



CITY COUNCIL AGENDA

DECEMBER 17, 2013

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:32 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (Mayor)**
Pastor Ed Snyder, East Valley Pentecostal Church offered a prayer for the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, and Item 3.5 was deferred to January 14, 2014.

- **Closed Session Report**

City Attorney Doyle disclosed the following Closed Session actions of December 17, 2013:

A. Authority for Amicus Support:

Case Name: State Department of Finance v. Commission on State Mandates (County of Los Angeles)

Adverse Party of Parties: Commission on State Mandates

Substance of Litigation: Request for Amicus Support

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

Noes: Constant.

Abstain: None.

Not Present: None.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to New Leaf Community Markets for becoming the first grocer in California to achieve B Corporation Certification. (Herrera)
Mayor Reed and Council Member Herrera recognized and commended New Leaf Community Markets.
- 1.2** Presentation of a commendation to NVIDIA Corporation for bringing Project Inspire to Ocala Middle School. (Campos)
(Rules Committee referral 12/11/13)
Mayor Reed and Council Members Campos and Herrera recognized and commended NVIDIA Corporation.
- 1.3** Presentation of a commendation to City Manager Debra Figone for her years of dedication and service to the community and the City of San José. (Mayor/Council)
Mayor Reed and the City Council recognized and commended City Manager Debra Figone for her tireless dedication, extraordinary commitment and exemplary service to the community and the City of San José. Mayor Reed and the Council Members presented City Manager Debra Figone with a gift basket consisting of a varied selection of each Council Member’s favorite children’s book. City Manager Debra Figone will present the gift basket to the “Partners In Reading Program”.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29352 - Amending Sections 6.64.130, 6.64.150 and 6.64.465 of Chapter 6.64 of Title 6 of the San José Municipal Code to suspend the license and permit requirements for taxicab businesses and persons that only drop off passengers in the city; and amending Sections 25.08.700 and 25.08.750 of Chapter 25.08 of Title 25 of the San José Municipal Code to suspend the permit requirements for ground transportation providers of taxicab services that only drop off passengers at the Norman Y. Mineta San José International Airport.

Ordinance No. 29352 adopted.

- (b) ORD. NO. 29353 – Rezoning certain real property situated on the east side of South Jackson Avenue on a 1.47 gross-acre site (70 South Jackson Avenue) to the CP Commercial Pedestrian Zoning District.

Ordinance No. 29353 adopted.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Neighborhood Services and Education Committee Report of November 14, 2013. (Nguyen)
- (b) Community and Economic Development Committee of November 18, 2013. (Herrera)
- (c) Rules and Open Government Committee Report of November 20, 2013. (Mayor)
- (d) Public Safety, Finance, and Strategic Support Committee on November 21, 2013. (Constant)
- (e) Transportation and Environment Committee Report of December 2, 2013. (Liccardo)

Approved.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2. CONSENT CALENDAR

2.7 Second Continuation Agreement with Berliner Cohen for Legal Services relating to California Building Industry Association v. City, et al.

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute a Second Continuation Agreement with Berliner Cohen for legal services relating to California Building Industry Association v. City, et al., to extend the term through December 31, 2014, to modify the scope of services, and to increase compensation by \$80,000, to a total amount not to exceed \$290,000. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney's Office)

Resolution No. 76881 adopted.

2.8 Reimbursable Space Act Agreement with the National Aeronautics and Space Administration Ames Research Center (NASA ARC).

Recommendation: Adopt a resolution authorizing the City Manager, or designee, to execute the fourth modification to Reimbursable Space Act Agreement and accompanying support agreement with the National Aeronautics and Space Administration Ames Research Center extending the City's use of office and hangar space at Moffett Federal Airfield for Law Enforcement and Emergency Response Capabilities until September 30, 2014. CEQA: Not a Project, File No. PP10-066(f), Lease of equipment of existing space for the same use. (Economic Development)

Resolution No. 76882 adopted, as amended, with Staff directed to include a condition to have a community meeting notifying the public of the new tenant and the helicopter.

2.9 Actions Related to the Public Art Agreement for the Berryessa BART Station.

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments to the General Fund:
 - (1) Establish a City-Wide appropriation to the Office of Economic Development for the BART Public Art Design and Construction Management Project in the amount of \$90,000.
 - (2) Increase the estimate for Revenue from Local Agencies in the amount of \$90,000.

