

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, AUGUST 29, 2017**

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

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

Absent: Councilmembers - All present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:20 a.m. to a Closed Session in Room W133; (A) Public Employment/Public Employee Recruitment/Appointment Pursuant to Government Code Section 54957; Department or Agency: Airport; Title: Airport Director. (B) Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957; Department or Agency: Independent Police Auditor's Office; Title: Independent Police Auditor. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Watson, Lee Darnell; City of San José; Matthew Brackett; Ryan Hansen; Ronald Hughes, and Does 1-10; Court: U.S. District Court, Northern Division; Case No. 15-CV-04054-NC; Amount of Money or Other Relief Sought: Damages according to Proof; (2) City of San José v. City of Santa Clara; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-02303; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (3) City of Santa Clara v. City of San José, et al.;

## **CLOSED SESSION (Cont'd.)**

Names Of Partie(s) Involved: City of Santa Clara, City of San José, City of San José City Council, Does I through X; Federal Realty and Investment Trust, and Does 1-20; Court: Superior Court of California, County of San Mateo; Case No.: 17-CIV-00547; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (4) Preservation of Benefit Plan Retirees Association, et al v. City of San José, et al.; Names Of Partie(s) Involved: Preservation of Benefit Plan Retirees Association, Joseph Bass, David Boggini, Lawrence Jay Castellano, Richard Coco, Leslye Corsiglia, Harry Freitas, Michael Guisti, Linda Horwedel (the Beneficiary of Deceased City Retiree Joseph Horwedel), William Hughes, Danny Jordan, Evet Loewen, David Maas, Barry Ng, Anita Phagan, George Rios, Gary Schoennauer, Ken Tanase, Wayne Tanda, Nina Tobin, Randal Turner, Steven Turner, Robert Wilson, City of San José, Board of the Administration of the Federated City Employees' Retirement System; Norberto Duenas, in his Official Capacity as the City Manager of the City of San José, and Does 1-50; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No. 17CV312610; Amount of Money or Other Relief Sought: Petition for Writ of Mandate; (5) San José Retired Employees' Association, et al. v. City, et al.; Names Of Partie(s) Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Clara, Sixth District Court of Appeal; Case No.: 1-12-CV-23360; H040979; H042074; Amount of Money or Other Relief Sought: Verified Petition for Writ of Mandate and Declaratory Relief; (6) San José Retired Employee's Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley; City of San José, the Board of Administration for the Federated City's Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City Medical Plan; (D) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: Property Street Address, Parcel Number, or other Unique Reference of Property: 255 South Montgomery Street (APN 261-37-025), 8 South Montgomery Street (APN 259-38-130), 102 South Montgomery Street (APN 259-48-012), 510 West San Fernando Street (APN 259-48-011, 259-48-013), 150 South Montgomery Street (APN 259-48-059), 105 South Montgomery Street (APN 261-35-003, 261-35-006, 261-35-010), 645 Park Avenue (APN 261-35-014), 525 West Santa Clara Street/566 West Julian Street (APN 259-28-031, 259-28-041, 529-28-043, 259-28-044) West San Carlos Street (261-37-030) No Address (261-37-028); Negotiating Parties: Nanci Klein for the City of San José and Jay Bechtel for Google; Under Negotiation: The direction will concern price and terms of payment. Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (E) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW;

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

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

Absent: Councilmembers - All present.

## **INVOCATION**

Lokahi Polynesian Dance Group performed a Polynesian dance for the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 4.3 deferred to November 14, 2017. (11-0.)

## **CONSENT CALENDAR**

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

### **2.1 Approval of City Council Minutes:**

(a) **Regular Minutes of February 28, 2017.**

(b) **Joint City of San José City Council/Successor Agency to the Redevelopment Agency of the City of San José/Financing Authority Minutes of March 7, 2017.**

(c) **Regular Minutes of March 7, 2017.**

(d) **Regular Minutes of March 14, 2017.**

**CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (City Clerk)**

Documents Filed: (1) Regular Council Meeting Minutes, dated February 28, 2017, March 7 and March 14, 2017. (2) Special Joint City of San José City Council/Successor Agency to the Redevelopment Agency of the City of San José/Financing Authority, dated March 7, 2017.

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

**2.2 Final Adoption of Ordinances:**

None provided.

**2.3 Approval of Council Committee Minutes.**

None provided.

**2.4 Mayor and Council Excused Absence Requests.**

None provided.

**2.5 City Council Travel Reports.**

None provided.

**2.6 Report from the Council Liaison to the Retirement Boards**

None provided.

**2.7 Approve a Second Amendment to the Consultant Agreement with Landrum & Brown, Inc. for Airport airspace and airfield analysis services, increasing compensation by \$100,000 to a maximum compensation of \$650,000, with no change to the term of the Agreement. CEQA: Not a Project, File No. PP10-066(d), Agreements & Contracts, Consultant services for design, study, research, inspection, to other professional consulting services to determine the feasibility of a project with no commitment to future action. (Airport)**

Documents Filed: City Council Action Request from Director of Aviation, John Aitken, A.A.E., dated August 29, 2017, recommending approval of a Second Amendment to a consultant agreement.

Action: A Second Amendment to the Consultant Agreement with Landrum & Brown, Inc. for Airport airspace and airfield analysis services, increasing compensation by \$100,000 to a maximum compensation of \$650,000, with no change to the term of the Agreement, was approved. (11-0.)

**2.8 Authorize international travel to participate in a study tour of best practices for urban park and transportation design and activation in Copenhagen, Denmark, from October 7, 2017 through October 11, 2017, for the following delegates to represent the City of San José: Angel Rios, Jr., Director of Parks, Recreation and Neighborhood Services; John Brazil, Associate Transportation Specialist for Department of Transportation; and John Ristow, Deputy Director of Department of Transportation. CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities, Travel. (City Manager)**

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated August 7, 2018, requesting travel approval.

**2.8 (Cont'd.)**

Action: The international travel for the following delegates to represent the City of San José: Angel Rios, Jr., Director of Parks, Recreation and Neighborhood Services; John Brazil, Associate Transportation Specialist for Department of Transportation; and John Ristow, Deputy Director of Department of Transportation, to participate in a study tour of best practices for urban park and transportation design and activation in Copenhagen, Denmark, was authorized. (11-0.)

