



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 1, 2013

The Council of the City of San José convened in Regular Session at 9:34 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Deputy Director Office of Employee Relations Jennifer Schembri provided a labor relations' negotiations update

Action: The report was accepted.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133 (A) regarding Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957: Department: Office of the City Clerk; Title: City Clerk; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (d)(1) with respect to potential litigation in one (1) matter; (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 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,

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

CLOSED SESSION (Cont'd.)

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

By unanimous consent, Council recessed from the Closed Session at 10:45 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

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

Absent: Council Members - Khamis; Reed. (Excused)

INVOCATION

Gabrielle Antolovich of Voices United presented the Invocation. (District 9)

PLEDGE OF ALLEGIANCE

Vice Mayor Nguyen led the Pledge of Allegiance, joined by third-grade students from Lynhaven Elementary School.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (9-0-2. Absent: Khamis; Reed.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing the month of October as Disability Awareness Month in the City of San José. (Constant)

Vice Mayor Nguyen and Council Member Constant recognized the month of October as Disability Awareness Month in the City of San José.

1.2 Presentation of a proclamation declaring City of San José's participation in the 2013 Combined Giving Campaign from October 1 through November 15, 2013. (Public Works)

Vice Mayor Nguyen presented a proclamation declaring City of San José's participation in the 2013 Combined Giving Campaign from October 1 through November 15, 2013.

1.3 Presentation of a proclamation declaring September 30 - October 4 as "Silicon Valley Manufacturing Week" in the City of San José. (Rules Committee referral 9/25/13)

Vice Mayor Nguyen and Council Member Herrera recognized September 30 - October 4 as "Silicon Valley Manufacturing Week" in the City of San José.

CONSENT CALENDAR

2.1 Approval of Minutes.

None provided.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29306** – An ordinance of the City of San José amending San José Municipal Code Section 2.04.020 of Chapter 2.04 of Title 2 and Section 4.16.010 of Chapter 4.16 of Title 4 to revise the duties and functions of the department of finance and to designate the director of public works as the department head responsible for the disposition of unclaimed and personal surplus property. CEQA: Not a Project, File No. PP 10-068(c), Code or policy change that involves no physical changes to the environment.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29306 executed on September 20, 2013, submitted by the City Clerk.

Action: Ordinance No. 29306 was adopted. (9-0-2. Absent: Khamis; Reed.)

- (b) **ORD. NO. 29307** - An ordinance of the City of San José 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 related to the installation of fire hydrants for private developments. CEQA: Not a Project, File No. PP 10-068(c), Code or policy change that involves no physical changes to the environment.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29307 executed on September 20, 2013, submitted by the City Clerk.

Action: Ordinance No. 29307 was adopted. (9-0-2. Absent: Khamis; Reed.)

- (c) **ORD. NO. 29312** - An ordinance of the City of San José amending Title 20 of the San José Municipal Code (The Zoning Ordinance) to 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 amend Section 20.50.110 to clarify the method of calculation of commercial support uses in the IP Industrial Park District; to add 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 20.50.270 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

(Item Continued on the next page)

2.2 Final adoption of ordinances

(c) (Cont'd.)

this Section; to amend Section 20.50.300 to change the permit requirement from a Conditional Use Permit to a Special Use Permit for exceedance of decibel levels in table 20-135; to 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; to amend Section 20.100.220 of Chapter 20.100 (Administration and Permits) to identify the City Council as the initial decision making body for Stadiums with more than 2,000 seats; to 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 amend Chapter 20.200 (definitions) to add new sections defining “Plant Nursery” and “Aquaponics/Aquaculture”; all to further implement the urban agriculture, economic development, and zoning goals and policies set forth within the Envision San José 2040 general plan, and to make other technical, non-substantive, or formatting changes within those sections of Title 20. CEQA: Envision 2040 General Plan Final Program EIR, Resolution No. 76041.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29312 executed on September 20, 2013, submitted by the City Clerk.

Action: Ordinance No. 29312 was adopted. (9-0-2. Absent: Khamis; Reed.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of September 11, 2013. (Mayor)**
- (b) **Neighborhood Services and Education Committee Report of September 12, 2013. (Nguyen)**

Documents Filed: (1) Rules and Open Government Committee Report of September 11, 2013. (2) Neighborhood Services and Education Committee Report of September 12, 2013.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera and carried unanimously, the Committee reports were accepted. (9-0-2. Absent: Khamis; Reed.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

Council Member Constant reported on the Retirement Research Consortium Annual Meeting; the Governing Summit: Cost of Government Series in Washington D.C; and the Annual Pension Reform Summit in Sacramento he recently attended.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Approve a settlement in the case of Jermaine Montiel v. City of San José, et al. in the amount of \$102,000 and authorize the City Attorney to execute a Settlement Agreement to settle the lawsuit and claim of Jermaine Montiel against the City of San José and various individual police officers, including claims for attorneys' fees and costs. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated September 18, 2013, recommending approval of a settlement.

