

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 12, 2017

The Council of the City of San José convened in Regular Session at 9:10 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Arenas (9:50), Carrasco (9:40), Davis, Diep (9:30), Jimenez, Jones, Khamis, Nguyen, Peralez, Rocha (9:20); Liccardo.

Absent: Councilmembers - All Present.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room W133; (A) To Confer with Legal Counsel – Anticipated Litigation (Claim Filed) – Pursuant to subsection (b) of Section 54956.9 of the Government Code: (1) In re; Claim of AMCO Insurance Co. aso Carasco; City Department: Police. (B) To confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) Vasilevskis v. City of San José; Names Of Partie(s) Involved: Kristine Vasilevskis, Eduard Vasilevskis, City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-264132; Amount of Money or Other Relief Sought: Damages According to Proof; (2) Schwartz v. City of San José; Names Of Partie(s) Involved: Edward Schwartz; City of San José, County of San Mateo; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-02303; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (3) City of San José v. City of Santa Clara; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-02303; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (4) City of Santa Clara v. City of San José, et al.; Names Of Partie(s) Involved: City of Santa Clara, City of San José, City of San José City Council, Does I through X; Federal Realty and Investment Trust, and Does 1-20; Court: Superior Court of California, County of San Mateo; Case No.: 17-CIV-00547; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; Under Negotiation: Direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated Price based on appraisal and comparable property values.

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

By unanimous consent, Council recessed from the Closed Session at 9:44 a.m. and reconvened to Regular Session at 11:06 a.m. in the Council Chambers.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, Peralez, Rocha; Liccardo.

Absent: Councilmembers - Nguyen. (Excused)

INVOCATION

The Reverend Deacon Kathleen Crowe, SJSU Episcopal Chaplain and a retiree of the St. Andrew's Episcopal Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Magdalena Carrasco, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Nguyen.)

A moment of silence was offered for San Francisco Mayor Ed Lee, who was honored for his leadership and service.

CEREMONIAL ITEMS

- 1.1 17-163 Presentation of a commendation to Ohana Board Shop. (Davis)
Deferred per Administration.
- 1.2 17-482 Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco presented a commendation to the Legends 05 Girls Futsal team. (Carrasco)
Heard in the Evening.
- 1.3 17-488 Mayor Sam Liccardo, Councilmember Johnny Khamis and Peralez presented a commendation to the Valley Christian Schools Space Station Program. (Khamis)
Heard in the Evening.
- 1.4 17-504 Mayor Sam Liccardo presented a commendation to Bellarmine chancellor, Fr. Jerry Wade, S.J. for his commitment to the Bellarmine College Prep and wider community. (Mayor)

1.5 17-505 Mayor Sam Liccardo and Councilmember Raul Peralez presented a commendation to Stonelight Tile honoring their historic tile work and contribution to our local business community and San José for the past 100 years.
(Peralez)

CONSENT CALENDAR

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

2.2 17-352 Final Adoption of Ordinances.

Recommendation: (a) ORDINANCE NO. 30023 - An ordinance of the City of San José rezoning certain real property of approximately 64.59 acres situated northwest of State Route 237 and McCarthy Boulevard (1657 Alviso-Milpitas Road) from the A(PD) Planned Development Zoning District to the LI Light Industrial Zoning District. CEQA: 237 Industrial Center Environmental Impact Report. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
C15-054, SP16-053 & V17-004 - Council District 4

Documents Filed: Proof of Publication of the Title of Ordinance No. 30023 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30023 was adopted. (10-0-1. Absent: Nguyen.)

(b) ORDINANCE NO. 30036 - An ordinance of the City of San José rezoning certain real property of an approximately 0.2-acre portion of a larger 1.13-gross acre site located at the northwest corner of Meridian Avenue and Willow Street (1087 Meridian Avenue) from the CO Commercial Office Zoning District to the CP Commercial Pedestrian Zoning District. CEQA: Determination of Consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-042 - Council District 6

Documents Filed: Proof of Publication of the Title of Ordinance No. 30036 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30036 was adopted. (10-0-1. Absent: Nguyen.)

2.2 (Cont'd.)

(c) ORDINANCE NO. 30037 - An ordinance of the City of San José rezoning certain real property of approximately 5.38 acres located on the northeast corner of West Julian Street and North Autumn Street (Assessor's Parcel Nos. 259-25-061, 259-25-059, 259-25-042, 259-25-063, 259-25-004, 259-25-005, 259-25-007, 259-25-035, 259-25-062, 259-29-104, 259-29-093, 259-29-099) from the LI Light Industrial Zoning District and HI Heavy Industrial Zoning District to the TEC Transit Employment Center Zoning District. CEQA: Determination of Consistency with Envision San José 2040 General Plan Environmental Impact Report (Resolution No. 76041) and Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77517), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-038 - Council District 3

Documents Filed: Proof of Publication of the Title of Ordinance No. 30037 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30037 was adopted. (10-0-1. Absent: Nguyen.)

(d) ORDINANCE NO. 30038 - An ordinance of the City of San José rezoning certain real property of approximately 0.3 acre located on the northwest corner of Monterey Road and Bellevue Avenue (1593 Monterey Road) from the LI Light Industrial Zoning District to the CN Commercial Neighborhood Zoning District. CEQA: Determination of Consistency with Envision San José 2040 General Plan EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Program EIR (Resolution No. 77517), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-001 - Council District 7

Documents Filed: Proof of Publication of the Title of Ordinance No. 30038 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30038 was adopted. (10-0-1. Absent: Nguyen.)

(e) ORDINANCE NO. 30039 - An ordinance of the City of San José rezoning certain real property of approximately 0.51 acre located on the southeast corner of Santa Teresa Boulevard and Realm Drive (6970 Santa Teresa Boulevard), from the IP Industrial Park Zoning District to the CP Commercial Pedestrian Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) Supplemental EIR to Envision San José General Plan EIR (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-039 - Council District 2

2.2 (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 30039 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30039 was adopted. (10-0-1. Absent: Nguyen.)

2.3 17-444 Approval of Council Committee Minutes.

Recommendation: (a) Rules and Open Government Committee Minutes of October 25, 2017. (Mayor)
(b) Rules and Open Government Committee Minutes of November 1, 2017. (Mayor)
(c) Rules and Open Government Committee Minutes of November 8, 2017. (Mayor)
(d) Transportation and Environment Committee Minutes of November 6, 2017. (Carrasco)
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Clerk)

Documents Filed: (1) Rules and Open Government Committee Minutes, dated October 25, November 1, and November 8, 2017. (2) Transportation and Environment Committee Minutes of November 6, 2017.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the Council Committee Minutes were accepted. (10-0-1. Absent: Nguyen.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 17-425 Boards and Commissions Appointments.

Recommendation: Approve the following Board and Commission appointments:
(a) Human Services Commission:
(1) District 1 Seat: Appoint Franklin Elieh for the term 12/12/17 through 12/31/2018;
(2) District 2 Seat: Appoint Jessica Dickinson Goodman for the term 12/12/17 through 12/31/2018.
(b) Neighborhoods Commission:
(1) District 1 Seat: Appoint Franklin Nguyen for the term 12/12/17 through 6/30/2018;
(2) District 3 Seat: Appoint Nia Celestin for the term 12/12/17 through 6/30/2018;
(3) District 4 Seat: Appoint Alan Hinman, Jr. for the term 12/12/17 through 6/30/2020;
(4) District 7 Seat: Appoint Bruce Sullivan for the term 12/12/17 through 6/30/2018;
(5) District 9 Seat: Appoint Michael Young for the term 12/12/17 through 6/30/2018.

