



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, NOVEMBER 7, 2017

The Council of the City of San José convened in Regular Session at 9:30 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - Arenas. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(4) in one (1) matter; (B) To confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) 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; (2) 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; (3) San José Retired Employees Association, et al. v. City of San José, et al.; Names Of Partie(s) Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, the Board of Administration for the Federated City Employees 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

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.)

to City medical plan; (C) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

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

Absent: Councilmembers - Arenas. (Excused)

INVOCATION

Pastor Eugene Chu from Chinese Church in Christ - South Valley provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Councilmember Dev Davis, seconded by Councilmember Tam Nguyen, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.3 deferred to an undetermined date and Item 2.2, Ordinance No. 30023, deferred to December 12, 2017.

17-342

New Items Noted:

- 2.11 - Actions Related to the Guadalupe Oak Grove Park Management Plan.
- 2.12 - Vice Mayor's Staff Travel to Annapolis, MD.
- 2.13 - Councilmember Diep's Travel to Washington, DC.
- 2.14 - Actions Related to Councilmember Diep's Travel to Washington, DC.
- 2.15 - District 1 Dumpster Day.
- 2.16 - Tri-Village Advisory Group Appreciation Dinner.
- 2.17 - District 7 Community Events.
- 2.18 - District 7 Faith Leaders Breakfast.
- 2.19 - District 6 Faith Leaders Luncheon.
- 2.20 - District 8 Community Events.

CEREMONIAL ITEMS

- 1.1 17-149 **Mayor Sam Liccardo and Councilmember Johnny Khamis presented a proclamation to small business owners recognizing Saturday, November 25, 2017 as Small Business Saturday in the City of San José.**
- 1.2 17-285 **Mayor Sam Liccardo and Councilmember Sergio Jimenez presented a commendation to Trash Punx for their commitment and action to cleaning up San José.**
- 1.3 17-286 **Mayor Sam Liccardo and Councilmember Sergio Jimenez presented a proclamation declaring the month of November as Family Caregiver Awareness Month in the City of San José to raise awareness of family caregiver issues, celebrate the efforts of family caregivers, educate family caregivers about self-identification, and increase support for family caregivers.**

CONSENT CALENDAR

2.1 Approval of City Council Minutes.

- 17-232 (a) Regular Minutes of May 23, 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: Council Meeting Minutes of May 23, 2017.

Action: The City Council Minutes were approved. (10-0-1. Absent: Arenas.)

17-312

Final Adoption of Ordinances.

ORDINANCE NO. 30016 - An ordinance of the City of San José adding Section 12.02.095 and 12.02.110 to Chapter 12.02 and amending Chapter 12.08 of Title 12 of the San José Municipal Code in its entirety, to align with the Political Reform Act's Gift Provisions, except for the Political Reform Act's Higher Gift Limit and making other clerical or technical changes. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Attorney)

Documents Filed: Proof of Publication of the Title of Ordinance No. 30016 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30016 was adopted. (10-0-1. Absent: Arenas.)

ORDINANCE NO. 30017 - An ordinance of the City of San José amending various sections of Chapter 3.28 and 3.58 of Title 3 of the San José Municipal Code to implement the amendments to the terms of the Alternative Pension Reform Settlement Framework Agreement with City nonsworn employee bargaining unit groups. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)

Documents Filed: Proof of Publication of the Title of Ordinance No. 30017 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30017 was adopted. (10-0-1. Absent: Arenas.)

ORDINANCE NO. 30020 - An ordinance of the City of San José amending Part 8 to Chapter 17.23 of Title 17 of the San José Municipal Code extending the termination date (Interim Apartment Rent Ordinance). CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Housing)

Documents Filed: Proof of Publication of the Title of Ordinance No. 30020 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30020 was adopted. (10-0-1. Absent: Arenas.)

