

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, OCTOBER 3, 2017

The Council of the City of San José convened in Regular Session at 9:35 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - All present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:20 a.m. to a Closed Session in Room W133; (A) Public Employment/Public Employee Recruitment/Appointment Pursuant to Government Code Section 54957; Department or Agency: Airport; Title: Airport Director. (B) Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957; Department or Agency: Independent Police Auditor's Office; Title: Independent Police Auditor. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Watson, Lee Darnell; City of San José; Matthew Brackett; Ryan Hansen; Ronald Hughes, and Does 1-10; Court: Court: U.S. District Court, Northern Division; Case No. 15-CV-04054-NC; Amount of Money or Other Relief Sought: Damages according to Proof; (2) 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; (3) City of Santa Clara v. City of San José, et al.;

CLOSED SESSION (Cont'd.)

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; (4) Preservation of Benefit Plan Retirees Association, et al v. City of San José, et al.; Names Of Partie(s) Involved: Preservation of Benefit Plan Retirees Association, Joseph Bass, David Boggini, Lawrence Jay Castellano, Richard Coco, Leslye Corsiglia, Harry Freitas, Michael Guisti, Linda Horwedel (the Beneficiary of Deceased City Retiree Joseph Horwedel), William Hughes, Danny Jordan, Evet Loewen, David Maas, Barry Ng, Anita Phagan, George Rios, Gary Schoennauer, Ken Tanase, Wayne Tanda, Nina Tobin, Randal Turner, Steven Turner, Robert Wilson, City of San José, Board of the Administration of the Federated City Employees' Retirement System; Norberto Duenas, in his Official Capacity as the City Manager of the City of San José, and Does 1-50; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No. 17CV312610; Amount of Money or Other Relief Sought: Petition for Writ of Mandate; (5) San José Retired Employees' Association, et al. v. City, et al.; Names Of Partie(s) Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Clara, Sixth District Court of Appeal; Case No.: 1-12-CV-23360; H040979; H042074; Amount of Money or Other Relief Sought: Verified Petition for Writ of Mandate and Declaratory Relief; (6) San José Retired Employee's Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley; City of San José, the Board of Administration for the Federated City's Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City Medical Plan; (D) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: Property Street Address, Parcel Number, or other Unique Reference of Property: 255 South Montgomery Street (APN 261-37-025), 8 South Montgomery Street (APN 259-38-130), 102 South Montgomery Street (APN 259-48-012), 510 West San Fernando Street (APN 259-48-011, 259-48-013), 150 South Montgomery Street (APN 259-48-059), 105 South Montgomery Street (APN 261-35-003, 261-35-006, 261-35-010), 645 Park Avenue (APN 261-35-014), 525 West Santa Clara Street/566 West Julian Street (APN 259-28-031, 259-28-041, 529-28-043, 259-28-044) West San Carlos Street (261-37-030) No Address (261-37-028); Negotiating Parties: Nanci Klein for the City of San José and Jay Bechtel for Google; Under Negotiation: The direction will concern price and terms of payment. Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (E) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW;

By unanimous consent, Council recessed from the Closed Session at 12:20 p.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

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

Absent: Councilmembers - All present.

INVOCATION

San José Youth Shakespeare, directed by Audrey Rumsby presented moments from *Dear Mr. Shakespeare*.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo, joined by Rosemary Elementary School Third Graders, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Councilmember Chappie Jones, seconded by Councilmember Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

1. CEREMONIAL ITEMS

- 1.1 17-101** Presentation of a proclamation declaring the week of October 15th "National Retirement Security Week" in the City of San José. (Khamis)
Mayor Sam Liccardo and Councilmember Johnny Khamis, joined by Councilmember Dev Davis, presented a proclamation to Peter Ing from VOYA declaring the week of October 15th as "National Retirement Security Week."
- 1.2 17-153** Presentation of a commendation to Services, Immigrant Rights and Education Network (SIREN) for their 40 years of work by empowering low-income immigrants and refugees through community education and organizing, leadership development, policy advocacy and legal services. (Carrasco)
Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco, joined by Councilmembers Sylvia Arenas, Dev Davis, Lan Diep, Sergio Jimenez, Chappie Jones, Johnny Khamis, Tam Nguyen, Raul Peralez, and Don Rocha, presented a commendation to SIREN Executive Director Maricela Gutiérrez and members of the SIREN organization in recognition of their 40 years of work empowering low-income immigrants and refugees through community education and organizing, leadership development, policy advocacy and legal services.

- 1.3 17-171** Presentation of a proclamation declaring the month of October 2017 as "Domestic Violence Awareness Month" in the City of San José.
(Carrasco)
Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco, joined by Councilmembers Sylvia Arenas, Dev Davis, Lan Diep, Sergio Jimenez, Chappie Jones, Johnny Khamis, Tam Nguyen, Raul Peralez, and Don Rocha presented a proclamation to Next Door Solutions to Domestic Violence Executive Director Esther Peralez Dieckmann declaring the month of October 2017 as "Domestic Violence Awareness Month."
- Mayor Liccardo, joined by members of the City Council, Library Director Jill Bourne, and City Attorney Rick Doyle, recognized City Manager Norberto Dueñas upon his retirement for his leadership, service and friendship to the City of San José.**

CONSENT CALENDAR

Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of City Council Minutes:

- (a) Regular Minutes of April 11, 2017.
- (b) Regular Minutes of April 18, 2017.
- (c) Regular Minutes of April 25, 2017.
- (d) Regular Minutes of May 2, 2017.