Action: The settlement in the case of Jermaine Montiel v. City of San José, et al. in the amount of \$102,000 and authorization for the City Attorney to execute a Settlement Agreement to settle the lawsuit and claim of Jermaine Montiel against the City of San José and various individual police officers, including claims for attorneys' fees and costs, was approved. (9-0-2. Absent: Khamis; Reed.)

2.8 Authorize the City Manager to:

- (a) Execute a Purchase Order with Davey Resource Group, a division of The Davey Tree Expert Company (Atascadero, CA), for street tree inventory services in a geographical area defined as Area C, covering portions of Cambrian, Almaden Valley, and South San José, in an amount not-to-exceed \$154,126;**
- (b) Amend the Purchase Order to complete street tree inventory for the entire City, subject to the appropriation of funds, at the following fixed prices:**
 - (1) Area A: \$58,666 (Median islands and roadside landscape areas)**
 - (2) Area B: \$113,763 (Northwestern Quadrant; portions of West San José and Willow Glen)**
 - (3) Area D: \$60,810 (Northeastern Quadrant; portions of Penitencia Creek, Piedmont foothills, and East San José)**
 - (4) Area E: \$83,194 (Southeastern Quadrant; portions of Evergreen, Silver Creek and South San José)**

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

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated September 18, 2013, recommending execution of a purchase order with Davey Resource Group and amending the purchase order as described previously.

2.8 (Cont'd.)

Action: The City Manager was authorized to execute a Purchase Order with Davey Resource Group for street tree inventory services in a geographical area defined as Area C, covering portions of Cambrian, Almaden Valley, and South San José, and to amend the Purchase Order to complete street tree inventory for the entire City, subject to the appropriation of funds, at fixed prices as outlined. (9-0-2. Absent: Khamis; Reed.)

2.9 Approve the Fifth Amendment to the Agreement with AmeriNational Community Services, increasing the amount of the agreement by \$75,000, from \$300,000 to \$375,000, and extending the term from September 30, 2013 to June 30, 2014. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Housing)

Documents Filed: City Council Action Request from Director of Housing Leslye Corsiglia, dated October 1, 2013, recommending approval of the fifth amendment to the agreement.

Action: The Fifth Amendment to the Agreement with AmeriNational Community Services, increasing the amount of the agreement by \$75,000, from \$300,000 to \$375,000, and extending the term from September 30, 2013 to June 30, 2014. (9-0-2. Absent: Khamis; Reed.)

2.10 Adopt a resolution to:

- (a) **Amend the City of San José Pay Plan effective October 1, 2013, to create the following classification:**
 - (1) **Assistant Director and Chief Investment Officer U (7506)**
- (b) **Amend the City of San José Pay Plan effective October 1, 2013, to delete the following obsolete classes:**
 - (1) **Heavy Diesel Equipment Operator/Mechanic (3642)**
 - (2) **Senior Heavy Diesel Equipment Operator/Mechanic (3643)**
 - (3) **Heavy Diesel Equipment Supervisor (3644)**
 - (4) **Contract Employee (8888)**

CEQA: Not a Project, File No. PP10-068(b), Municipal Code change to Title 3 (Personnel). (Human Resources)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated September 12, 2013, recommending adoption of a resolution.

Action: Resolution No. 76807, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications”, was adopted. (9-0-2. Absent: Khamis; Reed.)

- 2.11 Adopt a resolution initiating proceedings and setting October 22, 2013 at 1:30 p.m. for Council consideration of the reorganization of territory designated as Burbank No. 42, which involves the annexation to the City of San José of approximately 1.2 gross acres of land located at the southwest corner of West San Carlos Street and Leigh Avenue and the detachment of the same from the appropriate Santa Clara County service areas and special districts including Central Fire Protection District, Library Service Area No. 01. Burbank Sanitary District, and County Lighting Service Area. CEQA: Envision 2040 General Plan Final Program EIR Resolution, No. 76041.**

Documents Filed: City Council Action Request from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 18, 2013, recommending adoption of a resolution.

Action: Resolution No. 76808, entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Burbank No. 42, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (9-0-2. Absent: Khamis; Reed.)

