

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 22, 2013

The Council of the City of San José convened in Regular Session at 9:33 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Constant. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

Deputy Director Office of Employee Relations Jennifer Schembri provided an update on the labor relations' proposal from the Association of Building, Mechanical and Electrical Inspectors (A.B.M.E.I.).

Documents Filed: A.B.M.E.I. Proposal, dated October 9, 2013.

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 Manager; Title: City Manager; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (d)(1) with respect to existing litigation. (1) In re: Claim of Blatz; Amount of Money or Other Relief Sought: Administrative Appeal; (2) In re: Claim of Bacigalupi; Amount of Money or Other Relief Sought: Administrative Appeal; (3) Carter v. City of San José, et al.; Names of Partie(s) Involved: Jamil Carter, the City of San José, The San José Police Department ("SJPD"); Michael Sullivan, individually and in his official capacity as Lieutenant, SJPD; and Keith Cottrell, individually and in his

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

official capacity as Sergeant, SJPD; United States District Court, Northern District of California; Case No.: CV12-01968 HRL; Amount of Money or Other Relief Sought: Damages According to Proof; (4) City, et al. v. Office of the Commissioner of Baseball, et al.; Names of Partie(s) Involved: City of San José, City of San José as Successor Agency to the Redevelopment Agency of the City of San José, and the San José Diridon Authority, Office of the Commissioner of Baseball, an unincorporated association doing business as Major League Baseball, and Allan Huber "Bud" Selig; United States District Court, Northern District of California; Case No.: CV-13-02787-HRL; Amount of Money or Other Relief Sought: Damages According to Proof; (5) San José Police Officers' Association v. City, et al.; Names of Partie(s) 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; (6) San José Retired Employees Association, et al. v. City, et al.; Names of Partie(s) Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 through 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate; (7) Sapien, et al. v. City of San José, et al.; Names of Partie(s) 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 through 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: 1-11-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (8) Harris, et al. v. City of San José, et al.; Names of Partie(s) 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 through 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; (9) Mukhar, et al. v. City of San José, et al., Names of Partie(s) 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, and Does 1 through 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; (10) AFSCME, et al. v. City of San José, et al.; Names of Partie(s) 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, the Board of Administration for the Federated City Employees Retirement Plan; ; Court: Superior Court of California, County of Santa Clara; Case No:

CLOSED SESSION (Cont'd.)

1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (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, 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 11:15 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

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

Absent: Council Members - Constant. (Excused)

INVOCATION

Cristina Garcia of the Latina Coalition of the Silicon Valley provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance, joined by students from Anderson Elementary School.

ORDERS OF THE DAY

Upon motion by Council Member Herrera, seconded by Vice Mayor Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 2.16 and 4.5 added, Items 2.7 and 10.1 d-f dropped; Items 10.2, 10.3, 10.4, 11.2, 11.3 and 11.4 deferred, Item 10.5 continued to November 19, 2013, and Item 11.5 deferred to November 15, 2013. (8-2-1. Noes: Campos, Kalra. Absent: Constant.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring October 17, 2013 as “Light On Afterschool Day” in the City of San José. (Campos)

Mayor Reed and Council Members Campos and Rocha declared October 17, 2013 as “Light On Afterschool Day” in the City of San José.

1.3 Presentation of a commendation to eBay for their donation of an 800 square foot mobile Emergency Operations Trailer, to the City of San José Office of Emergency Services. (Fire)

Mayor Reed presented a commendation to eBay for their generous donation to the City of San José Office of Emergency Services.

1.6 Presentation of a commendation to St. Thomas of Canterbury Church recognizing their effort to complete 1,400 miles by bicycle in honor of the late Reverend Mark Catalana.

Mayor Reed recognized St. Thomas of Canterbury Church for their efforts in honoring the late Reverend Mark Catalana.

CONSENT CALENDAR

2.1 Approval of Minutes.

None provided.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29319 – An ordinance of the Council of the City of San José expanding a public right-of-way to accommodate the Delmas/Park Underground Utility District Project.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29319 executed on October 18, 2013, submitted by the City Clerk.

Action: Ordinance No. 29319 was adopted. (10-0-1. Absent: Constant.)

- (b) **ORD. NO. 29321 – Amending Section 3.28.630 of Chapter 3.28, the 1975 Federated Employees Retirement Plan, of Title 3 of the San José Municipal Code to require members to pay the member's share of contributions when receiving**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29321 executed on October 18, 2013, submitted by the City Clerk.

Action: Ordinance No. 29321 was adopted. (10-0-1. Absent: Constant.)

2.3 Approval of Council Committee Reports.

- (a) **Economic Competitiveness Committee Report of August 26, 2013. (Mayor)**
(b) **Rules and Open Government Committee Report of September 25, 2013. (Mayor)**
(c) **Rules and Open Government Committee Report of October 2, 2013. (Mayor)**

Documents Filed: (1) Economic Competitiveness Committee Report of August 26, 2013. (2) Rules and Open Government Committee Report of September 25, and October 2, 2013.

Public Comments: David Wall expressed his opinion on items discussed during the Committee Meetings.

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

- (d) **Transportation and Environment Committee Report of October 7, 2013. (Liccardo)**

Action: Deferred to October 29, 2013 per City Clerk.

