

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 12, 2017

The Council of the City of San José convened in Regular Session at 9:15 a.m. in the Council Chamber at City Hall.

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:15 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pertaining to Public Employment/Public Employee Recruitment/Appointment pursuant to Government Code Section 54957: (1) Department or Agency: Independent Police Auditor's Office; Title: Independent Police Auditor; (2) Department or Agency: City Manager's Office; Title: City Manager. (B) to confer with Legal Counsel regarding anticipated litigation with respect to initiation of litigation in one (1) matter. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: Watson, Lee Darnell v. City of San Jose; Matthew Brackett; Ryan Hansen; Ronald Hughes, et al.; Names of Partie(s) Involved: Watson, Lee Darnell, City of San Jose; Matthew Brackett; Ryan Hansen; Ronald Hughes and Does 1-10; Court: United States District Court, Northern District of California, San Jose Division; Case No.: 15-CV-04054-NC; Amount of Money or Other Relief Sought: Damages according to proof; (2) In re: Nichols, Felicia v. City of San Jose, et al.; Names of Partie(s) Involved: Felicia Nichols, City of San Jose, Officer Schipke (#3910), Officer Ferguson (#3030) and Does 1-25; Court: U.S. District Court, Northern District of California, San Jose Division; Case No: 14-CV-03383 BLF; Amount of Money or Other Relief Sought: Damages according to proof; (3) In re: Hung Lam v.

CLOSED SESSION (Cont'd.)

City of San Jose, et al.; Names of Partie(s) Involved: Hung Lam, individually, through his next friend Kathy Lam; City of San Jose, a municipal corporation; Larry Esquivel, in his capacity of Chief of Police for the City of San Jose; Officer Dondi West, individually; Court: U.S. District Court, Northern District, San Jose Division; US Court of Appeals, Ninth Circuit, San Jose Division and in her official position; Case No: 14-CV-00877 PSG; 16-16052; Amount of Money or Other Relief Sought: Damages according to proof; (4) In re: Durham v. City of San Jose, et al.; Names of Partie(s) Involved: Salena Durham, Sungil Lee, Jennifer C.F. Chen, The City of San Jose, Does 1-30; Court: Superior Court of California, County of-Santa Clara; Case No: 16-CV-293608; Amount of Money or Other Relief Sought: Damages according to proof; (5) In re: Plata, Raymond and Michelle v. City of San Jose; Names of Partie(s) Involved: Raymond and Michelle Plata, individually and on behalf of other members of a class of similarly situated residents and taxpayers, City of San Jose; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-258879; Amount of Money or Other Relief Sought: Declaratory Relief, Injunctive Relief; (6) In re: City of San Jose v. City of Santa Clara; Names of Partie(s) Involved: City of San Jose, 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; (7) In re: City of Santa Clara v. City of San Jose, et al.; Names of Partie(s) Involved: City of Santa Clara, City of San Jose, City of San Jose City Council, Does 1 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; (8) In re: San Jose Retired Employees Association, et al. v. City, et al.; Names of Partie(s) Involved: San Jose Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San Jose Does 1 through 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of the State of California for the County of Santa Clara, Sixth District Court of Appeal; Case No.: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate; (9) In re: San Jose Retired Employees Association, et al. v. City of San Jose, et al.; Names of Partie(s) Involved: San Jose Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy Mcginley, City of San Jose, 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 to City medical plan; (D) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8 regarding 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 259-48-053), 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,

CLOSED SESSION (Cont'd.)

259-28-041, 259-28-043, 259-28-044), 697 W. San Carlos (261-37-030), No address (261-37-028); Negotiating Parties: Nanci Klein for the City of San Jose and Jay Bechtel for Google; Under Negotiation: The direction will concern price and terms of payment; (E) 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 - City of San Jose and Association of Building, Mechanical and Electrical Inspectors (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 - City of San Jose and Association of Engineers & Architects (AEA); (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: City of San Jose - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (4) City Association of Management Personnel Agreement (CAMP); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Benefit & Compensation Summary – City of San Jose and City Association of Management Personnel Agreement; (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 – Confidential Employees' Organization, AFSCME Local 101 and City of San Jose; (6) International Association of Firefighters (IAFF), Local 230 (IAFF#230); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement Between City of San Jose and International Association of Firefighters (IAFF), Local 230; (7) International Brotherhood of Electrical Workers, Local 332 (IBEW); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement Between City of San Jose and International Brotherhood of Electrical Workers, Local 332 (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 - City of San Jose and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO; (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 Jose and International Union of Operating Engineers, Local No. 3 (OE#3); (10) San Jose Police Officers' Association (SJPOA); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San Jose and San Jose Polices' Association; (11) Association of Legal Professionals of San Jose (ALP); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San Jose and Association of Legal Professionals of San Jose.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:25 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chamber.

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

Absent: Council Members - All Present.

INVOCATION

Mike Osborne, Evergreen School of Music and Art provided the Invocation. (District 8)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by students from Parkview Elementary School.

CEREMONIAL ITEMS

1.2 Presentation of a proclamation to recognize the month of September as Ovarian Cancer Awareness Month in the City of San José. (Peralez)

Mayor Sam Liccardo and Council Member Raul Peralez provided a proclamation proclaiming the month of September 2017 as Ovarian Cancer Awareness Month in the City of San Jose.

ORDERS OF THE DAY

Upon motion by Council Member Don Rocha, seconded by Council Member Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 7.2 deferred. (10-0-1. Absent: Carrasco.)

CLOSED SESSION REPORT

City Attorney Rick Doyle provided the following Closed Session Report: The City Council authorized the City Attorney to initiate litigation in one matter. (9-0-2. Absent: Rocha, Carrasco); Mayor Sam Liccardo announced the Public Employee Appointment Pursuant to Government Code Section 54957 of Aaron Zisser as the Independent Police Auditor. (10-1. Noes: Rocha.)

CONSENT CALENDAR

Upon motion by Council Member Sergio Jimenez, seconded by Council Member Tam Nguyen 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.

None provided.