- 2.12 (a) Approve travel by Councilmember Herrera to Dublin, Ireland on October 12-20, 2013, to attend the Dublin Sister City Delegation. Source of Funds: District 8 Council Office Budget. (Herrera)**
- (b) Request for an excused absence for Councilmember Herrera from the Study Session on October 15, 2013 and the Joint City-County Meeting on October 18, 2013 due to Authorized City Business: Dublin Sister City Delegation. (Herrera)**

Documents Filed: (1) Memorandum from Council Member Herrera, dated September 23, 2013, requesting authorization to travel and excused absences. (2) Supplemental memorandum from Council Member Herrera, dated September 25, 2013, providing clarification that Council Member Herrera will be on personal travel time and using personal funds.

Action: The travel request for Council Member Herrera was approved, and the absences were excused. (9-0-2. Absent: Khamis; Reed.)

- 2.13 Adopt a resolution appointing Laurel Prevetti, Assistant Director of Planning, Building and Code Enforcement, to serve as the non-elected City member on the Implementation Board of the Santa Clara Valley Habitat Agency and appointing Salifu Yakubu, Division Manager in the Planning Division, to serve as the non-elected alternate member on the Implementation Board. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 19, 2013, recommending adoption of a resolution. (2) Nine postcards to the San José City Council expressing concern for the future of burrowing owls.

Action: Resolution No. 76809, entitled: “A Resolution of the Council of the City of San José Appointing Representatives to the Santa Clara Valley Habitat Agency Implementation Board”, was adopted. (9-0-2. Absent: Khamis; Reed.)

- 2.14 As recommended by the Rules and Open Government Committee on September 25, 2013, approve a support position for AB 841(Torres) – Junk Dealers and Recyclers: Nonferrous Materials: Payments. (Transportation)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated September 26, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of support was approved for AB 841(Torres) – Junk Dealers and Recyclers: Nonferrous Materials: Payments. (9-0-2. Absent: Khamis; Reed.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone briefly discussed the federal government shutdown, indicating that any direct impact to the City of San José is unlikely. Director of Public Works David Sykes provided a presentation on the San José McEnery Convention Center expansion and renovation project.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Conduct a Public Hearing and consider an ordinance amending Title 23 of the San José Municipal Code (the Sign Code) as follows:

- (a) Amending various sections of Chapter 23.02, Part 1, Definitions, including to revise Section 23.02.102 Commercial Speech; to add sections 23.02.355 non-commercial speech and 23.02.494 shopping center corner sign; to revise section 23.02.410 programmable electronic sign; and to add new section 23.02.505 sign ordinance;
- (b) Amending various sections of Chapter 23.02, Part 2, General Provisions, including to add Section 23.02.805 Authority, revise Section 23.02.820 Conformity Required, add new Section 23.02.825 Message Substitution, revise Section 23.02.870 Administrative Authority; Appeals, delete Sections 23.02.1130 Master Sign Program and 23.02.1190 No Limitation on Message, and revise Section 23.02.1370 Sign Variances; and
- (c) Amending various sections of Chapter 23.04, Part 1, CO, CP, CN, CG, IP, LI, and HI commercial and industrial zoning districts and neighborhood business districts, including to amend Section 23.04.020, Attached Signs, to allow shopping center corner signs at or above the top of a roof on corner buildings located within shopping center sites; and
- (d) Making other nonsubstantive, ministerial, technical, or typographical changes to various sections of said Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code.

CEQA: Negative Declaration, File No. PP13-067. (Planning, Building and Code Enforcement)

(Deferred from 8/27/13 – Item 4.3 and 9/17/13 – Item 11.3)

Action: Deferred to October 22, 2013 per Administration.

4.2 Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the “Absalom and Elizabeth Frier House” located at 483 South 6th Street (City Landmark No. HL13-209 and California Mills Act No. MA13-002).

- (a) Conduct a public hearing and adopt a resolution designating the “Absalom and Elizabeth Frier House” as a landmark of special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature;
- (b) Conduct a public hearing on the Historic Property contract (California Mills Act) between the City of San José and the property owners of the “Absalom and Elizabeth Frier House” (Michael Hoffinger and George Lartey, Owners) and adopt a resolution approving the contract.

CEQA: Exempt. Historic Landmarks Commission recommends approval (6-0-0). (Planning, Building and Code Enforcement)

HL13-209/MA13-002 – District 3

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 10, 2013, transmitting a recommendation of approval for Project File No. HL13-209 and MA13-002. (2) Proof of Publication of Notice of Public Hearing, executed on August 16, 2013, submitted by the City Clerk.