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: Regular Council Meeting Minutes, dated April 11, 2017; April 18, 2017; April 25, 2017 and May 2, 2017.

Action: The Council meeting minutes were approved. (11-0.)

2.2 Final Adoption of Ordinances:

None provided.

2.3 Approval of Council Committee Minutes.

None provided.

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 Approve the adjusted campaign limits and adopt a resolution approving the adjusted campaign contribution limits in accordance with San José Municipal Code Section 12.06.210.C. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Clerk)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 21, 2017, recommending approval of adjusted campaign contribution limits and adoption of a resolution.

Action: Resolution No. 78371, entitled: “A Resolution of the Council of the City of San José Approving the Adjusted Campaign Contribution Limits in Accordance with San José Municipal Code Section 12.06.210C”, was adopted. (11-0.)

2.8 Retroactively authorize travel by Mayor Liccardo and Mayor’s staff, Khanh Russo, Director of Strategic Partnerships, to New York City on September 28, 2017 as official representatives of the City of San José for meetings with philanthropic organizations regarding San José’s key initiatives. Source of Funds: Mayor's Office Budget. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Mayor)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated September 19, 2017, requesting retroactive authorization to travel by the Mayor and staff.

Mayor Sam Liccardo pulled Item 2.8 to discuss the City’s representation at the meeting in New York City.

Action: Upon motion by Councilmember Chappie Jones, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, the retroactive travel by Mayor Liccardo and Mayor’s staff, Khanh Russo, Director of Strategic Partnerships, to New York City on September 28, 2017 as official representatives of the City of San José, was approved. (11-0.)

2.9 Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance amendments in the General Fund:

- (a) Eliminate the Problem Gambling Reserve in the amount of \$75,000;**
- (b) Establish a City-Wide expense appropriation for Problem Gambling to the Department of Parks, Recreation, and Neighborhood Services in the amount of \$75,000.**

CEQA: Not a Project, 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. (Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: Joint memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 12, 2017, recommending adoption of appropriation ordinance amendments.

Councilmember Tam Nguyen pulled Item 2.9 to thank staff involved in this endeavor.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Sylvia Arenas and carried unanimously, Ordinance No. 29999, entitled “An Ordinance of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the General Fund for Problem Gambling; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

2.10 Actions Related to the 8036 - Del Monte Park Phase II Project.

- (a) Approve a Service Agreement with the San Jose Water Company for the Del Monte Park Phase II project, in the amount of \$142,790.
- (b) Approve an ordinance designating as additional public right-of-way, a 10-foot wide strip on the south side of Auzerais Avenue from Sunol Street to Los Gatos Creek, all of which is currently City-owned property, to accommodate the Del Monte Park improvements.
- (c) Approve an increase to the construction contingency from 5 percent to 10 percent for the Del Monte Park Phase II project in the amount of \$215,840 for a total contingency of \$431,680.
- (d) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction and Conveyance Tax Fund: Parks Purposes Council District 6:
 - (1) Increase the Beginning Fund Balance by \$3,000; and
 - (2) Increase the Del Monte Park Expansion Phase II Master Plan and Design appropriation to the Parks, Recreation and Neighborhood Services Department by \$3,000.

2.10 (Cont'd.)

(e) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Subdivision Park Trust Fund:

- (1) Increase the Beginning Fund Balance by \$512,000;
- (2) Increase the Del Monte Park Expansion Phase II appropriation to the Parks, Recreation and Neighborhood Services Department by \$572,000; and
- (3) Decrease the Future PDO/PIO Projects Reserve appropriation by \$60,000.

CEQA: Del Monte Park - Phase II Mitigated Negative Declaration (Resolution No. 77930), File No. PP16-023. Council District 6. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: Joint memorandum from Director of Public Works Barry Ng, Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 18, 2017, recommending actions related to the Del Monte Park Phase II Project.

Action: Ordinance No. 30000, entitled: "A Ordinance of the Council of the City of San José Dedicating as Public Right-of-Way an Approximately 10-Foot-Wide by 833.50 Foot-Long Piece of City-Owned Property Along the South Side of Auzerais Avenue for the Purpose of Constructing Improvements as Part of the Del Monte Park Project", was passed for publication; Ordinance No. 30001, entitled: "A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #6 for the Del Monte Park Expansion Phase II Master Plan and Design; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Ordinance No. 30002, entitled: "A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Subdivision Park Trust Fund for the Del Monte Park Expansion Phase II; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 78372, 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 Tax and Property Conveyance Tax Fund: Parks Purposes Council District #6"; and Resolution No. 78373, 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 Subdivision Park Trust Fund", were adopted. (11-0.)

2.11 Approve the Second Amendment to Cooperative Agreement #7 with the Santa Clara Valley Transportation Authority (VTA) to retroactively extend the term of the Agreement to June 30, 2018. CEQA: Determination of Consistency with the BART Extension to Milpitas, San José, and Santa Clara Final Environmental Impact Report, the BART Extension to Milpitas, San José, and Santa Clara Final Supplemental Environmental Impact Report, and the BART Silicon Valley Phase 1 - Berryessa Extension Final 2nd Supplemental Environmental Impact Report, and Addenda thereto (Resolution No. 76126). Council District 4. (Public Works)

2.11 (Cont'd.)

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated October 3, 2017, recommending approval of a second amendment.