2.7 (Cont.'d.) CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Clerk)

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones, Item 2.7 was deferred to December 19, 2017. (10-0-1. Absent: Nguyen.)

2.8 17-433 Adopt a resolution authorizing the City Manager to execute an Agreement with Renne Sloan Holtzman and Sakai, LLP for labor consulting services in connection with labor matters for a contract amount not to exceed \$424,500, and a contract term beginning January 1, 2018, and ending December 31, 2020. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated November 29, 2017, recommending adoption of a resolution.

Action: Resolution No. 78440, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Renne Sloan Hotzman & Sakai, LLP for Consulting Services Related to Labor Matters", was adopted. (10-0-1. Absent: Nguyen.)

2.9 17-428 (a) Adopt a resolution authorizing the City Manager to execute a First Amendment to the Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2016 UASI grant reallocated additional funding in the amount of \$196,225, to extend the term of the Agreement from February 28, 2018 to July 31, 2018, and to execute related documents without further City Council action.
(b) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
(1) Increase the City-Wide Expenses appropriation to the City Manager's Office for the Urban Areas Security Initiative Grant - Fire 2016 by the amount of \$196,225; and
(2) Increase the estimate for Revenue from the Federal Government by \$196,225.
CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application and File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.

(Fire/City Manager)

Documents Filed: Joint memorandum from Fire Chief Curtis P. Jacobson, Director, Office of Emergency Management, Ray Riordan and Budget Director Margaret McCahan, dated November 30, 2017, recommending adoption of a resolution, appropriation ordinance and funding resources resolution amendments.

2.9 (Cont'd.)

Action: Resolution No. 78441, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a First Amendment to the Agreement with the City and County of San Francisco, Acting as Fiscal Agent for the Bay Area Urban Areas Security Initiative (UASI), to Accept the Federal Fiscal Year 2016 UASI Grant Reallocated Additional Funding in the Amount of \$196,225 to Extend the Term of the Agreement from February 28, 2018 to July 31, 2018, and to Execute Related Documents Without Further City Council Action”; Ordinance No. 30042, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the General Fund for the Urban Areas Security Initiative Grant – Fire 2016; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78442, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the General Fund”, were adopted. (10-0-1. Absent: Nguyen.)

2.10 17-421

(a) Adopt a resolution accepting the FY 2017 Internet Crimes Against Children Task Force Invited Awards in the amount of \$425,769 and authorizing the City Manager to execute the Grant Agreement and all related documents and to execute additional amendments and related documents, including online certifications at time of reimbursement request, without further City Council action.

(b) Adopt the following Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund for Fiscal Year 2017-2018:

(1) Increase estimate for Revenue from Federal Government by \$425,769; and

(2) Establish a new City-Wide appropriation to the Police Department for the FY 2017 Internet Crimes Against Children Task Force Invited Awards in the amount of \$425,769.

CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application; and File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.
(Police/City Manager)

Documents Filed: Joint memorandum from Police Chief Edgardo Garcia and Budget Director Margaret McCahan, dated November 30, 2017, recommending adoption of a resolution.

Action: Resolution No. 78443, entitled: “A Resolution of the Council of the City of San José Accepting the Office of Juvenile Justice and Delinquency Prevention Fiscal Year 2017 Internet Crimes Against Children Task Force Invited Awards in the Amount of \$425,769, and Authorizing the City Manager to Execute the Grant Agreement and all Related Documents and Amendments, including Online Certifications at time of Reimbursement Request”, Resolution No. 78444, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the General Fund”; and Ordinance No. 30043, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the General Fund for the FY 2017 Internet Crimes Against Children Task Force Invited Awards; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption, were adopted. (10-0-1. Absent: Nguyen.)

- 2.11 17-416** Approve a Master Agreement with Pipe & Plant Solutions, Inc. for technological consultant services for sanitary sewer siphon condition assessment from the date of execution to December 31, 2018, in an amount not to exceed \$500,000. CEQA: Exempt, File No. PP17-029, CEQA Guidelines Section 15301, Existing Facilities and Section 15302, Replacement or Reconstruction. (Public Works)

Documents Filed: City Council Action Request from Director of Public Works, Barry Ng, dated November 28, 2017, recommending approval of a Master Agreement.

Action: The Master Agreement was approved. (10-0-1. Absent: Nguyen.)

- 2.12 17-419** Report on bids and award of contract for the 8654 - Sanitary Sewer Repairs 2017-18 Package I Project to the low bidder, Southwest Pipeline & Trenchless Corp., in the amount of \$1,068,336 and approval of a contingency in the amount of \$106,834. CEQA: Exempt, File No. PP17-029, CEQA Guidelines Section 15301, Existing Facilities and 15302, Replacement or Reconstruction. Council District 6. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Barry Ng, dated November 13, 2017, recommending approval of a report.

Action: The report on bids and award of a contract were approved. (10-0-1. Absent: Nguyen.)

- 2.13 17-498** Approve travel by Mayor Liccardo to New York, NY, from December 12, 2017 to December 14, 2017 for Cities of Service Mayors Council. Source of Funds: Cities of Service. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Mayor)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated November 30, 2017, requesting approval to travel on City business.

Action: The travel by Mayor Liccardo was approved. (10-0-1. Absent: Nguyen.)

- 2.14 17-499** Retroactively authorize travel for Mayor Liccardo and Khanh Russo, the Mayor's Director of Strategic Partnerships, to Paris, France from October 20, 2017 to October 24, 2017 to attend CityLab Paris 2017. Source of Funds: Bloomberg Philanthropies. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Mayor)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated December 12, 2017, requesting retroactive travel approval.

Action: The travel by Mayor Liccardo was retroactively authorized. (10-0-1. Absent: Nguyen.)

2.15 17-500 District 8 Community Events.

Recommendation: As recommended by the Rules and Open Government Committee on December 6, 2017:
(a) Retroactively approve the following District 8 events as City Council sponsored special events and approve the expenditure of funds:
(1) Norwood Neighborhood Association Meeting on Tuesday, November 7, 2017.
(2) Cancelled-Norwood Neighborhood Association Meeting on December 5, 2017.
(3) Creekside Neighborhood Holiday Lights Celebration on Friday, December 8, 2017.
(4) Norwood Neighborhood Association Holiday Celebration on December 9, 2017.
(5) Holiday Sidewalk Stroll and Celebration on Saturday, December 9, 2017.
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated December 7, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 8 events were approved. (10-0-1. Absent: Nguyen.)

2.16 17-501 As recommended by the Rules and Open Government Committee on December 6, 2017:
(a) Approve the following District 8 events as City Council sponsored Special Events and approve the expenditure of funds:
(1) Volunteer Recognition Luncheon on Wednesday, December 13, 2017.
(2) Brigadoon Park Beautification Day on Saturday, December 16, 2017.
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated December 7, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 8 events were approved. (11-0.)

2.17 17-502 As recommended by the Rules and Open Government Committee on December 6, 2017:
(a) Approve Fiesta Navidena Celebration scheduled on December 8, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated December 7, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Fiesta Navidena Celebration event was approved. (11-0.)

END OF CONSENT CALENDAR

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, David Sykes (Verbal Report)

None provided.

3.2 Labor Negotiations Update.

None provided.