- 4.2 Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, and Resolution No. 76810, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Absalom and Elizabeth Frier House Located at 483 South 6th Street as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”;

Resolution No. 76811, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with George Lartey and Michael Hoffinger for the Frier House (City Landmark No. HL13-209) Located at 483 South 6th Street”, were adopted. (8-0-3. Absent: Chu, Khamis; Reed.)

- 4.3 **Conduct a public hearing on the Mills Act Historic Property Contract (California Mills Act No. MA13-001) between the City of San José and the owner of the Ken Ying Low Chinese Restaurant, a Historic Landmark (City Landmark No. HL09-180) located on the west side of North 6th Street, 170 feet north of Jackson Street at 625 North 6th Street, and adopt a resolution approving the contract. (Chen Xiao Xiao, Owner). CEQA: Exempt. Historic Landmarks Commission recommends approval (6-0-0). (Planning, Building and Code Enforcement)**
MA13-001 – District 3

Documents Filed: (1) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 9, 2013, transmitting a recommendation of approval for Project File No. MA13-001. (2) Proof of Publication of Notice of Public Hearing, executed on August 16, 2013 submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, and Resolution No. 76812, entitled: “A Resolution of the Council of the City of San José Approving a Historic Landmark Preservation Agreement with Xiao Xiao Chen for the Ken Ying Low Restaurant (City Landmark No. HL09-180) Located at 625 North 6th Street”, was adopted. (8-0-3. Absent: Chu, Khamis; Reed.)

NEIGHBORHOOD SERVICES

- 5.1 As recommended by the Neighborhood Services and Education Committee on September 12, 2013, approve the Department of Parks, Recreation and Neighborhood Services change to the City's vending machine guidelines at City of San José community centers to 75% healthy food and drink options. CEQA: Not a Project, File No. PP10-068(c), Policy change that involves no changes in the physical environment. (Parks, Recreation and Neighborhood Services)
[Neighborhood Services referral 9/12/13 – Item D(4)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated September 19, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and Deputy Director Parks, Recreation and Neighborhood Services, Suzanne Wolf provided a presentation and offered feedback from the stakeholder meetings.

Public Comments: Richard McCoy and Martha O'Connell asserted that senior stakeholders were not given an opportunity to voice their opinions.

Staff responded to public comments, agreeing that vending machine issues were specifically youth centered.

Motion: Council Member Herrera moved approval of the staffs' recommendations, with further outreach to be conducted among the senior population. Council Member Liccardo seconded the motion.

Council Member Constant offered criticism of the proposed vending machine guidelines, citing more effort should be focused on education; Council Member Campos offered support to Council Member Constant's remarks, adding greater outreach is required.

Vice Mayor Nguyen argued that choices cannot be imposed upon adults.

Substitute Motion: Council Member Kalra moved approval to accept the Staff recommendation, including the City guideline of 75% healthy food and drink options at the 10 HUB Community Centers as well as City facilities. The substitute motion was seconded by Council Member Rocha.

Action: On a call for the question, the substitute motion carried, and Staffs' recommendations were approved with the City guideline of 75% healthy food and drink options at the 10 HUB Community Centers as well as City facilities. (6-3-2. Noes: Constant, Nguyen, Oliverio. Absent: Khamis; Reed.)

TRANSPORTATION & AVIATION SERVICES

Report on bids and award of contract for the 5591 - TiMC Facility Improvements (REBID) Project to the low bidder, Lyncon Construction, Inc. in the amount of \$2,460,000, and approve a contingency in the amount of \$369,000. CEQA: Exempt, File No. PP09-108. (Public Works/Transportation)

Documents Filed: Joint memorandum from Director of Public Works David Sykes and Director of Transportation Hans Larsen, dated September 9, 2013, recommending approval of an award for the REBID project.

Director of Transportation Hans Larsen provided an overview of the TiMC and advantages of modernizing the traffic signal system.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera, the motion carried unanimously, and the report on bids and award of contract for the 5591 - TiMC Facility Improvements (REBID) Project to the low bidder, Lyncon Construction, Inc. in the amount of \$2,460,000, with related contingencies, was approved. (9-0-2. Absent: Khamis; Reed.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's 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>
10160	N/S Berryessa Road, 980' e/o Commercial	4	KB Home South Bay	140 Lots/242 Units	SFR	Approval

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>
10160	N/S Berryessa Road, 980' e/o Commercial	4	KB Home South Bay	140 Lots/242 Units	SFR

ADJOURNMENT

The Council of the City of San José adjourned at 3:40 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
Acting City Clerk

rmk/10-1-13MIN