

CITY COUNCIL AGENDA

JANUARY 29, 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**
9:00 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 (District 2)**
Early Music Ensemble from Valley Christian Schools performed a musical selection 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.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of commendations to Principal Jason Sorich of San Antonio Elementary and Principal Rene Sanchez of Cesar Chavez Elementary for being named “Principal of the Year” by the San Jose Silicon Valley Chamber of Commerce and The Association of California School Administrators respectively. (Campos)
Mayor Reed and Council Member Campos recognized Principal Jason Sorich of San Antonio Elementary and Principal Rene Sanchez of Cesar Chavez Elementary for each being named “Principal of the Year”.
- 1.2 Presentation of a proclamation declaring January 27, 2013 as “International Holocaust Remembrance Day” in the City of San José. (Herrera)
Mayor Reed and Council Member Herrera recognized January 27, 2013 as “International Holocaust Remembrance Day” in the City of San José.
- 1.3 Presentation of a commendation to the Delta Sigma Theta sorority in honor of the organization’s 100th anniversary. (Kalra)
Mayor Reed and Council Member Kalra commended the Delta Sigma Theta sorority in honor of the organization’s 100th anniversary.
- 1.4 Presentation of a commendation to the Pacific Coast Farmer’s Market Association for their 25 years of establishing and operating community-supported certified farmers’ markets and other direct marketing outlets that provide: viable economic opportunities for California farmers and food producers, local access to farm fresh products, support for local businesses and community organizations, and education concerning food, nutrition, and the sustainability of California agriculture. (Herrera)
Item 1.4 was dropped.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None provided.
- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29196 – Amending various sections of Part 1 of Chapter 13.36 of Title 13 and Part 12 of Chapter 20.100 of Title 20 of the San José Municipal Code relating to the permitting of curb cafes.

Ordinance No. 29196 was adopted.

(Item Continued on the next page)

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

Recommendation: Final adoption of ordinances.

- (b) ORD. NO. 29198 – Amending various sections of Chapters 3.32 and 3.36 of Title 3 of the San José Municipal Code to clarify the City Charter supersedes the City of San José Police and Fire Retirement Plan in event of conflict, discontinue the Supplemental Retiree Benefit Reserve, and clarify actuarial soundness is determined consistent with the California Constitution, to be effective March 1, 2013.

Ordinance No. 29198 was adopted.

Noes: Campos, Chu, Kalra.

- (c) ORD. NO. 29200 – Rezoning certain real property situated northerly of the intersection of Springbrook Avenue and Canyon Ridge Drive to the A(PD) Planned Development Zoning District. PDC07-077

Ordinance No. 29200 was adopted.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of April 4, 2012. (Mayor)
- (b) Rules and Open Government Committee Report of April 11, 2012. (Mayor)
- (c) Rules and Open Government Committee Report of April 18, 2012. (Mayor)
- (d) Rules and Open Government Committee Report of April 25, 2012. (Mayor)
- (e) Community and Economic Development Committee Report of November 26, 2012. (Herrera)
- (f) Transportation and Environment Committee Report of December 3, 2012. (Liccardo)
- (g) Ad Hoc Committee on Economic Competitiveness Committee Report of December 12, 2012. (Mayor)
- (h) Neighborhood Services and Education Committee Report of December 13, 2012. (Pyle)
- (i) Public Safety, Finance and Strategic Support Committee Report of December 20, 2012. (Constant)

Approved.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) **Request for an excused absence for Council Member Constant from the Regular Meeting of the Rules and Open Government Committee on September 18, 2013 and the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on September 19, 2013 due to Authorized City Business: Presiding as Vice Chair of the League of California Cities (LOCC) Public Safety Committee at the LOCC Public Safety Committee Meeting & Annual Conference in Sacramento, CA. (Constant)**
(Rules Committee referral 1/16/13)
Excused.

2. CONSENT CALENDAR

2.5 City Council Travel Reports.

Mayor Reed reported on his attendance at the U.S. Conference of Mayors in Washington D.C., as well as the Presidential Inauguration. Council Member Khamis reported on his participation in the new Mayor/Councilmember training academy.

