)

- (f) **ORD. NO. 29288** – An ordinance of the City of San José rezoning certain real property situated on the north side of the Alameda approximately 310 feet west of Stockton Avenue (APN: 261-01-003, -004, -005, -006), from the CG-Commercial General and Li – Industrial Zoning Districts to the A(PD) Planning Development Zoning District. PDC13-007

Documents Filed: Proof of Publication of the Title of Ordinance No. 29288 executed on August 23, 2013, submitted by the City Clerk.

Action: Ordinance No. 29288 was adopted. (10-0-1. Absent: Oliverio.)

- (g) **ORD. NO. 29297** – Amending Chapter 2.08 of Title 2 of the San José Municipal Code to add a new part establishing a Neighborhoods Commission.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29297 executed on August 30, 2013, submitted by the City Clerk.

Action: Ordinance No. 29297 was adopted. (10-0-1. Absent: Oliverio.) (First Reading: 9-2. Noes: Khamis, Oliverio.)

- 2.2 (h) **ORD. NO. 29298 – Amending Chapter 9.10 of Title 9 of the San José Municipal Code to add a new Part 17 to prohibit the use of polystyrene foam disposable food service ware by food vendors.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29298 executed on August 30, 2013, submitted by the City Clerk.

Action: Ordinance No. 29298 was adopted. (10-0-1. Absent: Oliverio.) (First Reading: 9-2. Noes: Constant, Khamis.)

2.3 Approval of Council Committee Reports.

- (a) **Ad Hoc Committee on Economic Competitiveness Report of June 3, 2013. (Mayor)**
- (b) **Public Safety, Finance and Strategic Support Committee Report of August 15, 2013. (Constant)**
- (c) **Community and Economic Development Committee Report of August 26, 2013. (Herrera)**
- (d) **Rules and Open Government Committee Report of August 14, 2013. (Mayor)**

Documents Filed: (1) The Ad Hoc Committee on Economic Competitiveness Report dated June 3, 2013. (2) The Public Safety, Finance and Strategic Support Committee Report dated August 15, 2013. (3) The Community and Economic Development Committee Report dated August 26, 2013. (4) The Rules and Open Government Committee Report dated August 14, 2013.

Action: The Council Committee Reports were approved. (10-0-1. Absent: Oliverio.)

2.4 Mayor and Council Excused Absence Requests.

No Report.

2.5 City Council Travel Reports.

No Report.

2.6 Report from the Council Liaison to the Retirement Boards.

No Report.

- 2.7 (a) **Adopt an ordinance ratifying the final 2012-2013 appropriation increases detailed in this report.**
- (b) **Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:**
 - (1) **Increase the Earned Revenue estimate by \$2,797,311.**
 - (2) **Increase the Transfer to Council District 1 by \$189,907.**
 - (3) **Increase the Transfer to Council District 2 by \$126,007.**

- 2.7 (b) (4) Increase the Transfer to Council District 3 by \$110,089.
 (5) Increase the Transfer to Council District 4 by \$156,865.
 (6) Increase the Transfer to Council District 5 by \$192,069.
 (7) Increase the Transfer to Council District 6 by \$239,443.
 (8) Increase the Transfer to Council District 7 by \$182,236.
 (9) Increase the Transfer to Council District 8 by \$155,496.
 (10) Increase the Transfer to Council District 9 by \$163,753.
 (11) Increase the Transfer to Council District 10 by \$81,360.
 (12) Increase the Transfer to the Parks City-Wide Construction and Conveyance Tax Fund by \$799,113.
 (13) Increase the Transfer to the General Fund – Parks Eligible Maintenance Costs by \$400,973.
- (c) Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:
 (1) Increase the Earned Revenue estimate by \$6,363.
 (2) Increase the Transfer to the General Fund – Park Yards Operating and Maintenance Expenses by \$6,363.
- (d) Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the Convention and Cultural Affairs Fund:
 (1) Increase the estimate for Earned Revenue by \$1,210,470.
 (2) Increase the appropriation to the Office of Economic Development for: Convention Facilities Operations by \$1,210,470.
- (e) Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the 1943 Gas Tax Maintenance and Construction Fund:
 (1) Increase the estimate for Earned Revenue by \$303,604.
 (2) Increase the Transfer to the General Fund: Street Maintenance by \$303,604.
- (f) Adopt the following 2012-2013 Appropriation Ordinance and Funding Sources Resolution amendments in the 1964 Gas Tax Maintenance and Construction Fund:
 (1) Increase the estimate for Earned Revenue by \$76,685.
 (2) Increase the Transfer to the General Fund: Street Maintenance by \$76,685.
- (g) Adopt the following 2012-2013 Appropriation Ordinance amendments in the Public Works Program Support Fund:
 (1) Increase the appropriation to the Finance Department for: Overhead by \$23,694.
 (2) Decrease the Ending Fund Balance by \$23,694.