Ordinance No. 29354 adopted.

Resolution No. 76883 adopted.

- (b) Adopt a resolution authorizing City Manager to negotiate and execute a three-party agreement with VTA and the artist to design, fabricate and install a public artwork for the Berryessa BART station in an amount not to exceed \$380,000 over the term of the agreement subject to appropriation of funds by City Council in subsequent fiscal years. CEQA: EIR Resolution No. 76126. Council District 4. (Economic Development/City Manager's Office)

Resolution No. 76884 adopted.

2. CONSENT CALENDAR

2.10 Amendment to the Agreement with Environmental Science Associates, Inc. and Jones & Stokes Associates, Inc. for Support and Regulatory Compliance Services.

Recommendation: Approve the Second Amendment to the agreement between the City of San José and Environmental Science Associates, Inc. and Jones & Stokes Associates, Inc. doing business as ESA + J&S Joint Venture for California Environmental Quality Act (CEQA) support and other regulatory compliance services to amend the scope of services, and to increase the maximum compensation by \$179,672, for a not to exceed amount \$2,633,589 through the term of the contract ending June 30, 2014. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for purchase of professional services. (Environmental Services)

Approved.

2.11 Actions Related to the Purchase Order with Jeffco Painting and Coating Inc. for Services at the San José/Santa Clara Regional Wastewater Facility.

Recommendation: Authorize the City Manager to:

- (a) Execute a Purchase Order with Jeffco Painting and Coating, Inc. (Vallejo, CA) for sandblasting and painting services at the San José-Santa Clara Regional Wastewater Facility for the period December 17, 2013 through December 16, 2014, with total compensation not to exceed \$400,000.
- (b) Exercise four additional one-year options to renew the Purchase Order, subject to the appropriation of funds.

CEQA: San José/Santa Clara Water Pollution Control Plant Master Plan EIR (Resolution No. 76858), File No. P11-043. (Finance)

Approved.

2.12 Amendment to the Citywide Security Guard Services Agreements.

Recommendation: Adopt a resolution authorizing the City Manager to execute the First Amendment to the Citywide Security Guard Services Agreements with First Alarm Security & Patrol Services (San José, CA) and National Security Industries & Services (San José, CA), to require each vendor to pay employees paid on an hourly rate consistent with the paid time off requirement pursuant to the City's Living Wage Policy 3-3 as amended on June 4, 2013. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

Resolution No. 76885 adopted.

2. CONSENT CALENDAR

2.13 Agreement with the County of Santa Clara for Payment of First Responder Fees.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding with the County of Santa Clara to accept payment in the amount of \$711,400 for first responder fees owed to the City for the period April 2013 through July 2013. CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Fire)

Resolution No. 76886 adopted, as amended, with exception to any assignment of rights to ensure the City has fully preserved its rights to both the County and Rural/Metro. City Attorney was directed to circulate an information memorandum to Council providing more information about the agreements.

2.14 Actions Related to the Purchase of the Agnews East Property.

Recommendation: Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):

- (a) Decrease the Reserve: Future PDO / PIO Projects by \$250,000.
- (b) Establish the Agnews Property Acquisition appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$250,000.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 29335 adopted.

2.15 Agreement with Verde Design, Inc. for the BMX Bike Park at Lake Cunningham Park.

Recommendation: Approve a master agreement with Verde Design, Inc. for architectural, civil, landscape architectural and environmental consultant design services to advance the development of a BMX Bike Park at Lake Cunningham Park from the date of execution through June 30, 2018, in an amount not to exceed \$500,000. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works/Parks, Recreation and Neighborhood Services)

Approved. Staff was directed to return to Council when the \$200,000 level has been reached.

2.16 Annual Development In-Lieu Fee Report.

Recommendation: Review of the Fiscal Year 2012 – 2013 Annual Development In-Lieu Fee Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Public Works)

Accepted.

2. CONSENT CALENDAR

2.17 Vacation of a Portion of Auzerais Avenue Adjacent to Assessor's Parcel Numbers 264-15-028 and 264-15-031.

Recommendation: Adopt a resolution summarily vacating a portion of Auzerais Avenue adjacent to Assessor's parcel numbers 264-15-028 and 264-15-031. CEQA: Mitigated Negative Declaration, File No. H13-008. Council District 6. (Public Works)

Resolution No. 76887 adopted.