- 2.9 (a) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Airport Renewal and Replacement Fund:**
- (1) Increase the Beginning Fund Balance by \$510,000; and**
  - (2) Increase the Airfield Paint Truck appropriation to the Airport Department by \$510,000.**
- (b) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Airport Revenue Bond Improvement Fund:**
- (1) Increase the Beginning Fund Balance by \$160,000;**
  - (2) Increase the Southeast Area Building Demolition appropriation to the Airport Department by \$80,000; and**
  - (3) Increase the Southeast Area IT Infrastructure Relocation appropriation to the Airport Department by \$80,000.**
- (c) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 10:**
- (1) Increase the Beginning Fund Balance by \$51,000;**
  - (2) Increase the Chris Hotts Park Lighting Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$36,000; and**
  - (3) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation and Neighborhood Services Department by \$15,000.**
- (d) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Water Utility Capital Fund:**
- (1) Increase the Beginning Fund Balance by \$60,000; and**
  - (2) Increase the Edenvale Reservoir Rehabilitation appropriation to the Environmental Services Department by \$60,000.**

**CEQA: Not a Project, File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. (City Manager)**

Documents Filed: City Council Action Request from Senior Deputy City Manager/Budget Director Jennifer Maguire, dated August 7, 2017, recommending adoption of appropriation ordinances and funding sources resolution amendments.

## 2.9 (Cont'd.)

Action: Ordinance No. 29981, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Airport Renewal and Replacement Fund for the Airfield Paint Truck; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 78321, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the Airport Renewal and Replacement Fund”; Ordinance No. 29982, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Airport Revenue Bond Improvement Fund for the Southeast Area Building Demolition and Southeast Area IT Infrastructure Relocation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 78322, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the Airport Revenue Bond Improvement Fund”; Ordinance No. 29983, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 for the Chris Hotts Park Lighting Improvements and Strategic Capital Replacement and Maintenance Needs; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 78323, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth The Estimated Sources of Funds for the Fiscal Year 2017-2018 To Adjust Revenues In The Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10”; Ordinance No. 29984, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Water Utility Capital Fund for the Edenvale Reservoir Rehabilitation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78324, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the Water Utility Capital Fund”; were adopted. (11-0.)

## 2.10 Adopt a resolution:

- (a) **Approving the use of a Purchase and Sale Agreement between the City and Del Grande Properties for the sale of the City’s 6,708 square feet of vacant surplus land at the corner of Almaden Blvd. and Carlyle St., Assessor’s Parcel Number 259-35-029, in the amount of \$1,341,600; and**
- (b) **Authorizing the City Manager or his designee to negotiate and execute the Purchase and Sale Agreement, the deed, all other documents necessary to complete the transaction, and any amendments or modifications.**

**CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. Council District 3. (Economic Development)**

**(Deferred from 6/27/17 – Item 4.1 and 8/8/17 Item 4.1)**

*Note: Renumbered to Item 4.5; see Item 4.5 for action taken.*

- 2.11 Adopt a resolution authorizing the City Manager to:**
- (a) Execute a Purchase Order with Iteris, Inc. (Santa Ana, CA) for the purchase of 110 modular video detection systems including hardware, software, and support, for the twelve-month term of August 30, 2017 through August 29 2018, with maximum compensation not-to-exceed \$1,330,000; and**
  - (b) Exercise up to four additional one-year options to extend the term with the final option year ending on August 29, 2022, to purchase additional Systems and provide ongoing maintenance and support, subject to the appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements & Contracts, Purchase Order. (Finance)**

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated August 29, 2017, recommending adoption of a resolution.

Action: Resolution No. 78325, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to: (1) Execute a Purchase Order With Iteris, Inc. for the Purchase of 110 Modular Video Detection Systems Including Hardware, Software, and Support, for the Twelve-Month Term of August 30, 2017 Through August 29 2018, with Maximum Compensation Not-To-Exceed \$1,330,000; and (2) Exercise up to four additional one-year options to extend the term with the final option year ending on August 29, 2022, to purchase additional Systems and provide ongoing maintenance and support, subject to the appropriation of funds. (11-0.)

- 2.12 Accept the report on the Request for Proposal for the purchase and deployment of an Adaptive Traffic Control System and adopt a resolution authorizing the City Manager to:**

- (a) Execute an Agreement with Kimley-Horn and Associates, Inc. (San José, CA) for the purchase and deployment of an adaptive traffic control system at 35 intersections, including software licenses and professional services for project management, design, before-and-after study, implementation, optimization, training, and maintenance and support for an initial six-year term commencing on or about September 1, 2017 and ending on or about August 31, 2023 with maximum compensation amount not-to-exceed \$860,000 for the six-year term, subject to the annual appropriation of funds;**
- (b) Negotiate and execute amendments and/or change orders not to exceed \$100,000 for contingency related to implementation and system requirements at the initial 35 intersections, subject to the appropriation of funds;**
- (c) Execute one-year options to extend the term of the Agreement for ongoing technical support, maintenance, and related professional services as may be required, subject to the appropriation of funds; and**
- (d) Negotiate and execute agreements with Kimley-Horn and Associates, Inc. for the purchase and implementation of adaptive traffic control system at additional intersections during the six-year term subject to substantially the same terms and conditions as may be required based on funding, and the appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements & Contracts. (Finance)**

## 2.12 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated August 7, 2017, recommending acceptance of a report and adoption of a resolution.

Action: Resolution No. 78326, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to: (1) Execute an Agreement With Kimley-Horn and Associates, Inc. for the Purchase and Deployment of an Adaptive Traffic Control System For an Initial Six Year Term Commencing on or about September 1, 2017 and Ending on or about August 31, 2023 with Maximum Compensation Amount Not-To-Exceed \$860,000 for the Six-Year Term, Subject to the Annual Appropriation of Funds; (2) Negotiate and Execute Amendments and/or Change Orders not to Exceed \$100,000 for Contingency, Subject to the Appropriation of Funds; (3) Execute One-Year Options to Extend the Term of the Agreement for Ongoing Technical Support, Maintenance, and Related Professional Services as May Be Required, Subject to the Appropriation of Funds; and (4) Negotiate and Execute Agreements With Kimley-Horn and Associates, Inc. for the Purchase and Implementation of Adaptive Traffic Control System at Additional Intersections”, was adopted. (11-0.)