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 August 23, 2013, recommending adoption of an ordinance and appropriation ordinance and funding sources resolution amendments.

2.7 (Cont'd.)

Action: Ordinance No. 29299, entitled: “An Ordinance of the City of San José Authorizing and Ratifying Certain Encumbrances and/or Expenditures in Various Funds Made During City’s 2012-2013 Fiscal Year in Excess of Sums Appropriate Therefore”; Ordinance No. 29300, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund for the Needs Based Allocation Transfer to District No. 1, To District No. 2, To District No. 3, To District No. 4, To District No. 5, To District No. 6, To District No. 7, To District No. 8, To District No. 9 and To District No. 10, For the Transfer to the Parks Citywide Construction and Conveyance Tax Fund and For the Transfer to the General Fund for Parks Eligible Maintenance Costs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76778, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Fund for the Fiscal Year 2012-2013 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund”; Ordinance No. 29301, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes for the Park Yards Operating and Maintenance Expenses; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76779, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Fund for the Fiscal Year 2012-2013 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes”; Ordinance No. 29302, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Convention and Cultural Affairs Fund for the Convention Facilities Operations; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76780, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Fund for the Fiscal Year 2012-2013 to Adjust Revenues in the Convention and Cultural Affairs Fund”; Ordinance No. 29303, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the 1943 Gas Tax Maintenance and Construction Fund for the Transfer to the General Fund for Street Maintenance; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76781, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Fund for the Fiscal Year 2012-2013 to Adjust Revenues in the 1943 Gas Tax Maintenance and Construction Fund”; Ordinance No. 29304, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the 1964 Gas Tax Maintenance and Construction Fund for the Transfer to the General Fund for Street Maintenance; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76782, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 76302 Setting Forth the Estimated Sources of Fund for the Fiscal Year 2012-2013 to Adjust

2.7 (Action Cont'd.)

Revenues in the 1964 Gas Tax Maintenance and Construction Fund” and Ordinance No. 29305, entitled “An Ordinance of the City of San José Amending Ordinance No. 29102 to Appropriate Monies in the Public Works Program Support Fund for the Finance Department Overhead; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Oliverio.)

2.8 Adopt a resolution approving the City of San José’s Investment Policy and staff’s recommendation to make no changes to the Investment Policy. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated August 19, 2013, recommending adoption of a resolution.

Action: Resolution No. 76783, entitled: “A Resolution of the Council of the City of San José Approving City Council Policy 1-12, Entitled: City of San José Investment Policy, and Staff’s Recommendation To Make No Changes to the Investment Policy”, was adopted. (10-0-1. Absent: Oliverio.)

2.9 Report on Request for Proposal for Parking Pay Machines and adopt a resolution authorizing the City Manager to:

- (a) **Execute the Second Amendment to the Agreement with Caracal Enterprises LLC (doing business as VenTek International, Petaluma, CA) for Parking Payment System Hardware and Hosting and Automated Payment Processing Services, to add eleven parking pay machines at various parks that are managed by Parks, Recreation and Neighborhood Services, and increase compensation by \$143,848 for a revised maximum compensation not to exceed \$268,848, for a term ending April 30, 2017.**
- (b) **Negotiate and execute amendments and change orders to the Agreement to add, delete or relocate parking pay machines as required, subject to the appropriation of funds.**
- (c) **Execute up to four two-year options to extend the term of the Agreement through 2025 if all options are exercised, to purchase additional machines as required, maintenance and support, payment processing, and a hosted Web based application for system administration, subject to the appropriation of funds.**

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

Action: Deferred to September 17, 2013 per Administration.

2.10 (a) Approve a Parkland Agreement between the City of San José and Japantown Associates, LLC (Japantown Associates), a Delaware Limited Liability Company, regarding Plan Development Permit PD12-036 for a future dedication of land for park purposes pursuant to the City’s Park Impact Ordinance (San José Municipal Code Section 14.25).

- 2.10 (b) Adopt a resolution authorizing the City Manager or designee to accept an offer of dedication from Japantown Associates for 12,470 square feet of land for park purposes located at the northwest corner of Tenth and Mission Streets.**

CEQA: Mitigated Negative Declaration, File No. PDC06-069. Council District 3. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated August 22, 2013, recommending approval of an agreement and adoption of a resolution.

Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano responded to questions from Council Members Liccardo and Rocha.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Rocha and carried unanimously, a Parkland Agreement between the City of San José and Japantown Associates, LLC, a Delaware Limited Liability Company, regarding Plan Development Permit PD12-036 for a future dedication of land for park purposes pursuant to the City's Park Impact Ordinance was approved and Resolution No. 76784, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Accept an Offer of Dedication from Japantown Associates for 12,470 Square Feet of Land for Parks Purposes Located at the Northwest Corner of 10th Street and Mission Street", was adopted. (11-0.)