2.6 Report from the Council Liaison to the Retirement Boards. None provided.

2.7 Amendment to the Central Parking Systems, Inc. Agreement.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute the First Amendment to the Agreement with Central Parking Systems, Inc. (Central Parking) to:

- (a) Revise the compensation rate to reflect negotiated savings due to the consolidation of parking facility operations, centralized administrative services, and a reduced management fee;
- (b) Install the “Focus Point” application at the Third Street Garage at no cost to the City, to provide remote management functionality of parking transactions and operations; and
- (c) Extend the term of the Agreement by four months ending June 30, 2013, and add four additional one-year options to renew the agreement through June 30, 2017, subject to the appropriation of funds.

CEQA: Not a Project, File No.PP10-066(a), Agreements and Contracts for Professional Services. (Finance/Transportation)

Resolution No. 76538 adopted.

2.8 Vacation of Public Utility Easement on Edgewood Way.

Recommendation: Adopt a resolution summarily vacating a portion of a Public Utility Easement lying within Lot 114, Tract 1145 (1545 Edgewood Way). CEQA: Exempt, File No. PP12-107. Council District 6. (Public Works)

Resolution No. 76539 adopted.

2.9 Actions Related to Mayor Reed’s Travel to Washington, D.C.

Recommendation:

- (a) Approve travel by Mayor Reed to Washington, D.C. on January 16-21, 2013 to attend the United States Conference of Mayors’ 81st Winter Meeting. Source of Funds: Mayor’s Office Fund. (Mayor)
 - (b) Approve an excused absence for Mayor Reed from the Regular Meeting of the Rules and Open Government Committee on January 16, 2013 due to Authorized City Business: United States Conference of Mayors’ 81st Winter Meeting. (Mayor)
- (Rules Committee referral 1/16/13)

Approved.

2. CONSENT CALENDAR

2.10 Council Member Constant's Travel to Pasadena, CA and Sacramento, CA.

Recommendation:

- (a) Approve travel by Council Member Constant to Pasadena, CA on April 4, 2013 to preside as Vice Chair of the League of California Cities (LOCC) Public Safety Committee at the LOCC Public Safety Committee Meeting. Source of Funds: Mayor & Council Travel Fund. (Constant)
- (b) Approve travel by Council Member Constant to Sacramento, CA on June 13, 2013 to preside as Vice Chair of the League of California Cities (LOCC) Public Safety Committee at the LOCC Public Safety Committee Meeting. Source of Funds: Mayor & Council Travel Fund. (Constant)
- (c) Approve travel by Council Member Constant to Sacramento, CA on September 18 - 20, 2013 to preside as Vice Chair of the League of California Cities (LOCC) Public Safety Committee at the LOCC Public Safety Committee Annual Conference. Source of Funds: Mayor & Council Travel Fund. (Constant)

(Rules Committee referral 1/16/13)

Approved.

2.11 Council Member Herrera's Travel to Washington, D.C.

Recommendation: Approve travel by Council Member Herrera to Washington, D.C. on March 19-21, 2013 to attend the Silicon Valley Leadership Group Annual Advocacy Trip. Source of Funds: Mayor & Council Travel Fund. (Herrera)

(Rules Committee referral 1/16/13)

Council Member Herrera pulled item 2.11 to indicate the source of travel funds is District 8, not the Mayor & Council travel fund.

2.12 Grant Application for the Coyote Creek Trail.

Recommendation:

- (a) Adopt a resolution to authorize the City Manager or designee to:
 - (1) Submit a grant application to the Metropolitan Transportation Commission (MTC) for an amount up to \$800,000 as part of the One Bay Area Grant (OBAG) grant program with a local match of \$91,760;
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the MTC as explained in this memorandum; and
 - (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds.

Resolution No. 76540 adopted.

2. CONSENT CALENDAR

2.12 Grant Application for the Coyote Creek Trail.

Recommendation:

- (b) Adopt a resolution to authorize the City Manager or designee to:
 - (1) Submit a request that Caltrans reallocate up to \$2,200,000 of existing SAFETEA-Lu funds intended for Coyote Creek Trail development between Montague Expressway and Story Road to trail development more specifically between Selma Olinder Park and Story Road with a local match of \$252,340;
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the Caltrans as explained in this memorandum; and
 - (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds.