## 2.13 **Adopt a resolution authorizing the Director of Housing, or designee, to accept a 2017 Smarter Cities Challenge grant from International Business Machines (IBM) and conduct all activities, execute and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection with these grants. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Housing)**

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated August 15, 2017, recommending adoption of a resolution.

Mayor Sam Liccardo pulled Item 2.13 to offer accolades to staff members and offer appreciation for work done to achieve the Smarter Cities Challenge grant.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 78327, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing, or Designee, to Accept a 2017 Smarter Cities Challenge Grant from International Business Machines (IBM) and Conduct all Activities, Execute and Submit all Documents, Including, but not Limited to, Applications, Agreements, Amendments, and Payment Requests, which may be Necessary in Connection with this Grant”, was adopted. (11-0.)



- 2.14 Approve the Fifth Amendment to the Grant Agreement for San José Homeless Outreach Program between the City of San José and PATH to be retroactively extended from July 1, 2017 to June 30, 2018 and to increase the maximum funding by \$260,000, from \$713,968 to \$973,968. CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. (Housing)**

Documents Filed: City Council Action Request from Director of Housing Jacky Morales-Ferrand, dated August 29, 2017, recommending adoption of a resolution.

Public Comment: Gail Osmer, representing PATH, offered support to the Outreach Program and recommended an oversight panel to see that this program stays on track.

Action: The Fifth Amendment to the Grant Agreement for San José Homeless Outreach Program between the City of San José and PATH to be retroactively extended from July 1, 2017 to June 30, 2018 and to increase the maximum funding by \$260,000, from \$713,968 to \$973,968., was approved (11-0.)

- 2.15 (a) Adopt a resolution authorizing the City Manager or his designee to:**
- (1) Negotiate, enter, execute, and deliver a State of California Standard Grant Agreement (Grant Agreement) with any commitments necessary to deliver the agreed upon Grant Scope previously authorized by Council and as consistent with the proposed appropriation actions and future funding plan and all other documents required or deemed necessary or appropriate to secure the AHSC Program funds; and**
  - (2) Negotiate and execute an agreement with Charities Housing to allocate responsibilities, liabilities and the disbursement of AHSC funds between the City and Charities Housing.**
- (b) Adopt the following 2017-2018 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:**
- (1) Establish the Coyote Creek Trail (Story Road to Phelan Avenue) appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$193,000; and**
  - (2) Decrease the Future PDO/PIO Projects Reserve by \$193,000.**

**CEQA: Addendum to the 2450 Senter Road Residential Project Mitigated Negative Declaration and Addenda thereto, the Coyote Creek Trail Story Road to Phelan Avenue Mitigated Negative Declaration, and the Coyote Creek Trail Master Plan Los Lagos Golf Course to Tully Road Mitigated Negative Declaration, File No. P16-065; Addenda thereto, the Coyote Creek Trail Story Road to Phelan Avenue Mitigated Negative Declaration, File No. PP04-02-057; and Coyote Creek Trail Master Plan (Story-Phelan), Negative Declaration, File No. PP09-218. Council District 7. (Parks, Recreation and Neighborhood Services/Housing/City Manager)**

Documents Filed: Joint memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated August 17, 2017, recommending adoption of a resolution and an appropriation ordinance and funding sources resolution amendment.

2.15 (Cont'd.)

Action: Resolution No. 78328, entitled: “A Resolution of the Council of the City of San José Authorizing The City Manager to 1) Negotiate, Enter Into, Execute and Deliver a State Of California Standard Grant Agreement With any Commitments Necessary to Deliver the Agreed-Upon Grant Scope Previously Authorized by the City Council and as Consistent with the Proposed Appropriation Actions and Future Funding Plan, and Any and All Other Documents Required or Deemed Necessary or Appropriate to Secure the Affordable Housing and Sustainable Communities Program Funds and 2) Negotiate and Execute an Agreement with Charities Housing to Allocate Responsibilities, Liabilities and the Disbursement Of AHSC Funds Between the City and Charities Housing”; and Ordinance No. 29985, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Subdivision Park Trust Fund for the Coyote Creek Trail (Story Road to Phelan Avenue); and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

- 2.16 (a) Adopt a resolution authorizing the City Manager or Designee to:**
- (1) Execute a grant agreement with the State of California Department of Fire and Forestry Protection (CAL FIRE) based on the previously submitted grant application for an Urban and Community Forestry Grant entitled “California Climate Investments” in the amount not to exceed \$750,000 with a local match not to exceed \$250,000 for the completion of a Community Forest Management Plan and related projects;**
  - (2) Certify that the City of San José has funds under the jurisdiction of the City of San José that are available to begin the projects, that the City of San José has or will have sufficient funds to operate and maintain the projects, and that the City of San José will expend grant funds prior to December 31, 2019; and**
  - (3) Conduct all negotiations, execute, and submit all documents including, but not limited to, applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned projects.**
- (b) Adopt the following 2017-2018 Funding Source Resolution and Appropriation Ordinance amendments in the Construction Excise Tax Fund:**
- (1) Increase the revenue estimate from the State of California to the Department of Transportation in the amount of \$750,000;**
  - (2) Establish the Street Tree Inventory and Management Plan appropriation to the Department of Transportation in the amount of \$750,000;**
  - (3) Increase the Urban Forest Partnership appropriation to the Department of Transportation in the amount of \$10,000; and**
  - (4) Increase the Beginning Fund Balance by \$10,000.**
- CEQA: Exempt, File No. PP13-073, CEQA Guidelines Section 15304(b), Minor Alterations to Land. (Transportation/City Manager)**

Action: Resolution No. 78330, entitled: “A Resolution of the Council of the City of San José Amending Resolution no. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the Construction Excise Tax Fund”; and

**2.16 (Cont'd.)**

Ordinance No. 29989, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Construction Excise Tax Fund for the Street Tree Inventory and Management Plan and the Urban Forest Partnership; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78329, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to File an Application for State Greenhouse Gas Reduction Funding Urban Forestry Grant Program Funds from the State Department of Forestry and Fire Protection for the Community Forest Management Plan Project”, were adopted. (11-0.)