2.18 Sale of a Portion of City-Owned Property on Auzerais Avenue.

Recommendation: Adopt a resolution:

- (a) Declaring 4,059 square feet of vacated street on Auzerais Avenue, south of San Carlos Street, surplus to the needs of the City.
- (b) Approving an agreement between the City of San José and National Retail Properties, LP for sale of the property in the amount of \$162,000.
- (c) Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.

CEQA: Mitigated Negative Declaration, File No. H13-008. Council District 6. (Economic Development)

Resolution No. 76888 adopted.

2.19 Contract Change with Granite Rock Company DBA Pavex Construction Division for the 2010 STP Resurfacing and Rehabilitation Project.

Recommendation: Approve a Contract Change Order Number 6 with Granite Rock Company DBA Pavex Construction Division for the 2010 STP Resurfacing and Rehabilitation Project – Citywide in the amount of \$150,459.27. CEQA: Exempt, File No. PP11-035. (Transportation)

Approved.

2.20 Master Parking Rate Schedule for the Convention Center Area.

Recommendation: Adopt a resolution to repeal Resolution No. 76430 and set forth the Master Parking Rate Schedule to establish a flexible rate (\$0 - \$25) for all-day parking, and a \$1 per hour rate option in the South First Street/University Business parking meter district. CEQA: Statutorily Exempt, File No. PP10-067 (a), CEQA Guidelines Section 15273, Rates, Tolls, Fares and Charges. Council District 3. (Transportation)

Resolution No. 76889 adopted.

2. CONSENT CALENDAR

2.21 Appropriation Ordinance for Replacement of Streetlight Copper Wire.

Recommendation: Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund to allow for additional replacement of streetlight copper wire:

- (a) Increase the appropriation to the Department of Transportation for Copper Wire Replacement in the amount of \$500,000; and
- (b) Decrease the Ending Fund Balance by \$500,000.

CEQA: Exempt, File No. PP13-076 (Transportation/City Manager's Office)

Renumbered to Item 6.1. See Item 6.1 for Action.

2.22 Parking Agreement with Apigee Corporation for Parking Permits and Facilities.

Recommendation:

- (a) Approve a parking agreement with Apigee Corporation, for the issuance of up to 200 parking permits for use at various City owned and/or operated parking facilities for up to 5-1/2 years.

Approved.

- (b) Adopt a resolution authorizing the City Manager, or designee, to execute future amendments to the parking agreement to increase or decrease the number of parking permits issued pursuant to the agreement, in an amount not to exceed 200 parking permits.

CEQA: Not a Project, File No. PP10-066(f), Lease of equipment of existing space. Council District 3. (Transportation/Economic Development)

Resolution No.76890 adopted.

2.23 Actions Related to the Slurry Seal Project.

Recommendation:

- (a) Increase the contingency for the 2012 Slurry Seal Project in the amount of \$200,000 for a total contingency amount of \$256,970.58 and a total contract amount of \$1,396,384.08.
- (b) Approve the following Contract Change Orders with Graham Contractors, Inc. Number 2 for the amount of \$148,361.44, Number 3 for the amount of \$1,891.00, and Number 4 for the amount of \$999.87.

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

Approved.

2. CONSENT CALENDAR

2.24 Councilmember Campos' Travel to San Diego, CA.

Recommendation: Approve travel by Councilmember Campos to San Diego, CA on January 10 – 12, 2013 to attend the League of California Cities Latino Caucus Annual Board Retreat. Source of Funds: District 5 Council Funds. (Campos)
(Rules Committee referral 12/11/13)

Approved.

2.25 Paw Project Documentary.

Recommendation:

- (a) Approve the showing of a pet documentary as a City Council sponsored Special Event and approving expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Oliverio)
(Rules Committee referral 12/11/13)

Approved.