2.2 Final Adoption of Ordinances.

- (a) **ORD. NO. 29987 – An Ordinance of the City of San José amending Chapter 4.80 of Title 4 of the San José Municipal Code to add a new part for the San José Clean Energy Operating Fund. 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. 29987 executed on September 1, 2017, submitted by the City Clerk.

Action: Ordinance No. 29987 was adopted. (11-0.)

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 Adopt a resolution:**
- (a) Declaring 86 square feet of vacated street on North Fourth and East Santa Clara Streets, surplus to the needs of the City;**
 - (b) Approving an Agreement between the City of San Jose and SJSC Properties, LLC for the sale of the property in the amount of \$18,146; and**
 - (c) Authorizing the City Manager or his designee to execute the sale agreement, the quitclaim deed, and all other documents necessary to complete the transaction.**

CEQA: Addendum to the Downtown Strategy 2000 EIR, the Envision San José 2040 General Plan and Envision San José 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 August 28, 2017, recommending adoption of a resolution;

Action: Resolution No.78347, entitled: “A Resolution of the Council of the City of San Jose: (1) Declaring 86 square feet of vacated street on North Fourth and East Santa Clara Streets, surplus to the needs of the City; (2) Approving an agreement between the City of San Jose and SJSC properties, LLC for the sale of the property in the amount of \$18,146; and (3) authorizing the City Manager or his designee to execute the sale agreement, the Quitclaim deed, and all other documents Necessary to complete the transaction”, was adopted. (11-0.)

- 2.8 Accept travel payments and authorize official City travel for Mayor’s staff, Sachin Jain, to Atlanta, Georgia from September 14, 2017 to September 15, 2017 for a conference hosted by MetroLab on ways in which cities can partner with universities across the MetroLab Network. Source of Funds: Carnegie Mellon University (MetroLab is an institution within Carnegie Mellon) a 501(c)(3) organization will reimburse for airfare and hotels. 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 August 25, 2017, recommending acceptance of travel payments and authorization for official City travel.

Action: Dropped.

- 2.9 Accept travel payments and designate Mayor’s staff, Khanh Russo, Director of Strategic Partnerships, as the City’s official representative to travel to New York, New York from September 22, 2017 to September 25, 2017 for the Bloomberg Data for Good Exchange. Source of Funds: Results for America. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Mayor)**

2.9 (Cont'd.)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated August 29, 2017, recommending acceptance of travel payments and authorization for official City travel.

Action: The travel payments and designations of Mayor's staff, Khanh Russo, Director of Strategic Partnerships, as the City's official representative to travel to New York, New York from September 22, 2017 to September 25, 2017 for the Bloomberg Data for Good Exchange were accepted. (11-0.)

2.10 **Approve the First Amendment to the Master Agreement with Verde Design, Inc. for landscape architectural design services to: (1) increase the total compensation by \$500,000, for a total Agreement amount not to exceed \$1,500,000, (2) to increase the hourly rates, and (3) to extend the term of the Agreement from December 31, 2017, to June 30, 2019, for the exclusive purpose of allowing the consultant to complete work on the Arcadia Softball Facility and the Tamien Park Phase II projects. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts resulting in no physical changes to the environment. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated August 21, 2017, recommending approval of the agreement.

Action: The First Amendment to the Master Agreement with Verde Design, Inc. for landscape architectural design services to (1) increase the total compensation by \$500,000, for a total Agreement amount not to exceed \$1,500,000, (2) to increase the hourly rates, and (3) to extend the term of the Agreement from December 31, 2017, to June 30, 2019, for the exclusive purpose of allowing the consultant to complete work on the Arcadia Softball Facility and the Tamien Park Phase II projects was approved. (11-0.)

2.11 (a) **Approve an increase to the contingency for the 8248 Norman Y. Mineta International Airport Southeast Area IT Infrastructure project in the amount of \$40,787, for a total contingency amount of \$103,032.** (b) **Approval of Contract Change Order No. 5 with WestCal Design and Build, Inc. in the amount of \$40,787.**

CEQA: File No. Determination of Consistency with the Final Environmental Impact Report (EIR), as supplemented, for the San José International Airport Master Plan Update, File No. PP15-106, Resolution Nos. 67380 and 71451. (Public Works/Airport)

Documents Filed: Joint Memorandum from Director of Public Works Barry Ng and Director of Aviation Services John Aitken, recommending approval of a contingency increase and change order.

2.11 (Cont'd.)

Action: An increase to the contingency for the 8248 Norman Y. Mineta International Airport Southeast Area IT Infrastructure project in the amount of \$40,787, for a total contingency amount of \$103,032 and Contract Change Order No. 5 with WestCal Design and Build, Inc. in the amount of \$40,787 was approved. (11-0.)

2.12 As recommended by the Rules and Open Government Committee on August 30, 2017, approve the proposed designation of Councilmember Sergio Jimenez, as the voting delegate, and the Director of Intergovernmental Relations, Betsy Shotwell, as the alternate voting delegate at the September 15, 2017 Annual Business Meeting for the League of California Cities in Sacramento. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (City Manager)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation of the Rules and Open Government Committee.

Action: The proposed designations of Councilmember Sergio Jimenez as the voting delegate, and the Director of Intergovernmental Relations, Betsy Shotwell, as the alternate voting delegate at the September 15, 2017 Annual Business Meeting for the League of California Cities in Sacramento were approved. (11-0.)

2.13 As recommended by the Rules and Open Government Committee on August 30, 2017, pursuant to the City's streamlined bill process for responding quickly to legislative proposals, re affirm a position of support for SB 595 (Beall), so that the City's legislative representatives can continue to advocate the City's support for SB 595 (Beall). CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Transportation)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation of the Rules and Open Government Committee.

Action: A position of support for SB 595 (Beall) was reaffirmed. (11-0.)

2.14 As recommended by the Rules and Open Government Committee on August 30, 2017, adopt a resolution condemning the "Unite the Right" rally on August 11 12, 2017 in Charlottesville, VA that resulted in a tragic fatality and many injuries. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Perez/Jones)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation of the Rules and Open Government Committee.