- 3.3** **17-405** (a) Interview applicants for appointment to the Employee Nominated Public Member Seat on the Civil Service Commission; and
(b) Appoint one (1) candidate to the Civil Service Commission to a term ending November 30, 2021.
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Clerk)

Note: Heard first in the evening.

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated December 1, 2017, recommending interview applicants. (2) Conflict of Interest review provided by City Attorney Richard Doyle, dated November 30, 2017. (3) Memorandum from Deputy Director, Diane Buchanan, dated December 1, 2017, providing review results.

Action: Interviews were held, a Council vote was taken, and Bill Brill was appointed to the Employee Nominated Public Member Seat on the Civil Service Commission for a term ending November 30, 2021.

- 3.4** **17-427** Interview applicants to the Appeals Hearing Board and consider appointment to fill two (2) vacant Public Member seats to a term of January 1, 2018 to December 31, 2021. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated December 1, 2017, recommending interview applicants. (2) Conflict of Interest review provided by City Attorney Richard Doyle, dated October 26, 2017. (3) Memorandum from Deputy Director, Diane Buchanan, dated October 30, 2017, providing review results.

Action: Interviews were held, a Council vote was taken, and Elizabeth Chien-Hale and Ronald Cabanayan were appointed to fill the two (2) vacant Public Member seats to a term of January 1, 2018 to December 31, 2021.

- 3.5 17-417** Adopt a resolution authorizing the City Manager to:
- (a) Execute the Fifth Amendment to the Public Address System Agreement with Signature Technologies, Inc. (dba Com-Net Software) to expand the existing public address system into Gate 7a in Terminal A+ at the Norman Y. Mineta San José International Airport, and to increase the total compensation by an amount not to exceed \$42,672 for a revised maximum compensation of \$4,300,749, including all hardware, software, professional services, maintenance, support, and sales tax; and
 - (b) Execute change order(s) to further expand the system, by an amount not to exceed \$30,000 for a revised maximum compensation of \$4,330,749 subject to the appropriations of funds.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated November 20, 2017, recommending adoption of a resolution.

Action: Upon motion by Councilmember Chappie Jones, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Resolution No. 78445, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager To: (A) Execute The Fifth Amendment To The Public Address System Agreement With Signature Technologies, Inc. (Dba Com-Net Software) To Expand The Existing Public Address System Into Gate 7a In Terminal A+ At The Norman Y. Mineta San Jose International Airport, And To Increase The Total Compensation By An Amount Not To Exceed \$42,672 For A Revised Maximum Compensation Of \$4,300,749, Including All Hardware, Software, Professional Services, Maintenance, Support, And Sales Tax; And (B) Execute Change Order(S) To Further Expand The System, By An Amount Not To Exceed \$30,000 For A Revised Maximum Compensation Of \$4,330,749 Subject to the Appropriation Of Funds”, was adopted. (10-0-1. Absent: Nguyen.)

- 3.6 17-438** Accept the Fiscal Year 2016-17 Comprehensive Annual Financial Report for the City of San José. CEQA: Not a Project, File No. PP17-009, Staff Report, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)

Note: Heard jointly with Items 3.7 and 9.1

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated December 1, 2017, recommending acceptance of the report.

City Auditor Sharon Erickson and Director of Finance Julia H. Cooper provided the Comprehensive Annual Financial Report.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones and carried unanimously, the Fiscal Year 2016-17 Comprehensive Annual Financial Report was accepted. (10-0-1. Absent: Nguyen.)

- 3.7** **17-439** Accept the Single Audit Report and Report to Those Charged with Governance for the year ended June 30, 2017 as issued by Grant Thornton LLP, the City’s external auditor. CEQA: Not a Project, File No. PP17-009, Staff Report, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)

Note: Heard jointly with Item 3.6 and 9.1

Documents Filed: (1) Memorandum from Director of Finance, Julia Cooper, dated December 1, 2017, recommending acceptance of the report. (2) Report of Independent Certified Public Accountants Grant Thornton, dated November 16, 2017.

Director of Finance Julia H. Cooper provided the Report.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones and carried unanimously, the Report was accepted. (10-0-1. Absent: Nguyen.)

- 3.8** **17-437** Accept the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2016-2017. CEQA: Not a Project, File No. PP17-009, Staff Report, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated December 1, 2017, recommending acceptance of the report.

Director of Finance Julia H. Cooper provided the Report.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones and carried unanimously, the Report was accepted. (10-0-1. Absent: Rocha.)

- 3.9** **17-503** Approve an ordinance amending various sections of Chapters 3.28, 3.36, 3.57 and 3.58 of Title 3 of the San José Municipal Code to clarify the effective date of the election by employees out of the defined retiree healthcare benefit plan to the voluntary employee beneficiary association plan. CEQA: Not a Project; PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)

Documents Filed: City Council Action Request, dated December 7, 2017, recommending approval of an ordinance.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Dev Davis and carried unanimously, Ordinance No. 30044, entitled: “A Ordinance of the Council of the City of San José Amending Chapters 3.28, 3.36, 3.57 and 3.58 of Title 3 of the San José Municipal Code to Clarify the Effective Date of the Election by Employees Out of the Defined Retiree Healthcare Benefit Plan to the Voluntary Employee Beneficiary Association Plan”, was passed for publication. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 17-420 Actions Related to the Bridge Housing Community.

- (a) Provide input and approve the proposed scoring matrix to create a prioritized list of sites in order of viability and readiness for development of a Bridge Housing Community (BHC);
- (b) Provide input and approve the community engagement plan to implement a City-wide and site-specific community outreach plan for three or fewer sites identified through the proposed scoring matrix;
- (c) Provide input and approve the design, structure, operations, and implementation timeline for BHCs, including the feasibility of alternative program options; and
- (d) Direct staff to return to Council with three or fewer sites for final approval following the completion of community outreach and full environmental review process.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Housing)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco, and Councilmembers Jones, Peralez and Arenas, dated December 8, 2017. (2) Joint memorandum from Councilmember Donald Rocha and Councilmember Johnny Khamis, dated December 7, 2017. (3) Memorandum from Councilmember Donald Rocha, dated December 11, 2017. (4) Memorandum from Councilmember Lan Diep, dated December 11, 2017. (5) Memorandum from Councilmember Tam Nguyen, dated December 12, 2017. (6) Memorandum from Mayor Sam Liccardo, dated December 12, 2017. (7) Memorandum from Councilmember Sergio Jimenez, dated December 12, 2017. (8) Memorandum from City Attorney Richard Doyle, dated November 28, 2017 providing updates. (9) Replacement memorandum from Director of Housing, Jacky Morales-Ferrand, dated December 8, 2017, replacing the December 1, 2017. (10) Supplemental memorandum from Director of Housing, Jacky Morales-Ferrand, dated December 11, 2017, providing an update on the selection of a facilitator to manage the community outreach process. (11) Letter from the Law Foundation of Silicon Valley, dated December 11, 2017. (12) Forty-two (42) letters from the public regarding Bridge Housing Communities.

Director of Housing Jacky Morales-Ferrand introduced and offered a presentation, and Homelessness Response Manager Ray Bramson followed up with case studies of various options. Jacky Morales-Ferrand continued with the presentation, including operational costs.

Mayor Sam Liccardo offered comments and opened the floor for public testimony.

Public Comments: Fifty-nine (59) members of the public expressed their concerns, questions and opinions regarding Bridge Housing communities.