Resolution No. 76541 adopted.

- (c) Adopt a resolution to authorize the City Manager or designee to:
 - (1) Submit a grant application to the State of California to reprogram up to \$200,000 in grant funds previously allocated to the Milestone Mileage Marker project with no local match requirement;
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the State of California as explained in this memorandum; and
 - (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds.

Resolution No. 76542 adopted.

- (d) Adopt a resolution to authorize the City Manager or designee to:
 - (1) Submit a grant application to the Santa Clara County Open Space Authority for an amount up to \$100,000 with no local match requirement; and
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the MTC as explained in this memorandum; and
 - (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds and

(Item Continued on the next page)

2. CONSENT CALENDAR

2.12 Grant Application for the Coyote Creek Trail (Cont'd.)

Recommendation:

- (d) (4) Negotiate, execute, and record a Conservation Easement upon the project alignment on City property to ensure perpetual operation of City property as a recreational trail open to the public.

CEQA: Mitigated Negative Declaration, File No. PP08-014. Council District 7. (Parks, Recreation and Neighborhood Services)

Renumbered from Item 5.1

Resolution No. 76543 adopted.

2.13 Report on Bids and Awards of Contract for the Citywide Storm Sewer Inlet and Lateral Replacement Project.

Recommendation: Report on bids and award of contract for the 6743-Citywide Storm Sewer Inlet and Lateral Replacement Project to the low bidder, Ranger Pipelines Inc., in the amount of \$1,007,712 and approval of a contingency amount of \$100,771. CEQA: Exempt, File No. PP12-017, dated February 2, 2012. (Public Works)

Renumbered from Item 7.1

Approved.

2.14 Arts Commission Appointments.

Recommendation: As recommended by the Rules and Open Government Committee on January 29, 2013, appoint Roma Dawson and Ron Muriera to the Arts Commission.

(Liccardo)

[Rules Committee referral 1/23/13 – Item G(4)]

Approved.

2.15 National *Let's Move!* Campaign.

Recommendation: As recommended by the Rules and Open Government Committee on January 29, 2013, adopt a resolution designating Council Member Kansen Chu as the City's representative for the National *Let's Move!* Campaign. (Chu)

[Rules Committee referral 1/23/13 – Item G(5)]

Resolution No. 76544 adopted.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that the Norman Y. Mineta San José International Airport passed its recent Federal Aviation Administration inspection with full compliance and zero discrepancies and congratulated the Airport staff for its commitment to safety.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.
None provided.

3.3 Board and Commission Program Workplan.

Recommendation: Approve the Board and Commission Program workplan. (City Clerk)
(Rules Committee referral 11/28/12)

(Deferred from 12/11/12 – Item 3.4 and 1/15/13 – Item 3.3)

The workplan was approved, with amendments as included in Council Member Campos and Constant's memorandum of January 25, 2013 and Council Member Herrera's memorandum of January 29, 2013, with clarification that each Council Member shall nominate a member for the Boards & Commissions included in the Campos/Constant memorandum, that those nominees do not need to reside in the Council Member's District, that the nominees will go to Rules and Open Government Committee for referral to Council, and that the nominees will then return to the City Council for final approval.

3.4 Actions Related to Airport Staffing Needs.

Recommendation:

- (a) Adopt the following Appropriation Ordinance amendments in the Airport Maintenance and Operation Fund:
 - (1) Decrease Personal Services appropriation to the Airport Department in the amount of \$77,000; and
 - (2) Establish Personal Services appropriation to the Office of Economic Development in the amount of \$77,000.

Ordinance No. 29205 adopted.

(Item Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 Actions Related to Airport Staffing Needs. (Cont'd.)