- 2.4 (a) **Request for an excuse absence for Councilmember Constant from the Rules and Open Government Committee Meeting on October 9, 2013 due to a Family Emergency. (Constant)**
- (b) **Request for an excused absence for Mayor Reed from the Rules and Open Government Committee of October 9, 2013 due to Authorized City Business: The Hoover Institution Leadership Forum: Focus California; Stanford, CA. (Rules Committee referral 10/9/13)**
- (c) **Request for an excuse absence for Councilmember Constant from the Rules and Open Government Committee Meeting on October 16, 2013 due to a Family Emergency. (Constant)**

Documents Filed: (1) Memoranda from Council Member Constant dated October 9, and October 15, 2013, requesting excused absences due to a family emergency. (2) Memorandum from Mayor Reed, dated October 4, 2013, requesting an excused absence due to Authorized City Business.

Action: The requests for excused absences were approved. (10-0-1. Absent: Constant.)

2.5 **City Council Travel Reports**

Council Member Rocha reported on the San José Silicon Valley Chamber of Commerce Study Mission in which he and Mayor Reed participated. Council Members Herrera, Campos, Kalra and Khamis reported on the San José Sister City Trip they recently took to Dublin Ireland.

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

None provided.

2.7 **Adopt a resolution authorizing the City Manager to negotiate and execute amendments to the aquatic service agreements with Maki Swim School, Sparkle Swim School, LGS Recreation, West Coast Aquatics and California Sports Center to extend for one additional year through April 2015. CEQA: Not a Project, File PP10-066(e), Services that involve no physical change to the environment. (Parks, Recreation and Neighborhood Services)**

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated October 22, 2013, recommending adoption of a resolution.

Action: Dropped per Orders of the Day.

- 2.8 (a) **Authorizing the City Manager, or designee, to submit a grant application in an amount not to exceed \$1,100,000 to the State of California Natural Resources Agency as part of the Urban Greening for Sustainable Communities Grant Program funding for the Three Creeks Trail-Los Gatos Creek (at Lonus Street) to Guadalupe River (at Falcon Place cul-de-sac) (Project) that complies with the requirements of the Strategic Growth Council; and**
- (b) **Delegating the authority to the City Manager, or designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project.**

CEQA: Not a Project, File No. PP10-068, Grant Application. Council District 6. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares, dated September 30, 2013, recommending adoption of a resolution. (2) Letter from Richard Zappelli and Erik Fong, Willow Glen Neighborhood Association, dated October 17, 2013, lending support to the City's application for funding to support development of the Three Creeks Trail.

Action: Resolution No. 76818, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Grant Application to the State of California Natural Resources Agency as Part of the Urban Greening for Sustainable Communities Grant Program and to Conduct all Negotiations and to Execute and Submit all Documents Which May be Necessary for the Completion of the Three Creeks Trail – Los Gatos Creek to Guadalupe River Project", was adopted. (10-0-1. Absent: Constant.)

- 2.9 (a) **Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the Department of Justice, Office on Violence Against Women, to accept the 2013 Encourage Arrest Policies and Enforcement of Protection Orders grant award in the amount of \$899,660 and to negotiate and execute additional amendments and related documents without further Council action.**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Establish a City-Wide Expenses appropriation to the Police Department for the 2013 Encourage Arrest Policies and Enforcement of Protection Orders Program Grant in the amount of \$247,806; and**
- (2) **Increase the estimate for Revenue from Federal Government by \$247,806.**

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Police/City Manager's Office)

- 2.9** Documents Filed: Joint memorandum from Acting Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated September 30, 2013, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29322, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the General Fund for the 2013 Encourage Arrest Policies and Enforcement of Protection Orders Program Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76819, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement Between the City of San José and the Department of Justice, Office on Violence Against Women, to Accept the 2013 Encourage Arrest Policies and Enforcement of Protection Orders Grant Award in the Amount of \$899,660 and to Negotiate and Execute Additional Amendments and Related Documents Without Further Council Action”; and Resolution No. 76820, entitled: “A Resolution of the Council of the City of San José 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: Constant.)

- 2.10** (a) **Adopt a resolution accepting the FY 2011 Internet Crimes Against Children Continuation Grant in the amount of \$399,655 and authorize the City Manager to execute the Grant Agreement and all related documents.**
- (b) **Adopt the following Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the City-Wide Expenses appropriation to the Police Department for the Internet Crimes Against Children Continuation Grant 2011 in the amount of \$399,655; and**
 - (2) **Increase the estimate for Revenue from Federal Government by \$399,655.**

CEQA: Not a Project, File No. PP10-066(g), Grant Agreements and Memorandum of Understanding. (Police/City Manager’s Office)

Documents Filed: Joint memorandum from Acting Chief of Police Larry Esquivel and Budget Director Jennifer Maguire, dated September 30, 2013, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29323, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29271 to Appropriate Monies in the General Fund for the Internet Crimes Against Children Continuation Grant 2011; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 76821, entitled: “A Resolution of the Council of the City of San José Accepting the Office of Juvenile Justice and Delinquency Prevention Fiscal Year 2011 Internet Crimes Against Children (ICAC) Continuation Grant in the Amount of \$399,655 and Authorizing the City Manager to Execute the Grant Agreement and all Related Documents”; and Resolution No. 76822, 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: Constant.)

- 2.11 Adopt a resolution of intention to vacate a portion of Sixth Street between Virginia Street and Martha Street, reserving a public service easement over the area proposed for vacation, and setting a public hearing on November 19, 2013 at 1:30 p.m. CEQA: Mitigated Negative Declaration, File No. PDC07-035. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works David Sykes, dated September 30, 2013, recommending adoption of a resolution.