2.14 (Cont'd.)

Action: Resolution No.78357, entitled: “A Resolution of the Council of the City of San Jose condemning the “Unite the Uight” rally on August 11-12, 2017 in Charlottesville, Virginia that resulted in a tragic fatality and many injuries”, was adopted. (11-0.)

2.15 As recommended by the Rules and Open Government Committee on September 6, 2017:

- (a) **Retroactively approve the Capitol Park Community Meeting held on August 16, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) **Retroactively approve Pizza and Policy held on August 18, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (c) **Retroactively approve the Gramercy Neighborhood Movie Night held on August 25, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (d) **Retroactively approve District 5 Hero’s Reception held on August 31, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (e) **Retroactively approve the Viva CalleSJ Business Informational Meeting held on September 6, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (f) **Retroactively approve the Community Pancake Breakfast held on September 9, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (g) **Retroactively approve and accept donations from various individuals, businesses or community groups to support these events.**

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation of the Rules and Open Government Committee.

Action: The Capitol Park Community Meeting held on August 16, 2017, Pizza and Policy held on August 18, 2017, Gramercy Neighborhood Movie Night held on August 25, 2017, District 5 Hero’s Reception held on August 31, 2017, the Viva CalleSJ Business Informational Meeting held on September 6, 2017, and the Community Pancake Breakfast held on September 9, 2017 were retroactively approved, and the expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the events was approved. (11-0.)

- 2.16 As recommended by the Rules and Open Government Committee on September 6, 2017, approve the recommended City position on two resolutions regarding the implementation of strategies to reduce negative impacts of recent changes to criminal laws; and local control for emergency medical response to be considered at the Annual League of California Cities Conference to be held in Sacramento, September 13 - 15, 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 City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation of the Rules and Open Government Committee.

Action: The recommended City positions on two 2017 Proposed League of California Cities Resolutions were approved:

- (1) A Resolution of the League of California Cities Calling upon the Governor and Legislature to Enter Into Discussion with League and Other Public Safety Stakeholders to Identify and Implement Strategies That Will Reduce the Unintended Negative Impacts of Existing Criminal Law; Recommended City Position: Approve.
 - (2) A Resolution of the League of California Cities Supporting Legislative Amending Government Code Section 38611 to Clarify the Definition of Local Control Providing Broad Statutory Authority For Local Officials to Determine Emergency Service Levels and Direct Emergency Medical Response Within Their Jurisdictions; Recommended City Position: No Action.
- (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.1 Report of the City Manager, Norberto Duenas (Verbal Report).**

None provided.

- 3.3 As recommended by the Public Safety, Finance, and Strategic Support on August 17, 2017, accept the annual report on the Office of Emergency Services workplan priorities. 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 Manager)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation of the Public Safety, Finance and Strategic Support Committee.

3.3 (Cont'd.)

Office of Emergency Services Director Raymond Riordan responded to questions from the City Council.

Action: Upon motion by Council Member Khamis, seconded by Council Member Chappie Jones and carried unanimously, the annual report on the Office of Emergency Services workplan priorities was accepted. (10-0-1. Absent: Carrasco.)

- 3.4 (a) Establish the Office of Emergency Management in the City Manager's Office.**
(b) Adopt a resolution to amend the City of San José Pay Plan effective September 24, 2017, to reactivate and retitle the classification Director, Emergency Management (U) (formerly Emergency Preparedness Director U) with a salary range of \$153,137.55 - \$239,350.37 annually.
(c) Adopt the following position adjustments:
(1) Add the following positions to the City Manager's Office:

Title: Director, Emergency Management U
Job Code: 2341
Count: 1

Title: Staff Specialist
Job Code: 1622
Count: 1

Title: Senior Analyst
Job Code: 1654
Count: 1

Title: Analyst I/II
Job Code: 1627
Count: 1

Title: Training Specialist
Job Code: 1693
Count: 1

- (2) Eliminate the following positions from the Fire Department:**

Title: Deputy Director U
Job Code: 1640
Count: 1

3.4 (Cont'd.)

**(2) Title: Staff Specialist
Job Code: 1622
Count: 1**

**Title: Senior Analyst
Job Code: 1654
Count: 1**

**Title: Analyst I/II
Job Code: 1627
Count: 1**

**Title: Training Specialist
Job Code: 1693
Count: 1**

- (d) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance amendments in the General Fund:**
- (1) Decrease the Fire Department Personal Services appropriation by \$844,081;**
 - (2) Increase the City Manager's Office Personal Services appropriation by \$844,081;**
 - (3) Decrease the Fire Department Non-Personal/Equipment appropriation by \$655,758; and**
 - (4) Increase the City Manager's Office Non-Personal/Equipment appropriation by \$655,758.**
- (e) Reassign the Urban Areas Security Initiative Grant - Fire 2016 City Wide expenses appropriation in the General Fund from the Fire Department to the City Manager's Office.**

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 impacts on the environment. (City Manager)

Documents Filed: Joint Memorandum from Assistant City Manager David Sykes and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated August 31, 2017, recommending adoption of a resolution, position adjustments, and appropriation ordinance amendments.

Office of Emergency Services Director Raymond Riordan responded to questions from the City Council.

3.4 (Cont'd.)

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Chappie Jones and carried unanimously, the Office of Emergency Management was established in the City Manager's Office; Resolution No. 78348, entitled, "A Resolution of the Council of the City of San Jose amending the City of San Jose Pay Plan" was adopted; the following positions were added to the City Manager's Office: one (1) Director, Emergency Management U, one (1) Staff Specialist, one (1) Senior Analyst, one (1) Analyst I/II, and one (1) Training Specialist; the following positions were eliminated from the Fire Department: one (1) Deputy Director U, one (1) Staff Specialist, one (1) Senior Analyst, one (1) Analyst I/II, and one (1) Training Specialist; Ordinance No. 29990, entitled, "An Ordinance of the City of San Jose amending Ordinance No. 29962 to appropriate moneys in the General fund for the Urban Areas Security Initiative Grant - Fire 2016 and the City Manager's Office Personal Services and Non-Personal/Equipment Appropriations; and providing that this ordinance shall become effective immediately upon adoption" was adopted; and the Urban Areas Security Initiative Grant – Fire 2016 City-Wide expenses appropriation in the General Fund from the Fire Department was reassigned to the City Manager's Office. (10-0-1. Absent: Carrasco.)