ORDINANCE NO. 30021 - An ordinance of the City of San José rezoning certain real property of approximately 0.72-gross acre situated at the south side of East Brokaw Road, approximately 110 feet west of Junction Avenue, (524 East Brokaw Road) from the HI Heavy Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District. CEQA: Determination of Consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José

17-312

Final Adoption of Ordinances (Cont'd.)

2040 General Plan (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617) and Addenda thereto. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)
C17-028 - Council District 3

Documents Filed: Proof of Publication of the Title of Ordinance No. 30021 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30021 was adopted. (10-0-1. Absent: Arenas.)

ORDINANCE NO. 30022 - An ordinance of the City of San José rezoning certain real property of approximately 2.18-gross acres situated at the south side of Silver Creek Valley Road, approximately 400 feet east of Hellyer Avenue (5952 Silver Creek Valley Road) from the IP Industrial Park Zoning District to the CIC Combined Industrial/Commercial 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. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)
C17-036 - Council District 2

Documents Filed: Proof of Publication of the Title of Ordinance No. 30022 executed on October 27, 2017 by the City Clerk.

Action: Ordinance No. 30022 was adopted. (10-0-1. Absent: Arenas.)

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

Action: Ordinance No. 30023 deferred to 12/12/17 per Orders of the Day.

2.3 Approval of Council Committee Minutes.

- 17-291** (a) Neighborhood Services and Education Committee Minutes of October 12, 2017. (Rocha)
(b) Rules and Open Government Committee Minutes of October 18, 2017. (Mayor)
(c) Public Safety, Finance and Strategic Support Committee Minutes of October 19, 2017. (Peralez)
(d) Community and Economic Development Committee Minutes of October 23, 2017. (Khamis)
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Documents Filed: (1) Neighborhood Services and Education Committee Minutes of October 12, 2017. (2) Rules and Open Government Committee Minutes, dated October 18, 2017. (3) Public Safety, Finance and Strategic Support Committee Minutes of October 19, 2017. (4) Community and Economic Development Committee Minutes of October 23, 2017.

Public Comment: Blair Beekman addressed the Rules and Open Government Committee Meeting discussion regarding the use of sound cannons and asking to eliminate their use.

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: Arenas.)

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 17-284** (a) Report on bids and award of contract for the 8692 - Installations of Water Services and Mains: 2017 project to the low bidder, San José Water Company, for the initial term of November 2017 through November 2020, in an amount not to exceed \$685,482.
(b) Adopt a resolution authorizing the City Manager to exercise one option to extend the contract for an additional one-year term after the expiration of the initial term in an amount not to exceed \$228,494, and a second option to extend the term of the contract for an additional one-year term after the first option year in an amount not to exceed \$228,494, for a total maximum contract amount of \$1,142,470 if both option years are exercised.
CEQA: Exempt, File No. PP17-050, CEQA Guidelines Section 15301, Existing Facilities and CEQA Guidelines Section, 15302 Replacement or Construction. (Environmental Services)

2.7 (Cont'd.)

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated October 20, 2017, recommending acceptance of a report and adoption of a resolution.

Action: The Report on bids and award of contract for the 8692, Installations of Water Service and Mains 2017 project to the low bidder, San José Water Company, was accepted, and Resolution No. 78404, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Exercise Two Options to Extend the Contract for 8692 – Installation of Water Services and Mains: 2017, to San José Water Company: One Option to Extend the Term for an Additional One-Year After the Initial Term for an Amount Not to Exceed \$228,494 and a Second Option to Extend the Term for an Additional Year After the First Option Year for an Amount Not to Exceed \$228,494", was adopted. (10-0-1. Absent: Arenas.)

2.8 17-282

Adopt a resolution authorizing the City Manager to:

- (a) Execute a Purchase Order with Environmental Systems, Inc. (Santa Clara, CA) for Heating, Ventilation, and Air Conditioning (HVAC) maintenance and repair services for HVAC Building Management Systems for an initial twelve-month period commencing on or about November 8, 2017, for an amount not-to-exceed \$125,000; and
- (b) Execute up to four additional one-year options to renew the Purchase Order, with the final option year ending on or about November 7, 2022, subject to the annual appropriation of funds. (Finance)

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated October 25, 2017, recommending adoption of a resolution.