Action: Resolution No. 76823, entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Sixth Street, Between Virginia Street and Martha Street”, was adopted. (10-0-1. Absent: Constant.)

- 2.12 As recommended by the Rules and Open Government Committee on October 9, 2013, adopt a resolution approving the terms for Toni Taber for services as City Clerk, effective October 22, 2013. (Mayor)**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated October 9, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Khamis pulled Item 2.12 to correct the effective compensation date.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Khamis, the motion carried unanimously, and Resolution No. 76824, entitled: “A Resolution of the Council of the City of San José Approving the Terms of Compensation for Toni Taber as City Clerk, Effective October 27, 2013”, was adopted, with the effective compensation date changed to October 27, 2013. (10-0-1. Absent: Constant.)

- 2.13 (a) Approve travel by Mayor Reed to Washington, D.C. and New York City, NY on October 23-27, 2013:**
- (1) To participate in a panel at the Sustainable State and Local Retirement Systems Summit in Washington D.C.; and**
 - (2) To give a keynote on pension reform at the Reforming Public Pensions to Save Public Services Conference in New York City, NY.**
- Source of Funds: Portions of the travel costs will be paid by the Manhattan Institute for Policy Research and PEW Charitable Trusts. Portions will be paid out of the Mayor’s office budget. (Mayor)**
- (b) Request for an excused absence for Mayor Reed from the Rules and Open Government Committee on October 23, 2013 due to Authorized City Business: Sustainable State and Local Retirement Systems Summit and Reforming Public Pensions to Save Public Services Conference. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated October 11, 2013, requesting authorization to travel and excused absences due to authorized City business.

Action: The travel and excused absences were approved. (10-0-1. Absent: Constant.)

- 2.14 Approve travel by Councilmember Herrera to Newport Beach, CA on November 6-8, 2013, to join the Board of Directors for a League Leaders Workshop. Source of Funds: League of CA Cities and Mayor & Council Funds. (Herrera)**

Documents Filed: Memorandum from Council Member Herrera, dated October 9, 2013, requesting authorization to travel due to authorized City business.

Action: The travel and excused absences were approved. (10-0-1. Absent: Constant.)

- 2.15 Approve travel by Councilmember Herrera to Seattle, Washington on November 13-16, 2013, to represent the City of San José as Chair of Economic Development at the National League of Cities Expo. Source of Funds: Mayor & Council Funds. (Herrera)**

Documents Filed: Memorandum from Council Member Herrera, dated October 9, 2013, requesting authorization to travel due to authorized City business.

Action: The travel and excused absences were approved. (10-0-1. Absent: Constant.)

- 2.16 (a) Subject to approval under Orders of the Day, Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.**
(b) Approve a General Plan Hearing for November 19, 2013 at 7:00 p.m.
CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (Planning, Building and Code Enforcement).

Documents Filed: (1) Memorandum from Mayor Reed, dated October 18, 2013, recommending a public hearing. (2) Memorandum from Acting City Clerk Toni Taber, dated October 18, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Action: Council waived the 10-day noticing requirement, approved the placement on the agenda of a General Plan Hearing for November 19, 2013 at 7:00 p.m. (10-0-1. Absent: Constant.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported on her participation in the Sister City trip to Dublin, Ireland.

3.3 As referred by the Rules and Open Government Committee on October 16, 2013:

- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.
- (b) Adopt a resolution approving the terms of an agreement with the International Brotherhood of Electrical Workers, Local No. 332 (IBEW) for a term from July 1, 2013 to June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

Documents Filed: Memorandum from Deputy City Manager Alex Gurza, dated October 15, 2013, recommending waiving a noticing agreement and adoption of a resolution.

City Manager Debra Figone spoke on the tentative agreement with IBEW and the collaborative efforts extended.

Public Comments: David Wall questioned the sincerity of the City's intentions in returning employees' benefits.

Action: Upon motion by Vice Mayor Nguyen, seconded by Council Member Herrera, the motion carried unanimously, the 10-day noticing requirement was waived, and Resolution No. 76825, entitled: "A Resolution of the Council of the City of San José Approving an Agreement between the City of San José and the International Brotherhood of Electrical Workers, Local No. 332 (IBEW), with a Term of July 1, 2013 – June 30, 2014", was adopted. (10-0-1. Absent: Constant.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Adopt a resolution adopting the Negative Declaration and addendum thereto for the Update of the City of San José Sign Ordinance, First Phase Ordinance Revisions, File No. PP13-067 and File No. PP13-083, as having been completed in compliance with the California Environmental Quality Act (CEQA) and reflecting the City's independent judgment and analysis.

- 4.1 (b) **Approve an ordinance amending Title 23 of the San José Municipal Code to add a new type of allowable Sign for Corner Buildings of large Shopping Center Sites and allow additional Attached Signs for second-story retail tenant spaces within certain buildings on large Shopping Center Sites; to establish provisions for variances for Signs on historic buildings; to clarify and update the names of the City departments with administrative authority for implementation of Sign regulations; to delete references to Time and Temperature Signs; to amend definitions of Erection of a Sign, Programmable Electronic Sign, Relocation of a Sign, and Traffic Control Device; to add definitions of Sign Area and Sign Ordinance; to add a section stating the legal authority for the Sign Code; to repeal the section on the Master Sign Program; and to make other nonsubstantive, ministerial technical or typographical changes.**

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

(Deferred from 8/27/13 – Item 4.3, 9/17/13 – Item 11.3, and 10/1/13 – Item 4.1)

Documents Filed: (1) Joint memorandum from Council Members Constant, Oliverio, Khamis and Kalra, dated October 18, 2013, recommending acceptance of the staff recommendations with modifications. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 4, 2013, recommending an ordinance. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 15, 2013, clarifying the revised scope for the proposed amendment. (4) Proof of Publication of Notice of Public Hearing, executed on October 22, 2013 submitted by the City Clerk.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti offered a presentation on the proposed Sign Ordinance amendment and responded to questions from Council. Council discussion followed.