Action: The Second Amendment to Cooperative Agreement #7 with the Santa Clara Valley Transportation Authority (VTA) to retroactively extend the term of the Agreement to June 30, 2018. CEQA: Determination of Consistency with the BART Extension to Milpitas, San José, and Santa Clara Final Environmental Impact Report, the BART Extension to Milpitas, San José, and Santa Clara Final Supplemental Environmental Impact Report, and the BART Silicon Valley Phase 1 - Berryessa Extension Final 2nd Supplemental Environmental Impact Report, and Addenda thereto (Resolution No. 76126), was approved. (11-0.)

2.12 As recommended by the Rules and Open Government Committee on September 20, 2017:

(a) Retroactively approve the Councilmember Coffee Chat held on September 16, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.

(b) Retroactively 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. (Davis)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 21, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Councilmember Coffee Chat held on September 16, 2017 as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.13 (a) Adopt an ordinance ratifying final 2016-2017 expenditures in various appropriations as detailed in the report to Council.**
- (b) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:**
- (1) Increase the Construction and Conveyance Tax estimate by \$4,671,408;**
 - (2) Increase the Needs-Based Allocation Transfer to District 1 by \$412,729**
 - (3) Increase the Needs-Based Allocation Transfer to District 2 by \$203,375;**
 - (4) Increase the Needs-Based Allocation Transfer to District 3 by \$174,616;**
 - (5) Increase the Needs-Based Allocation Transfer to District 4 by \$240,178;**
 - (6) Increase the Needs-Based Allocation Transfer to District 5 by \$313,354;**
 - (7) Increase the Needs-Based Allocation Transfer to District 6 by \$300,115;**
 - (8) Increase the Needs-Based Allocation Transfer to District 7 by \$209,710;**
 - (9) Increase the Needs-Based Allocation Transfer to District 8 by \$309,299;**
 - (10) Increase the Needs-Based Allocation Transfer to District 9 by \$271,356;**
 - (11) Increase the Needs-Based Allocation Transfer to District 10 by \$211,634;**

2.13 (Cont'd.)

- (b) (12) Increase the Transfer to the Parks City-Wide Construction and Conveyance Tax Fund appropriation by \$1,324,181; and
- (13) Increase the Transfer to the General Fund - Parks Eligible Maintenance Costs appropriation by \$700,861.
- (c) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:
 - (1) Increase the Construction and Conveyance Tax estimate by \$12,942; and
 - (2) Increase the Transfer to the General Fund - Park Yards Operating and Maintenance Expenses appropriation by \$12,942.
- (d) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the 1943 Gas Tax Maintenance and Construction Fund:
 - (1) Increase the Gas Tax estimate by \$103,901; and
 - (2) Increase the Transfer to the General Fund for Street Maintenance appropriation by \$103,901.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project with may result in a potentially significant physical impact on the environment. (City Manager)

Note: Renumbered from Item 3.6

Documents Filed: Memorandum from Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 20, 2017, recommending adoption of appropriation ordinances and funding sources resolution amendments.

Action: Ordinance No. 30011, entitled: “A Ordinance of the Council of the City of San José Authorizing and Ratifying Certain Encumbrances and/or Expenditures in Various Funds Made During City’s 2016-2017 Fiscal Year in Excess of Sums Appropriated Therefore”; Ordinance No. 30003, entitled: “An Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund for the Needs-Based Allocation Transfers to Council Districts One Through Ten, the Transfer to the Parks City-Wide Construction and Conveyance Tax Fund, and the Transfer to the General Fund – Parks Eligible Maintenance Costs; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 30004, entitled: “An Ordinance of the Council of the City of San José Authorizing Amending Ordinance No. 29762 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes for the Transfer to the General Fund – Park Yards Operating and Maintenance Expenses; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 30005, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the 1943 Gas Tax Maintenance and Construction Fund for the Transfer to the General Fund for Street Maintenance; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 78374, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the

2.13 (Cont'd.)

Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund”; Resolution No. 78375, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes”; and Resolution No. 78376, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the 1943 Gas Tax Maintenance and Construction Fund”, were adopted. (11-0.)

- 2.14 Adopt a resolution authorizing the Director of Housing to negotiate and execute lease riders amending the ground-leases for three existing affordable housing projects (Japantown Senior Apartments at 685 North 6th Street, Ford Road Family at 215 Ford Road and Donner Lofts at 156 E. St. John Street) in favor of the California Tax Credit Allocation Committee (“TCAC”) subject to satisfaction of certain conditions, and authorizing Director of Housing to execute a lender’s consent to the TCAC lease rider. CEQA: Japantown Senior Apartments Environmental Impact Report (Resolution No. 74384), GP 07-03-04, PDC08-010; Addendum to the San José Downtown Strategy 2000 Final Environmental Impact Report for the Donner Lofts, C09-009/H09-004; Ford Road Family Apartments Mitigated Negative Declaration, File No. PDC09-022. Council District 3. (Housing)**

Note: Renumbered from Item 4.6

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated September 17, 2017, recommending adoption of a resolution.

Action: Resolution No. 78377, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to negotiate and execute lease riders amending the ground-leases for three existing affordable housing projects (Japantown Senior Apartments at 685 North 6th Street, Ford Road Family at 215 Ford Road and Donner Lofts at 156 E. St. John Street) in favor of the California Tax Credit Allocation Committee (“TCAC”) subject to satisfaction of certain conditions, and authorizing Director of Housing to execute a lender’s consent to the TCAC Lease Rider”, was adopted. (11-0.)