Motion: Councilmember Sylvia Arenas moved approval of the memorandum she co-signed with Mayor Liccardo, Vice Mayor Carrasco, Councilmembers Jones and Peralez, dated December 8, 2017, including the memorandum from Councilmember Diep, dated December 11, 2017; items 2, 3 and 5(a) from the memorandum from Councilmember Sergio Jimenez, dated December 12, 2017, and item 2(b) from Councilmember Nguyen's memorandum dated December 12, 2017. Councilmember Dev Davis seconded the motion.

4.1 Actions Related to the Bridge Housing Community (Cont'd.)

Staff responded to questions, and extensive Council discussion followed.

Action: On a call for the question, the motion carried unanimously, and the staff recommendations were accepted, including the memorandum from Mayor Liccardo, Vice Mayor Carrasco, Councilmembers Jones, Peralez, and Arenas, dated December 8, 2017, to:

1. Approve staff recommendation to proceed with Bridge Housing communities to house our most vulnerable population. Continue prior Council direction to pursue hotel/motel acquisition strategies.
2. Continue prior direction to pursue safe parking and work with Council Offices to identify potential sites to establish a pilot safe parking program.
3. Approve staff recommendation for site scoring criteria for Bridge Housing, with no more than one site per district, while continuing to work with partner public agencies.
4. For the highest-scoring sites: a. Initiate CEQA analysis on a sufficient number of sites to yield three viable options for potential Bridge Housing communities. b. Proceed with community outreach, utilizing the outreach process outlined in the staff report, on the three highest-ranked sites. Work closely with relevant Council offices to ensure thorough outreach to the full range of stakeholders. Return to Council by the summer 2018 for final site approval after the initial community outreach.
5. Work with external partners and industry experts on utilizing non-conventional construction materials and methods to further reduce the \$20,000 - \$30,000 per-structure costs — and related site development costs — for the emergency sleeping cabin design and construction. Pursue volunteer labor and donated materials to achieve even further cost savings.
6. Proceed with the Bridge Housing "Model 2," with 40 or more emergency sleeping cabins per site and the optimal service plan, to both better address the need, and to improve the cost-efficiency of service delivery.
7. Continue to pursue funding from the County and State for Bridge Housing communities. Additionally, work with the Mayor's Office of Strategic Partnerships to identify private, philanthropic funding. Return to Council during the Spring budget process with a funding plan for approval.

And including the memorandum from Councilmember Diep, dated December 11, 2017, to:

1. Reflect upon what staff does not presently know about housing the homeless, and articulate how a Bridge Housing Community pilot program will fill those gaps in knowledge (e.g. What hypothesis are we testing? What do we hope to learn?);
2. Identify clear goals for the BHC pilot program and determine guidelines to judge the failure or success of the pilot program;
3. Determine what the City would have to do to legally operate a BHC without the benefit of AB 2176 in the event the pilot succeeds;
4. Return to Council by summer 2018 with items 1-3, above;
5. Identify alternative potential funding sources for Council to consider in time for the budget process, other than Housing Authority Litigation Award funds;
6. Abandon the BHC pilot program if unexpected delays do not allow the City enough time to implement the pilot program for at least one year or some other meaningful timeline suggested by staff and approved by Council.

4.1 Actions Related to the Bridge Housing Community (Cont'd.)

Also including items 2, 3 and 5(a) from the memorandum from Councilmember Sergio Jimenez, dated December 12, 2017, to:

2. Direct staff to evaluate cost-cutting measures and seek alternative funding sources that would not divert funds already appropriated for permanent housing.
3. Direct staff to determine if housing a targeted population in the BHC pilot site would violate Fair Housing laws. Specifically, consider using the Kenton Women's Village in Oregon as a model for the pilot site.
5. Direct the Planning and Housing Departments to concurrently focus on diverse solutions to solving our homeless crisis:
 - a. Explore an emergency ordinance for the implementation of safe parking programs and come back to Council with a timeline for implementation.

And, finally, item 2(b) from Councilmember Nguyen's memorandum dated December 12, 2017, to: 2(b): When returning to Council by summer 2018, also include a working plan to achieve and ensure these goals: Safety Health, and Cleanliness for the surrounding neighborhoods.

(9-0-2. Noes: Khamis, Rocha.)

The City Council recessed at 5:45 p.m. from the afternoon Council Session and reconvened at 6:17 p.m. in the Council Chambers, City Hall.

Present: Council Members - Diep, Jones, Jimenez, Peralez, Carrasco, Davis, Nguyen, Arenas, Rocha, Khamis; Liccardo.

Absent: Council Members - All Present.

TRANSPORTATION & AVIATION SERVICES

- 6.1 17-436** (a) Approve a First Amendment to the Funding Agreement between the City of San José and the Santa Clara Valley Transportation Authority (VTA) to initiate preliminary engineering and obtain environmental clearance for the I-280/Winchester Boulevard Improvements Project to increase the City's share of the funding and the total not to exceed amount from \$250,000 to \$2,250,000, and to extend the term of the Agreement to December 31, 2020.
- (b) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Excise Tax Fund:
- (1) Increase estimated revenue from Fees, Rates, and Charges in the amount of \$2,242,000 to recognize receipts from the I-280/Winchester Boulevard Transportation Development Policy Traffic Impact Fee in the amount of \$2,242,000; and
 - (2) Establish an appropriation to the Department of Transportation in the amount of \$2,242,000 for the I-280/Winchester Boulevard Interchange project.
- CEQA: Statutory Exemption, File # PP17-001, Feasibility and Planning Studies with no commitment to future actions. Council Districts 1 & 6. (Transportation/City Manager)

Documents Filed: Joint memorandum from Director, Department of Transportation, Jim Ortbal and Budget Director Margaret McCahan, dated November 21, 2017.

6.1 (Cont'd.)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, Ordinance No. 30045, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Construction Excise Tax Fund for the I-280/Winchester Boulevard Interchange; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78446, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the Construction Excise Tax Fund”, were adopted. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 17-418 (a) Conduct a Public Hearing on the application of Eco Box Recycling Inc. for a Non-Exclusive Franchise for the non-exclusive collection, transport, and disposal of residential clean-out material and construction and demolition debris.
(b) Approve an ordinance granting the franchise.
(c) Approve the Non-Exclusive Franchise Agreement with Eco Box Recycling Inc. for the collection, transport, and disposal of residential clean-out material and construction and demolition debris, from February 8, 2018 through June 30, 2018, with up to three one-year options to extend the term through June 30, 2021.
CEQA: Exempt, File No. PP08-228, CEQA Guidelines Section 15308,
Actions by Regulatory Agencies for Protection of the Environment.
(Environmental Services)

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated November 20, 2017, recommending a public hearing and approval of an ordinance and franchise agreement.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Dev Davis and carried unanimously, Ordinance No. 30046, entitled: “A Ordinance of the Council of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Eco Box Recycling Inc.”, was adopted, and the Non-Exclusive Franchise Agreement with Eco Box Recycling Inc. for the collection, transport, and disposal of residential clean-out material and construction and demolition debris, from February 8, 2018 through June 30, 2018, with related contingencies, was approved. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 17-440 Accept the Fiscal Year 2016-17 Independent Auditor’s Reports and Basic Financial Statements for the Successor Agency to the Redevelopment Agency of the City of San José. CEQA: Not a Project, File No. PP17-009, Staff Report, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)

Heard jointly with Item 3.6.

9.1 (Cont'd.)

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated November 20, 2017, recommending acceptance of the report.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the Fiscal Year 2016-17 Independent Auditor's Reports and Basic Financial Statements for the Successor Agency to the Redevelopment Agency of the City of San José, was accepted. (11-0.)