Public Comments: David Wall offered recommendations to update certain existing signs to a Jumbotron style.

Motion: Council Member Kalra moved approval of the staff recommendations including amendments as outlined in the memorandum dated October 18, 2013 that he coauthored with Council Members Constant, Oliverio and Khamis. Council Member Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, Resolution No. 76826, entitled: “A Resolution of the Council of the City of San José Adopting the San José Sign Code Update Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act as Amended”, was adopted; Ordinance No. 29324, entitled: “An Ordinance of the City of San José Amending Title 23 of the San Jose Municipal Code By Adding New Sections 23.02.125 and 23.02.494 and Amending Section 23.04.020 to Add A New Type of Allowable Sign On Corner Buildings of Large Shopping Center Sites and to Allow Additional Attached Signs For Second-Story Retail Tenant Spaces Within Certain Buildings On Large

4.1 (Cont'd.)

Shopping Center Sites; Adding Section 23.02.805 (Authority For Title 23); Amending Section 23.02.1370 to Establish Provisions For Sign Variances For Signs On Historic Buildings; Amending Section 23.02.870 to Clarify the City Departments With Administrative Authority For Implementation of Sign Regulations; Amending Sections 23.02.920 and 23.04.120 to Delete References to Time and Temperature Signs; Amending Definitions In Sections 23.02.160 (Erection of A Sign), 23.02.410 (Programmable Electronic Sign), 23.02.460 (Relocation of A Sign), and 23.02.560 (Traffic Control Device); Adding Definitions In New Sections 23.02.502 (Sign Area) and 23.02.505 (Sign ordinance); Repealing Section 23.02.1130 (Master Sign Program); and Making Other Nonsubstantive, Ministerial, Technical, or Typographical Changes to Title 23 of the San Jose Municipal Code”, was passed for publication with additions as outlined in the memorandum coauthored by Council Members Constant, Oliverio, Khamis and Kalra, dated October 18, 2013, to modify the proposed Second-Story Attached Sign Provision, allowing one Attached Sign per Occupancy Frontage up to a maximum of two signs with an aggregate Sign Area of two hundred square feet and a maximum of one hundred twenty square feet for any one sign. (10-0-1. Absent: Constant.)

- 4.2 (a) **Accept the Envision San José 2040 General Plan Annual Review report;**
(b) **Continue the policy direction of employment first and great places; and**
(c) **Continue planning and implementation efforts in village areas.**
CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (Planning, Building and Code Enforcement)
(Deferred from 10/8/13 – Item 4.2)

Documents Filed: (1) Joint memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Herrera, dated October 18, 2013, offering approval of staff recommendations with additional direction. (2) Memorandum from Council Member Rocha, dated October 21, 2013, regarding the General Plan Implementation. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 9, 2013, providing recommendations regarding Envision San José 2040 General Plan Annual Performance Review.

Director of Planning, Building and Code Enforcement Joseph Horwedel, provided an introduction to the General Plan, and Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti offered a presentation and responded to questions from Council.

Public Comments: Martha O’Connell stressed the need for affordable housing, adding that mobile home parks should be incorporated as part of the urban village scenario so as not to displace park residents. David Wall opined that the urban village concept is a utopian approach.

Mayor Reed recommended a study session on urban villages as outlined below in “Action”.

4.2 (Cont'd.)

Motion: Vice Mayor Nguyen moved approval of the memorandum co-written by her, the Mayor and Council Members Liccardo and Herrera dated October 18, 2013, with the inclusion of a study session on urban villages as recommended by Mayor Reed. Council Member Herrera seconded the motion.

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

Council Member Rocha offered that he cannot support the motion on the floor, as he sees it as an inflexible position that could create a backlash against the conversion policy, ultimately not taking all the City's interests into account.

Action: On a call for the question, the motion carried, the Staff's recommendations were accepted, with additions as outlined in the joint memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Liccardo and Herrera, dated October 18, 2013, including a study session on urban villages to be held November 12, 2013, one week prior to the General Plan hearing. (9-1-1. Noes: Rocha. Absent: Constant.)

4.3 **Adopt a resolution ordering the reorganization of territory designated as Burbank No. 42 which involves the annexation to the City of San José of approximately 1.20 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 special districts including Santa Clara County Central Fire Protection District, County Library Service Area No. 01, Burbank Sanitary District, and County Lighting Service Area. CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041. (Related approved Prezoning File No. C13-010). Council District 6. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated September 30, 2013, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on October 4, 2013 submitted by the City Clerk.

Public Comments: Joe Carpenter, Buena Vista Neighborhood Association, offered support to the annexation but expressed concern regarding the lack of outreach.

Director of Planning, Building and Code Enforcement Joseph Horwedel, clarified the conditional use permit, and offered that staff will improve community outreach.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera, and carried unanimously, Resolution No. 76827, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Burbank No. 42, Subject to Liability for General Indebtedness of the City", was adopted, with Staff to follow up with discussion on improving notification efforts made to the community. (10-0-1. Absent: Constant.)