- 2.15 (a) Approve the Standard Agreement Amendment (Agreement) between the City of San José and the California High Speed Rail Authority (Authority) for City support services related to the planning phase of development for the California High Speed Rail project in San José to:**
- (1) Increase the reimbursement amount from \$270,000 to \$869,688;**
 - (2) Amend the City staff hourly rates;**
 - (3) Modify the deliverable schedule; and**
 - (4) Permit the City to subcontract reimbursable work under the Agreement with prior approval of the Authority.**

2.15 (Cont'd.)

(b) Adopt the following 2017-2018 Funding Source Resolution and Appropriation Ordinance amendments in the Construction Excise Tax Fund:

- (1) Increase the revenue estimate from the State of California to the City's Department of Transportation in the amount of \$599,688; and**
- (2) Increase the High Speed Rail appropriation in the amount of \$599,688.**

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council Districts 2, 3, 6, 7 & 10. (Transportation/City Manager)

Note: Renumbered from Item 6.2

Documents Filed: Joint memorandum from Director of Transportation Jim Ortbal and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 11, 2017, recommending approval of a standard agreement amendment and adoption of funding source resolution and appropriation ordinance amendments.

Action: Resolution No. 78378, 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"; and Ordinance No. 30006, entitled "An Ordinance of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Construction Excise Tax Fund for the High Speed Rail; Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted.

2.16 Retroactively approve travel by Councilmember Tam Nguyen to Houston, Texas as part of a delegation to present Hurricane Harvey relief funds to Mayor Sylvester Turner of Houston on September 29, 2017 to October 1, 2017. Source of Funds: Council District 7 Travel Fund. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Nguyen)

Documents Filed: Memorandum from Councilmember Tam Nguyen, dated September 25, 2017, requesting authorization to travel.

Councilmember Tam Nguyen pulled Item 2.16 to offer information regarding his trip to Houston Texas.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Chappie Jones and carried unanimously, the travel authorization was approved. (11-0.)

2.17 As recommended by the Rules and Open Government Committee on September 27, 2017:

(a) Approve the Village Fest event scheduled for October 14, 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. (Jimenez)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 29, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Village Fest event scheduled for October 14, 2017 as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

2.18 As recommended by the Rules and Open Government Committee on September 27, 2017:

(a) Approve the Sherbourne Neighborhood Block Party 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. (Rocha)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 29, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Sherbourne Neighborhood Block Party as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas announced the opening of the San Jose Sharks hockey season on October 4, 2017 and the Opening Night Pre-Game Rally from 4:00 – 7:00 p.m., and Disability Awareness Day at the City Hall Rotunda hosted by Parks, Recreation and Neighborhood Services with Council District 1 and the VMC Foundation on Thursday, October 5, 2017.

3.3 **Accept the Status of Open Audit recommendations as of June 30, 2017. 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 Auditor)**

Documents Filed: “Status of Open Audit Recommendations as of June 30, 2017” provided by City Auditor Sharon Erickson, dated September 22, 2017.

City Auditor Sharon Erickson provided a brief presentation and responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Lan Diep and carried unanimously, the Status of Open Audit recommendations as of June 30, 2017 was accepted as recommended with direction to include the Priority Audit Recommendations as listed in a memo from the City Auditor in November 2017 with the next report. (9-0-2. Absent: Arenas, Peralez.)

3.4 **Adopt a resolution approving the terms of an Agreement between the City and the San José Police Officers’ Association (SJPOA) and the International Association of Fire Fighters, Local 230 (IAFF) regarding additional amendments to the Alternative Pension Reform Framework Settlement Agreement, and authorizing the City Manager to execute an Agreement with those terms. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Manager)**

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated September 21, 2017, recommending adoption of a resolution.

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78379, entitled: “A Resolution of the Council of the City of San José Approving Terms of an Agreement between the City and the San José Police Officers’ Association (SJPOA) and the International Association of Fire Fighters, Local 230 (IAFF) regarding additional amendments to the Alternative Pension Reform Framework Settlement Agreement”, was adopted. (10-0-1. Absent: Peralez.)

- 3.5 Approve an ordinance amending various sections of Chapters 3.36 and 3.57 of Title 3 of the San José Municipal Code to implement additional revisions including but not limited to pension cost-sharing, the independent medical review panel, the Voluntary Employees' Beneficiary Association (VEBA) and retiree healthcare based on the implementation of the Alternative Pension Reform Framework and Measure F for members of the City of San José Police and Fire Department Retirement Plan. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)**

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated September 21, 2017, recommending adoption of a resolution.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Johnny Khamis and carried unanimously, Ordinance 30007, entitled "An Ordinance of the City of San José Amending Various Sections of Chapters 3.36 and 3.57 of Title 3 of the San José Municipal Code to Implement the Terms of the Alternative Pension Reform Settlement Framework Agreement with the San José Police Officers' Association and International Association of Firefighters, Local 230", was passed for publication. (10-0-1. Absent: Peralez.)

- 3.6 Ratification of Final Expenditures for 2016-2017.**

Note: Renumbered to Item 2.13

- 3.7 CWA/PLA Task Force Committee Recommendations. DEFERRED**

- (a) Accept the Community Workforce Agreement/Project Labor Agreement (CWA/PLA) Task Force Report; and
- (b) Provide further direction to City staff.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Public Works)

Action: Deferred to October 24, 2017 per Administration.

COMMUNITY & ECONOMIC DEVELOPMENT

Note: Items 4.1 – 4.4 were heard together.