- 9.2 17-443 Successor Agency Board approve the Fifth Amendment to the Amended and Restated Lease with the Comedy Club of San José, LLC for the use of the Jose Theater located at 62 South Second Street extending the term for up to five years and increasing the base monthly rent each year. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3. (Successor Agency)

Documents Filed: Memorandum from Successor Agency Managing Director, Richard Keit, dated November 29, 2017, recommending approval of an Amendment.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the Fifth Amendment to the Amended and Restated Lease with the Comedy Club of San José, LLC for the use of the Jose Theater located at 62 South Second Street was approved. (11-0.)

10. LAND USE

10.1 Land Use on Consent Calendar

- (a) 17-404 **Conforming Rezoning for Real Property Located at 967 Mabury Road.**

Recommendation: Consideration of an ordinance of the City of San José rezoning a 3.3-gross acre site, located at 967 Mabury Road from the LI Light Industrial Zoning District to HI Heavy Industrial Zoning District (Gerald L. McIntyre 2005 Trustee, Owner). CEQA: Determination of Consistency with the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement) C17-044 - Council District 4

Note: Heard on Consent Calendar.

Action: Ordinance No. 30047, entitled: "A Ordinance of the Council of the City of San José Rezoning Certain Real Property of an Approximately 3.3-Gross Acre Site Located at the Northeast Corner of Mabury Road and Timothy Drive (967 Mabury Road), from the LI Light Industrial Zoning District to the HI Heavy Industrial Zoning District", was passed for publication. (11-0.)

(b) 17-406

Planned Development Rezoning and Planned Development Permit for Real Property Located at 750 West San Carlos Street.

Recommendation:

(a) Adopt a resolution adopting the Addendum to the Diridon Station Area Plan Final Environmental Impact Report in accordance with the California Environmental Quality Act, as amended, and adopting a related mitigation monitoring and reporting program.

(b) Consideration of an ordinance of the City of San José rezoning an approximately 0.41-gross acre site, located on the south side of West San Carlos Street, approximately 500 feet east of Sunol Street from the HI Heavy Industrial Zoning District to the R-M(PD) Planned Development Zoning District (Cotton Stanley A Trustee, Owner).

(c) Adopt a resolution approving a Planned Development Permit, subject to conditions, to demolish an approximately 8,170 square foot structure, and remove six non-ordinance sized trees, and to construct a 7-story, 56 residential unit building with two-stories of parking, located at 750 West San Carlos Street.

CEQA: Addendum to Diridon Station Area Plan Final Environmental Impact Report (Resolution No. 77096), Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), Envision San Jose 2040 General Plan Final Environmental Impact Report (Resolution No. 77617) and Addenda thereto.

(Planning, Building and Code Enforcement)

PDC16-045 & PD16-031 - Council District 6

Note: Heard on Consent Calendar.

Action: Resolution No. 78447, entitled: “A Resolution of the Council of the City of San José Adopting the 750 West San Carlos Residential Project Addendum To The Diridon Station Area Plan Final Environmental Impact Report, The Envision San Jose 2040 General Plan Final Program Environmental Impact Report, Supplemental Environmental Impact Report, And Addenda Thereto, All In Accordance With The California Environmental Quality Act, as Amended, And Adopting A Mitigation Monitoring And Reporting Program”; and Resolution No. 78448, entitled: “A Resolution of the Council of the City of San José Rezoning Certain Real Property of Approximately 0.41 Gross Acre Situated on the South Side of West San Carlos Street, Approximately 500 Feet East of Sunol Street (750 West San Carlos Street) from the HI Heavy Industrial Zoning District to the R-M(PD) Planned Development Zoning District”, were adopted; Ordinance No. 30048, entitled: “A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 0.41 Gross Acre Situated on the South Side of West San Carlos Street, Approximately 500 Feet East of Sunol Street (750 West San Carlos Street)(from the HI Heavy Industrial Zoning District to the R-M(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

(c) 17-407

Planned Development Rezoning, Planned Development, and Tentative Map for Real Property Located at 15980 Carlton Avenue.

Recommendation:

- (a) Adopt a resolution adopting the 15980 Carlton Avenue Residential Project 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.
 - (b) Consideration of an ordinance of the City of San José rezoning an approximately 0.48 gross acre site, located at 15980 Carlton Avenue from the R-M Multiple Residence District to the R-M(PD) Planned Development Zoning District (Calero Lot #2 Partners G.P., Owner).
 - (c) Adopt a resolution approving a Vesting Tentative Map, subject to conditions, to reconfigure one lot into six condominium units and the construction of six residential units, removal of six ordinance size trees and one non-ordinance size tree.
 - (d) Adopt a resolution approving a Planned Development Permit, subject to conditions, to allow the demolition of the existing home and the construction of six residential units, removal of six ordinance size trees and one non-ordinance size tree.
- CEQA: 15980 Carlton Avenue Residential Project Initial Study/Mitigated Negative Declaration. (Planning, Building and Code Enforcement) PDC17-049, PD17-023 & PT17-050 - Council District 9

Note: Heard on Consent Calendar.

Action: Resolution No. 78449, entitled: “A Resolution of the Council of the City of San José Adopting the 15980 Carlton Avenue Residential Project 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”; Resolution No. 78450, entitled: “A Resolution of the Council of the City of San José Approving a Tentative Map, Subject to Conditions, to Resubdivide the Existing Parcel into 6 Residential Condominium Units on a 0.48 Gross Acre Site, Located at the South Side of Carlton Avenue, Approximately 290 Feet Westerly of National Avenue (15980 Carlton Avenue)”; Resolution No. 78451, entitled: “A Resolution of the Council of the City of San José Approving, Subject to Conditions, a Planned Development Permit to Demolish Four Existing Single-Family Homes and Remove Six Ordinance-Sized Trees and One Non-Ordinance Sized Tree, and to Construct Six Single-Family Homes with Associated Site Improvements on a 0.48 Gross Acre Site Located at the South Side of Carlton Avenue, Approximately 290 Feet Westerly of National Avenue (15980 Carlton Avenue, APN: 421-13-060)”, were adopted; and Ordinance No. 30049, entitled: “A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 0.48 Gross Acre Situated on the South Side of Carlton Avenue, Approximately 290 Feet Westerly of National Avenue (15980 Carlton Avenue) from the R-M Multiple Residence Zoning District to the R-M(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

(d) 17-380

General Plan Amendment: Land Use/Transportation Diagram.

Recommendation:

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

(b) Adopt a resolution approving a General Plan Amendment to address Land Use/Transportation Diagram errors at locations within the boundaries of the Rincon South Urban Village, Jackson-Taylor Specific Plan, and Martha Gardens Specific Plan.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0-0).

(Planning, Building and Code Enforcement) GP17-014 - Council Districts 3 and 8 (Deferred from 11/28/17 - Item 10.1(h) to 12/12/17)

Note: Heard on Consent Calendar.

Action: Resolution No. 78452, entitled: “A Resolution of the Council of the City of San José Amending the Envision San José 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Modify the Land Use/Transportation Diagram to Address Mapping Errors at Locations Within Rincon South, Jackson – Taylor and Martha Gardens General Plan Growth Areas”, adopted. (11-0.)