2.26 Board and Commission Nominations.

Recommendation: As recommended by the Rules and Open Government Committee on December 11, 2013:

- (a) Approve the following appointments to the Council Appointment Advisory Commission:
 - (1) D-2: Deanford Chan (Term expiring 12/31/16) – (D9 residency)
 - (2) D-5: Brenda Wu (Term expiring 12/31/16) – (D8 residency)
 - (3) D-7: Johnny Lee (Term expiring 12/31/16) – (D7 residency)
- (b) Determine that a change to the term end date of the following vacant position on the Human Services Commission with unexpired terms is in the best interest of the commission to realign with the City Clerk's Office recruitment schedule shall be as follows:
 - (1) District 3 seat: Realign the term end date from December 31, 2014 to December 31, 2016;
 - (2) District 5 seat: Realign the term end date from June 30, 2014 to December 31, 2016;
- (c) Approve the following appointments to the Human Services Commission:
 - (1) Mayor: Joe Lopez (Term expiring 12/31/16) – (D2 residency)
 - (2) D-2: Andy Le (Term expiring 12/31/14) – (D2 residency)
 - (3) D-3: Omar Teutle (Term expiring 12/31/14) – (D2 residency)
 - (4) D-5: Eric O'Grey (Term expiring 6/30/14) – (D5 residency)
 - (5) D-8: Martin Monica (Term expiring 12/31/14) – (D6 residency)
 - (6) D-9: Monique Migdol (Term expiring 12/31/16) – (D9 residency)
 - (7) D-10: Amal Sinha (Term expiring 12/31/16) – (D10 residency)

CEQA: Not a Project. (City Clerk)
[Rules Committee referral 12/11/13 – Item F(1)(a)]

Approved.

2. CONSENT CALENDAR

2.27 Neighborhoods Commission Nominations.

Recommendation: As recommended by Rules and Open Government Committee on December 11, 2013, approve the following appointments to the Neighborhoods Commission:

- (a) Ramona Snyder (District 1) to a term expiring June 30, 2014;
- (b) Juan Estrada (District 5) to a term expiring June 30, 2014;
- (c) Richard Giammona (District 10) to a term expiring June 30, 2016; and
- (d) Nick Labosky (District 10) to a term expiring June 30, 2016.

CEQA: Not a Project. (City Clerk)

[Rules Committee referral 12/11/13 – Item F(1)(c)]

Approved.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that the City of San José earned three awards last week from the Silicon Valley Leadership Group for the City’s outstanding achievements, including the Mineta San José International Airport which responded to globalization; the San José High Rise Incentive Program which recognized efforts to boost a vibrant urban environment and the San José/Samsung project that recognized the innovative reuse of real estate to develop a landmark project.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

Heard at 9:32 a.m.

No Report.

3.3 Actions Related to the Living Wage Policy for Lease Agreements for City Hall Retail and Convention Center Plaza and Modification of Living Wage Policy.

Recommendation:

- (a) Authorize the City Manager to negotiate two proposed lease agreements that do not include living wage and labor peace requirements:
 - (1) City Hall Retail Space on Fourth Street; Don Imwalle Jr. as Master Tenant/Developer, City as Landlord, in the event that the space is not leased to the U.S. Patent Office.
 - (2) San José McEnery Convention Center Plaza Coffee Kiosk; Starbucks Coffee as Tenant, City as Landlord.

(Item Continued on the Next Page)

3. STRATEGIC SUPPORT SERVICES

3.3 Actions Related to the Living Wage Policy for Lease Agreements for City Hall Retail and Convention Center Plaza and Modification of Living Wage Policy. (Cont'd.)

- (b) Adopt a resolution approving modifications to the City's Living Wage Policy, Council Policy 3-3, to clarify living wage and labor peace requirements do not apply to leases, property agreements, operating agreement and concession agreements in which the City is Landlord, that do not provide City funds or City subsidies or involve direct services to the City or services that the City would normally provide to residents.

CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. Council District 3. (Economic Development/Public Works)
Deferred to January 28, 2014.

The memorandum from Council Member Rocha, dated December 16, 2013, was approved, with the following direction to Staff to return to Council (in Open or Closed Session, as appropriate) with the following information:

- (1) **The lease rate the City could expect to receive from the lease agreements contemplated in Staff's recommendation (a), assuming that the tenants are not required to comply with the Living Wage Policy, as Staff recommends.**
- (2) **An analysis of how much the City might need to discount the lease rate in exchange for a tenant to agree to pay the wage rates required by the City's Living Wage Policy.**
- (3) **An update on the status of efforts to locate the Patent Office at City Hall.**

Noes: Constant.