- 4.1 Conduct a Public Hearing regarding an economic development subsidy in connection with a reduction in construction taxes and parkland fees for a Downtown residential high-rise at 323 Terraine Street in the amount of \$4,084,091, pursuant to California Government Code Section 53083 and Open Government Resolution Section 2.3.2.6 C. CEQA: Addendum to the Brandenburg Mixed-Use Project/North San Pedro Housing Sites EIR, and the San José Downtown Strategy 2000 Final Environmental Impact Report, File No. H14-037. Council District 3. (Economic Development)**

4.1 (Cont'd.)

Documents Filed: (1) Memorandum from Councilmember Raul Peralez, dated October 2, 2017, recommending approval of the staff report with additional direction. (2) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated September 11, 2017, recommending conducting a public hearing.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Public comments for Items 4.1 – 4.4 was heard together. Offering comments on inclusionary housing, hiring local workers and protection against wage theft were: Stacey Hatfield, Corey, Juan Gutierrez, John Paul Wolf, Cathy Hedges, David Erhausen, Louise Auerhahn, Brian Darby, Mauricio Vallardi, Josh Benson, Tim Weloshan, and Ted.

Mayor Sam Liccardo closed the public hearing.

Deputy City Manager/Director of Economic Development Kim Walesh provided an overview, and Rosalynn Hughey, Interim Director, Planning, Building and Code Enforcement responded to questions.

Motion: Councilmember Raul Peralez moved approval of staff recommendations included his memorandum dated October 2, 2017, as indicated below in “Action”. The motion was seconded by Councilmember Tam Nguyen.

Action: On a call for the question, the motion carried unanimously, and recommendations as outlined in the Memorandum submitted by Councilmember Raul Peralez, dated October 2, 2017, were accepted as follows:

- a. For the duration of the project the contractor must:
 - (i) Retain contractors licensed by the State of California and City of San Jose for the construction of the project and ensure they:
 1. Have workers compensation insurance,
 2. Provide safety training to the workers as required by law, and,
 3. Pay all Federal, State and Local taxes.
 - (ii) Employ only construction workers who possess necessary licenses and certifications required by the State of California.
 - (iii) Post bids on websites such as The Bay Area Builders Exchange for sub-contractors to readily access work to bid on for local workers in the 9 Bay Area Counties, including Santa Cruz, Monterey, and San Benito Counties.
- b. Made good faith efforts to
 - (i) Comply with the State of California's apprenticeship program requirement that at least 16.7% of the hours worked by their respective construction workforces on the project must be worked by registered apprentices from approved apprenticeship training programs with proper payment of wages and fringe benefits as required by law, and,
 - (ii) Ensure that 25% of those registered apprentices are identified as having an employment barrier such as homeless, veterans, or at-risk youth.

- 4.2 Conduct a Public Hearing regarding an economic development subsidy in connection with a reduction in construction taxes and parkland fees for a Downtown residential high-rise at 252 N. First Street in the amount of \$2,723,593, pursuant to California Government Code Section 53083 and Open Government Resolution Section 2.3.2.6 C. CEQA: Addendum to the Final Supplemental Environmental Impact Report for the Park View Towers Project, and Downtown Strategy 2000 Environmental Impact Report, Planning File Nos. H14-009 and HA14-009-01. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated September 11, 2017, recommending conducting a public hearing.

Action: Approved. See Action *from Item 4.1.*

- 4.3 Conduct a Public Hearing regarding an economic development subsidy in connection with a reduction in construction taxes and parkland fees for a Downtown residential high-rise at 33 N. Fifth Street in the amount of \$8,475,023, pursuant to California Government Code Section 53083 and Open Government Resolution Section 2.3.2.6 C. CEQA: Addendum to the Downtown Strategy 2000 EIR, the Envision San José 2040 General Plan and the Envision San Jose 2040 General Plan Supplemental EIR, Planning File No. SP17-009. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated September 11, 2017, recommending conducting a public hearing.

Action: Approved. See Action *from Item 4.1.*

- 4.4 Conduct a Public Hearing regarding an economic development subsidy in connection with a reduction in construction taxes and parkland fees for a Downtown residential high-rise at 88 San Carlos Street, in the amount of 3,628,503, pursuant to California Government Code Section 53083 and Open Government Resolution Section 2.3.2.6 C. CEQA: Addendum to the Downtown Strategy 2000 EIR, the Envision San José 2040 General Plan and the Envision San Jose 2040 General Plan Supplemental EIR, Planning File No. SP17-009. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated September 11, 2017, recommending conducting a public hearing.

Action: Approved. See Action *from Item 4.1.*

4.5

Actions Related to the Issuance of Multifamily Housing Revenue Bonds, the Loan of Bond Proceeds for the Catalonia Apartments.

Recommendation:

Adopt a resolution:

(a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Catalonia Apartments), Series 2017C (the “Bonds”) in a principal amount not to exceed \$17,713,027;

(b) Approving a loan of Bond proceeds to Catalonia Two, L.P., a California limited partnership created by Eden Housing, Inc., a California nonprofit corporation, to finance the acquisition and rehabilitation of the Catalonia Apartments located at 2036 Evans Lane, in San José;

(c) Approving in substantially final form the Indenture of Trust, Loan Agreement and Regulatory Agreement and Declaration of Restrictive Covenants (the “Bond Documents”);

(d) Authorizing and directing the City Manager, Director of Finance and Director of Housing, or their designees, to execute and deliver the Bond Documents and related documents as necessary; and

(e) Authorizing the Director of Housing to negotiate and execute amendments to existing City loan documents relating to the Catalonia Apartments consistent with the terms described below.