Action: Resolution No. 78405, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to: (1) Execute a Purchase Order with Environmental Systems, Inc. (Santa Clara, CA) for Heating, Ventilation, and Air Conditioning (HVAC) Maintenance and Repair services for HVAC Building Management Systems for an Initial Twelve-Month Period Commencing on or about November 8, 2017, for an amount not-to-exceed \$125,000; and (2)Execute up to Four Additional One-Year Options to renew the Purchase Order, with the Final Option Year Ending on or about November 7, 2022, Subject to the Annual Appropriation of Funds", was adopted. (10-0-1. Absent: Arenas.)

2.9 17-270

Adopt a resolution:

- (a) Approving the final rankings of the design-build entity that responded to the Request for Proposals for the 4880 - Fourth Street 84 -inch Interceptor Phase VI-A Project ("Project"); and
 - (b) Authorizing the Director of Public Works to negotiate a Design-Build contract for the Project with Steve P. Rados, Inc.
- CEQA: Determination of Consistency with the Mitigated Negative Declaration for Sewer Interceptor Phase VIA Public Project (Resolution No. 77626), File No. PP10-160. (Public Works)

Action: Deferred to November 28, 2017 per Administration.

2.10 17-273 Actions Related to the Approval of Employee Benefit Insurance Agreements.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement between the City and Standard Insurance Company to provide group basic life and accidental death & dismemberment (AD&D) insurance, supplemental life insurance, dependent life insurance, and matching accidental death & dismemberment (AD&D) insurance as applicable, to employees and retirees for the period of January 1, 2018 to December 31, 2021;
- (b) Negotiate and execute an agreement between the City and Standard Insurance Company to provide long-term disability (LTD) insurance to employees for the period of January 1, 2018 through December 31, 2021; and
- (c) Negotiate and execute an amendment to the agreement between the City and Life Insurance Company of North America, an affiliated Cigna Company, to provide voluntary accidental death and dismemberment (personal accident) insurance to employees and retirees for the period of January 1, 2018 through December 31, 2021.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Human Resources)

Note: Renumbered from Item 3.7

Documents Filed: Memorandum from Deputy City Manager Julia Edmonds-Mares, dated October 16, 2017, recommending adoption of a resolution.

Action: Resolution No. 78406, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements with Standard Insurance Company and Negotiate and Execute an Amendment to the Agreement with Life Insurance Company of North America, an Affiliated Cigna Company, for Life Insurance, Accidental Death and Dismemberment Insurance, and Long-Term Disability Insurance for City Employees and Retirees”, was adopted. (10-0-1. Absent: Arenas.)

2.11 17-313 Actions Related to the Guadalupe Oak Grove Park Management Plan.

Recommendation: Adopt the following 2017-2018 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10:

- (1) Establish the Guadalupe Oak Grove Park Management Plan appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$250,000; and
- (2) Decrease the Ending Fund Balance by \$250,000.

CEQA: Exempt, File No. PP17-073, CEQA Section 15308 Actions by Regulatory Agencies for Protection of Natural Resources. Council District 10. (Parks, Recreation and Neighborhood Services/City Manager)

2.11 (Cont'd.)

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 October 23, 2017, recommending adoption of appropriation ordinance amendments.

Mayor Sam Liccardo pulled Item 2.11 to discuss grant funding for invasive species eradication, and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, Ordinance No. 30026, entitled "An Ordinance 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 #10 for the Guadalupe Oak Grove Park Management Plan; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0-1. Absent: Arenas.)