- 4.4 **As recommended by the Rules and Open Government Committee on October 9, 2013, adopt a resolution demonstrating the City of San José’s commitment to maintaining its Sister City relationship with Ekaterinburg, Russia and, in keeping with the Sister City Program’s mission of creating cultural and educational exchanges, utilizing this relationship to denounce the recent anti-gay propaganda legislation and rhetoric by the Russian Federation and to encourage the protection of the equal rights of the LGBT community in Russia. (Kalra/Campos/Constant) [Rules Committee referral 10/9/13 – Item G(4)]**

Documents Filed: Memorandum from Acting City Clerk Toni Taber, dated October 9, 2013, transmitting the recommendations of the Rules and Open Government Committee.

Council Member Oliverio stated that he cannot support this recommendation with the rationale that he does not support international issues.

Action: Upon motion by Council Member Kalra, seconded by Council Member Herrera and carried, Resolution No. 76828, entitled: “A Resolution of the Council of the City of San José Regarding the Sister City Relationship with Ekaterinburg, Russia”, was adopted. (9-1-1. Noes: Oliverio. Absent: Constant.)

- 4.5 (a) **Subject to approval under Orders of the Day, Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.**
- (b) **Approval of a waiver of the Sunshine Resolution No. 75978 requirement that Planning Commission agendas be posted 7 days in advance of a meeting to authorize the on-line posting of the October 23, 2013 Planning Commission meeting agenda 6 days in advance of the October 23, 2013 meeting.**

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Planning, Building and Code Enforcement).

Documents Filed: City Council Action request from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 22, 2013, recommending approval of a waiver.

Action: Upon motion by Council Member Khamis, seconded by Council Member Liccardo, and carried unanimously, Council by motion waived the 10-day noticing requirement for the following item, and approved placement on the agenda. A waiver of the Sunshine Resolution No. 75978 requirement that Planning Commission agendas be posted 7 days in advance of a meeting to authorize the on-line posting of the October 23, 2013 Planning Commission meeting agenda 6 days in advance of the October 23, 2013 meeting, was approved. (10-0-1. Absent: Constant.)

NEIGHBORHOOD SERVICES

- 5.1 (a) **Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the Alum Rock Union Elementary School District for the funding, renovation and operations of softball fields and play areas at Ocala Middle School with the following terms:**
- (1) **Term of 25 years from the date of acceptance of the project plus the number of months necessary for the term to end on the following June 30;**
 - (2) **Financial contribution from the City in the amount up to \$500,000.**
- (b) **Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes, Council District #5:**
- (1) **Decrease the Ending Fund Balance by \$250,000; and**
 - (2) **Establish the Ocala Middle School Joint Use Project appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$250,000;**
- (c) **Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes, Council District #8:**
- (1) **Decrease the Ending Fund Balance by \$250,000; and**
 - (2) **Establish the Ocala Middle School Joint Use Project appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$250,000.**

CEQA: Exempt, File No. PP13-093. Council Districts 5 and 8. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: (1) Joint memorandum from Council Members Campos and Herrera, dated October 18, 2013, recommending a Joint Use Agreement between the City and Alum Rock School District. (2) Joint memorandum from Director of Parks, Recreation and Neighborhood Services Julie Edmonds-Mares and Budget Director Jennifer Maguire, dated September 30, 2013, recommending adoption of a resolution and Appropriation Ordinance Amendments.

Motion: Council Member Campos moved approval of the memorandum he coauthored with Council Member Herrera. Council Member Herrera seconded the motion.

Public Comments: David Wall offered this project as an example of good public service.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 76829, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Alum Rock Union Elementary School District for the Funding, Renovation, and Operations of Softball Fields and Play Areas at Ocala Middle School with the Following Terms: (1) Term of Twenty-five (25) Years from the Date of Acceptance of the Project Plus the Number of

5.1 (Cont'd.)

Months Necessary for the Term to End on the Following June 30th, and (2) Financial Contribution from the City in the Amount up to \$500,000 of Capital Funding; Ordinance No. 29325, 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: Parks Purposes Council District No. 5 for the Ocala Middle School Joint Use Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Ordinance No. 29326, 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: Parks Purposes Council District No. 8 for the Ocala Middle School Joint Use Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Constant.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Adopt a resolution authorizing the City Manager to execute a reimbursement agreement in an amount not to exceed \$3,000,000 whereby VF Mall, LLC, would reimburse the City for its share of the cost of constructing the ramp modifications at the I-880/Stevens Creek Boulevard interchange in accordance with the terms of site development permit H06-027. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. Council District 6. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated October 1, 2013, recommending adoption of a resolution.

Public Comments: David Wall expressed concerns regarding the agreement.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Herrera, and carried unanimously, Resolution No. 76830, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Reimbursement Agreement with VF Mall, LLC for the 1-880/Stevens Creek Interchange in an Amount not to Exceed \$3,000,000”, was adopted. (9-0-2. Absent: Constant, Nguyen.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Adopt a resolution to authorize the City Manager to execute an agreement with CTS International Corp for consultant services to develop technical training at the San José-Santa Clara Regional Wastewater Facility, formally referred to as the San José/Santa Clara Water Pollution Control Plant, from the date of execution through June 30, 2017, in an amount not to exceed \$2,250,000, and to authorize the City Manager to execute up to two one-year options to extend the term through June 30, 2019, subject to the appropriation of funds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)**

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated October 1, 2013, recommending adoption of a resolution. (2) Letter from Chairperson Chuck Reed, the Treatment Plant Advisory Committee, dated October 10, 2013, stating concurrence with the Staff recommendation.