**2.17 (a) Adopt a resolution authorizing the City Manager or designee to:**

- (1) Execute a grant agreement with the California Department of Transportation, Division of Transportation Planning, based on the previously awarded State Highway Account – Sustainable Communities grant for the development of the East San José Multimodal Transportation Improvement Plan (ESJ MTIP) in the amount not to exceed \$467,438 with a local match not to exceed \$60,562 for the completion of the ESJ MTIP;**
- (2) Certify that the City of San José has funds under the jurisdiction of the City of San José that are available to begin the project, that the City of San José has or will have sufficient funds to operate and maintain the project, and that the City of San José will expend grant funds prior to February 28, 2020; and**
- (3) Conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.**

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

- (1) Increase the revenue estimate from the State of California to the Department of Transportation in the amount of \$467,438;**
- (2) Establish the East San José Multimodal Transportation Improvement Plan (ESJ MTIP) to the Department of Transportation in the amount of \$528,000; and**
- (3) Decrease the Transportation Grants Reserve to the Department of Transportation in the amount of \$60,562.**

**CEQA: Not a Project, File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. Council Districts 3, 4 & 5. (Transportation/City Manager)**

Documents Filed: Joint memorandum from Director of Transportation Jim Ortbal and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated August 7, 2017, recommending adoption of a resolution and adoption of an appropriation ordinance and funding sources resolution amendments.

**2.17 (Cont'd.)**

Action: Resolution No. 78332, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the Construction Excise Tax Fund; Ordinance No. 29986, entitled: “A Ordinance of the Council of the City of San José, Amending Ordinance No. 29962 to Appropriate Moneys in the East San José Multimodal Transportation Improvement Plan (ESJ MTIP); and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption; and Resolution No. 78331, entitled: “A Resolution of the Council of the City of San José Authorizing the City manager to Submit a Grant Application for the Development of the East San José Multimodal Transportation Improvement Plan (ESJ MTIP) to the California Department of Transportation Sustainable Communities Grant Program; Make the Necessary Grant Assurances; and Accept the Grant Funding and Negotiate and Execute all Documents Necessary to Effectuate the Grant”, were adopted. (11-0.)

**2.18 Approve a settlement in the amount of \$700,000, inclusive of attorney fees, and authorize the City Attorney to negotiate and execute a Settlement Agreement to settle the case of Paulino v. City of San José. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 25, 2017, recommending approval of a settlement.

Action: A settlement in the amount of \$700,000, inclusive of attorney fees, and authorize the City Attorney to negotiate and execute a Settlement Agreement to settle the case of Paulino v. City of San José was approved. (11-0.)

**2.19 Adopt a resolution continuing the proclamation of the existence of a local emergency as a result of flooding. CEQA: Statutory Exempt, Section 15269, Emergency Projects, Specific actions necessary to prevent or mitigate an emergency. (City Manager)**

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated August 23, 2017, recommending adoption of a resolution.

Action: Resolution No. 78333, entitled: “A Resolution of the Council of the City of San José Continuing the Proclamation of Existence of a Local Emergency Issued by the Director of Emergency Services”, was adopted. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas announced the deployment of members of San José's California Urban Search and Rescue Task Force to provide water search and rescue assistance for flood victims as the result of Hurricane Harvey and offered success in their efforts and support to the people of Texas and Louisiana.

### 3.3 Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Director of Community Energy as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (City Manager)

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated August 17, 2017, recommending adoption of a Statement of Policy and questions related to selection of a prospective employee.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, the adoption of a Statement of Policy and City Council Questions related to the selection of a prospective Director of Community Energy as described in the memorandum to Council, in compliance with City Charter Section 411.1 was approved, with additional questions by Councilmember Johnny Khamis: "What is your plan in maintaining good communication with residents and customers? How can this candidate make sure they are adhering to Council commitment to low-cost plans and rates? Given the fast changing nature of energy markets, how do you make sure you and your team will keep apprised of the latest programs, information and methods to procure energy?"

Including questions added by Councilmember Sylvia Arenas: "Describe your long term plan for dealing with disadvantaged communities that may benefit from local clean energy investments? As a follow-up to question #5: In what ways do you see yourself and/or the Community Energy Department developing opportunities to accelerate the clean energy adoption?" And lastly, supplementing question #8: "How can CED clean energy environmental plans to densify housing bring improvements to public transportation?" (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Accept the report on City homelessness response initiatives and discuss ongoing efforts to create a range of interventions and solutions for homeless individuals and families.**
- (b) **Accept the report to:**
- (1) **Provide the current number, type, and location of temporary and permanent homes for formerly homeless residents in San José, as well as other deed-restricted affordable housing; and**
  - (2) **Temporarily pause implementation of the City's current Dispersion Policy applying to individual residential developments, pending update of the Dispersion Policy to align with the General Plan and with Federal and State guidance on fair housing.**

**[Community and Economic Development Committee referral 6/26/17– Item (d)(2)]  
CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff reports that involve no approvals of any City Actions. (Housing)**

*Note: Heard jointly with Item 4.2.*

Documents Filed: (1) Memorandum from Councilmember Raul Peralez, dated August 29, 2017, offering recommendations with direction to staff. (2) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated August 28, 2017, providing a background on sanctioned encampments following the June 8, 2017 Neighborhood Services Committee meeting.

Director of Housing Jacky Morales-Ferrand provided an introduction and presentation on this topic, accompanied by staff: Homelessness Response Manager Ray Bramson, Shasta Greene and James Stagey.

Public Comments: Eighty-six (86) members of the public expressed their concerns, suggestions and opinions regarding both the Homelessness Response Initiatives and actions related to the AB2176 Bridge Housing Communities.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Donald Rocha, the motion carried, the staff reports were accepted, including Item #1 from Councilmember Raul Peralez' memorandum dated August 29, 2017, directing staff to return to Council with a plan for piloting safe parking programs and sanctioned encampments. And per Staff's supplemental memorandum dated August 28, 2017 to address both the short-term and long-term service and housing needs of the homeless population, with a study session to held in October 2017 to provide an update on the Community Plan to End Homelessness and the variety of interventions and solutions being developed and deployed to address this issue.

(8-3. Noes: Diep, Khamis; Liccardo.)