- 2.11 Adopt a resolution approving the Conditional Use Permit and Determination of Public Convenience or Necessity to allow the sale of the full range of alcoholic beverages for off-site consumption for an existing full-service grocery store (Cho Senter Market) located on the west side of Senter Road, approximately 150 feet north of Lewis Road (2889 Senter Road). CEQA: Exempt. (Planning, Building and Code Enforcement)**

**CP12-040/ABC12-012 - Council District 7
(Approved by City Council 8/20/13 – Item 11.5)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 26, 2013 transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP12-040/ABC12-012, dated July 31, 2013 and the draft resolution supporting the action taken by Council on August 20, 2013.

Action: Resolution No. 76785, entitled: "A Resolution of the Council of the City of San José Approving a Conditional Use Permit and a Request for a Determination of Public Convenience or Necessity to Use Certain Real Property Described Herein for the Purpose of Providing the Off-Sale of the Full Range of Alcoholic Beverages at an Existing Full Service Grocery Store (Cho Senter Market) on a 4.75 Gross Acre Site, Located on the West Side of Senter Road Approximately 150 Feet North of Lewis Road (2889 Senter Road)", was adopted. (10-0-1. Absent: Oliverio.)

- 2.12 Report on bids and award of contract for the 7041-Brookwood Terrace Sanitary Sewer Replacement Project to the low bidder, Pacific Underground Construction, Inc., in the amount of \$1,895,749, and approval of a contingency in the amount of \$189,500. CEQA: Exempt, File No. PP13-014. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated August 19, 2013, recommending award of the contract to the low bidder, with related contingency.

Action: The report on bids and award of contract for the 7041-Brookwood Terrace Sanitary Sewer Replacement Project to the low bidder, Pacific Underground Construction, Inc., in the amount of \$1,895,749, with related contingency in the amount of \$189,500, was approved. (10-0-1. Absent: Oliverio.)

- 2.13 (a) Approve travel by Council Member Chu to Sacramento, CA on September 18-20, 2013, to attend the League of California Cities 2013 Annual Conference & Expo and Board of Director's Meeting as San José designated representative. Source of Funds: Mayor and Council Travel Funds.**
- (b) Request for an excused absence for Council Member Chu from the Regular Meeting of the Public Safety, Finance and Strategic Committee on September 19, 2013 due to Authorized City Business: League of California Cities Annual Conference and Board of Directors Meeting.**

(Chu)

(Rules Committee referral 8/28/13)

Documents Filed: Memoranda from Council Member Chu, both dated August 26, 2013, requesting approval of travel and an excused absence due to authorized City business.

Action: The travel for Council Member Chu was approved and his absence was excused. (10-0-1. Absent: Oliverio.)

- 2.14 (a) Approve travel by Council Member Constant to Washington, D.C. on September 17-18, 2013, to speak at the GOVERNING Magazine's 2013 Cost of Government Summit. Source of Funds: GOVERNING Magazine.**
- (b) Request for an excused absence for Council Member Constant from the Regular and Evening City Council Meeting on September 17, 2013 and the Regular Meeting of the Rules and Open Government Committee on September 18, 2013.**

(Constant)

(Rules Committee referral 8/28/13)

Documents Filed: Memoranda from Council Member Constant, both dated August 22, 2013, requesting approval of travel and an excused absence due to authorized City business.

Action: The travel for Council Member Constant was approved and his absence was excused. (10-0-1. Absent: Oliverio.)

- 2.15 (a) Approve travel by Council Member Constant to Savannah, GA on September 24 – 28, 2013, to represent San José as Chair of the National League of Cities’ (NLC) Public, Safety and Crime Prevention (PSCP) Steering Committee. Source of Funds: Mayor and Council Fund. (Constant)**
- (b) Approve travel by Council Member Constant to Seattle, WA on November 13 – 16, 2013, to attend the annual NLC PSCP Steering Committee meeting to assist in developing and researching agenda topics chosen and drafting policy position for the Policy and Advocacy Committee to review. Source of Funds: Mayor and Council Fund. (Constant)**
- (Rules Committee referral 8/28/13)**

Documents Filed: Memoranda from Council Member Constant, both dated August 27, 2013, requesting approval of travel due to authorized City business.

Action: The travel for Council Member Constant was approved. (10-0-1. Absent: Oliverio.)

- 2.16 As recommended by the Rules and Open Government Committee on August 28, 2013:**
- (a) Approve the Vietnamese New Year Flag Raising Ceremony as a City sponsored Special Event.**
- (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.**
- CEQA: Not a Project. (Nguyen)**
[Rules Committee referral 8/28/13 – Item G(3)]

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 28, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Vietnamese New Year Flag Raising Ceremony as a City sponsored Special Event was approved and funds and donations from various individuals, businesses, or community groups to support the event were authorized. (10-0-1. Absent: Oliverio.)