(e) 17-408

**General Plan Amendment: South Bascom (North) Urban Village Plan.
*DROP***

Recommendation:

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

(b) Adopt a resolution approving a City-initiated General Plan Amendment associated with the adoption of the South Bascom (North) Urban Village Plan, including modifications to the boundary and changes to General Plan land use designations on properties within the boundaries of the Urban Village Plan as shown on the proposed Urban Village Land Use Plan. This Urban Village Plan will provide a policy framework to guide new job and housing growth within the Urban Village boundaries, as well as, provide a framework for the characteristics of future development, including urban design, open space, public art/placemaking, streetscape and circulation, and implementation. CEQA: Determination of Consistency to the Envision San José 2040 General Plan EIR, Resolution No. 76041, Supplemental EIR to Envision San José General Plan EIR, Resolution No. 77617, and Addendum thereto. (Planning, Building and Code Enforcement) GP17-012 - Council District 6

Dropped - To be Renoticed.

(f) 17-409

General Plan Amendment: West San Carlos Urban Village Plan. DROP

Recommendation:

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

(b) Adopt a resolution approving a City-initiated General Plan Amendment associated with the adoption of the West San Carlos Urban Village Plan, including modifications to the boundary and changes to General Plan land use designations on properties within the boundaries of the Urban Village Plan as shown on the proposed Urban Village land use plan. This Urban Village Plan will provide a policy framework to guide new job and housing growth within the Urban Village boundaries, as well as, provide a framework for the characteristics of future development, including urban design, open space, public art/placemaking, streetscape and circulation, and implementation. CEQA: Determination of Consistency to the Envision San José 2040 General Plan EIR, Resolution No. 76041, Supplemental EIR to Envision San José General Plan EIR, Resolution No. 77617, and Addendum thereto. (Planning, Building and Code Enforcement)

GP17-013 - Council District 3

Dropped - To be Renoticed

(g) 17-410

General Plan Amendment for Real Property Located at 120 N. 4th Street.

Recommendation:

(a) Adopt a resolution approving the Fourth Street and St. John General Plan Amendment Initial Study/Negative Declaration.

(b) Adopt a resolution approving a General Plan Amendment to request to change the Land Use/Transportation Diagram land use designation from Residential Neighborhood and Transit Residential to Downtown, and expand the Downtown Growth Area Boundary on an approximately 0.91 gross acre site, located on the northeast corner of N. 4th Street and E. St. John Street (120 N. 4th Street) (Brent Lee, Owner).

(c) Consideration of an ordinance of the City of San José rezoning an approximately 0.91 gross acre site (120 N. 4th Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District. - DROP PART (c) - TO BE RENOTICED

CEQA: Fourth Street and St. John General Plan Amendment & Rezoning Initial Study/Negative Declaration. (Planning, Building and Code Enforcement)

GP16-013 & C17-032 - Council District 3

Item 10.1(g) was pulled from the Consent Calendar for full discussion.

10.1 Land Use on Consent Calendar (Cont'd.)

(g) 17-410 General Plan Amendment for Real Property Located at 120 N. 4th Street
(Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated December 8, 2017, recommending approval of Approve staff and Planning Commission recommendations relating to property located at 120 North 4th Street; (2) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. C17-044, dated November 20, 2017. (3) Memoranda from Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated December 1, 2017, transmitting the Planning Commission recommendation, regarding PDC16-045 & PD16-03; dated November 6, 2017, regarding GP17-014; and December 8, 2017, regarding GP16-013. (4) Supplemental memorandum from Director, Planning, Building and Code Enforcement, Rosalynn Hughey, Dated December 8, 2017, providing additional coordination between the City and Applicant regarding PDC16-045 & PD16-031. (5) Replacement memorandum from Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated December 8, 2017, regarding PDC17-049, PD17-023, PT17-050; (6) Planning Commission Staff Report, dated November 29, 2017, regarding PDC17-049, PD17-023, PT17-050; (7) Proof of Publication of Notice of Public Hearing, executed on July 21, 2017, submitted by the City Clerk. (8) Letter from Adams, Broadwell Joseph & Cardoza, dated December 12, 2017.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Erik Schoennauer, representing the Applicant, spoke to the merits of the project. Tanya Gulesserian, representing San José Residents for Responsible Development, expressed opposition.

Mayor Sam Liccardo closed the public hearing.

Planning, Building and Code Enforcement Division Manager, Ned Thomas, and Principal Planner, Jenny Nusbaum, responded to questions from Council. Erik Schoennauer responded to questions.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78453, entitled: "A Resolution of the Council of the City of San José Adopting the Fourth and St. John General Plan Amendment and Rezoning Project Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended; and Resolution No. 78454, entitled: "A Resolution of the Council of the City of San José Amending the Envision San José 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Change the Land Use Designation in the Land Use/Transportation Diagram to Downtown for the Site at 120 North 4th Street and to Expand the Downtown Growth Area Boundary to Include the 120 North 4th Street Site", were adopted. (11-0.)

END OF CONSENT CALENDAR

Appeal Hearing on Conditional Use Permit and Site Development Permit for the Real Property Located at 3702 South Bascom Avenue.

Recommendation:

(a) Conduct an Administrative Hearing and consider the Permit Appeal of the Planning Commission's approval of the Conditional Use Permit and Site Development Permit to allow the demolition of an existing 1,276-square foot gas station convenience store with incidental service and vehicle repair, and the construction of a new 5,754-square foot convenience store and fully automated car wash, and early morning use for the gas station and convenience store only (one hour extension between 5:00 a.m. and 6:00 a.m.), a temporary use trailer, and an exceedance of the Zoning Ordinance noise performance standards by two decibels.

(b) Adopt a resolution denying the permit appeal and approving the Conditional Use Permit and Site Development Permit, subject to conditions, to allow the demolition of an existing 1,276-square foot gas station convenience store with incidental service and vehicle repair, and the construction of a new 5,754-square foot convenience store and fully automated car wash, and early morning use for the gas station and convenience store only (one-hour extension between 5:00 a.m. and 6:00 a.m.), a temporary use trailer, and an exceedance of the Zoning Ordinance noise performance standards by two decibels on an approximately on a 0.81-gross acre site located at 3702 South Bascom Avenue (southeast corner of South Bascom Avenue and Woodard Road).

CEQA: Exempt per CEQA Guidelines Section 15302 for Replacement or Reconstruction and 15332 for Infill Development Projects. Planning Commission approved the Conditional Use Permit and Site Development Permit (4-3-0; Phan, Bit-Badal opposed). (Planning, Building and Code Enforcement)
CP16-035 - Council District 9
(Deferred from 10/24/17 - Item 10.4 and 11/28/17 - Item 10.2)

Mayor Sam Liccardo opened the public hearing.

Public Comments: Appellant, Kathleen Kline, and Dan Smith, representing the Applicant, spoke to safety concerns regarding this project. Applicant, Toni Andari, spoke to merits of the project. Sixteen (16) members of the public offered comments.

Mayor Sam Liccardo closed the public hearing.

Council discussion followed.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Chappie Jones and carried unanimously, this item was deferred to the Council meeting of December 19, 2017. (11-0.)

General Plan Amendment, Conforming Rezoning, and Conditional Use Permit for Real Property Located at 1202 Oakland Road.