Recommendation:

- (b) Approve the following position changes effective February 3, 2013:

Airport Department		
<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
1130	Office Specialist II	(2.00)
1640	Deputy Director	1.00
3514	Senior Airport Operations Specialist	2.00
3524	Airport Operations Supervisor	2.00
3549	Air Service Development Manager	1.00
8074	Division Manager	(1.00)
<i>Total Airport Department</i>		<i>3.00</i>
Office of Economic Development		
<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
1650	Senior Executive Analyst	1.00
<i>Total Office of Economic Development</i>		<i>1.00</i>
TOTAL		4.00

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

Approved.

3.5 Actions Related to Development Services Staffing and Equipment Needs.

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Increase the revenue estimate for Licenses and Permits by \$1,091,914;
 - (2) Increase the revenue estimate for Departmental Revenues by \$338,433;
 - (3) Increase the Building Development Fee Program – Personal Services appropriation by \$445,071;
 - (4) Increase the Building Development Fee Program – Non-Personal/Equipment appropriation by \$470,000;
 - (5) Increase the Personal Services appropriation to the Fire Department by \$106,843;
 - (6) Increase the Non-Personal/Equipment appropriation to the Fire Department by \$70,000; and
 - (7) Increase the Public Works Development Fee Program – Personal Services appropriation by \$338,433.

Ordinance No. 29201 adopted.

Resolution No. 76545 adopted.

(Item Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.5 Actions Related to Development Services Staffing and Equipment Needs. (Cont'd.)

Recommendation:

(b) Approve the following position changes effective February 3, 2013:

Planning, Building and Code Enforcement Department		
<i>Building Fee Program:</i>		
<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
3915	Building Inspector/Combo Cert FT	6.00
3919	Building Inspector Supervisor	2.00
3954	Permit Specialist	2.00
<i>Subtotal Building Fee Program</i>		<i>10.00</i>
Fire Department		
<i>Fire Fee Program:</i>		
<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
2323	Senior Hazardous Material Inspector	1.00
<i>Subtotal Fire Fee Program</i>		<i>1.00</i>
Public Works Department		
<i>Public Works Fee Program:</i>		
<u>Job Code</u>	<u>Job Classification</u>	<u>FTE</u>
3712	Engineering Technician	2.00
3713	Associate Engineering Technician	1.00
3714	Senior Engineering Technician	1.00
3814	Associate Engineer	1.00
3815	Senior Engineer	1.00
<i>Subtotal Public Works Fee Program</i>		<i>6.00</i>
TOTAL		17.00

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Planning, Building and Code Enforcement/Public Works/Fire/City Manager's Office)

Approved, with the recommendation to return during the budget process to permit additional authorization for flexibility for hiring in the subsequent fiscal year without explicit Council authorization.

3.6 Annual Summary of Upcoming Labor Negotiations.

Recommendation: Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations. CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (City Manager's Office)

Accepted.

3. STRATEGIC SUPPORT SERVICES

3.7 Update on Litigation and Administrative Complaint Matters related to Measure B.

Recommendation: Accept City Attorney report on the status of the litigation and administrative complaint matters related to Measure B (The Sustainable Retirement Benefits and Compensation Act). CEQA: Not a Project; File No. PP10-069(a), Staff Reports/Assessments/Annual Reports. (City Attorney's Office)
Deferred to 2/5/13 per Rules and Open Government Committee.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Rezoning Real Property Located on the Southwest Corner of West San Carlos Street and Royal Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the southwest corner of West San Carlos Street and Royal Avenue (720 West San Carlos Street and 655 Auzerais Avenue) from LI Light Industrial Zoning District to the CIC Combined Industrial Commercial Zoning District on a 5.66 gross acre site (National Retail Properties LP, Owner). CEQA: Envision San José 2040 General Plan Final EIR, EIR Resolution No. 76041. (Planning, Building and Code Enforcement)
C12-027 – District 6

Ordinance No. 29202 passed for publication.

4.2 Actions Related to Adoption of the Santa Clara Valley Habitat Conservation Plan/ Natural Community Conservation Plan.