3.5 **As recommended by the Public Safety, Finance, and Strategic Support on August 17, 2017, accept the following Fourth Quarter (period ending June 30, 2017) Financial Reports for Fiscal Year 2016-2017 for the following programs:**

- (a) **Debt Management Report;**
- (b) **Investment Management Report;**
- (c) **Revenue Collection Report.**

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation of the Public Safety, Finance and Strategic Support Committee. (2) Memorandum from Director of Finance Julia Cooper, dated July 31, 2017, transmitting the City's Investment Report. (3) Staff Presentation to the Public Safety, Finance, and Strategic Support Committee, dated August 17, 2017.

Director of Finance Julia Cooper responded to questions from the City Council.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Don Rocha and carried unanimously, the Fourth Quarter (period ending June 30, 2017) Financial Reports for Debt Management, Investment Management, and Revenue Collection for Fiscal Year 2016-2017 were accepted. (10-0-1. Absent: Carrasco.)

3.6 As recommended by the Rules and Open Government Committee on August 30, 2017, accept the audit of the Open Government. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (City Auditor)

Documents Filed: (1) Office of the City Auditor Report to the City Council, “Open Government: The City has made Progress in Meeting the Goals of the Sunshine Reform Task Force”; (2) Memorandum from Council Member Raul Peralez, dated September 11, 2017, recommending acceptance of the report with modifications; (3) Memorandum from Council Member Sergio Jimenez, dated September 12, 2017, recommending acceptance of the report with additions.

City Auditor Sharon Erickson introduced the item, provided background information, and highlighted recommendation number 8 on suggested changes to the revolving door ordinance.

Open Government Manager Tamara Becker responded on behalf of the administration.

Council Member Don Rocha opened the floor for public testimony.

Public Speakers: Bob Brownstein voiced concerns that recommendation number 2 of the public subsidies provision requires clarification, and indicated support for the memorandum submitted by Council Member Raul Peralez.

City Auditor Sharon Erickson responded to concerns from the Council and indicated the recommendation for the revolving door ordinance could return at another time.

Motion: Council Member Sergio Jimenez moved approval of the memorandum by Council Member Sergio Jimenez, dated September 12, 2017, and the memorandum by Council Member Raul Peralez, dated September 11, 2017, deferring a decision on audit recommendation number 8 on the revolving door ordinance and referring it to the Ethics Commission for review. Council Member Peralez seconded the motion.

Mayor Sam Liccardo noted that proposals that impact the City budget already require a fiscal impact section.

Council Member Sergio Jimenez asked for greater clarity in the fiscal impact.

Deputy City Manager/Director of Economic Development Kim Welsh requested clarification on which items would be impacted by the request.

Council Member Sergio Jimenez indicated a willingness to adjust the recommendation to capture certain high priority impact items.

3.6 (Cont'd.)

City Auditor Sharon Erickson noted it would take time to determine feasibility without becoming burdensome. City Attorney Rick Doyle provided suggestions for approach.

Motion: Council Member Sergio Jimenez withdrew the original motion, and moved the memorandum from Council Member Peralez, dated September 11, 2017, with a recommendation to move audit recommendation number 8 to the Board of Fair Campaign and Political Practices and further conversation when the item returns in October; and moving recommendation part 2 from the memorandum from Council Member Sergio Jimenez, dated September 12, 2017. Council Member Peralez accepted the motion.

Council Member Johnny Khamis offered a friendly amendment to the motion to move forward with Part b of audit recommendation number 8.

Council Member Sergio Jimenez did not accept the amendment.

Action: Upon a call for the question, the motion carried unanimously, the memorandum from Council Member Raul Peralez, dated September 11, 2017, was approved, to accept the audit of the Open Government with the following modification: to include in the City Auditor's Recommendation #2 that the development of policy and procedures should also entail sufficient public input prior to fully adopting any amendments; and including recommendation number 2 in the Memorandum from Councilmember Sergio Jimenez, dated September 12, 2017 to accept the audit with the following additions: Direct the City Manager's Office and the City Clerk's Office to improve public notification of City Board and Commission agendas by creating email distribution lists that members of the public can subscribe to through an easy-to-use portal on the City website; and defer the decision on Recommendation No. 8 and send to the Board of Fair Campaign and Political Practices for input.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Adopt a resolution authorizing the City Manager to increase the maximum aggregate compensation to the Master Consulting Agreements for Urban Village Master Plans and related City projects in seven technical areas: 1) Urban Design, 2) Circulation Improvements, 3) Environmental Review Analysis, 4) Online Engagement, 5) Public Finance, 6) Public Art, and 7) Traffic Impact Analysis, from \$3,000,000 to \$12,000,000, for the initial five year term ending in November 2020, subject to the appropriation of funds, for the approved list of consultants listed below.

- (1) AECOM, Inc. (San Diego, CA)**
- (2) Alta Planning & Design (San José, CA)**
- (3) Bottomley (Oakland, CA)**
- (4) Circlepoint (San José, CA)**
- (5) David J. Powers (San José, CA)**

4.1 (Cont'd.)