3.4 Amendment to the Agreement with Air-Transport IT Services, Inc. for Integrated System Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute the Fourth Amendment to the Agreement with Air-Transport IT Services, Inc. to revise the scope of services to meet current operation needs, extend the term for an additional twelve months for the term January 1, 2014 through December 31, 2014, and increase compensation by \$1,852,555 for a revised maximum compensation of \$19,994,875.
- (b) Exercise two additional one-year options to extend the term of the Agreement, subject to the annual appropriation of funds.

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

Resolution No. 76891 adopted.

3.5 2014 Legislative Guiding Principles, Priorities and Advocacy Issues.

Recommendation: As recommended by Rules and Open Government Committee on December 11, 2013, accept the 2014 Legislative Guide Principles as edited by the Council Committees, and the Legislative Priorities and Advocacy Issues for the second year of the two-year Legislative Session in Sacramento and the 113th Congress. (City Manager's Office)
[Rules Committee referral 12/11/13 – Item G(2)]

Deferred to January 14, 2014.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Lease Renewal for the San José Municipal Stadium.

Recommendation:

- (a) Approve the amended and restated lease between the City of San José and the San José Giants, dba, Baseball Acquisition Company, Inc., regarding the San José Municipal Stadium located at 588 E. Alma Avenue, in order to extend the existing lease for five years, with a new expiration date of December 31, 2018.
- (b) Approve a memorandum of understanding between the City, San José Giants and Sharks Ice regarding the roles and responsibilities for the management of the Municipal Stadium parking lot.

CEQA: Exempt, File No. PP07-217. Council District 7. (Economic Development)
(Deferred from 12/3/13 – Item 4.2)

The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Member Campos, dated November 26, 2013, was approved, accepting the Staff recommendations as outlined in the Staff Report dated November 12, 2013.

Noes: Liccardo.

4.2 Memorandum of Understanding with iStar San José, LLC, FWSH Partners II, LLC and Earthquakes Real Estate for Development of iStar Property.

Recommendation: Approve a non-binding Memorandum of Understanding with iStar San José, LLC, FWSH Partners II, LLC and Earthquakes Real Estate to explore and negotiate a Development Agreement for development of the iStar Property at Hwy 85 and Cottle Road with up to 720 homes, 24.5 acres of employment uses and significant retail user over 100,000 square foot, and a 4.2 acre fully improved park site, which development would finance construction of enhancements to the Earthquakes' professional soccer stadium at 1125 Coleman Avenue. CEQA: Not a Project, File No. PP10-166(g), Memorandum of Understanding. (Economic Development/Planning, Building and Code Enforcement)

Approved.

Noes: Oliverio.

4.3 North San José Traffic Impact Fee Incentive Program.

Recommendation: Adopt a resolution amending the North San José Area Development Policy to:

- (a) Increase the total square footage available for the incentive program to 4 million square feet.
- (b) Reduce the Traffic Impact Fee to \$2.00/sf for any build-to-suit Office/R&D campus of over 1 million square feet that obtains planning and building approvals by December 31, 2014.
- (c) Require new development that receives the \$2.00/sf incentive, as a condition of its Development Agreement, to participate in the Business Cooperation Program.

(Item Continued on the Next Page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 North San José Traffic Impact Fee Incentive Program. (Cont'd.)

- (d) Allow projects outside of the boundary area, that contribute traffic trips on roads within the Policy area that are consistent with the impacts identified in the NSJ EIR, to mitigate by payment of the Traffic Impact Fee following the preparation of a traffic impact analysis.
- (e) Provide additional flexibility with respect to the Urban Design Guidelines for campus style development within the Policy boundaries.

CEQA: North San José Development Policies Update EIR, Resolution No. 72768 and Addenda thereto. Council Districts 3 and 4. (Economic Development/Planning, Building and Code Enforcement)

The memorandum from Mayor Reed, Vice Mayor Nguyen, Council Members Herrera and Liccardo, dated December 13, 2013, was approved, accepting the Staff recommendations outlined in the November 25, 2013 report with the proposed modification to Item (c):

From: Require new development that receives the \$2.00/sf incentive, as a condition of its Development Agreement, to participate in the Business Cooperation Program.

To: Require the developer/owner of any new development that receives the Council approved \$2.00/sf incentive, to make every reasonable good faith effort in collaboration with its contractors, to include a provision in all construction contracts to record construction material purchases and sales, as sales originating within San José, as outlined in the Business Cooperation Program.