Adopt a resolution denying:

- (a) A General Plan Amendment request to change the Land Use/Transportation Diagram land use designation from Heavy Industrial to Combined Industrial/Commercial on an approximately 1.54 gross acre site, located on the northeast corner of Oakland Road and Commercial Street;
 - (b) A rezoning of an approximately 1.54 gross acre site (1202 Oakland Road) from the HI Heavy Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District;
 - (c) A Conditional Use Permit for the removal of existing building and fueling dispensers, and the construction of a 3,750 square foot convenience store, auto retail fueling dispensers, canopies, and card lock fueling dispensers with proposed off sale of alcohol and 24-hour use, on a 1.54 gross acre site. (1202 Oakland Road). (Robinson Oil Corporation, Owner).
- CEQA: Rotten Robbie #67 Project Initial Study/Mitigated Negative Declaration.
(Planning, Building and Code Enforcement)
GP16-011, C17-008 & CP17-015 - Council District 3

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmember Dev Davis, dated December 8, 2017, offering an alternate approach to the commission's recommendation. (2) Joint memorandum from Councilmembers Peralez, Jones, Rocha and Khamis, dated December 8, 2017, recommending denial of the Planning Commission recommendation. (3) Memorandum from Councilmember Raul Peralez, dated December 12, 2017, offering support to the Mayor and Councilmembers' memoranda. (4) Memorandum from Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated December 1, 2017, transmitting the Planning Commission recommendation. (5) Twelve (12) letters and email correspondence from the public.

Staff provided an introduction.

Mayor Sam Liccardo opened the public hearing.

Public Comment: Applicant Tom Robinson, spoke to the merits of the project. Offering additional comments were: Akshey Nama, Reilly Musser and Enn Graziosi.

Mayor Sam Liccardo closed the public hearing.

Mayor Sam Liccardo left the meeting at approximately 9:05 p.m, and Vice Mayor Magdalena Carrasco chaired the remainder of the meeting.

Extensive Council discussion followed, and Director, Planning, Building and Code Enforcement, Rosalynn Hughey responded to questions.

Motion: Councilmember Raul Peralez moved approval of the memorandum he cosigned with Councilmember Chappie Jones, Councilmember Donald Rocha and Councilmember Johnny Khamis, dated December 8, 2017. Councilmember Chappie Jones seconded the motion.

10.3 (Cont'd.) General Plan Amendment, Conforming Rezoning, and Conditional Use Permit for Real Property Located at 1202 Oakland Road.

Substitute Motion: Councilmember Dev Davis moved the memorandum she cosigned with Mayor Sam Liccardo, dated December 8, 2017, including bringing back Part C regarding Title 20 by the end of March. Councilmember Arenas seconded the motion. (4-6-1. Noes: Jones, Jimenez, Peralez, Nguyen, Rocha, Khamis. Absent: Liccardo.)

The substitute motion failed.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Chappie Jones and carried, the memorandum from Councilmember Raul Peralez, Chappie Jones, Councilmember Donald Rocha, and Councilmember Khamis, dated December 8, 2017, was approved, to deny the planning commission's recommendation, approve the General Plan Amendment, Conforming Rezoning and Conditional Use Permit at 1202 Oakland Road, and:

1. Direct staff to return with
 - a. A resolution *approving* the Initial Study (IS) and Mitigated Negative Declaration (MND) for the project (including the General Plan Amendment, Conforming Rezoning, and CUP),
 - b. A resolution *approving* the amendment to the General Plan land use designation from Heavy Industrial (HI) to Combined Industrial/Commercial (CIC) (GP16-011),
 - c. An ordinance *approving* the rezoning of the subject site from HI to the CIC Zoning District (CI7-008),
 - d. A resolution *approving* the Conditional Use Permit for a 3,750-square foot convenience store with retail, a gas station with cardlock fuel dispensers, and 24-hour uses (CP 17-005), and,
2. Defer the approval for permitting the off-sale of alcoholic beverages to no later than January 2018 and direct staff to return with a report that includes an analysis of the specific findings required for off-sale of alcoholic beverages and a determination of public convenience and need with regard to proximity to other off-sale outlets and sensitive land uses, as well as for overconcentration of offsale outlets within the census tract.

Also, including Item (c) from the joint memorandum from Mayor Sam Liccardo and Councilmember Dev Davis, dated December 8, 2017 to Amend Title 20 of the San Jose Municipal Code to amend the LI Light Industrial Zoning District to allow gasoline service stations with incidental retail as a conditional use.

Staff to return with changes to the light industrial zoning when prepared and commence with another general plan amendment as necessary.

(8-2-1. Noes: Carrasco, Diep. Absent: Liccardo.)

10.4 17-412 General Plan Amendment: Land Use/Transportation Diagram Located at 2323 Moorpark Avenue.

- (a) Adopt a resolution approving the Moorpark and Central General Plan Amendment Initial Study/Negative Declaration.
- (b) Adopt a resolution approving a General Plan Amendment request to change the Land Use/Transportation Diagram land use designation from Residential Neighborhood to Mixed Use Neighborhood on a 1.06-gross acre site, located at/on the north side of Moorpark Avenue, approximately 125 feet westerly of Central Way (2323 Moorpark Avenue) (Bret Hoefler, Owner).
CEQA: Moorpark and Central General Plan Amendment Initial Study/Negative Declaration. Planning Commission recommends approval (6-0-1, Ballard absent). (Planning, Building and Code Enforcement) GP17-002 - Council District 6

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated November 20, 2017, transmitting the Planning Commission recommendation.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 78455, entitled: “A Resolution of the Council of the City of San José Adopting the Moorpark and Central General Plan Amendment Project Negative Declaration, for Which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act”; and Resolution No. 78456 , entitled: “A Resolution of the Council of the City of San José Amending the Envision San José 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Modify the Land Use/Transportation Diagram to Mixed Use Neighborhood at 2323 Moorpark Avenue”, were adopted. (10-0-1. Absent: Liccardo.)

10.5 17-413 General Plan Amendment, General Plan Text Amendment, and Conforming Rezoning for Real Property Located at 715 West Julian Street.

- (a) Adopt a resolution approving the Julian Street General Plan Amendment, Diridon Station Area Plan Amendment & Rezoning Project and Addendum to the Diridon Station Area Plan Final Environmental Impact Report (FEIR) (Resolution No. 77096) for the project.
- (b) Adopt a resolution approving:
 - (1) The General Plan Amendment request to change the Land Use/Transportation Diagram land use designation from Mixed Use Commercial to Urban Village on a 1.22-gross acre site, located at the northwest corner of W. Julian Street and Stockton Avenue (715 West Julian Street) (Speno Enterprises Lp, Owner); and
 - (2) The General Plan Text Amendment to the Diridon Station Area Plan to shift 305 dwelling units from Subarea F to Subarea C in order to facilitate residential development on a 1.22-gross acre site.
- (c) Consideration of an ordinance of the City of San José rezoning a 1.07-gross acre site from LI Light Industrial to CP Commercial Pedestrian.

10.5 (Cont'd.)

General Plan Amendment, General Plan Text Amendment, and Conforming Rezoning for Real Property Located at 715 West Julian Street.

CEQA: Julian Street General Plan Amendment, Diridon Station Area Plan Amendment & Rezoning Project Addendum to the Diridon Station Area Plan FEIR (Resolution No. 77096) and Addendum thereto. Planning Commission recommends approval (6-0-1, Ballard absent). (Planning, Building and Code Enforcement) GP17-006, GPT17-008 & C17-031 - Council District 6

Documents Filed: (1) Memorandum from Planning Commission Secretary Rosalynn Hughey, dated November 20, 2017, transmitting the Planning Commission recommendation. (2) Three email from members of the public offering support.

Vice Mayor Magdalena Carrasco opened the public hearing.