- (6) Dyett & Bhatia (San Francisco, CA)
- (7) Economic & Planning (Oakland, CA)
- (8) ESA Associates (San Francisco, CA)
- (9) Fehr & Peers (San José, CA)
- (10) Gehl Studio (San Francisco, CA)
- (11) Hexagon (San José, CA)
- (12) HKS Architects (Dallas, TX)
- (13) Keyser Marston (San Francisco, CA)
- (14) Kimley & Horn (San José, CA)
- (15) Metropolitan Planning (Mountain View, CA)
- (16) Moore Iacofano Goltsman (Berkeley, CA)
- (17) NelsonNygaard (San Francisco, CA)
- (18) Opticos Design (Berkeley, CA)
- (19) Placeworks (Berkeley, CA)
- (20) Skidmore, Owings & Merrill (New York, NY)
- (21) Strategic Economics (Berkeley, CA)
- (22) Wallace, Roberts & Todd (San Francisco, CA)
- (23) ZGF (Portland, OR)

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Planning, Building and Code Enforcement/Finance)

Documents Filed: Joint Memorandum from Director of Finance Julia Cooper and Interim Director of Planning, Building, and Code Enforcement, dated August 21, 2017, recommending adoption of a resolution.

Interim Director of Planning, Building and Code Enforcement Rosalynn Hughey presented on the recommendation, and joined by Planning Staff, responded to questions from the City Council.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Chappie Jones and carried unanimously, Resolution No. 78349, entitled: “ ”, was adopted for a \$3,000,000 increase. (11-0.)

NEIGHBORHOOD SERVICES

- 5.1 (a) Report on bids and award of contract for the 7620-Arcadia Softball Facility Project to the low bidder, Goodland Landscape Construction, Inc., for the base bid and Bid Alternate No. 1 in the amount of \$16,791,161, and approval of a five percent contingency in the amount \$840,000.
- (b) Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Parks and Recreation Bond Projects Fund:
- (1) Increase the Beginning Fund Balance by \$748,000; and
 - (2) Increase the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department by \$748,000.
- (c) Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Construction and Conveyance Tax Fund: City Wide Parks Purposes:
- (1) Decrease the Beginning Fund Balance by \$65,100;
 - (2) Decrease the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$65,100;
 - (3) Increase the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department by \$1,300,000; and
 - (4) Decrease the Infrastructure Backlog Reserve by \$1,300,000.
- (d) Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:
- (1) Decrease the Beginning Fund Balance \$33,600;
 - (2) Decrease the Arcadia Softball Facility Maintenance Yard appropriation to the Parks, Recreation, and Neighborhood Services Department by \$33,600;
 - (3) Increase the Arcadia Softball Facility Maintenance Yard appropriation to the Parks, Recreation, and Neighborhood Services Department by \$129,000;
 - (4) Decrease the Park Yards Future Projects Reserve by \$129,000;
- (e) Adopt the following 2017-2018 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:
- (1) Establish the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$144,000; and
 - (2) Decrease the Future PDO/PIO Projects Reserve appropriation by \$144,000.

CEQA: Addendum to the Evergreen East Hills Vision Strategy Environmental Impact Report and Supplemental Environmental Impact Report (Resolution No. 74742), File No. PP14-088. Council District 8. (Parks, Recreation and Neighborhood Services/Public Works/City Manager)

5.1 (Cont'd.)

Documents Filed: Joint Memorandum from Director of Parks, Recreation, and Neighborhood Services Angel Rios, Jr., Director of Public Works Barry Ng, and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 1, 2017, reporting on bids and award of contract, and recommending adoption of Appropriation Ordinances and Resolutions.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Director of Public Works Barry Ng, and Assistant Director of Parks, Recreation and Neighborhood Services Matt Cano presented the report on actions related to the Arcadia Softball Facility Project and responded to Council questions.

Action: Upon motion by Council Member Sylvia Arenas, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, the report on bids and award of contract for the 7620-Arcadia Softball Facility Project to the low bidder, Goodland Landscape Construction, Inc., for the base bid and Bid Alternate No. 1 in the amount of \$16,791,161, and five percent contingency in the amount \$840,000 was approved; Resolution No. 78350, entitled: "A Resolution of the Council of the City of San Jose amending Resolution No. 78229 setting forth the estimated sources of funds for the Fiscal Year 2017-2018 to adjust revenues in the Parks and Recreation Bond Projects Fund" was adopted; Ordinance No. 29991, entitled: "An Ordinance of the City of San Jose amending Ordinance No. 29962 to appropriate moneys in the Parks and Recreation Bond Projects Fund for the Arcadia Softball Facility; and providing that this ordinance shall become effective immediately upon adoption" was adopted; Resolution No. 78351, entitled: "A Resolution of the Council of the City of San Jose amending Resolution No. 78229 setting forth the estimated sources of funds for the Fiscal Year 2017-2018 to adjust revenues in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes" was adopted; Ordinance No. 29992, entitled: "An Ordinance of the City of San Jose amending Ordinance No. 29962 to appropriate moneys in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes for the Arcadia Softball Facility; and providing that this ordinance shall become effective immediately upon adoption" was adopted; Resolution No. 78352, entitled: "A Resolution of the Council of the City of San Jose 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 Maintenance Yards Purposes" was adopted; Ordinance No. 29993, entitled: "An Ordinance of the City of San Jose amending Ordinance No. 29962 to appropriate moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes for the Arcadia Softball Facility Maintenance Yard; and providing that this ordinance shall become effective immediately upon adoption" was adopted; and Ordinance No. 30012, entitled: "An Ordinance of the City of San Jose amending Ordinance No. 29962 to appropriate moneys in the Subdivision Park Trust Fund for the Arcadia Softball Facility; and providing that this ordinance shall become effective immediately upon adoption" was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Conduct a Public Hearing pursuant to California Government Code Section 53083 regarding application of the City's Air Service Support Program, as authorized by the Federal Aviation Administration to Alaska Airlines and Frontier Airlines.**
- (b) Adopt a resolution authorizing the Director of Aviation or the Director's designee to provide the City's Air Service Support Program to new air carrier service as outlined in below:**

**Airline: Alaska
Market: Dallas Love
Airport: DAL
Frequency: 1 Daily
Support Period: 18 Months
Landing Fee Waivers: (\$100,490)
Marketing Funds: (\$50,000)**

**Airline: Frontier
Market: Denver
Airport: DEN
Frequency: 1 Daily
Support Period: 12 Months
Landing Fee Waivers: \$0
Marketing Funds: (\$100,000)**

**Airline: Frontier
Market: Austin
Airport: AUS
Frequency: 1 Daily
Support Period: 18 Months
Landing Fee Waivers: (\$195,070)
Marketing Funds: (\$50,000)**

**Airline: Frontier
Market: San Antonio
Airport: SAT
Frequency: 1 Daily
Support Period: 18 Months
Landing Fee Waivers: (\$195,070)
Marketing Funds: (\$50,000)**

6.1 (Cont'd)

For each airline and corresponding route, landing fees are waived under the program for the qualifying periods and/or marketing funds are provided to promote the new services. Frontier's first route, Denver, qualifies for New Entrant Carrier marketing funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts resulting in no physical changes to the environment. (Airport)

Documents Filed: Memorandum from Director of Aviation Services John Aitken, dated August 21, 2017, to conduct a public hearing and recommending adoption of a resolution.