Resolution No. 76892 adopted, as amended.

Noes: Chu [Items (a),(b),(c),(d)], Rocha [Item (c)].

4.4 Continuation of Construction Tax Suspension for Office/R&D.

Recommendation: As recommended by the Community and Economic Development Committee on November 18, 2013, accept staff's recommendation to direct the City Attorney to draft an ordinance amending Chapter 4.46 of Title 4 of the San José Municipal Code and Chapter 4.47 of Title 4 to extend the partial suspension of the collection of the building and structure construction tax and the suspension of the commercial-residential-mobile home park building tax for office, research and development uses, data center uses and installation of solar photovoltaic systems until March 31, 2017. CEQA: Not a Project, File No. PP10-067 (Statutory Exemption, Sec. No. 15273), Rates, Tolls, Fares, and Charges. (Economic Development/Planning, Building and Code Enforcement)

[Community and Economic Development Committee referral 11/18/13 – Item d(3)]

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Rezoning the Real Property Located on the Northeast Corner of Lorraine Avenue and South Montgomery Street.

Recommendation: Consideration of an ordinance rezoning the real property located on the northeast corner of Lorraine Avenue and South Montgomery Street (565 Lorraine Avenue) from the LI – Light Industrial Zoning District to the DC – Downtown Core Zoning District on a 0.102 gross acre site (Solari James Trustee, Owner). CEQA: Envision San José 2040 General Plan FEIR (Resolution No. 76041). (Planning, Building and Code Enforcement) C13-042 – District 3

The memorandum from Council Member Liccardo, dated December 13, 2013, was approved: the rezoning of the real property located on the northeast corner of Lorraine Avenue and Montgomery Street was deferred until after a community meeting is held. Staff was directed to hold a community meeting to consider the rezoning of all parcels along Lorraine Avenue.

4.6 Rezoning the Real Property Located on the West Side of Lincoln Avenue, Approximately 320 Feet North of Auzerais Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of Lincoln Avenue, approximately 320 feet north of Auzerais Avenue (351 Lincoln Avenue) from LI – Light Industrial Zoning District to the CIC – Combined Industrial/Commercial Zoning District on a 0.5647 gross acre site (Lamantia Michael F Trustee, Owner). CEQA: Envision San José 2040 General Plan FEIR (Resolution No. 76041). (Planning, Building and Code Enforcement) C13-043 – District 6

Ordinance No. 29356 passed for publication.

4.7 Rezoning the Real Property Located Between Grand Avenue and Race Street, Approximately 300 Feet Southerly of Park Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located between Grand Avenue and Race Street, approximately 300 feet southerly of Park Avenue (253 Race Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow up to 80 multi-family attached residential units and up to 12,000 square feet of commercial uses in a four-story building on a 2.3 gross acre site (Race Street Investments, Owner). CEQA: Addendum to the Race Street Terrace Mitigated Negative Declaration. (Planning, Building and Code Enforcement) PDC13-037 – District 6

Ordinance No. 29357 passed for publication.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.8 Actions Related to the Real Property Located on the Eastside of South Jackson Avenue.

Recommendation: Consideration of adoption of a resolution approving Conditional Use Permit to allow the conversion of an existing post office and the addition of a new 12,295 square foot building for an elementary school use on an approximately 1.47 gross acre site, located on the eastside of South Jackson Avenue, approximately 350 feet south of Alum Rock Avenue at 70 South Jackson Avenue. CEQA: Mitigated Negative Declaration, Resolution No. 76879. (To An N, Angela K Et Al, and City of San José, Owner). (Planning, Building and Code Enforcement)

C13-049/CP13-085 – District 5

[Continued from 12/10/13 – Item 11.5(c)]

The memorandum from Council Member Campos, dated December 16, 2013, was approved to include an additional condition to the Conditional Use Permit as follows: An escrow account to be created by Launchpad Development with sufficient funds to mitigate traffic related impacts that will be created due to the construction and establishment of a new elementary school located at 70 South Jackson Avenue. Staff was directed to add “no left hand turns” on Page 26, under the Conditions of the Conditional Use Permit, Condition 28(e) Traffic Circulation.

Resolution No. 76893 adopted, as amended.

Noes: Oliverio.