## 4.2 Actions Related to the AB2176: Bridge Housing Communities.

*Note: Heard jointly with Item 4.1.*

- (a) **Accept the staff report on a status update of the implementation of AB2176: Bridge Housing Communities (BHC).**
- (b) **Adopt a resolution approving the staff recommendation on the revised siting criteria for BHCs and reducing the number of BHCs from ten sites to a maximum of two locations.**

**CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Report. (Housing)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Jones, Peralez and Arenas, dated August 25, 2017, providing recommendations and direction to staff. (2) Joint memorandum from Councilmembers Jimenez, Davis and Khamis, dated August 25, 2017, recommending acceptance of the staff report with additional direction. (3) Memorandum from Councilmember Donald Rocha, dated August 28, 2017, providing recommendations and direction to staff. (4) Memorandum from Councilmember Tam Nguyen, dated August 28, 2017, providing recommendations and direction to staff. (5) Memorandum from Director of Housing Jacky Morales-Ferrand, dated August 18, 2017, recommending acceptance of the staff report and adoption of a resolution. (6) Letter from “Concerned Residents of San José”, dated August 29, 2017, addressing items 4.1 and 4.2. (7) Note from Bruce Roberts regarding his public comments and including (3) photographs of areas potentially affected.

Motion: Councilmember Sergio Jimenez moved approval of Councilmember Donald Rocha’s memorandum, dated August 28, 2017. Councilmember Donald Rocha seconded the motion.

Substitute motion: Councilmember Raul Peralez moved approval the staffs’ recommendations, with changes as outlined in items #1, #2 and #6 from the joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Jones, Peralez and Arenas, dated August 25, 2017, as indicated below in “Action”. Councilmember Tam Nguyen seconded the motion.

Mayor Sam Liccardo offered a friendly amendment to the substitute motion, asking that authorization be included for the City Council to sign a letter to public agencies supporting the project. Councilmembers Peralez and Nguyen accepted the friendly amendment.

Action: On a call for the question, the substitute motion carried, and Resolution No. 78334, entitled: “A Resolution of the Council of the City of San José Approving Revised Siting Criteria for Bridge Housing Communities (BHC’s) and Reducing the Number of BHC’s from Ten Sites to a Maximum of Two Locations”, was adopted, including Item #1 as outlined in the memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Jones, Peralez and Arenas, dated August 25, 2017, to maintain the original Council direction of identifying potential sites for siting a Bridge Housing

#### **4.2 Actions Related to the AB2176: Bridge Housing Communities (Cont'd.)**

Community in each Council district; and Item #6 to Slightly revise the original evaluation criteria for potential sites to the following:

- a. Access to transit or commitment from another agency to provide transportation;
- b. Ready access to utilities (electricity, water and sanitary sewer);
- c. A vacant or minimally developed site of at least 0.50 acres or a 10,000 square-foot building plus parking for 16 vehicles and a dumpster enclosure.

Also including Item #2 as outlined in the memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Jones, Peralez and Arenas, to expand the potential inventory of sites for consideration, direct the City Manager to renew requests to other public agencies—specifically the County, Santa Clara Valley Water District, Valley Transportation Authority, and Caltrans—to identify underutilized lands in their inventories for potential use. Engage Council offices in those requests where specific sites appear promising.

Also, as identified in Councilmember Raul Peralez' memorandum dated August 29, 2017: Request that the Housing Department continue to coordinate with the District 3 Office and Destination: Home in planning next steps for the development of a Homeless Task Force. Also including authorization for the City Council to sign a letter to public agencies supporting the project.

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

#### **4.3 Accept the progress report on the implementation of the Urban Village component of the Envision San José 2040 General Plan, and provide comments on the proposed approach for implementation. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Report. (Economic Development/Planning, Building and Code Enforcement) (Deferred from 5/23/17 – Item 4.1 and 6/6/17 – Item 4.1)**

Action: Deferred to November 14, 2017 per Orders of the Day.

#### **4.4 Conduct a Public Hearing and adopt a resolution:**

- (a) **Approving the report of the Director of Public Works setting forth the facts justifying the conditional vacation of a portion of Old West Julian Street between North Autumn Street and Autumn Parkway (“Subject Portion”) with the reservation of public service easements (“PSEs”) over the entire area being conditionally vacated;**
- (b) **Conditionally vacating the Subject Portion, which, after the satisfaction of the conditions, will be unnecessary for present or prospective public use with the reservation of PSEs; and**
- (c) **After satisfaction of the conditions, directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.**

**CEQA: Exempt, File No. PP17-032, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation. Council District 3. (Public Works)**



#### 4.4 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated August 7, 2017, recommending conducting a public hearing and adoption of a resolution.

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

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, Resolution No. 78335, entitled: “A Resolution of the Council of the City of San José Conditionally Vacating a 12,903 Square Foot Portion of Old West Julian Street Between North Autumn Street and Autumn Parkway, Reserving from the Vacation Public Service Easements Over the Area Vacated”, was adopted.

(11-0.)

#### 4.5 Adopt a resolution:

(a) **Approving the use of a Purchase and Sale Agreement between the City and Del Grande Properties for the sale of the City’s 6,708 square feet of vacant surplus land at the corner of Almaden Blvd. and Carlyse St., Assessor’s Parcel Number 259-35-029, in the amount of \$1,341,600; and**

(b) **Authorizing the City Manager or his designee to negotiate and execute the Purchase and Sale Agreement, the deed, all other documents necessary to complete the transaction, and any amendments or modifications.**

**CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. Council District 3.**

*Note: Renumbered from Item 2.10*

Documents Filed: (1) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated June 6, 2017, recommending adoption of a resolution. (2) Supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated August 18, 2017, providing additional information regarding the sale of property. (3) Email correspondence from Thomas Wohlmüt, from Hanif Ismail and from Tony Gutierrez, all dated August 29, 2017, regarding the purchase and sales agreement with Del Grande Properties.

Public Comments: Thomas Wohlmüt (San José History, LLC); Hanif Ismail (Axis Condo Building) and Tony Gutierrez (Axis HOA), spoke of the historical value of the property and claimed a bidding process error.

At Mayor Sam Liccardo’s request, Economic Development Assistant Director, Nanci Klein addressed doubts regarding the bidding process, indicating that all rules have been properly followed by the City.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, Resolution No. 78336, entitled: “A Resolution of the Council of the City of San José Approving the Use of a Purchase and Sale Agreement with Del Grande Properties for the Sale of 6,708 Square Feet of Vacant Surplus Land at the

#### 4.5 (Cont'd.)

Corner of Almaden Boulevard and Carlisle Street in the Amount of \$1,341,600, and Authorizing the City Manager or Designee to Negotiate and Execute the Purchase and Sale Agreement, the Deed, and all Other Documents Necessary to Complete the Transaction and Any Amendments or Modifications, was adopted. (11-0.)