Mayor Sam Liccardo opened the public hearing.

Public Comments: There was no testimony from the floor.

Mayor Sam Liccardo closed the Public Hearing.

Director of Aviation Services John Aitken responded to questions from the City Council.

Action: Upon motion by Council Member Don Rocha, seconded by Council Member Johnny Khamis and carried unanimously, Resolution No. 78353, entitled: "A Resolution of the Council of the City of San Jose authorizing the Director of Aviation or the Director's Designee to provide fee waivers and/or marketing support to Alaska Airlines and Frontier Airlines, pursuant to the Air Service Support Program at the Norman Y. Mineta San Jose International Airport", was adopted. (11-0.)

ENVIRONMENT & UTILITY SERVICES

7.1 **Report on bids and award of contract for the 8383 - Cast Iron Sewer Replacement FY 16 17 Package IV to the low bidder, Cratus, Inc., in the amount of \$1,127,268 and approve a contingency in the amount of \$112,727. CEQA: Exempt, File No. PP17-031, CEQA Guidelines Section 15301, Existing Facilities, and 15302, Replacement or Reconstruction. Council Districts 6 & 9. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated August 21, 2017, reporting on bids and award of contract.

Action: Upon motion by Council Member Don Rocha, seconded by Council Member Sergio Jimenez and carried unanimously, the report on bids and award of contract for the 8383 - Cast Iron Sewer Replacement FY 16 17 Package IV to the low bidder, Cratus, Inc., in the amount of \$1,127,268 and approve a contingency in the amount of \$112,727 was accepted. (11-0.)

PUBLIC SAFETY

8.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on August 17, 2017, accept the status report on the implementation of the Fireworks Enforcement Ordinance Post Fourth of July 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. (Fire)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation of the Public Safety, Finance, and Strategic Support Committee; (2) Supplemental Memorandum from Fire Chief Curtis P. Jacobson, dated August 15, 2017, providing additional information; (3) Joint Memorandum from Mayor Sam Liccardo, Council Member Sylvia Arenas, and Council Member Johnny Khamis, dated September 8, 2017, recommending acceptance of the report with direction to the City Manager; (4) Staff Presentation to the Public Safety, Finance, and Strategic Support Committee, dated August 17, 2017; (5) One (1) letter from the public.

Fire Chief Curtis Jacobson and Acting Communications Director Cheryl Wessling presented the report on the implementation of the Fireworks Enforcement Ordinance Post Fourth of July 2017 and responded to questions from the City Council.

Council discussion ensued.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Sylvia Arenas and carried unanimously, the status report on the implementation of the Fireworks Enforcement Ordinance Post Fourth of July 2017 was accepted, with the memorandum co-authored by Mayor Sam Liccardo, Councilmember Sylvia Arenas, and Councilmember Johnny Khamis, dated September 8, 2017 to: (1) Accept the Fireworks Enforcement Ordinance Post Fourth of July Report; (2) Direct the City Manager to: (a) Fines and Appeals: Return to Council with information regarding actual usage of hardship exemption for appealing fireworks citation without payment of the fine. Absent evidence of frequent awareness of and actual use of the exemption, eliminate the requirement for payment prior to appeal; (b) Evidence: Draft written policy for Council approval setting forth the minimum threshold evidentiary requirements for issuance of citation to any individual violator; (c) Staff Ownership: Identify a lead department and staff person responsible for managing this project, and to provide information responsive to Community and Council requests; (d) Prior Council Direction: Follow Council's previous direction provided in both the September 13, 2016 and April 25, 2017 memoranda, with minor modification, as follows: (i) Work with the City Manager to redirect a portion of funds used for purchased media and lawn signs to support the receipt, triage, and response to incoming calls and reports; (ii) Report on the feasibility of better utilizing existing technology and new tools for identifying violators and the precise location of violations, such as "Shot Spotter"; (iii) Explore implementation of creating a separate phone line and number, to field routine, non-emergency fireworks complaints during major holidays, to mitigate the logjam at the call center and dispatch. Consider whether cleared volunteers

8.1 (Cont'd.)

could be trained to handle nonemergency, routine complaints regarding fireworks during periods in which the call center is overwhelmed; (iv) Determine a schedule that allows for online reporting, enforcement, and follow-up to commence in early June 2018 or sooner to better deter illegal activity during the Fourth of July holiday; (v) Coordinate messaging between departments, the 311 call center, and dispatch, such that all staff utilize the same, consistent message, particularly in conveying the same directions to residents; (vi) Overhaul the campaign messaging, working with the Mayor's Office of Strategic Partnerships to leverage collaborations with organizations such as Bloomberg Philanthropies. Explore data driven behavioral insights about messaging more likely to deter violations than merely generic messages about fireworks' illegality or lack of safety. For example, focus on dialogue that demonstrates to potential violators of the heightened risk of detection and enforcement, such as by emphasizing how residents can help reduce fireworks usage by using the online reporting tool, and by noting the enhanced administrative enforcement that will not require the presence of a police officer; (e) MySanJose App: Explore the integration of a reporting tool into "MySanJose"; (f) KPI's: Identify metrics that can be used to benchmark progress with the of fireworks violations—even using imperfect & biased data, such as 311 calls or on-line complaints, with appropriate qualification; (g) Cost Recovery for Response: Where Fire Department must respond to fireworks related fires, explore imposing costs of emergency response on violators h. Setting Expectations: Add an additional disclaimer—with a "check-box" feature to ensure user awareness—to the on-line reporting tool that enables the user to know that the City will utilize the information to investigate violations and enforce the law, but that it does not provide a means for immediate response. (9-0-2. Absent: Carrasco, Rocha.)