- 2.17 As recommended by the Rules and Open Government Committee on August 28, 2013:**
- (a) Approve the Mid-Autumn Festival and Resource Fair as a City Council sponsored Special Event.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the Mid-Autumn Festival and Resource Fair.**
- (c) Approve the expenditure of donations and City Funds to provide incentives for children participants.**
- CEQA: Not a Project. (Nguyen)**
[Rules Committee referral 8/28/13 – Item G(5)]

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 28, 2013, transmitting the recommendations of the Rules and Open Government Committee.

2.17 (Cont'd.)

Action: The Mid-Autumn Festival and Resource Fair as a City sponsored Special Event was approved and funds and donations from various individuals, businesses, or community groups to support the event were authorized; and the expenditure of donations and City Funds to provide incentives for children participants was approved. (10-0-1. Absent: Oliverio.)

**2.18 As recommended by the Rules and Open Government Committee on August 28, 2013; appoint Council Member Pierluigi Oliverio and Council Member Donald Rocha to serve as the City of San José representatives to the Santa Clara County Operational Area Committee. CEQA: Not a project. (Mayor)
[Rules Committee referral 8/28/13 – Item G(6)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated August 28, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Council Member Pierluigi Oliverio and Council Member Donald Rocha were appointed to serve as the City of San José representatives to the Santa Clara County Operational Area Committee. (10-0-1. Absent: Oliverio.)

- 2.19 (a) Approve travel by Council Member Khamis to Washington, D.C. on October 1-3, 2013, to join the Silicon Valley Leadership Group on its Fall CEO/Senior Officer Trip to advocate for federal policies to support San José job creations and global competitiveness. Source of Funds: District 10 Office Budget. (Khamis)**
- (b) Request for an excused absence for Council Member Khamis from the Regular City Council Meeting on October 1, 2013. (Khamis)
(Rules Committee referral 9/4/13)**

Documents Filed: Memorandum from Council Member Khamis, dated September 10, 2013, requesting approval of travel and an excused absence due to authorized City business.

Action: The travel for Council Member Khamis was approved and his absence was excused. (10-0-1. Absent: Oliverio.)

**2.20 As recommended by the Rules and Open Government Committee on September 4, 2013; approve the recommended City positions for two resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in Sacramento, September 18-20, 2013. (City Manager's Office)
[Rules Committee referral 9/4/13 – Item G(2)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated September 4, 2013, transmitting the recommendations of the Rules and Open Government Committee.

2.20 (Cont'd.)

Action: The recommended City positions for two resolutions to be considered at the Annual League of California Cities Conference to be held in Sacramento, September 18-20, 2013, were approved. (10-0-1. Absent: Oliverio.)

2.21 As recommended by the Rules and Open Government Committee on September 4, 2013:

- (a) Approve the Mexican Independence Day Flag Raising as a City Council sponsored Special Event.**
 - (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event. (Campos)**
- [Rules Committee referral 9/4/13 – Item G(4)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated September 4, 2013, transmitting the recommendations of the Rules and Open Government Committee.

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

2.22 As recommended by the Rules and Open Government Committee on September 4, 2013:

- (a) Approve the Muslims for Life Blood Drive as a City Council sponsored Special Event.**
 - (b) Approve expending funds and accepting donations from various individuals, businesses and community groups to support the event. (Kalra)**
- [Rules Committee referral 9/4/13 – Item G(5)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, CMC, dated September 4, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Muslims for Life Blood Drive as a City Council sponsored Special Event was approved and funds and donations from various individuals, businesses, or community groups to support the event were authorized. (10-0-1. Absent: Oliverio.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.3 Update the future list of priority policies and ordinances, with priorities on this list to be moved to the Top Ten list as top priorities are completed between now and Spring 2014. (City Manager's Office)

Documents Filed: (1) Memorandum from Vice Mayor Nguyen, dated September 6, 2013, recommending including rehabilitating vacant buildings to address homelessness. (2) Memorandum from Council Member Liccardo, dated September 9, 2013, recommending prioritizing the reform of street and sidewalk obstructions with modifications. (3) Memorandum from Council Members Khamis, Kalra, Chu and Herrera, dated September 6, 2013, recommending reducing the cost of home improvement. (4) Memorandum from Council Member Khamis, dated September 6, 2013, recommending retaining the Riparian Corridor Policy on the list of future priorities. (5) Memorandum from Council Member Rocha, dated September 6, 2013, requesting for the next priority setting session the Administration and City Attorney, if he desires, provide recommendations in the Staff report as to which policy initiatives should be on the top ten priority list. (6) Memorandum from Council Member Campos, dated September 9, 2013, recommending the development of a University Corridor Overlay along Story Road from the Lower Silvercreek crossing under Story Road to Clayton Road should be placed on the top ten priority list. (7) The City Council Voting Ballot dated September 10, 2013 on the FY 2013-2014 Council Priority Ordinances and Policy Initiatives. (8) Memorandum from Assistant City Manager Edward K. Shikada, dated August 30, 2013, recommending Council discussion and direction to Staff regarding Priority Ordinances and Policy Initiatives with priorities to be initiated as the current top ten priorities are completed. (9) Supplemental memorandum from Assistant City Manager Edward K. Shikada, dated September 9, 2013, providing additional information and an issue advanced by Council Member Campos pertaining to the development of a University Corridor Overlay along Story Road. (10) Staff presentation dated September 10, 2013 summarizing the 2013-2014 Priority Ordinances and Policy Initiatives. (11) Letter from David Poeschel, dated September 10, 2013, urging Council to support the memorandum from Council Member Khamis regarding prioritization of the Riparian Corridor Policy. (12) Email from Dave Fadness, dated September 10, 2013, expressing support to reducing the cost of home improvement as depicted in the memorandum from Council Members Khamis, Kalra, Chu and Herrera, dated September 6, 2013.