Recommendation:

- (a) Adopt a resolution:
 - (1) Making certain findings concerning mitigation measures, adopting a mitigation monitoring and reporting program, and making findings concerning alternatives, in accordance with the California Environmental Quality Act of 1970, as amended (“CEQA”), for the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (“Habitat Plan” or “HCP/NCCP”) and related actions for which an Environmental Impact Report (EIR) has been prepared in accordance with CEQA (File No. PP12-075);
 - (2) Adopting the HCP/NCCP;
 - (3) Approving the Implementing Agreement among the City of San José, City of Morgan Hill, City of Gilroy, Santa Clara County, Santa Clara Valley Water District and the Valley Transportation Authority (“Local Partners”) and the US Fish and Wildlife Service, California Department of Fish and Wildlife, and National Marine Fisheries Service (“Wildlife Agencies”);

(Item Continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Actions Related to Adoption of the Santa Clara Valley Habitat Conservation Plan/ Natural Community Conservation Plan (Cont'd.)

Recommendation:

- (4) Approving the Joint Exercise of Powers Agreement among the City of San José and the cities of Gilroy and Morgan Hill and the County of Santa Clara which establishes the Santa Clara Valley Habitat Agency (“Habitat Agency” or “Implementing Entity”); and
- (5) Approving the Memorandum of Understanding among all six Local Partners, the Habitat Agency and the Santa Clara County Open Space Authority concerning working relationships for Habitat Plan implementation.

Resolution No. 76546 adopted.

Noes: Constant.

- (b) Approve the Implementing Ordinance adopting and incorporating by reference the Habitat Plan, implementing Habitat Plan requirements upon applications for land use permits in San José within the area covered by the Habitat Plan, and authorizing the collection of mitigation fees on behalf of the Santa Clara Valley Habitat Agency. The Implementation Ordinance adds Chapter 18.40 to Title 18 of the San José Municipal Code, entitled “Habitat Conservation Plan” and authorizes the collection of Habitat Plan mitigation fees on behalf of the Implementing Entity (the Santa Clara Valley Habitat Agency), and also amends Sections 17.04.310 and 17.04.340 of the Municipal Code to require compliance with the Habitat Plan for applications for grading permits.

Ordinance No. 29203 passed for publication.

Noes: Constant.

- (c) Adopt a resolution appointing representatives to the Santa Clara Valley Habitat Agency Governing Board and Implementation Board as follows:
 - (1) Appoint two Council Members, to serve on the Governing Board and two Council Members to serve as their alternates; and
 - (2) Appoint one Council Member to serve on the Implementation Board and one Council Member to serve as his or her alternate; and
 - (3) Appoint one City staff member to serve on the Implementation Board and an additional staff member to serve as his or her alternate.

Item 4.2(c) to be Renoticed.

- (d) Direct staff to advise Council on potential alternative funding strategies or sources to the proposed Nitrogen Deposition fee for the Habitat Plan nitrogen deposition mitigation program that do not add costs for private development projects within the Downtown, Urban Village or Employment Land areas as identified on the General Plan Land Use / Transportation Diagram.

Approved.

Noes: Constant.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Actions Related to Adoption of the Santa Clara Valley Habitat Conservation Plan/ Natural Community Conservation Plan (Cont'd.)

Recommendation:

- (e) Direct staff to attempt to develop a City Council “No Surprises” Policy that complies with all legal requirements, including CEQA, in order not to duplicate requirements to address environmental issues that are already specifically addressed in the Habitat Plan, and to work with the other agencies towards that goal.

Approved.

Noes: Constant.

- (f) Adopt a resolution confirming that development projects at the Norman Y. Mineta San José International Airport are not covered activities included in the HCP/NCCP.

CEQA: Environmental Impact Report, Resolution No. 76502. (Planning, Building and Code Enforcement)

Resolution No. 76547 adopted.

Noes: Constant.

5. NEIGHBORHOOD SERVICES

5.1 Grant Application for the Coyote Creek Trail.

Recommendation:

- (a) Adopt a resolution to authorize the City Manager or designee to:
- (1) Submit a grant application to the Metropolitan Transportation Commission (MTC) for an amount up to \$800,000 as part of the One Bay Area Grant (OBAG) grant program with a local match of \$91,760;
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the MTC as explained in this memorandum; and
 - (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds.