Abstain: Liccardo.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 Appropriation Ordinance for Replacement of Streetlight Copper Wire.

Recommendation: Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund to allow for additional replacement of streetlight copper wire:

(a) Increase the appropriation to the Department of Transportation for Copper Wire Replacement in the amount of \$500,000.

(b) Decrease the Ending Fund Balance by \$500,000.

CEQA: Exempt, File No. PP13-076. (Transportation/City Manager’s Office)

Renumbered from Item 2.21.

Ordinance No. 29359 adopted.

(Action Continued on the Next Page)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Appropriation Ordinance for Replacement of Streetlight Copper Wire. (Action Cont'd.)
Replacement memorandum from Council Members Liccardo and Herrera, dated December 10, 2013, was approved, as amended, with the City Manager/Staff directed to return to the Rules and Open Government Committee in February 2014 with the following:

- (1) In coordination with Prospect Silicon Valley, and with the City's recently selected energy services company, Chevron Energy Solutions, explore the feasibility of creating a multi block or district wide project for the installation of "smart poles" consistent with Council Policy 0-140 (Framework for Establishing Demonstration Projects) over a geographic area that includes some portion of streets with longstanding street light outages (i.e. due to malfunction or wire theft). Include in those discussions Phillips and any other companies willing to construct and install "smart poles" without any capital cost to the City.**
- (2) The City Manager/Staff was further directed:**
 - (a) To provide cost estimates for (1) the targeted installation of metal locking lids on the light poles located in the 20% most frequent locations for wire theft in the City and (2) the sealing of all light poles with epoxy treatment.**
 - (b) To begin discussions with relevant bargaining groups to create a pay classification for qualified electricians that will ensure a pay rate sufficient to secure interest for both hiring and retention.**
- (3) Through the City's representatives to the Cities Association of Santa Clara County and the Association of Bay Area Governments:**
 - (a) Explore the creation of a regional pact requiring the licensing of recycling centers, junk dealers, weightmasters and other buyers of nonferrous metals ("metal dealers") such that metal dealers must:**
 - (1) Require that all metal sellers/customers provide the dealers with relevant information from the government-issued identification (CDL#, SSN#, DOB, etc.) and physical address.**
 - (2) Provide such information to law enforcement upon proper request.**
 - (3) Utilize check or payment other than cash for any metal purchase and that payment be mailed to the seller's physical address several days after the transaction.**
 - (b) Explore alternative methods of identifying publicly owned copper wire and preventing its theft and resale to recyclers, including color coding and conduit locking; and work with other jurisdictions and States to identify any other successful strategies that could be deployed here in San José and the region.**
- (4) Staff was further directed to: with regard to the combination poles and the wireless light LED poles, coordinate with the Silicon Valley Wireless Group Joint Venture and the Silicon Valley Regional Interoperability Authority Wireless Group to ensure the City is not preempting any other possibilities in the future.**

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

- 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>
9960	Southeast corner of Hostetter Road and Sierra Creek Way	4	Twin Creeks Berryessa LLC	6 Lots	SFD	Approval
10204	Southeast corner of East Brokaw Road and Old Oakland Road	3	The New Home Company	34 Lots / 239 Units	SFA	Approval

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notification that the City Engineer has received the following Final Map and is reviewing it for final approval:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9985	East side of Boynton Avenue, approx. 350 feet N/o Williams Road	1	KMA Real Estate Properties	5 Lots	SFD/SFA
10204	Southeast corner of East Brokaw Road and Old Oakland Road	3	The New Home Company	34 Lots / 239 Units	SFA

- **Open Forum**
 - (1) **David Wall presented his own point of view about Applegate Johnson.**
 - (2) **Michael McWalters expressed concern about the mitigation of traffic for Levi Stadium and asked whether the City of San José plans to address the impending traffic.**

Assistant City Manager Edward K. Shikada thanked City Manager Debra Figone on behalf of her Staff and remarked that it has been an extraordinary experience working with her.

- **Adjournment**

The Council of the City of San José was adjourned at 5:56 p.m. in memory of Royce Lorraine Peterson, an original member of the Prospect High School staff. She was an educator within the Campbell Union High School District for 38 years, and an active member of the Campbell High School Teachers Association. Upon retirement, she continued her service to education, elected in 2006, as a member of the Campbell Union High School District school board. (Rocha)