Mayor Reed presented introductory remarks and opened the floor for public testimony.

Public Comments: Anil Babbar, Santa Clara County Association of Realtors; Bryce Carrol and Cindy Carey, National Association of the Remodeling Industry of Silicon Valley and Mike Bulea offered support to the memorandum from Council Members Khamis, Kalra, Chu and Herrera, dated September 6, 2013, recommending reducing the cost of home improvement.

3.3 (Cont'd)

Public Comments: (Cont'd.)

Alice Kaufman, Michele Beasley, Committee for Green Foothills; Eileen McLaughlin, Citizens Committee to Complete the Refuge; Linda Ruthruff, California Native Plant Society; Gita Dev, The Sierra Club and Jean Dresden expressed support to the memorandum from Council Member Khamis, dated September 6, 2013, recommending retaining the Riparian Corridor Policy on the list of future priorities.

Tessa Woodmansee and Mahlon Ezeoha, County of Santa Clara Health Department, urged the Council to consider the need for a noise control ordinance as a quality of life issue, including noise pollution of motorcycles and cars.

Laurie Coleman urged the Council to place the regulation of medical marijuana dispensaries on the Top Ten List because better regulation should be required and a limit to the number of dispensaries in each district.

Ray Duran and Robert Allard, Esquire, Colin Montgomery Attorneys at Law voiced support to the memorandum from Council Member Liccardo recommending prioritizing the reform of street and sidewalk obstructions.

Assistant City Manager Edward K. Shikada offered a brief report on the City Council Priority Setting Initiatives.

City Attorney Richard Doyle presented legal clarifications on marijuana issues.

Motion: Vice Mayor Nguyen moved approval of the top ten priorities listed in the Staff memorandum, including the three new ones (1) Development Agreement Policy, (2) Hotel and Motel Conversions/Modernize SRO Ordinance and (3) Medical Marijuana Collectives. Council Member Constant seconded the motion.

Assistant City Manager Edward K. Shikada, Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Housing Leslye Corsiglia responded to Council questions and concerns.

Council Member Liccardo moved to amend the motion to combine Rehabilitating Vacant Buildings to Address Homelessness to fit within the Hotel and Motel Conversions/Modernize SRO Ordinance. The amendment was accepted by Vice Mayor Nguyen and Council Member Constant.

Council Member Kalra moved approval to allow the following to remain on the Future List of Ordinances and Policy Initiatives for Standby (Not Ranked): (1) Riparian Corridor Policy. (2) Tattoo and Other Business Regulations. (3) Wood Burning Appliances. Vice Mayor Nguyen seconded the motion.

3.3 (Cont'd.)

Council Member Rocha moved approval of his memorandum dated September 1, 2013, with direction to the Administration and the City Attorney, if he desires, to provide recommendations in the Staff report as to which policy initiatives should be on the top ten priority list for the next priority setting session and direction to Staff to provide input on any ordinances or policy initiatives that have been dealt with in other areas, i.e. from the Staff presentation: Item 23 - Extend Two-Year Construction Tax Incentive Program; Item 24 - Traffic Control for Outdoor Special Events; Item 30 - Conservation Area Ordinance Streamlining and Item 32 - University Corridor Overlay Along Story Road. Council Member Herrera seconded the motion.

Acting City Clerk Toni Taber presented the results of the vote: Reducing the Cost of Home Improvement received ten (10) votes and was added to the Future List of Ordinances and Policy Initiatives for Standby (Not Ranked).

Acting City Clerk Toni Taber pointed out there were: Four (4) votes each of the following initiatives: Prohibit the Obstruction of Sidewalks and Expand the Second Unit Ordinance; Three (3) votes each for Land Use Regulations for School Development, Public Review of New Retail Reuse and Green Building Retrofit Ordinance; Two (2) votes each for Legal Nonconforming Uses, Liquor Store Conversions and North San José Development Policy.