- 2.12 17-335** Retroactively approve travel for Vice Mayor's staff, Sachin Radhakrishnan, to Annapolis, Maryland from October 31, 2017 to November 3, 2017 to attend the Sister Cities International Fall Conference. Source of Funds: Mayor/Council Travel Budget. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Carrasco)

Documents Filed: Memorandum from Vice Mayor Magdalena Carrasco, dated October 25, 2017, requesting retroactive authorization to travel on official City business.

Vice Mayor Magdalena Carrasco pulled Item 2.12 to report out on her attendance at the Sister Cities International Fall Conference.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones and carried unanimously, the travel request was retroactively approved. (10-0-1. Absent: Arenas.)

- 2.13 17-326** Approve travel by Councilmember Diep to Washington, DC from November 16, 2017 to November 17, 2017 to attend a leadership training for minority elected officials organized by the New American Leaders Project, a 501(c)(3) non-profit organization under the Internal Revenue Code. Source of Funds: New American Leaders Project, a 501(c)(3) non-profit organization and District 4 Office Budget. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Diep)

Documents Filed: Memorandum from Councilmember Lan Diep, dated October 30, 2017, requesting authorization to travel on official City business.

Action: The travel request was approved. (10-0-1. Absent: Arenas.)

- 2.14 17-327** (a) Retroactively approve travel by Councilmember Diep to Washington, DC from November 1, 2017 to November 3, 2017 to attend Equal Justice Works annual leadership development training. Source of Funds: Equal Justice Works, a 501(c)(3) non-profit organization and District 4 Office Budget.
- (b) Retroactively approve an excused absence for Councilmember Diep from the November 2, 2017 Smart Cities and Service Improvements Committee.
- CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Diep)

Documents Filed: Memorandum from Councilmember Lan Diep, dated October 30, 2017, requesting retroactive approval to travel on official City business.

Action: The travel request was retroactively approved. (10-0-1. Absent: Arenas.)

- 2.15 17-336** As referred by the Rules and Open Government Committee on November 1, 2017:
- (a) Retroactively approve the Dumpster Day held on October 21, 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. (Jones)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 3, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 1 Dumpster Day 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. (10-0-1. Absent: Arenas.)

2.16 17-337 Tri-Village Advisory Group Appreciation Dinner.

- Recommendation: As referred by the Rules and Open Government Committee on November 1, 2017:
- (a) Retroactively approve the Tri-Village Advisory Group Appreciation Dinner held on Monday, November 6, 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. (Jones)

2.16 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 3, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Tri-Village Advisory Group Appreciation Dinner 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. (10-0-1. Absent: Arenas.)

2.17 17-338

As referred by the Rules and Open Government Committee on November 1, 2017:

(a) Retroactively approve the following District 7 events as City Council sponsored Special Events and approve the expenditure of funds:

(1) Pizza Social at Dahl Neighborhood on Saturday, October 21, 2017 at corner of Baltic Way and Arctic Avenue;

(2) Varoween Haunted House on Saturday, October 28, 2017 at the Vietnamese American Community Center; and

(3) Halloween Festival on Tuesday, October 31, 2017 at Tully Library.

(b) Approve the following District 7 events as City Council sponsored Special Events and approve the expenditure of funds:

(1) Dumpster Day at Alma Neighborhood on Saturday, December 2, 2017 at Alma Community Center; and

(2) Richardson Park Grand Opening Celebration on Saturday, December 9, 2017 at Richardson Park.

(3) Clean Up with Tam on Saturday, December 16, 2017 at Tolbert Drive and Lanai Avenue.

(c) 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. (Nguyen)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 3, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 7 Events as City Council Sponsored Special Events were approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the events, were approved. (10-0-1. Absent: Arenas.)

- 2.18 17-339** As referred by the Rules and Open Government Committee on November 1, 2017:
- (a) Approve the District 7 Faith Leaders Breakfast scheduled on November 9, 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. (Nguyen)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 3, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 7 Faith Leaders Breakfast 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. (10-0-1. Absent: Arenas.)