CEQA: Exempt, File No. PP17-019, CEQA Guidelines Section 15301 for existing facilities. Council District 6. (Housing/Finance)

Documents Filed: Joint memorandum from Director of Housing Jacky Morales-Ferrand and Director of Finance Julia H. Cooper, dated September 12, 2017, recommending adoption of a resolution.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha, and carried unanimously, Resolution No. 78380, entitled: “A Resolution of the Council of the City of San José Authorizing Issuance of Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof for the Financing of Catalonia Apartments, and Approving Other Related Documents and Actions”, was adopted. (11-0.)

NEIGHBORHOOD SERVICES

5.1 **Application for 2017 Santa Clara County Grant Funding from the All-Inclusive Playgrounds Program.**

(a) Approve the recommended park sites listed in Attachment B to the memorandum to Council for the City's application to apply for the County of Santa Clara grant for the development of all-inclusive playgrounds.

(b) Allow Parks, Recreation and Neighborhood Services staff the flexibility in requesting funds when applying for the proposed nine park sites for the All-Inclusive Playgrounds Program grant.

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. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated September 11, 2017, recommending approval of staff recommendations. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated September 25, 2017, requesting flexibility to modify requested funding amounts.

Public Comments: Offering support to Magical Bridge Playground, an inclusive park for people with developmental disabilities, were Jill Asher, George Louganis and Brian Darby.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. responded to questions from the Council.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Sylvia Arenas and carried unanimously, the recommended park sites listed in Attachment B to the memorandum to Council for the City's application to apply for the County of Santa Clara grant for the development of all-inclusive playgrounds; and (b) Allow Parks, Recreation and Neighborhood Services staff the flexibility in requesting funds when applying for the proposed nine park sites for the All-Inclusive Playgrounds Program grant, was approved. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.1 **Formation of the Ad Hoc Advisory Committee on South Flow Aircraft Arrivals.**

(a) As recommended by the Transportation and Environment Committee on September 11, 2017, approve staff's report to allow staff to work with Santa Clara County cities and the County to form the Ad Hoc Advisory Committee on South Flow Arrivals.

Note: Approved with two City of San José Councilmembers and one alternate Councilmember.

6.1 (Cont'd.)

If part (a) is approved:

(b) Appoint a Councilmember and an alternate Councilmember to represent the City on the Committee.

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

[Transportation and Environment Committee referral 9/11/17 - Item (d)3]

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated September 21, 2017, transmitting the recommendations of the Transportation and Environment Committee. (2) Supplemental memorandum from Director of Aviation, John Aitken, A.A.E., dated September 25, 2017, providing additional information.

Motion: Councilmember Chappie Jones moved approval of Councilmember Chappie Jones and Councilmember Raul Peralez to the Ad Hoc Advisory Committee on South Flow Arrivals, and Councilmember Johnny Khamis as the appointed alternate.

Staff responded to questions, and Council comments ensued.

Public Comment: Chris Moylan, Congressman Ro Khanna's office, and City of Palo Alto Councilmember Lydia Cu, offered support to the formation of the committee with some changes. Also offering support were Karen Porter, Tony Guain, Councilmember Kathy Watanabe of Santa Clara, Jennifer (Sunnyvale-Cupertino airport noise group); Jim Whitfield; Kelly Hills, Tony Rapp, Liang Chow, Shari Alene and Indra Barlow.

Action: On a call for the question, the motion carried unanimously, and Councilmember Chappie Jones and Councilmember Raul Peralez were appointed to the Ad Hoc Advisory Committee on South Flow Arrivals, and Councilmember Johnny Khamis was appointed as the alternate. (10-0-1. Absent: Diep.)

6.2 Amendment to the Agreement with California High Speed Rail Authority for the California High Speed Rail Project.

Note: Renumbered to Item 2.15,

Councilmember Donald Rocha left the meeting at approximately 6:30 p.m.

ENVIRONMENTAL & UTILITY SERVICES

7.1 17-118 Actions Related to the Alviso Storm Pump Station.

Recommendation: (a) Approve award of a construction contract for the Alviso Storm Pump Station Project (CPMS ID 6095) to the second low bidder, JMB Construction, Inc., in the amount of \$13,130,420 and approve a ten percent contingency in the amount of \$1,313,042.

7.1 (Cont'd.)

(b) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance Amendments in the Storm Sewer Operating Fund:

(1) Decrease the Capital Program Reserve by \$3,000,000; and

(2) Increase the transfer to the Storm Sewer Capital Fund by \$3,000,000.

(c) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance and Funding Sources Resolution Amendments in the Storm Sewer Capital Fund:

(1) Increase the estimate for Transfers and Reimbursements by \$3,000,000; and

(2) Increase the Alviso Storm Pump Station appropriation to the Public Works Department by \$6,800,000;

(3) Decrease the Outfall Rehabilitation - Capital appropriation to the Public Works Department by \$100,000;

(4) Decrease the Alviso Storm Pump Station Reserve by \$1,200,000;

(5) Decrease the Storm Pump Station Rehabilitation and Replacement appropriation to the Public Works Department by \$1,500,000;

(6) Decrease the Storm Sewer Master Plan - City-wide appropriation to the Public Works Department by \$300,000;

(7) Decrease the Condition Assessment Storm Sewer Repairs appropriation to the Public Works Department by \$200,000; and

(8) Decrease the Unrestricted Ending Funding Balance by \$500,000.