Public Comments: Alex Shoor and Kurt Anderson provided support to the project.

Vice Mayor Magdalena Carrasco closed the public hearing.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78457, entitled: "A Resolution of the Council of the City of San José Adopting the Julian Street General Plan Amendment, Diridon Station Area Plan Text Amendment & Rezoning Project Addendum to the Diridon Station Area Plan Final Program Environmental Impact Report and Supplemental Environmental Impact Report, all in Accordance with the California Environmental Quality Act, as Amended"; and Resolution No. 78458 Amending The Envision San José 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Modify the Land Use/Transportation Diagram to Urban Village at 715 and 739 West Julian Street and Modify the Diridon Station Area Plan to Shift 305 Residential Units to the Northern Zone", were adopted; and Ordinance No. 30051, entitled: "A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 1.07 Acres Situated at the Northwestern Corner of Julian Street and Stockton Avenue (715 and 739 West Julian Street), from the LI Light Industrial Zoning District to the CP Commercial Pedestrian Zoning District", was passed for publication. (10-0-1. Absent: Liccardo.)

General Plan Text Amendment and Amendment to the North San José Area Development Policy.

(a) Consider the Determination of Consistency with the Final Program EIR for the North San José Development Policies Update (Resolution No. 72768) and Addenda thereto, and the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

(b) Adopt a resolution approving a City-initiated General Plan Text Amendment to revise the Industrial Park and Transit Employment Center land use designations to allow additional flexibility for retail and service commercial uses within the North San José Development Policy area and amending the North San José Area Development Policy to establish criteria for commercial support uses in single-use buildings proposed on properties in the IP Industrial Park Zoning District.

(c) Consideration of an ordinance amending Section 20.50.110 of Title 20 of the Zoning Code to add provisions to allow commercial support uses in single-use buildings in the IP Industrial Park Zoning District within the North San José Development Policy area that meet certain criteria and are consistent with the North San José Area Development Policy.

CEQA: Determination of Consistency with the Final Program EIR for the North San José Development Policies Update (Resolution No. 72768) and Addenda thereto, and the Envision San José 2040 General Plan EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José General Plan EIR (Resolution No. 77617), and Addenda thereto. (Planning, Building and Code Enforcement) GPT17-007 & PP17-051 - Council Districts 3 & 4

Heard after Land Use Consent.

Documents Filed: Memorandum from Planning Commission Secretary Rosalynn Hughey, dated December 1, 2017, transmitting the Planning Commission recommendation.

Public Comments: Vice Mayor Magdalena Carrasco opened the public hearing. There was no public testimony from the floor. Vice Mayor Magdalena Carrasco closed the public hearing.

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Chappie Jones, and carried unanimously, Resolution No. 78459, entitled: “A Resolution of the Council of the City of San José Amending the Envision San Jose 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Amend the “Transit Employment Center” and “Industrial Park” Land Use Designations, and Amending the North San Jose Area Development Policy to Allow Flexibility for Local Serving Commercial Uses”, was adopted; and Ordinance No. 30052, entitled: “A Ordinance of the Council of the City of San José Amending Section 20.50.110 Relating To Commercial Support Uses In the IP Industrial Park Zoning District and Table 20-110, of Title 20 (Zoning) of the San José Municipal Code Relating to Commercial Support Uses Within the Boundaries of the North San José Area Development Policy Area”, was passed for publication. (10-0-1. Absent: Liccardo.)

Reconsideration of the 237 Industrial Center Final Environmental Impact Report for a Conforming Rezoning, Special Use Permit and Development Exception for Real Property Located at 1657 Alviso-Milpitas Road.

(a) Conduct a hearing pursuant to San José Municipal Code Section 21.07.080 to reconsider the City Council’s certification of the 237 Industrial Center Final Environmental Impact Report adopted on October 24, 2017 (Resolution No. 78393) for Rezoning File No. C15-054 from the A(PD) Planned Development Zoning District to the LI Light Industrial Zoning District; Special Use Permit File No. SP16-053 to remove eight ordinance-size trees and 14 non-ordinance size trees, and allow 14 generators and the construction of six buildings for a data center use totaling approximately 376,519 square feet with on-and off-site improvements; and Development Exception File No. V17-004 to allow an exception to the off-street parking requirements on a 64.59 -gross acre site located at 1657 Alviso-Milpitas Road.

(b) Adopt a resolution affirming (i) City Council Resolution No. 78393 certifying the 237 Industrial Center Final Environmental Impact Report adopted on October 24, 2017 (Resolution No. 78393) and (ii) City Council Resolution No. 78394 approving Special Use Permit File No. SP16-053 and Development Exception File No. V17 -004, and finding that:

(1) The City Council has read and considered the 237 Industrial Center Final Environmental Impact Report and related administrative record in connection with Rezoning File No. C15-054, Special Use Permit File No. SP16-053, and Development Exception File No. V17-004;

(2) The 237 Industrial Center Final Environmental Impact Report, was prepared and completed in compliance with the California Environmental Quality Act of 1970, as amended, together with state and local implementation guidelines; and

(3) Certification of the 237 Industrial Center Final Environmental Impact Report for Rezoning File No. C15-054, Special Use Permit File No. SP16-053, and Development Exception File No. V17-004 reflects the independent judgment and analysis of the City of San José.

(c) Final adoption of ORDINANCE NO. 30023 - An ordinance of the City of San José rezoning certain real property of approximately 64.59 acres situated northwest of State Route 237 and McCarthy Boulevard (1657 Alviso-Milpitas Road) from the A(PD) Planned Development Zoning District to the LI Light Industrial Zoning District.

CEQA: 237 Industrial Center Environmental Impact Report, Resolution No. 78393. (Planning, Building and Code Enforcement) C15-054, SP16-053 & V17-004 - Council District 4

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated November 20, 2017, recommending a reconsideration hearing and adoption of a resolution. (2) Letter from Morgan Lewis, dated December 12, 2017.

Staff offered a brief presentation.

10.7 (Cont'd.) Reconsideration of the 237 Industrial Center Final Environmental Impact Report for a Conforming Rezoning, Special Use Permit and Development Exception for Real Property Located at 1657 Alviso-Milpitas Road.

Vice Mayor Magdalena Carrasco opened the public hearing.

Public Comments: Ella Foley Gannon, representing the Applicant, offered comments, followed by Jonathan Noble (Microsoft) and Paul Welch.

Vice Mayor Magdalena Carrasco closed the public hearing.

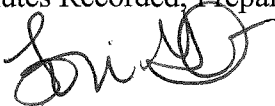
Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78460, entitled: “A Resolution of the Council of the City of San José Affirming the City Council’s Certification of the 237 Industrial Center Project Final Environmental Impact Report Adopted on October 24, 2017 (Resolution No. 78393) for Rezoning File No. C15-054, Special Use Permit File No. Sp16-053, and Development Exception File No. V17-004 and Affirming Special Use Permit File No. Sp16-053 and Development Exception File No. V17-004”, was adopted; and Ordinance No. 30023, entitled: “A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 64.59 Acres Situated Northwest of State Route 237 and McCarthy Boulevard (1657 Alviso-Milpitas Road) from the A(PD) Planned Development Zoning District to the LI Light Industrial Zoning District”, was passed for publication. (10-0-1. Absent: Nguyen.)

CLOSE GENERAL PLAN HEARING (THIRD CYCLE)

Adjournment

The Council of the City of San José was adjourned at 9:46 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

Lo/et/rmk/12-12-17 MIN