- 2.19 17-340** As referred by the Rules and Open Government Committee on November 1, 2017:
- (a) Approve the District 6 Faith Leaders Luncheon scheduled on November 9, 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. (Davis)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 3, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 6 Faith Leaders Breakfast 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. (10-0-1. Absent: Arenas.)

- 2.20 17-341** As referred by the Rules and Open Government Committee on November 1, 2017:
- (a) Retroactively approve the following District 8 events as City Council sponsored Special Events and approve the expenditure of funds:
 - (1) Thompson Creek Clean-Up held on Saturday, August 12, 2017;
 - (2) Coastal Creek Clean-Up held on Saturday, September 16, 2017 at Thompson Creek; and
 - (3) Day in the Park Festival Kick-Off Celebration held on Friday, October 6, 2017 at Lake Cunningham Regional Park.
 - (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. (Arenas)

2.20 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 3, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 8 Community Events as City Council Sponsored Special Events were approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the events, was approved. (10-0-1. Absent: Arenas.)

3. STRATEGIC SUPPORT

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

City Manager David Sykes announced the selection of Rosario Neaves as San José's new Director of Communications.

3.2 Labor Negotiations Update.

None provided.

- 3.3 17-281** As recommended by the Public Safety, Finance, and Strategic Support Committee on October 19, 2017, accept the audit of Retirement Services. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City actions. (City Auditor) [Public Safety, Finance, and Strategic Support Committee referral 10/19/17 - Item (d)5]

Action: Deferred per Orders of the Day.

- 3.4 17-293** (a) Adopt a resolution to approve the terms of the Settlement Agreement between the City and the San José Retired Employees' Association and the four (4) individual plaintiffs who were parties to the case regarding 2012 Measure B and retiree healthcare matters.
(b) Adopt the following 2017-2018 Appropriation Ordinance amendments in the General Fund:
(1) Establish a City-Wide Expenses Measure B Settlement appropriation to the City Manager's Office in the amount of \$1,750,000; and
(2) Decrease the Retiree Healthcare Solutions Reserve in the amount of \$1,750,000.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and 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)

3.4 (Cont'd.)

Documents Filed: Memorandum from City Manager, David Sykes, dated October 27, 2017, recommending adoption of a resolution and an appropriation ordinance amendment.

Director of Employee Relations, Jennifer Schembri provided a presentation regarding the settlement agreement.

Action: Upon motion by Councilmember Donald Rocha, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Resolution No. 78407, entitled: "A Resolution of the Council of the City of San José Approving the Terms of the Settlement Agreement Between the City of San José and the San José Retired Employees' Association and the Four (4) Individual Plaintiffs Who Were Parties to the Case Regarding 2012 Measure B and Retiree Healthcare Matters"; and Ordinance No. 30027, 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 Measure B Settlement; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0-1. Absent: Arenas.)

3.5 17-294

Adopt a resolution to:

- (a) Amend the City of San José Pay Plan, effective November 19, 2017, to change the salary range for the following classifications:
 - (1) Structure/Landscape Designer I (3858) with a salary range of \$72,943.58 - \$92,283.02 annually;
 - (2) Structure/Landscape Designer II (3842) with a salary range of \$76,592.94 - \$96,959.46 annually;
- (b) Amend the City of San José Pay Plan, effective November 19, 2017, to change the salary range for the following classification:
 - (1) Senior Librarian (6235) with a salary range of \$89,275.80 - \$108,772.31;
- (c) Approve a 4.0% ongoing non-pensionable retention premium pay for the Chief of Police U (2227), effective November 19, 2017.
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 October 27, 2017, recommending adoption of a resolution.

Public Comments: Mark Giannuzzi and Sharon Fung, representing CAMP/IFPTE Local 21, spoke in support of the amendment to the Pay Plan.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78408, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications", was adopted. (10-0-1. Absent: Arenas.)