CEQA: Determination of Consistency with the Alviso Storm Pump Station Initial Study and Mitigated Negative Declaration (Resolution No. 77721), File No. PP15-052. Council District 4. (Public Works/Environmental Services/City Manager)

Documents Filed: Joint memorandum from Director of Public Works Barry Ng, Director, Environmental Services, Kerrie Romanow, and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 13, 2017, recommending award of a contract and approval of appropriation ordinance amendments and funding sources resolution amendments.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Chappie Jones and carried unanimously, Ordinance No. 30008, entitled “An Ordinance of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Storm Sewer Operating Fund for the Transfer to the Storm Sewer Capital Fund; Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 30009, entitled “An Ordinance of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Storm Sewer Capital Fund for the Alviso Storm Pump Station; Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78381, 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 Storm Sewer Capital Fund”, were adopted. (10-0-1. Absent: Rocha.)

7.2 17-137 Amendment to the Agreement with Lennar Avenue One, LLC for Sanitary Sewer Improvements.

Approve an amendment to the subdivision improvement agreement with Lennar Avenue One, LLC (“Developer”) to retroactively reimburse the Developer for the upsizing of the existing, and installation of new, sanitary sewer mains on Raleigh Road and Charlotte Drive between Cottle Road and Endicott Boulevard in an amount not to exceed \$1,314,670. CEQA: Addendum to the Hitachi Campus and Mixed-Use Transit Village Project Environmental Impact Report (Resolution No. 27772), File No. PDC04-031. Council District 2. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng, recommending amendments to the construction agreement.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, an amendment to the subdivision improvement agreement with Lennar Avenue One, LLC (“Developer”) to retroactively reimburse the Developer for the upsizing of the existing, and installation of new, sanitary sewer mains on Raleigh Road and Charlotte Drive between Cottle Road and Endicott Boulevard in an amount not to exceed \$1,314,670”, was approved. (10-0-1. Absent: Rocha.)

7.3 17-111 Audit of Environmental Services Department Consulting Services.

As recommended by the Transportation and Environment Committee on September 11, 2017, accept the audit report on ESD Consulting Services. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (City Auditor)
[Transportation and Environment Committee referral 9/11/17 - Item (d)4.]

Documents Filed: (1) Letter from Sam Liccardo, Vice Chair, Treatment Plant Advisory Committee, dated September 25, 2017, providing recommendations. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated September 15, 2017, providing recommendations by the Transportation and Environment committee, accepting the audit report on ESD Consulting Services.

Providing a presentation and responded to questions, were City Auditor Sharon Erickson, Assistant City Manager Environmental Services, Ashwini Kantak, Director of Finance Julia H. Cooper and Director, Environmental Services, Kerrie Romanow.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the audit report on ESD Consulting Services was accepted, with direction to staff to provide an update on open audit recommendations to the Transportation and Environment (T&E) Committee.

LAND USE

10.1 Land Use on Consent Calendar

There were No Land Use items on Consent Calendar.

10.2 Analysis of Proposed General Plan Land Use Overlay Amendments for Mobilehome Parks and Review of Recommendations from The Law Foundation of Silicon Valley Regarding Protection of Mobilehome Park Residents.

Recommendation: Accept staff analysis of a proposed General Plan amendment to create overlay designations for mobilehome parks with residential designations with a recommendation of no action to amend the General Plan. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Planning, Building and Code Enforcement/Housing) (Deferred from 9/19/17 - Item 10.2)

Action: Item Dropped.

10.3 Conforming Rezoning, Special Use Permit and Development Exception for Real Property Located at 1657 Alviso-Milpitas Road.

Recommendation: (a) Adopt a resolution certifying the 237 Industrial Center Environmental Impact Report and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a Statement of Overriding Consideration and Mitigation, Monitoring and Reporting Program, all in accordance to the California Environmental Quality, Act, as amended.
(b) Consideration of an ordinance of the City of San José Rezoning an approximately 64.59 gross acre site, located northwest of Highway 237 and McCarthy Boulevard (1657 Alviso-Milpitas Road), from the A(PD) Planned Development Zoning District to the LI Light Industrial Zoning District (Cilker Carl A And Kathleen C Trustee, Owners).
(c) Adopt a resolution approving (i) Special Use Permit No. SP16-053, subject to conditions, to allow the removal of eight ordinance sized and 14 non-ordinance sized trees, and construction of six buildings for a data center use totaling approximately 376,519 square feet with associated site improvements and 14 generators, and (ii) a Development Exception to allow a reduction in off-street parking. CEQA: 237 Industrial Center Environmental Impact Report. (Planning, Building and Code Enforcement)
C15-054, SP16-053 & V17-004 - Council District 4

Action: Deferred to October 24, 2017 per Administration.

10.4

Amendment to the Development Agreement with Jackson-Taylor Partners, LLC for the Japantown Corporation Yard Redevelopment Project.