OPEN FORUM

- (1) Seigi Tadakoro, Rick Wu, Michael Fitzgerald, Ken Schneebeli, Cheryl Lubow, Gustavo Gonzales, Dan Pan, Chun Chi Ma, and Ann Wu spoke against proposed changes to the Apartment Rent Ordinance.
- (2) Kimmy Wong voiced concerns for the proposed changes to the Apartment Rent Ordinance and spoke on enforcement issues with problem tenants.

Mayor Sam Liccardo asked Director of Housing Jacky Morales Ferrand to assist Kimmy Wong with enforcement issues related to problem tenants.

- (3) Scott Larget expressed frustration with his inability to obtain his belongings.

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon Council Session at 5:35 p.m.

RECESS/RECONVENE

The City Council recessed at 5:35 p.m. from the afternoon Council Session and reconvened at 6:01 p.m. in the Council Chambers, City Hall.

Present: Council Members - Carrasco, Diep Herrera, Jones, Kalra, Khamis, Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

CEREMONIAL ITEMS

1.1 **Presentation of a proclamation to Museum Day Live! (Davis)**

Mayor Sam Liccardo and Councilmember Dev Davis provided a proclamation to Museum Day Live!

1.3 **Presentation of a commendation to the Leland Robotics Quixilver team for representing San José at the 2017 FIRST Robotics World Championship in Houston, Texas. (Khamis)**

Mayor Sam Liccardo and Councilmember Johnny Khamis presented a commendation to the Leland Robotics Quixilver team for representing San Jose at the 2017 FIRST Robotics World Championship in Houston, Texas.

ENVIRONMENT & UTILITY SERVICES

7.2 **As recommended by the Rules and Open Government Committee on August 23, 2017, direct the City Manager to do the following and return to Council before the San José Water Company Public Participation Hearing in September:**

- (a) **Research and present to Council a summary of the City of San José's payments to San José Water Company for water service for the last 6 years (2012 2016). The City Manager should present as a part of this summary:**
- (1) **The total number of San José residents who receive water services from San José Water Company.**
 - (2) **The amount the City of San José pays for water service from San José Water Company monthly and annually.**
 - (3) **The total increase in cost for water services from San José Water Company.**
 - (4) **The total amount paid in drought surcharges.**
 - (5) **A list of all rate changes from San José Water Company with the associated purpose for the rate change.**
 - (6) **An estimate of the total refund the City of San José may receive as proposed in San José Water Company's advice letter #510 to the PUC.**

7.2 (Cont'd.)

- (7) **An estimate of the total refund the City of San José would receive due to the meter credit proposed in advice letter #510 as calculated from when the City of San José account was first started.**
- (b) **Evaluate based on the information above, the scale and scope of the situation, and whether the City of San José should take a more active role in representing the interests of the San José residents concerning San José Water Company rate increases. If appropriate, the City Manager should consider if there are ways for the City to become more engaged in the CPUC protest and response, formal complaint process, or any investigations that would allow us to represent the interests of San José residents and ensure their concerns are heard.**
- (c) **Any other pertinent or beneficial information for the public.**
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Rocha)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated August 31, 2017, transmitting the recommendation from the Rules and Open Government Committee; (2) Supplemental Memorandum from Environmental Services Director Kerrie Romanow, dated September 8, 2017, providing a recommended schedule for reporting on action items to City Council; (3) Memorandum from Council Member Don Rocha, dated September 11, 2017, recommending direction to staff; (4) One hundred and twenty-five (125) letters from the public.

Mayor Sam Liccardo opened the floor for public testimony.

Public Speakers: Marilyn Wheeler Reynolds spoke about errors in the water bill for one property and issues related to code enforcement.

Action: Deferred to October 24, 2017. Council discussion ensured.

PUBLIC HEARINGS ON CONSENT CALENDAR

- 10.1 (a) **Consideration of an ordinance of the City of San José rezoning a 0.97 gross acre site, located on the south side of West Capitol Expressway, approximately 140 feet westerly of Snell Avenue a (222 West Capitol Expressway) from the LI Light Industrial Zoning District to the CG Commercial General Zoning District (Demetrios J. Barrous, Owner). CEQA: Determination of Consistency with the Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution 77617) and Addenda thereto. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)**
C17-029 - Council District 10

10.1 (Cont'd.)

- (b) **Consideration of an ordinance of the City of San Jose rezoning a 0.16 gross acre site, located on the northwest corner of Park Avenue and Gifford Avenue at 461 Park Avenue from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District on (Paul and Jane Yin, Et Al, Owner). CEQA: Determination of Consistency with the Final Program Environmental Impact Report for the Diridon Station Area Plan (Resolution No. 77096), the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution 77617) and Addenda thereto. Planning Commission recommends approval (7 0 0). (Planning, Building and Code Enforcement)
C17-010 - Council District 3**

- (c) (a) **Adopt a resolution adopting the Senter Road Office Project Mitigated Negative Declaration, for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Program.**
- (b) **Consideration of an ordinance of the City of San José rezoning a 2.69 gross acre site, located at 1919 Senter Road from A(PD) Planned Development Zoning District to HI Heavy Industrial Zoning District (D&D Ranch, Owners).
CEQA: Mitigated Negative Declaration for the Senter Road Office Project. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)
C16-034 - Council District 7**

Documents Filed: (1) City Council Staff Report from Interim Director of Planning, Building, and Code Enforcement Rosalynn Hughey, recommending approval of the rezoning for C17-029; (2) Memorandum from the Planning Commission, dated August 21, 2017, recommending approval of an ordinance for rezoning C17-010; (3) City Council Staff Report from Interim Director of Planning, Building, and Code Enforcement Rosalynn Hughey, recommending adoption of a resolution and approval of the rezoning for C16-034.