Acting City Clerk Toni Taber added that the following eight initiatives received One (1) vote each: Density Bonus Ordinance, Noise Performance Standards Update, Director-Initiated Rezoning Program, Revise Sign Code to Allow Advertising on City Property and Public Right of Way, Sign Code Ordinance, Extend Two-Year Construction Tax Incentive Program, Gift Ordinance Cleanup and Strengthen Vacant Structure Ordinance.

Council Member Liccardo requested to amend the motion to include the two items that received four votes each. Council Member Rocha seconded the motion. On a call for the question, the motion failed. (4-7. Noes: Campos, Chu, Constant, Khamis, Nguyen, Oliverio; Reed.)

Action: On a call for the question, the original motion carried unanimously, the following were approved: City Council Priority Setting Current “Top Ten” Priorities (Not Ranked): (1) Off-Sale of Alcohol at Grocery Stores Streamlining. (2) Plug-In Requirements for Parking Garages. (3) Urban Village Zoning Districts. (4) Zoning Ordinance Quarterly Modifications. (5) Zoning Standards – Main Street/Alum Rock. (6) Real Estate Transactions Streamlining. (7) Special Events Ordinance. (8) Development Agreement Policy. (9) Hotel and Motel Conversions/Modernize SRO Ordinance and Rehabilitating Vacant Buildings to Address Homelessness. (10) Medical Marijuana Collectives.

Future List of Ordinances and Policy Initiatives for Standby (Not Ranked): (1) Riparian Corridor Policy. (2) Tattoo and Other Business Regulations. (3) Wood Burning Appliances. (4) Reducing Cost of Home Improvement.

3.3 (Action Cont'd.)

Action: (Cont'd.) The memorandum from Council Member Rocha, dated September 1, 2013, was approved with direction to the Administration and the City Attorney, if he desires, to provide recommendations in the Staff report as to which policy initiatives should be on the top ten priority list for the next priority setting session. Staff was further directed to provide input on any ordinances or policy initiatives that have been dealt with in other areas, i.e. from the Staff presentation: Item 23 - Extend Two-Year Construction Tax Incentive Program; Item 24 - Traffic Control for Outdoor Special Events; Item 30 - Conservation Area Ordinance Streamlining and Item 32 - University Corridor Overlay Along Story Road. (11-0.)

NEIGHBORHOOD SERVICES

- 5.1 (a) **Approve an Agreement with the Rotary Club of San José, Inc. to fund, design, and construct a 4.5 acre children's playgarden and parking lot in the Guadalupe River Park and Gardens in the City of San José for children of all abilities with a City contribution of up to \$1,400,000 for a total project cost of approximately \$6,000,000, with a term ending on December 31, 2015.**
- (b) **Adopt a resolution making a finding that requiring the Rotary Club of San José, Inc. to solicit bids and award a construction contract to the lowest responsible bidder for the construction of the 4.5 acres children's playgarden and parking lot in the Guadalupe River Park and Gardens would be an "idle act" pursuant to Section 1217(e)(6) of the City Charter since the Rotary Club of San José, Inc. is funding over \$4,500,000 of the approximate \$6,000,000 project cost through donations and discounted goods, materials and services from its members and the community.**
- (c) **Adopt a resolution requesting funding for the Project from the County pursuant to Government Code section 25551 in the amount of \$250,000.**
- (d) **Approve the First Amendment to the Agreement with the Guadalupe River Park Conservancy to maintain the future children's playgarden in the Guadalupe River Park and Gardens at no additional cost to the City and for a term until September 30, 2014, and exercise the City's option to extend to September 30, 2016.**
- (e) **Approve the naming of the proposed 4.5 acres children's playgarden in the Guadalupe River Park and Gardens as the "Rotary Playgarden" to be effective upon completion of the park improvements.**

CEQA: Exempt, File No. PP11-032. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Council Member Liccardo, dated September 9, 2013, recommending approval of the Staff recommendations. (2) Memorandum from Director of Finance Julia H. Cooper, dated August 19, 2013, recommending approval of an agreement, adoption of resolutions, approval of the first amendment to the agreement and the naming of the proposed 4.5 acres as Rotary Playgarden.

Director of Finance Julia H. Cooper provided a brief report. Deputy Director of Parks, Recreation and Neighborhood Services Matt Cano was present.

5.1 (Cont'd.)

Shirley Lewis, President, Rotary Club of San José, stated that the Rotary Club wanted to present a major gift to the community for its 100th anniversary and that this is a very important play garden for children.

Julie Matsushima, Former President, Rotary Club of San José, added the Rotary Playgarden will allow all children, including children with disabilities, to experience the joy of a playground and to be able to play side by side.

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

Mayor Reed and the Council Members thanked the Rotary Club of San José for their generous gift.