- 3.6 17-265** Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:
- (a) Negotiate and execute an Agreement with Parsons Transportation Group, Inc. (La Palma, CA) for the purchase and deployment of a Transportation Incident Management Center Event Tracking System (System), including software, and professional services for project management, software development, implementation, configuration, training and ongoing support and maintenance for an initial term of twelve years ending on or around December 2029, with a maximum compensation not-to-exceed \$1,678,351, including ten years of post-implementation maintenance and support, subject to the appropriation of funds; and
 - (b) Execute amendments and change orders as may be required for any unanticipated changes to the City's requirements, not to exceed \$255,000, subject to the appropriation of funds.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Action: Deferred to 11/28/17 per Administration.

3.7 Actions Related to the Approval of Employee Benefit Insurance Agreements.

Note: Renumbered to Item 2.10; See Item 2.10 for Action taken.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 17-290** As recommended by the Community and Economic Development Committee on October 23, 2017, accept the staff report and establish a mandatory registration program for storefronts in Downtown San José that have been vacant for 30 days and do not possess active City of San José Building Department permits under the parameters outlined in the staff memorandum. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Economic Development/Planning, Building & Code Enforcement)

Documents Filed: (1) Joint memorandum from Vice Mayor Magdalena Carrasco, Councilmember Raul Peralez and Councilmember Chappie Jones, dated November 3, 2017, recommending acceptance of the report with additional recommendations. (2) Memorandum from Councilmember Sergio Jimenez, dated November 7, 2017, accepting his colleagues' memorandum, with adjustments. (3) Memorandum from City Clerk Toni J. Taber, CMC, dated October 26, 2017, transmitting recommendations from the Community and Economic Development Committee.

Downtown Manager, Blage Zelalich, provided a presentation.

4.1 (Cont'd.)

Public Comments: Offering support to this program as a means to reduce blight, offer a creative haven for art and encourage a safer environment, were: Erin Salazar and Ellina Yin (Local Color); Nate LeBlanc (San José Downtown Association); Kymberli Brady (SJDRA); Matthew Quevedo (San José Downtown Resident's Association); Dan Phan (Paper Plane); and Blair Beekman.

Motion: Councilmember Raul Peralez moved approval of the memorandum he coauthored with Vice Mayor Magdalena Carrasco and Councilmember Chappie Jones, dated November 3, 2017. Councilmember Chappie Jones seconded the motion.

Council discussion followed, and staff responded to questions from Council.

Councilmember Sergio Jimenez requested an amendment to the motion to include item 2(b) from his memorandum dated November 7, 2017, to address the lack of staffing within the Code Enforcement Department as noted below in "Action". Councilmember Raul Peralez and Councilmember Chappie Jones accepted the amendment to the motion.

Action: On a call for the question, the motion carried unanimously, and the Community and Economic Development Committee recommendations were accepted, including acceptance of the staff report to establish a mandatory registration program for storefronts in Downtown San José that have been vacant for 30 days and do not possess active City of San José Building Department permits under the parameters outlined in the staff memorandum, including the joint memorandum from Vice Mayor Magdalena Carrasco, Councilmember Raul Peralez and Councilmember Chappie Jones, dated November 3, 2017 to "Accept the staff report and establish a pilot mandatory registration program for storefronts in Downtown San José that have been vacant for 30 days and have not fulfilled the requirements outlined in the staff memorandum"; and including Item 2(b) from the memorandum from Councilmember Sergio Jimenez, dated November 7, 2017: "In considering city-wide expansion of the ordinance, address the lack of staffing within the Code Enforcement Department by developing strategies to fill current vacancies necessary to scale this program citywide." (10-0-1. Absent: Arenas.)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 17-283

Adopt a resolution authorizing the City Manager to:

- (a) Execute a purchase order with Proterra, Inc. (Burlingame, CA) for the purchase of ten new electric passenger shuttle buses for the Mineta San José International Airport, in an amount not-to-exceed \$7,598,238, excluding applicable sales tax and license fees;
 - (b) Approve a contingency of \$760,000 for any unforeseen changes or modifications to the design of the vehicles, subject to the appropriation of funds; and
 - (c) Approve the purchase of additional buses for up to five years from the initial purchase date, subject to the appropriation of funds.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

6.1 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated October 25, 2017, recommending adoption of a resolution.