Action: Upon motion by Council Member Sergio Jimenez, seconded by Council Member Johnny Khamis, and carried unanimously, Ordinance No. 29994, entitled: “An Ordinance of the City of San Jose rezoning certain real property of approximately 0.97 acre situated on the southside of West Capitol Expressway, approximately 140 feet west of Snell Avenue (222 West Capitol Expressway), from the LI Light Industrial Zoning District to the CG Commercial General Zoning District” was passed for publication; Ordinance No. 29995, entitled: “An Ordinance of the City of San Jose rezoning certain real property of approximately 0.16 acre,

10.1 (Cont'd.)

situated at the corner of Park Avenue and Gifford Avenue (461 Park Avenue) from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District” was passed for publication; Resolution No. 78354, entitled: “A Resolution of the Council of the City of San Jose adopting the Senter Road Office Project Mitigated Negative Declaration, for which an initial study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related mitigation monitoring and reporting program” was adopted; and Ordinance No. 29996, entitled: “An Ordinance of the City of San Jose rezoning certain real property of approximately 2.69 acres situated on the west side of Senter Road approximately 1,200 feet northwesterly of Burke Street (APN 477-50-024) from the A(PD) Planned Development Zoning District to the HI Heavy Industrial Zoning District” was passed for publication. (11-0.)

END OF CONSENT CALENDAR

10.2 **Adopt a resolution approving a Conditional Use Permit and Determination of Public Convenience or Necessity to allow late night use, and the off sale of alcohol for a full range of alcoholic beverages (ABC Type 21 License) on a proposed commercial/retail development (File No. H17-018) on an approximate 2.0 gross acre site, located at the Southeast corner of West San Carlos Street and Race Street (320 Race Street) (San Carlos 1 LLC, Owner). CEQA: Exempt per CEQA Guidelines Section 15332 for In Fill Development Projects. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement) CP17-005 & ABC17-002 - Council District 6**

Documents Filed: (1) Memorandum from the Planning Commission, dated August 28, 2017, recommending making the required findings and adoption of a resolution; (2) One (1) letter from the public.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Tom Armstrong, on behalf of the applicant, complimented staff.

Mayor Sam Liccardo closed the Public Hearing.

Action: Upon motion by Council Member Dev Davis, seconded by Council Member Jones and carried unanimously, Resolution No. 78355, entitled: “A Resolution of the Council of the City of San Jose approving, subject to conditions, a conditional Use Permit and granting a Determination of Public Convenience or Necessity to allow late night use, and the off-sale of alcohol for a full range of alcoholic beverages (ABC Type-21 License) within a commercial/retail development on an approximate 2.0-gross acre site located at the southeast corner of West San Carlos Street and Race Street (320 Race Street)” was approved. (11-0.)

- 10.3 (a) Consideration of an ordinance of the City of San José rezoning an approximately 43 acres site (Santana Row), located on the southeast corner of Winchester Boulevard and Stevens Creek Boulevard from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow late night use (12:00 a.m. - 6:00 a.m.) excepting those uses within Lot 3A, Lot 4, Lot 6A, and Lot 12 in Santana Row (Federal Realty Trust, Owner).**
- (b) Adopt a resolution approving a Planned Development Permit, subject to conditions, to allow late night use between the hours of 12:00 a.m. and 2:00 a.m. at an existing restaurant (Roots and Rye) located at 330 South Winchester Boulevard.**

CEQA: Determination of Consistency with the Santana Row Planned Development Rezoning Environmental Impact Report (Resolution No. 77532) and Addenda thereto, File No. PDC13-050.

PDC17-023 & PD17-017 - Council District 6

Action: Dropped to be renoticed.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:18 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

slg/MIN_9-12-2017

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/civiccenter/tv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

**JOINT CITY OF SAN JOSE CITY COUNCIL/
HOUSING AUTHORITY MINUTES**

1. **Called to Order at 4:55 p.m.**
2.
 - (a) **Adopt a resolution of the Board of Commissioners for the Housing Authority of the City San José (“City Housing Authority”) authorizing the Executive Director of the City Housing Authority to execute a Cooperation Agreement with the City for the transfer of approximately \$36.3 million in Housing Authority Litigation Award funds to the City to commit and expend such funds consistent with State Housing Authority law.**
 - (b) **Adopt a resolution of the City of San José authorizing the City Manager to execute a Cooperation Agreement to enable the City to commit and expend the transferred Housing Authority Litigation Award funds consistent with State Housing Authority law. 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. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand, dated August 24, 2017, recommending adoption of resolutions by the Housing Authority and City Council; (2) Supplemental Memorandum from Director of Housing Jacky Morales-Ferrand, dated September 11, 2017, correcting terms of the Cooperation Agreement and providing information.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: There was no testimony from the floor.

Mayor Sam Liccardo closed the Public Hearing.

Action: Upon motion by Council Member Raul Peralez, seconded by Council Member Sylvia Arenas and carried unanimously, Resolution No. 78358, entitled: “A Resolution of the Council of the City of San Jose authorizing the city manager to execute a cooperation agreement to enable the City to commit and expend the transferred Housing Authority Funds Litigation Award Funds consistent with State Housing Authority Law” was adopted; Resolution No. 78359, entitled: “A Resolution of the Board of Commissioners of the Housing Authority of the City of San Jose authorizing the Executive Director to execute a

3. (Cont'd.)

Cooperation Agreement with the City for the transfer of approximately \$36.3 million in Housing Authority Litigation Award Funds to the City and enable the City to commit and expend such funds consistent with State Housing Authority Law” was adopted. (11-0.)

4. The meeting of the Joint City Council and San Jose Housing Authority adjourned at 4:56 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10383	6082 Almaden Expressway	10	DAL/Edenbridge San Jose, 8, LP	11 / 18	SFD	Approve

This notice is to be posted with the City Council's regular agenda.