Action: On a call for the question, the motion carried unanimously, an Agreement with the Rotary Club of San José, Inc. to fund, design, and construct a 4.5 acre children's playgarden and parking lot in the Guadalupe River Park and Gardens in the City of San José for children of all abilities with a City contribution of up to \$1,400,000 for a total project cost of approximately \$6,000,000, with a term ending on December 31, 2015 was approved, the naming of the proposed 4.5 acres children's playgarden in the Guadalupe River Park and Gardens as the "Rotary Playgarden" to be effective upon completion of the park improvements was approved and Resolution No. 76786, entitled: "A Resolution of the Council of the City of San José Finding that Requiring the Rotary Club of San José, Inc. To Solicit Bids and Award a Construction Contract to the Lowest Responsible Bidder for the Construction of the 4.5 Acre Children's Garden and Parking Lot in the Guadalupe River Park and Gardens Would Be An Idle Act Pursuant to Section 1217(E)(6) of the City Charter" and Resolution No. 76787, entitled: "A Resolution of the Council of the City of San José Requesting Funding from the County of Santa Clara In The Amount of \$250,000 To Design and Construct A 4.5 Acre Children's Garden and Parking Lot in the Guadalupe River Park and Gardens; and Making Findings Pursuant to Government Code Section 25551", were adopted. (11-0.)

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone announced her intention to retire at the end of the year after a long and gratifying career of public service to the community.

- 3.4 (a) **Approve an ordinance amending Section 2.04.020 of Chapter 2.04 and Section 4.16.010 of Chapter 4.16 of Title 4 of the San José Municipal Code to transfer the responsibility for management of the City's warehouse operations and responsibility for disposition of unclaimed and surplus personal property from the Finance Department to the Department of Public Works.**

- 3.4 (b) **Approve an ordinance amending Section 15.08.820 of Chapter 15.08 of Title 15 and Section 19.32.070 of Chapter 19.32 of Title 19 of the San José Municipal Code to provide for the direct purchase of fire hydrants by developers for installation in private developments that meet the City of San José Fire Hydrant Specifications and Order Information instructions.**
- (c) **Adopt the following 2013-2014 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)
(Deferred from 6/18/13 – Item 3.11 and 8/13/13 – Item 3.3)**

Action: Deferred to September 17, 2013 per Administration.

- 3.5 **As recommended by the Public Safety, Finance, and Strategic Support Committee on June 20, 2013, accept the Audit of Consultant Agreements. CEQA: Not a Project; File No. PP10-068(c), Code or Policy change that involves no changes in the physical environment. (City Auditor)
[Public Safety, Finance, and Strategic Support Committee referral 6/20/13 – Item D(5)]**

Note: Items 3.5 and 3.6 were heard concurrently.

Documents Filed: (1) Memorandum from Council Member Chu, dated September 5, 2013, recommending acceptance of the Audit of Consultant Agreements and Item 3.6, the Audit of Regional Wastewater Facility Master Agreements and requesting the City Manager to provide answers to questions contained in his memorandum and to provide the City Council with an organizational chart. (2) Memorandum from Acting City Clerk Toni Taber, CMC, dated August 28, 2013, transmitting the recommendations of the Rules and Open Government Committee.

City Auditor Sharon W. Erickson offered the Report on the Audit of the Consultant Agreements.

City Manager Debra Figone and Assistant City Manager Edward K. Shikada presented comments. Deputy City Manager Norberto Dueñas explained the response to the City Auditor's findings.

City Auditor Sharon W. Erickson presented the Report on the Audit of Regional Wastewater Facility Master Agreements.

Motion: Council Member Constant moved approval to accept the Report on the Audit of the Consultant Agreements and the Report on the Audit of Regional Wastewater Facility Master Agreements (Item 3.6). Vice Mayor Nguyen seconded the motion.

3.5 (Cont'd.)

Council Member Chu spoke to his memorandum requesting more information. City Manager Debra Figone responded that Administration will research the questions contained in his memorandum.

Council Member Chu requested to amend the motion to include his memorandum requesting more information.

Council Member Constant expressed concern about how much time it would require from Staff. Assistant Director of Finance Arn Andrews pointed out that it be very time consuming to go through each contract manually.

Council Member Constant moved to amend the motion to direct Staff to provide a status update to the Public Safety, Finance and Strategic Support Committee related to the Administration's review of the consultant agreements. Vice Mayor Nguyen accepted the amendment.

Brief Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the Audit of Consultant Agreements was accepted. Staff was directed to provide a status update to the Public Safety, Finance and Strategic Support Committee related to the Administration's review of the consultant agreements. (10-0-1. Absent: Liccardo.)