Environmental Services Director Kerrie Romanow provided a presentation on the agreement with CTS International Corp for technical training services.

Public Comments: David Wall suggested more accountability with the members of TPAC. Jim Piazzo, representing Green Earth Management, argued that no one is asking the ‘tough questions’.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Herrera and carried unanimously, Resolution No. 76831, entitled: “A Resolution of the Council of the City of San José Authorizing the City manager to Execute an Agreement with CTS International Corp for Consultant Services at the San José – Santa Clara Regional Wastewater Facility from the Date of Execution through June 30, 2017, in an Amount not to Exceed \$2,250,000, and Authorize the City Manager to Execute Up to Two, One-Year Options to Extend the Term Through June 30, 2019, Subject to the Appropriation of Funds”, was adopted. (10-0-1. Absent: Constant.)

OPEN FORUM

David Wall provided comments on property tax reassessments.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:47 p.m.

RECESS/RECONVENE

The City Council recessed at 4:47 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Constant. (Excused)

Acting City Clerk Toni J. Taber, CMC read the requests for continuance of the applications. Upon motion by Council Member Liccardo, seconded by Vice Mayor Nguyen and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Constant.)

CEREMONIAL ITEMS

1.2 Presentation of commendations to the 2013 ELLA graduating class in recognition of their civic leadership and achievements. (Campos)

Mayor Reed and Council Members Campos and Rocha recognized the 2013 ELLA graduating class in recognition of their civic leadership and achievements.

1.4 Presentation of a proclamation declaring the month of October 2013 as ‘Hindu Awareness and Appreciation Month’ in the City of San José. (Kalra)

Mayor Reed and Council Member Kalra declared the month of October 2013 as ‘Hindu Awareness and Appreciation Month’ in the City of San José.

1.5 Presentation of a commendation recognizing Jose Mendoza, owner of San José Men’s Wear for his contributions to the Tropicana Shopping Center and the San José community through his leadership and commitment to improving the lives of all San José residents. (Nguyen)

Mayor Reed and Vice Mayor Nguyen commended José Mendoza for his many contributions in improving the lives of all San José residents.

GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

Items a through c were heard concurrently.

Tentative Approval of General Plan Consent Calendar Items.

- 10.1 (a) Amendment on a 5.28 gross acre site located at/on the block bounded by E. Taylor Street, N. 7th Street, Jackson Street, and N. 6th Street. Tentative approval of a Planning Director initiated General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Mixed Use Neighborhood to Transit Residential to align with the Jackson-Taylor Specific Plan on a 5.28 gross acre site, located at/on the Block bounded by E. Taylor Street, N. 7th Street, Jackson Street, and N. 6th Street (City of San José, Owner). CEQA: Envision San José 2040 EIR Resolution Number 76041. Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommended approval. GP13-007 – District 3
- (b) Amendment on a 2.4 gross acre site located on the west side of Race Street, 170 feet south of Park Avenue. Tentative approval of a General Plan Amendment request to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Mixed Use Neighborhood to Urban Residential on a 2.4 gross acre site, located on the west side of Race Street, 170 feet south of Park Avenue (250 Grand Avenue) (Race Street Investments LLC, Owner). CEQA: Addendum to the Race Street Terrace Mitigated Negative Declaration (Zoning File No. PDC11-005). Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommended approval. GP13-005 - District 6
- (c) Amendment on a 1.82 gross acre site, located on the east side of Almaden Expressway, approximately 1,320 feet southerly of Winfield Boulevard. Tentative approval of a Planning Director initiated General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Rural Residential to Residential Neighborhood on approximately 1.38 acres and Open Space, Parklands and Habitat on approximately 0.44 acres to align with the previously approved General Plan Amendment (File No. GP07-10-01 approved in 2010) on a 1.82 gross acre site, located on the east side of Almaden Expressway, approximately 1,320 feet southerly of Winfield Boulevard (6082 Almaden Expressway) (Mazzone Benjamin W Trustee & Et Al, Owner). CEQA: Envision San José 2040 EIR Resolution Number 76041. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Bit-Badal recused) recommended approval. GP13-019 - District 10

- 10.1 (d) General Plan Text Amendment.**
Director-initiated General Plan Text Amendment to clean-up LU-1.1 and LU-1.2 to eliminate redundant policy and mis-numbering, (City Of San José, Owner). CEQA: Envision San José 2040 EIR Resolution Number 76041. Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommend withdrawal.
GP13-017 - District: Citywide
- (e) General Plan Text Amendment.**
Director-initiated General Plan Text Amendment clean-up to add the "Planned Job Capacity and Housing Growth Areas by Horizon" Table currently in Appendix 5 to the main body of the General Plan, Chapter 5. (City Of San José, Owner). CEQA: Envision San José 2040 EIR Resolution Number 76041. Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommend withdrawal.
GP13-018 - District: Citywide.
- (f) Amendment on a 9.73 gross acre site, located on the west side of South King Road, approximately 810 feet north of Aborn Road.**
General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Light Industrial to Residential Neighborhood on a 9.73 gross acre site, located on the west side of South King Road, approximately 810 feet north of Aborn Road (2905 S. King Road). Consideration of this application also requires an update to the Evergreen-East Hills Development Policy. (Principle Broadcasting Network, Owner). CEQA: EIR required, not prepared. Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommend withdrawal.
GP13-004 - District 7

Items 10.1 "d through f" were dropped per Administration.