### ENVIRONMENTAL & UTILITY SERVICES

#### 7.1 Actions Related to San José Energy

*Note: Heard Jointly with the Joint City of San José City Council / Financing Authority Agenda*

- (a) Pursuant to California Public Utilities Code Section 366.2, conduct a duly noticed public hearing to approve a resolution adopting the San José Clean Energy Implementation Plan and Statement of Intent and direct staff to submit this document to the California Public Utilities Commission following the effective date of the Ordinance;
- (b) Approve an ordinance amending Chapter 4.80 of Title 4 of the San José Municipal Code to add a new Part 63 to establish the San José Clean Energy Operating Fund;
- (c) Approve the Appropriation Ordinance and Funding Sources Resolution amendments in the San José Clean Energy Operating Fund to be effective on the date on which the ordinance establishing the San José Clean Energy Operating Fund becomes effective:
  - (1) Establish an estimate for Financing Proceeds in the amount of \$5,376,000.
  - (2) Establish a Debt Service appropriation to the Finance Department in the amount of \$250,000.
  - (3) Establish a Personal Services appropriation to the Community Energy Department in the amount of \$1,169,000.
  - (4) Establish a Personal Services appropriation to the City Attorney's Office in the amount of \$444,000.
  - (5) Establish a Personal Services appropriation to the Environmental Services Department in the amount of \$40,000.
  - (6) Establish a Non-Personal/Equipment appropriation to the Community Energy Department in the amount of \$2,558,000
  - (7) Establish a Bonding and Security (CPUC) appropriation in the amount of \$100,000.
  - (8) Establish a Pacific Gas & Electric Security Deposit appropriation in the amount of \$315,000.
  - (9) Establish an Operations and Maintenance Reserve in the amount of \$500,000.

7.1 (d) **Approve the San José Clean Energy staffing plan, including the addition of the following positions for FY17-18:**

(1) **Community Energy Department:**

<b>Job Classification</b>	<b>FTE</b>
<b>Director of Community Energy, Unclassified</b>	<b>1.0</b>
<b>Public Information Manager</b>	<b>1.0</b>
<b>Senior Office Specialist</b>	<b>1.0</b>
<b>Public Information Representative II</b>	<b>1.0</b>
<b>Staff Technician</b>	<b>1.0</b>
<b>Senior Analyst</b>	<b>1.0</b>
<b>Total Positions</b>	<b>6.0</b>

(d) (2) **City Attorney’s Office:**

<b>Job Classification</b>	<b>FTE</b>
<b>Senior Deputy City Attorney IV</b>	<b>1.0</b>
<b>Legal Analyst II</b>	<b>1.0</b>
<b>Total Positions</b>	<b>2.0</b>

(e) **Approve the Community Advisory Committee (CAC) framework;**

(f) **Approve the amendment to the Frontier Energy, Inc. dba Bevilacqua-Knight, Inc. master agreement for a maximum compensation of \$405,000.**

**CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities and File No. PP10-067, Non-Project Specific Funding Mechanism. (City Manager)**

Documents Filed: Joint memorandum from Assistant City Manager, David Sykes and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated August 17, 2017, recommending holding a public hearing, approval of an ordinance and adoption of an appropriation ordinance and funding sources resolution amendment

Assistant City Manager, David Sykes provided an introduction. Director of Finance Julia H. Cooper and Director, Environmental Services, Kerrie Romanow, provided a presentation and responded to questions.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Sylvia Arenas and carried unanimously, Resolution No. 78337, entitled: “A Resolution of the Council of the City of San José Adopting The San Jose Clean Energy Implementation Plan and Statement Of Intent and Directing the City Manager to Submit the Implementation Plan And Statement of Intent to the California Public Utilities Commission Upon the Effective Date of the Ordinance Establishing San Jose Clean Energy”; Resolution No. 78338, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the San Jose Clean Energy Fund; and Providing that this Resolution Shall Become Effective on October 13, 2017; Ordinance No. 29988, entitled: “A Ordinance

## 7.1 (Cont'd.)

of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the San José Clean Energy Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. Ordinance No. 29987, entitled: “A Ordinance of the Council 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”, was passed for publication. (11-0.)

*Note: The Redevelopment – Successor Agency Consent Calendar was heard immediately following the City Council Consent Calendar*

## 9.1 Redevelopment – Successor Agency Consent Calendar

### (a) Actions Related to the Transfer and Sale of Real Property Located Adjacent to Old Julian Street.

#### (a) Adopt a resolution by the City Council:

- (1) Declaring 670 square feet of property adjacent to Old Julian Street, surplus to the needs of the City;
- (2) Approving the Purchase and Sale Agreement between the City of San José, the Successor Agency to the Redevelopment Agency of the City of San José and Michael G. Akatiff and Christy D. Akatiff, Trustee of the Michael G Akatiff and Christy D. Akatiff Revocable Trust (Buyer) in an amount not-to-exceed of \$33,500 for the purchase by Buyer of approximately 670 square feet of property adjacent to Old Julian Street between North Autumn Street and Autumn Parkway; and
- (3) Authorizing the City Manager or his designee to execute the sale agreement, the quitclaim deeds and all other documents necessary to complete the transaction.

#### (b) Adopt a resolution by the Successor Agency:

- (1) Approving the Purchase and Sale Agreement between the City of San José, the Successor Agency to the Redevelopment Agency of the City of San José and Michael G. Akatiff and Christy D. Akatiff, Trustee of the Michael G Akatiff and Christy D. Akatiff Revocable Trust (Buyer) in an amount not-to-exceed of \$33,500 for the purchase by Buyer of approximately 670 square feet of property adjacent to Old Julian Street between North Autumn Street and Autumn Parkway; and
- (2) Authorizing the Managing Director or his designee to execute the sale agreement and all other documents necessary to complete the transaction.

**CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. Council District 3. (Economic Development/Successor Agency)**

## 9.1 Redevelopment – Successor Agency Consent Calendar (Cont’d.)

### (b) Actions Related to the Sale of Real Property on A Portion of Old Julian Street.

**Recommendation: Adopt a resolution by the City Council:**

- (a) **Declaring 12,748 square feet of vacated street on Old Julian Street, surplus to the needs of the City;**
- (b) **Authorizing the City Manager or his designee to negotiate and execute a Purchase and Sale Agreement with Michael G. Akatiff and Christy D. Akatiff, Trustee of the Michael G Akatiff and Christy D. Akatiff Revocable Trust (Akatiff) in an amount not-to-exceed of \$318,700 for the purchase of approximately 12,748 square feet of vacated City-owned property on a portion of Old Julian Street between North Autumn Street and Autumn Parkway; 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: Exempt, File No. PP17-032, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation. Subsequent sale agreements that would not result in a physical change to the environment. Council District 3. (Economic Development/Successor Agency)**

### (c) Actions Related to the Private Property Located within Autumn Parkway and Private Property Located within Julian Street Right of Way.

**Adopt a resolution by the City Council:**

- (a) **Accepting 868 square feet of property located within the new Autumn Parkway that is being transferred from Michael G. Akatiff and Christy D. Akatiff, Trustee of the Michael G Akatiff and Christy D. Akatiff Revocable Trust (Akatiff) for no fee;**
- (b) **Accepting 9,205 square feet of property located within the right of way on Julian Street being transferred from Michael G. Akatiff and Christy D. Akatiff, Trustee of the Michael G Akatiff and Christy D. Akatiff Revocable Trust (Akatiff) for no fee; and**
- (c) **Authorizing the City Manager or his designee to accept the quitclaim deeds and all other documents necessary to complete the transaction.**

**CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. Council District 3. (Economic Development/Successor Agency)**

Documents Filed: (1) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Welsh and Successor Agency Managing Director Richard A. Keit, dated August 14, 2017, recommending adoptions of resolutions. (2) Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated August 15, 2017, recommending adoption of a resolution. (3) City Council Action Request from Deputy City Manager/Director of Economic Development Kim Welsh, dated August 29, 2017, recommending adoption of a resolution.

## 9.1 Redevelopment – Successor Agency Consent Calendar (Cont’d.)

Action: Resolution No. 78339, entitled: “A Resolution of the Council of the City of San José 1) Declaring 670 Square Feet Of Property Adjacent to Old Julian Street, Surplus to the Needs Of the City; 2) Approving The Purchase and Sale Agreement Between The City, The Successor Agency to the Redevelopment Agency Of the City Of San Jose, and Michael G. Akatiff and Christy D. Akatiff, Trustee Of the Michael G Akatiff and Christy D. Akatiff Revocable Trust (Buyer) In An Amount Not-To-Exceed \$33,500 For The Purchase By Buyer Of Approximately 670 Square Feet Of Property Adjacent To Old Julian Street Between North Autumn Street and Autumn Parkway; and 3) Authorizing The City Manager Or His Designee To Execute The Sale Agreement, The Quitclaim Deeds and All Other Documents Necessary To Complete The Transaction”; Resolution No. 78340, entitled: “A Resolution of the Council of the City of San José 1) Declaring 12,748 Square Feet Of Conditionally Vacated Right-Of-Way On Old Julian Street Surplus to the Needs Of the City; 2) Authorizing The City Manager To Execute A Purchase and Sale Agreement With Michael G. Akatiff and Christy D. Akatiff, Trustee Of the Michael G. Akatiff and Christy D. Akatiff Revocable Trust In The Amount Of \$318,700 For The Purchase Of Approximately 12,748 Square Feet Of City-Owned Property On A Portion Of Old West Julian Street Between North Autumn Street and Autumn Parkway; and 3) Authorizing The City Manager to Execute the Sale Agreement, the Quitclaim Deed and All Other Documents Necessary to Complete the Transaction”; Resolution No. 78341, entitled: “A Resolution of the Council of the City of San José 1) Accepting 868 Square Feet Of Property Located Within The New Autumn Parkway Right-Of-Way Being Transferred From Michael G. Akatiff and Christy D. Akatiff, Trustee Of the Michael G. Akatiff and Christy D. Akatiff Revocable Trust, At No Cost to the City; 2) Accepting 9,205 Square Feet Of Property Located Within The West Julian Street Right-Of-Way Being Transferred From Michael G. Akatiff and Christy D. Akatiff, Trustee Of the Michael G. Akatiff and Christy D. Akatiff Revocable Trust, At No Cost to the City; and 3) Authorizing The City Manager To Accept The Quitclaim Deeds and All Other Documents Necessary To Complete The Transaction”; and Successor Agency Resolution No. 7066, a Resolution Of the Successor Agency to the Redevelopment Agency Of the City Of San Jose: 1) Approving The Purchase and Sale Agreement Between The City, The Successor Agency to the Redevelopment Agency Of the City Of San Jose, and Michael G. Akatiff and Christy D. Akatiff, Trustee Of the Michael G Akatiff and Christy D. Akatiff Revocable Trust (Buyer) In An Amount Not-To-Exceed \$33,500 For The Purchase By Buyer Of Approximately 670 Square Feet Of Property Adjacent To Old Julian Street Between North Autumn Street and Autumn Parkway; and 2) Authorizing The Managing Director Or His Designee To Execute The Sale Agreement and All Other Documents Necessary To Complete The Transaction”; were adopted. (11-0.)

- ***The Meeting of the Successor Agency to the Redevelopment Agency of the City of San José was Adjourned, and the Meeting of the City Council was Reconvened.***

## LAND USE

### 10.1 Open General Plan Hearing.

### 10.2 Recommendation:

- (a) Consider the Determination of Consistency with the Final Program Environmental Impact Report for the North San José Development Policies Update (Resolution No. 72768) and Addenda thereto, and the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (Resolution No. 76041), the Supplemental Environmental Impact Report for the Envision San José 2040 General Plan Final Program EIR (Resolution 77617), and the November 1, 2016 Addendum thereto, in conformance with CEQA.
- (b) Adopt a resolution approving:
  - (1) A General Plan Text Amendment to revise the Industrial Park and Transit Employment Center land use designations to allow additional flexibility for retail uses consistent with area plans and area policies;
  - (2) Amendments to the North San José Area Development Policy to allow additional flexibility for local serving commercial uses that meet specified criteria.
- (c) Approve an ordinance amending Sections 20.50.100 and 20.50.110 of the San José Municipal Code relating to commercial support uses in the North San José Area Development Policy area.