(Item Continued on the next page)

5. NEIGHBORHOOD SERVICES

5.1 Grant Application for the Coyote Creek Trail.

- (b) Adopt a resolution to authorize the City Manager or designee to:
 - (1) Submit a request that Caltrans reallocate up to \$2,200,000 of existing SAFETEA-Lu funds intended for Coyote Creek Trail development between Montague Expressway and Story Road to trail development more specifically between Selma Olinder Park and Story Road with a local match of \$252,340;
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the Caltrans as explained in this memorandum; and
 - (b) (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds.
- (c) Adopt a resolution to authorize the City Manager or designee to:
 - (1) Submit a grant application to the State of California to reprogram up to \$200,000 in grant funds previously allocated to the Milestone Mileage Marker project with no local match requirement;
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the State of California as explained in this memorandum; and
 - (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds.
- (d) Adopt a resolution to authorize the City Manager or designee to:
 - (1) Submit a grant application to the Santa Clara County Open Space Authority for an amount up to \$100,000 with no local match requirement; and
 - (2) Make the required assurances to comply with the project application, deadlines to complete the project, grant program requirements, and other assurances required by the MTC as explained in this memorandum; and
 - (3) Accept any grant award and negotiate and execute any documents to effectuate the grant, including the authority to negotiate and execute any documents that increase the amount of the grant awarded or require an increase in the local match of funds from the City for the project, subject to the appropriation of funds and
 - (4) Negotiate, execute, and record a Conservation Easement upon the project alignment on City property to ensure perpetual operation of City property as a recreational trail open to the public.

CEQA: Mitigated Negative Declaration, File No. PP08-014. Council District 7. (Parks, Recreation and Neighborhood Services)

Renumbered to Item 2.12

6. TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to Taxicab Permits.

Recommendation:

- (a) Approve an ordinance amending Chapter 6.64 of Title 6 of the San José Municipal Code to amend Section 6.64.130 and add a new Section 6.64.465 to create exceptions for out of town taxi businesses and taxi drivers whose principal place of business is outside of the City and who only do business in the City at the airport from obtaining an additional license under Title 6 if properly permitted under Title 25. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport/Police)
- (b) Approve an ordinance amending Sections 6.64.440 and 6.64.620 of Chapter 6.44 of Title 6 of the San José Municipal Code regarding Police taxicab permits to remove outdated language and to clarify hearing requirements to ensure consistency with other permit provisions in the Code. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy. (City Attorney's Office)

(Deferred from 12/18/12 – Item 6.2)

Dropped.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Report on Bids and Awards of Contract for the Citywide Storm Sewer Inlet and Lateral Replacement Project.

Recommendation: Report on bids and award of contract for the 6743-Citywide Storm Sewer Inlet and Lateral Replacement Project to the low bidder, Ranger Pipelines Inc., in the amount of \$1,007,712 and approval of a contingency amount of \$100,771. CEQA: Exempt, File No. PP12-017, dated February 2, 2012. (Public Works)

Renumbered to Item 2.13

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Transfer of Housing Assets to the Successor to the Redevelopment Agency.

Recommendation: Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:

- (a) Decrease the Housing Department’s Housing Loans and Grants appropriation by \$10,155,043; and
- (b) Establish the Successor Agency to the Redevelopment Agency appropriation in the amount of \$10,155,043.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Housing/City Manager’s Office)

Ordinance No. 29204 adopted.

- **Open Forum**

- (1) **Chuck Johnson spoke against litter and graffiti and proposed a ban on disposable cigarette lighters.**
- (2) **Mark Trout expressed religious and political viewpoints.**

- **Adjournment**

The Council of the City of San José was adjourned at 5:45 p.m. in memory of Miriam B. Ajluni. Miriam was a mainstay of the local Arab-American community for most of the past 40 years. Named “Woman of the Year” by the League of Arab-American Women of San José, she was dedicated to lifelong learning and to connecting new immigrants to their new San José community. She was born in Pittsburgh, PA, but was a long-time San José resident. Miriam passed away peacefully on January 10, 2013 at the age of 90. (Khamis)