Documents Filed: (1) Three memoranda from Planning Commission Secretary Joseph Horwedel, each dated September 30, 2013, transmitting the Planning Commission recommendations of approval for Project File Numbers GP13-007, GP13-005, and GP13-019. (2) Three Proofs of Publication of Notices of Public Hearings, each executed on September 11, 2013 submitted by the City Clerk.

Council Member Khamis pulled item 10.1 (c) to thank those who organized the public meetings around this controversial item.

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 Oliverio, seconded by Council Member Khamis, and carried unanimously, the City Council tentatively approved the proposed General Plan Amendment. (9-1-1. Noes: Liccardo. Absent: Constant.)

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

GENERAL PLAN PUBLIC HEARINGS

- 10.2 Tentative approval of General Plan Amendment request to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Open Space, Parklands and Habitat to Public/Quasi-Public to allow a public elementary school on a 1.4 gross acres site located on the south east corner of Goodyear Street and Pepitone Avenue (1197 Lick Avenue) (City of San José, Owner). CEQA: Mitigated Negative Declaration, File No. PP12-091. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Commissioner O'Halloran recused) recommended approval.
GP13-003 – District 3**

Action: Deferred to November 19, 2013 per Administration.

- 10.3 Tentative approval of a General Plan Amendment request to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Residential Neighborhood to Mixed-Use Neighborhood on 1.0 gross acre site, located on the west side of Thornton Way, approximately 260 feet northerly of Maywood Avenue. (Plaza III, Owner). CEQA: Mitigated Negative Declaration, Resolution to be adopted with Item 10.5. Director of Planning, Building and Code Enforcement and Planning Commission (6-1, Commissioner Cahan opposed) recommended approval.
GP13-006 – District 6**

Action: Deferred to November 19, 2013 per Administration.

- 10.4 Tentative approval of Roosevelt Park, Five Wounds, Twenty Fourth and William Street, and Little Portugal Urban Village Plans as a part of the first group of Urban Village Plans prepared by the City and the community to further the Urban Village strategy of the Envision San José 2040 General Plan. These Plans will be a City Council adopted policy document for the future growth of the four Five Wounds Urban Villages. As a part of these plans, minor General Plan land use designation and Village Boundary line changes are also proposed. Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommended approval.**

Documents Filed: Joint memorandum from Mayor Reed and Council Members Campos and Liccardo, dated October 18, 2013 recommending deferral of item.

Action: Deferred to November 19, 2013 per Administration.

- 10.5 Adopt a resolution approving all of the General Plan amendment actions taken on October 22, 2013, and adopt related CEQA resolutions. (Planning, Building and Code Enforcement)**

Action: Continued to November 19, 2013 per Administration.

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the southwest corner of Guadalupe Mines Road and Camden Avenue (6055 Guadalupe Mines Road) from the R-1-1 Single Family Zoning District to the A(PD) Planned Development Zoning District to allow up to six (6) single-family detached homes (including one existing single-family detached residence) on a 7.2 gross acre site (Margolis Adele P Trustee, Owner). CEQA: Mitigated Negative Declaration to be adopted. Planning Commission recommends approval (7-0-0).
PDC12-024 – District 10
[Deferred from 8/20/13 – Item 11.1(b) and 9/17/13 Item 11.1(a) and Renoticed to 10/22/13]**
- (b) **Consideration of an ordinance for Planned Development Zoning from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow the addition of an approximately 1,390 square foot childcare facility to an existing athletic club located on the easterly side of Camden Avenue, approximately 210 feet northerly of Kooser Road (5400 CAMDEN AV) (Almaden Valley Athletic Club, Owner/Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommended approval.
PDC12-026 – District 9**

Documents Filed: (1) Two memoranda from Planning Commission Secretary Joseph Horwedel, dated July 24, 2013 and September 30, 2013, transmitting the Planning Commission recommendations of approval. (2) Proof of Publication of Notice of Public Hearing, executed on October 4, submitted by the City Clerk. (3) Correspondence from Elise Landry, dated September 17, 2013, informing the City of their contract termination with Rob Peterson. (4) Email from Charlene Bunger, dated October 14, 2013, expressing dissatisfaction with losing the open space to a housing project.

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 Vice Mayor Nguyen, seconded by Council Member Khamis and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 29327, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Guadalupe Mines Road and Camden Avenue, from the R-1-1 Single-Family Residence Zoning District to the A(PD) Planned Development Zoning District”, and Ordinance No. 29328, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Easterly Side of Camden Avenue, Approximately 210 Feet Northerly of Kooser Road, from the A(PD) Planned Development Zoning District to the A(PD) Planned

11.1 (Cont'd.)

Development Zoning District”, were passed for publication; Resolution No. 76832, entitled: “A Resolution of the Council of the City of San José Adopting the 6055 Guadalupe Mines Road Mitigated Negative Declaration for which an Initial Study was Prepared in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted. (9-0-2. Absent: Constant, Herrera.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.2 Consideration of an ordinance to rezone from LI Light Industrial Zoning District to R-M Multiple Residence Zoning District, on a 1.4 gross acres site located on the south east corner of Goodyear Street and Pepitone Avenue (1197 Lick Avenue) (City Of San José, Owner). CEQA: Mitigated Negative Declaration, File No. PP12-091. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Commissioner O’Halloran recused) recommended approval. C13-013 - District 3**

Action: Continued to November 19, 2013 per Administration.