Director of Aviation, John Aitken, A.A.E. responded to questions from Council.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78409, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute a purchase order with Proterra, Inc. (Burlingame, CA) for the Purchase of Ten New Electric Passenger Shuttle Buses for the Mineta San José International Airport, in an amount not-to-exceed \$7,598,238, Excluding Applicable Sales Tax and License Fees; (2) Approve a Contingency of \$760,000 for any Unforeseen Changes or Modifications to the Design of the Vehicles, Subject to the Appropriation of Funds; and (3) Approve the Purchase of Additional Buses for up to Five Years from the Initial Purchase Date, Subject to the Appropriation of Funds", was adopted. (10-0-1. Absent: Arenas.)

7. ENVIRONMENTAL & UTILITY SERVICES

- 7.1 17-295 Approve an ordinance to add Title 26 to the San José Municipal Code to provide procedures for the operation and management of San José Clean Energy. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Attorney/City Manager)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated October 26, 2017, recommending approval of an ordinance. (2) Supplemental memorandum from City Attorney Richard Doyle, dated November 2, 2017, describing revisions made in the proposed ordinance.

Assistant City Manager Environmental Services, Ashwini Kantak and Senior Deputy City Attorney Leah Goldberg provided an overview of the proposal.

Councilmember Johnny Khamis expressed opposition, indicating a lower-cost option should be offered.

Motion: Councilmember Johnny Khamis moved deferral of this item until a clearer idea of policies and regulations can be reviewed. Councilmember Dev Davis seconded the motion.

Assistant City Manager Environmental Services, Ashwini Kantak indicated a tight timeline, and Mayor Sam Liccardo agreed that this item needs to be addressed immediately.

Mayor Sam Liccardo suggested postponing further deliberation on this item and hearing the Open Forum items while Staff pulls together additional information.

Open Forum was heard (see Open Forum below).

7.1 (Cont'd.)

Council returned to discussion regarding Item 7.1, and Assistant City Manager Environmental Services, Ashwini Kantak responded to the Mayor's comments regarding the August 17, 2017 staff memorandum and references to Offering at least one power mix option with a rate equal to or less than PG&E's rates.

City Manager, David Sykes added that there will be a multitude of power options and discussed the rate-setting process. City Attorney Richard Doyle offered clarification regarding allowing a provision in the ordinance to set rates to provide sufficient revenue to cover all expenses including debt service, and Assistant City Manager Environmental Services, Ashwini Kantak responded to questions.

Councilmember Johnny Khamis offered an amendment to the underlying motion including the language that at least one power mix option with a rate equal or less than PG&E's rates. Councilmember Dev Davis agreed to the amendment of the motion.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 30028, entitled "An Ordinance of the City of San José Amending the San José Municipal Code to Add Title 26 for Community Energy", was passed for publication, including direction to staff to add additional language to codify that the City will offer at least one power mix option with a rate equal or less than PG&E's rates. (9-0-2. Absent: Arenas, Rocha.)

OPEN FORUM

Offering concerns regarding the proposed Apartment Rent Ordinance and objections to rental income being controlled by CPI were Bob Ehlers, Maxine Lubow, Michael Fitzgerald, David Eisbach, Hortense Vasquez, Ken Schneebeli, Lau Bahn, Jaime Gonzalez, Dan Pan and Kimi.

Blair Beekman reiterated concerns regarding the proposed Transportation Incident Management Center Event Tracking System and asked for increased transparency.

ADJOURNMENT

Mayor Sam Liccardo adjourned the Council Meeting at 4:48 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/11-7-17 MIN