3.6 **As recommended by the Public Safety, Finance, and Strategic Support Committee on June 20, 2013, accept the Audit of Regional Wastewater Facility Master Agreements. CEQA: Not a Project; File No. PP10-068(c), Code or Policy change that involves no changes in the physical environment. (City Auditor)** **[Public Safety, Finance, and Strategic Support Committee referral 6/20/13 – Item D(6)]**

Documents Filed: (1) Memorandum from Acting City Clerk Toni Taber, CMC, dated August 28, 2013, transmitting the recommendations of the Rules and Open Government Committee. (2) Letter from Chuck Reed, Chair, the Treatment Plant Advisory Committee, dated August 15, 2013, stating concurrence with the Staff recommendations.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Nguyen and carried unanimously, the Audit of Regional Wastewater Facility Master Agreements was accepted. (10-0-1. Absent: Liccardo.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Consideration of an ordinance amending Title 20 of the San José Municipal Code (the Zoning Ordinance) to:

- (a) Amend Section 20.50.100 of Chapter 20.50 (Industrial Zoning Districts) to add enumerated uses in the Industrial Zoning Districts including Neighborhood Agriculture as a Permitted Use, Aquaponics/Aquaculture as a Special Use, Warehouse Indoor Sale of Passenger Vehicles, Pick-up Trucks not Exceeding 25 feet in Length, and Motorcycles as a Conditional Use, Outdoor Commercial Recreation as a Conditional Use, Stadiums with up to 2,000 seats as a Conditional Use, and Stadiums with more than 2,000 seats as a Conditional Use requiring City Council approval as the initial decision-making body; to add a new Section 20.50.140 to establish criteria for issuing a Conditional Use Permit for Warehouse Indoor Sale of Passenger Vehicles, Pick-up Trucks not Exceeding 25 feet in Length, and Motorcycles; to amend Section 20.100.220 of Chapter 20.100 (Administration and Permits) to identify City Council as the initial decision-making body for Stadiums with more than 2,000 seats; and to amend Chapter 20.200 (Definitions) to add new sections defining “Plant Nursery” and “Aquaponics/Aquaculture”.
- (b) Amend 20.50.110 of Chapter 20.50 to clarify the method of calculation of Commercial Support uses in the IP Industrial Park District.
- (c) Amend Section 20.50.270 of Chapter 20.50 to clarify that allowances for minor projections into Setback areas of up to twenty (20) percent of building length apply independently and not cumulatively to Subsections B and C of this Section.
- (d) Amend Section 20.50.300 of Chapter 20.50 to change the permit requirement from a Conditional Use Permit to a Special Use Permit for exceedance of decibel levels in Table 20-135 of the Zoning Code.
- (e) Amend Section 20.85.030 of Chapter 20.85 (Specific Height Restrictions) to change the maximum allowable Height for communication towers and other similar non-Building structural uses.
- (f) Amend Section 20.170.300 of Chapter 20.170 (Residential Condominium and Community Apartment Project Regulations) to delete additional parking requirements for Residential Condominium and Community Apartment Projects beyond the parking requirements for residential uses enumerated in Chapter 20.90; and to make other technical, non-substantive, or formatting changes within Title 20.

CEQA: Final Program Environmental Impact Report for the Envision San José 2040 General Plan, Resolution No. 76041, File No. PP13-077. (Planning, Building and Code Enforcement)

Action: Deferred to September 17, 2013 per Administration.

**4.2 Discussion of the withdrawn Appeal of the Planning Director’s use of an Addendum (File No. PD13-002) to the Cisco Systems, Inc., Site 6 Final Environmental Impact Report (EIR), approved under Resolution No. 69636, as the environmental clearance for the Director’s approval of Planned Development Permit File No. PD13-002 to allow the temporary stockpiling of imported soil, approximately ten feet high and 20,000 cubic yards in total, on a vacant 14.27 gross acre site in the A(PD) Planned Development Zoning District, implementing that certain rezoning adopted by the City Council on June 6, 2000 (PDC99-054). CEQA: Not a Project. (Planning, Building and Code Enforcement)
PD13-002 – Council District 4**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 27, 2013, recommending conducting an administrative hearing and consideration of an appeal. (2) Proof of Publication of Notice of Public Hearing, executed on August 23, 2013, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joseph Horwedel offered a brief explanation for the appeal that had been withdrawn and responded to Council questions and concerns.

Council discussion ensued.

Mayor Reed opened the Administrative Hearing.

Public Comments: Linda Ruthruff, California Native Plant Society, pointed out the California Native Plant Society was not involved in this appeal and stated that the California Environmental Quality Act (CEQA) serves the community well. Mayor Reed closed the Administrative Hearing.

Mayor Reed requested that Staff return to the Rules and Open Government Committee if there is any action that Council has to take.

Action: Staff was directed to return to the Rules and Open Government Committee if further Council action was required.

OPEN FORUM

- (1) Richard McCoy urged the Council and the public to donate to the United Veterans Council of Santa Clara County.
- (2) Yohannes Mesfine, Mekonnen Woldegebrial and Hailu Dessa complained that the wrong flag was used at the Ethiopian Flag Raising on September 6, 2013.
- (3) Nasser Ghanem requested information and assistance related to moving his home business from Sunnyvale to San José.

Mayor Reed asked Assistant City Manager Edward K. Shikada to assist Mr. Ghanem after the Council meeting.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:02 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
Acting City Clerk

smd/09-10-13 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.ty>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.