Recommendation:

Consideration of an ordinance to approve the Second Amendment to the Development Agreement by and between the City of San José and Jackson-Taylor Partners, LLC for the Japantown Corporation Yard Redevelopment Project (Ordinance No. 29528), as amended, for the property located at 696 North 6th Street. The Second Amendment to the Development Agreement would incorporate a one-year extension of the terms of the Agreement; authorize the use of the site by the City on a temporary basis for a farmer's market and public parking; require a Developer's Community Liaison for the Project under specified circumstances; and revise remedies available in the event of any delay by the Developer in performance or default of the Agreement. CEQA: Determination of Consistency with the Japantown Corporation Yard Redevelopment Project Environmental Impact Report, adopted by City Council Resolution No. 74384, and addendum thereto. Planning Commission recommends approval (6-0-1; Pham absent). (Planning, Building and Code Enforcement)
DA17-001 - Council District 3

Documents Filed: (1) Transmittal memorandum from Planning Commission Secretary, Rosalynn Hughey, dated September 21, 2017 transmitting the Planning Commission recommendations. (2) Proof of Publication of Notice of Public Hearing, executed on September 25, 2017, submitted by the City Clerk.

Mayor Sam Liccardo opened the public hearing.

Public Comments:

Applicant, Susan Smart, indicated she was ready to move forward and build. Offering support and comments were Greg Anderson, Roy Hitabyashi, representing the Japantown Community and Connie.

Mayor Sam Liccardo closed the public hearing.

Council discussion ensued.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Chappie Jones and carried unanimously, Ordinance No. 30010, entitled "An Ordinance of the City of San José Approving a Second Amendment to the Development Agreement with Jackson-Taylor Partners, LLC, Relative to the Development of the Japantown Corporation Yard Redevelopment Project on Certain Real Property Located at 696 North Sixth Street and Authorizing the City Clerk to Execute the Second Amendment to the Development Agreement and Cause the Same to be Recorded with the Santa Clara County Recorder's Office", was passed for publication. (10-0-1. Absent: Rocha.)

OPEN FORUM

- 1) Brian Darby offered comments on Las Vegas, and assisting people with developmental disabilities.
- 2) Dan Pan, Kimi, David Eisbach, Seigi Tadokoro, Lan Bui, Bonnie Liu, and Cheryl Lubow voiced concerns related to the Apartment Rent Ordinance.

ADJOURNMENT

The Council of the City of San José adjourned at 7:04 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk
TT/sg/rmk 10-3-17 MIN

The Joint City of San Jose City Council/Financing Authority was called to order at 2:14 p.m.

2. 17-119 Actions Related to the Establishment of an Interim Financing Program to Finance Capital Improvements at the San José-Santa Clara Regional Wastewater Facility.

Recommendation:

(a) Adopt resolutions of the City Council:

(1) Providing for the allocation of Wastewater System Revenues, the pledge of Wastewater Net System Revenues, and establishing covenants to secure the payment of obligations payable from Wastewater Net System Revenue and repealing prior inconsistent resolutions; and

(2) Approving the issuance by the City of San José Financing Authority of its Subordinate Wastewater Revenue Notes from time to time in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time for the purpose of financing Wastewater System and Treatment Plant Projects for the City of San José and/or refunding Prior Obligations issued or incurred for such purpose, approving and authorizing the execution and delivery of a Credit Agreement and a Fee Letter Agreement with Wells Fargo Bank, National Association, and a Subordinate Installment Purchase Contract, and authorizing other related actions in connection therewith.

(b) Adopt a resolution of the City of San José Financing Authority Board authorizing the issuance by the City of San José Financing Authority of its Subordinate Wastewater Revenue Notes from time to time in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time for the purpose of financing Wastewater System and Treatment Plant Projects for the City of San José and/or refunding Prior Obligations issued or incurred for such purpose, approving and authorizing the execution and delivery of a Credit Agreement and a Fee Letter Agreement with Wells Fargo Bank, National Association, and a Subordinate Installment Purchase Contract, and authorizing other related actions in connection therewith.

CEQA: San José-Santa Clara Regional Wastewater Facility Master Plan EIR (Resolution No. 76858), File No. PP11-043. (Finance)

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper and Director, Environmental Services, Kerrie Romanow, dated September 18, 2017, recommending adoption of resolutions.

Director of Finance Julia H. Cooper and Assistant City Manager Environmental Services, Ashwini Kantak responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 78382, entitled: “A Resolution of the Council of the City of San José Providing for the Allocation of Wastewater System Revenues, the Pledge of Wastewater Net System Revenues and Establishing Covenants to Secure the Payment of The Joint

Actions Related to the Establishment of an Interim Financing Program to Finance Capital Improvements at the San José-Santa Clara Regional Wastewater Facility (Cont'd.)

Obligations Payable from Wastewater Net System Revenues”; Resolution No. 78383, Approving Issuance by the City of San José Financing Authority of the City of San José Financing Authority Subordinate Wastewater Revenue Notes from Time to Time in an Aggregate Principal Amount not to Exceed \$300,000,000 Outstanding at any One Time for the Purpose of Financing Wastewater System and Treatment Plant Projects for the City of San José and/or Refunding Prior Obligations Issued or Incur”; and San José Financing Authority Resolution No. 138, entitled: “A Resolution of the Governing Board of the City of San José Financing Authority Authorizing the Issuance of City of San José Financing Authority Subordinate Wastewater Revenue Notes From Time to Time in an Aggregate Principal Amount not to Exceed \$300,000,000 Outstanding at any One Time for the Purpose of Financing Wastewater System and Treatment Plant Projects For the City of San José and/or Refunding Prior Obligations Issued or Incurred For Such Purpose, Approving and Authorizing the Execution and Delivery of a Credit Agreement, a Fee Letter Agreement, and a Subordinate Installment Purchase Contract and Authorizing Other Related Actions in Connection Therewith”, were adopted. (11-0.)

The Joint City of San Jose City Council/Financing Authority was adjourned at 2:33 p.m.