- 11.3 Approve a revised Purchase and Sale Agreement between the City of San José and Launchpad Development Company, a California non-profit corporation, for the sale of approximately 26,528 square feet (0.6 acres) of real property in the amount of \$848,896 to facilitate the construction of Rocketship Tamien Public School #8, with the understanding that the acquired property will be transferred to Launchpad Development Nine, LLC, a California limited liability company. CEQA: Mitigated Negative Declaration, File No. PP12-091. Council District 3. (Parks, Recreation and Neighborhood Services)**

Action: Deferred to November 19, 2013 per Administration.

- 11.4 Consideration of an ordinance to Pre-Zone from County to R-M, Multiple Residence Zoning District on a 1.0 gross acre site, located on the west side of Thornton Way, approximately 260 feet northerly of Maywood Avenue. (Plaza III, Owner). CEQA: Mitigated Negative Declaration, to be adopted under Item 10.5. Director of Planning, Building and Code Enforcement and Planning Commission (6-1, Commissioner Cahan opposed) recommended approval. C13-026 - District 6**

Action: Deferred to November 19, 2013 per Administration.

- 11.5 (a) Consideration of an ordinance rezoning the real property located at the southwest corner of West San Carlos and Sunol Streets extending to Auzerais Avenue (860 West San Carlos Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District for a previously approved development to allow the following: (1) a change in the range of multi-family residential units from 680-800 to 600-800 units; (2) a change in the range of commercial square footage from 24,000-30,000 to 12,500-30,000 square feet; and (3) a reduction in building height on Block C from 140-150 feet to 50-80 feet, on an 8.0 gross acre site (Santa Clara County Transit District (VTA), Owner). CEQA: Ohlone Mixed Use EIR, File No. PDC08-061, Resolution No. 75192. PDC13-004 – District 6
- (b) Consideration of an ordinance approving a Development Agreement with Green Republic, LLLP, Valley Transportation Authority (VTA), Dianne Ryan Trust, 861 Auzerais Investment, Green Valley Corporation, and Carolyn Pahle Trust, to develop up to 800 multi-family attached residential units and a minimum of 14,000 square feet of ground floor commercial space on three blocks with a minimum of two tower structures and one structure with a minimum height of 70 feet, consistent with the proposed Planned Development Zoning (File No, PDC13-004), and subject to the performance by Green Republic, LLLP for the dedication of parkland, contribution of funds for public transportation improvements serving the development, accelerated construction of street and utility infrastructure, submittal of building permits for the first high rise and commencement of construction and subsequent occupancy per deadlines of performance included in this agreement, on an 8.0 gross acre site, located at the southwest corner of West San Carlos and Sunol Streets extending to Auzerais Avenue (860 W. San Carlos Street). CEQA: Ohlone Mixed Use EIR, File No. PDC08-061, Resolution No. 75192. (Planning, Building and Code Enforcement)
DA13-002 – District 6

(Deferred from 8/20/13 – Item 11.3 and from 9/17/13 – Item 11.2)

Action: Deferred to November 5, 2013 per Administration.

**11.6 Consideration of an ordinance rezoning of the properties located within a portion of the Alum Rock Neighborhood Business District (NBD) between King Road and Highway 680 to the MS - C Main Street Commercial and MS - G Main Street Ground Floor Commercial Zoning Districts. (City of San José, Applicant) (Various Owners). CEQA: Mitigated Negative Declaration, Resolution to be adopted. Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)
C13-035 – District 5**

Documents Filed: (1) Memorandum from Council Member Campos, dated October 22, 2013, recommending approval of the rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated September 12, 2013, transmitting the Planning Commission recommendation of approval for Project File No. C13-035. (3) Proof of Publication of Notice of Public Hearing, executed on August 23, 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.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti responded to questions from Council.

Action: Upon motion by Council Member Campos, seconded by Council Member Oliverio and carried unanimously, the recommendation of the Planning Commission was approved, and Ordinance No. 29329, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 72 Acres Situated on Both Sides of Alum Rock Avenue, between King Road and Highway 680 from A(PD) Planned Development, CG Commercial, CP Commercial Pedestrian, LI Light Industrial and HI Heavy Industrial Zoning Districts to the MS – C Main Street Commercial and MS – G Main Street Ground Floor Commercial Zoning Districts”, was passed for publication, and Resolution No. 76833, entitled: “A Resolution of the Council of the City of San José Adopting the Alum Rock Form Based Zoning 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 Mitigation Monitoring and Reporting Program”, was adopted. (8-0-3. Absent: Constant, Herrera, Khamis.)

OPEN FORUM

Youth Commissioners Mason Kimmel and Tara Pichumani stressed the importance of providing services for homeless youth and encouraged participation in the Green Light Project walk and rally to be held on November 1, 2013.

ADJOURNMENT

The Council of the City of San José adjourned at 7:30 p.m. in memory of Cindy Avitia, who tragically lost her life on August 22, 2013. She was a dedicated mother, wife, and community activist. Her devotion and commitment to her friends and family will leave a lasting impact in their lives that will never be forgotten. Cindy's work in the community carried a sense of pride and energy that was felt by those who worked with her and who had the opportunity to share memories with her. Cindy has left a legacy that will continue through her family and those in East San José.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
Acting City Clerk

rmk/10-22-13 MIN