**CEQA:** Pursuant to Section 15168(c) of the CEQA Guidelines, Determination of Consistency that the proposed project is within the scope of the Final Program EIR for the North San José Development Policies Update, Resolution No. 72768 and Addenda thereto, and the Envision San José 2040 General Plan EIR, Resolution No. 76041 and the Supplemental EIR to Envision San José General Plan EIR, Resolution No. 77617 and Addenda thereto. (Planning, Building and Code Enforcement)  
**GPT17-007 & PP17-051** – Council District 3 and 4

Action: Dropped. To be Renoticed.

### 10.3 Continue General Plan Hearing to September 26, 2017.

### 10.4 Recommendation:

- (a) Adopt a resolution certifying the Museum Place Mixed-Use Project Supplemental Environmental Impact Report and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act, as amended.
- (b) Adopt a resolution:
  - (1) Approving the Disposition and Development Agreement with Insight King Wah LLC for the development of a mixed-use office, hotel, residential, Tech Museum expansion, and garage project;

- (2) **Authorizing the City Manager to negotiate and execute all documents related to the transfer of the City property to Insight King Wah LLC for the mixed-use project; and**
- (3) **Authorizing the City Manager to negotiate and execute a Lease Amendment with the Tech Museum of Innovation for the construction and operation of the expansion space for the Tech Museum.**
- (c) **Adopt a resolution approving Vesting Tentative Map No. T16-024, subject to conditions, to consolidate 25 parcels into three parcels, and to subdivide one parcel into a mixed-use project consisting of approximately 306 residential condominium units and 244 commercial condominium units and the remaining two parcels will consist of the existing Tech Museum and Civic Auditorium, on an approximately 2.5 gross acre site, located on the northwest corner of West San Carlos Street and South Market Street (180 Park Avenue) (City of San José, Owner).**
- (d) **Adopt a resolution approving Site Development Permit and Special Use Permit No. SP17-031, subject to conditions, to allow the demolition of Parkside Hall and construction of a 24 story mixed-use development with approximately 19,000 square feet of ground floor retail, approximately 214,000 square feet of office, approximately 60,000 square feet of museum space, 184 hotel rooms, and 306 residential units, and the removal of 20 ordinance-sized trees.**

**CEQA: Supplemental Environmental Impact Report for the Museum Place Mixed-Use Project to the “The Downtown Strategy 2000 Final Program Environmental Impact Report,” adopted by City Council Resolution No. 72767 on June 21, 2005; “Envision San José 2040 General Plan Final Program Environmental Impact Report,” adopted by City Council Resolution No. 76041 on November 1, 2011; and “Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report,” adopted by City Council Resolution No. 77617 on December 15, 2015, and the November 1, 2016 Addendum thereto. Planning Commission recommends**

- (d) **approval (5-0-2; Ballard & Vora absent). (Planning, Building and Code Enforcement)**

**SP17-031 & T16-024 – Council District 3**

**(Deferred from 8/8/17 – Item 10.9) (Continued from 8/22/17 – Item 10.3)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Peralez and Khamis, dated August 25, 2017, recommending approval of staff recommendations with direction to the City Manager. (2) Transmittal memorandum from Planning Commission Secretary, Rosalynn Hughey, dated July 31, 2017 transmitting the Planning Commission recommendations for File No. SP17-031 and T16-024. (3) Proof of Publication of Notice of Public Hearing, executed on June 30, 2017, submitted by the City Clerk. (4) Letter from Tim Ritchie, President and CEO of The Tech, dated August 21, 2017, urging support of the staff recommendation. (5) Letter from Enrique Fernandez, Unite Here Local 19, dated August 22, 2017, advocating for hospitality projects. (6) Letters from John B. DiNapoli, JP DiNapoli Companies, and from Michael E Fox, Jr., Team San José, both dated August 29, 2017, offering support to the project.



## 10.4 (Cont'd.)

Economic Development Assistant Director, Nanci Klein and Rosalynn Hughey, Interim Director, Planning, Building and Code Enforcement, offering information and a brief presentation on the project site and design.

Director of Finance Julia H. Cooper responded to questions.

Mayor Sam Liccardo left for a meeting at 2:57 p.m., and Vice Mayor Magdalena Carrasco continued to chair the Council Meeting.

Public Comments: Offering support to the project were: Dennis Ranch (Insight Realty); Matthew Mahood (The Silicon Valley Organization); Michael Mulcahy and Dave Costain (Team San José); Tim Ritchie (The Tech); Scott Knies (SJDA); Josh Burroughs; Sandra Rodriguez (Unite Here Local 19); David Unhausen, José Garcia, and Will Smith.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, the staff recommendations were approved, including the joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco, and Councilmembers Raul Peralez and Johnny Khamis, dated August 25, 2017, to include recommendations outlined in the July 31, 2017 and August 18, 2017 staff reports in connection with various approvals on the proposed Museum Place mixed-use development, with the following direction to the City Manager to return to Council no later than March 2018 with a progress report on: (1) The roofline design prior to any Permit Adjustment approval; (2) Details of the improvement plan that mitigates shadow and shade impacts; (3) An alternative proposal in the event the City is unable to obtain fee title to a portion of Almaden Avenue that is currently owned by the Successor Agency of the Redevelopment Agency; (4) A more definitive parking plan with clarity regarding proposed valet services and mechanical lift devices; (5) Preliminary assessment of implementation of a Community Facilities District to fund The Tech expansion, offsite improvements and other costs, and any risks associated with the City issuing bonds; (6) The schedule of performance and assessment of satisfaction of milestones set for construction; (7) The Tech's plans to fund improvements to activate the proposed expansion space. With additional direction given for the City Manager to: (8) Require planning review and approval of any re-allocation of square footage for any reduction in hotel, retail or office space; (9) Require a progress report on the financing for Phase 2 within 6-months of the Effective Date of this agreement, or no later than May 30, 2018; (10) Provide applicant with a reasonable degree of certainty regarding all fees, such as by setting a fixed fee for *quality* public art installation at \$250,000, rather than "at least \$250,000"; (11) Obtain copies of the written agreements with the unions that the staff report references within 60 days; (12) Require the "No Build/Structure" and pedestrian access restriction on the 40 foot easement area of Almaden Avenue (which the City will retain public access rights to) be included on the Tentative Map; (13) Take all necessary measures to preserve the public use and operations of The Tech and the Civic Auditorium during construction of the project.

#### 10.4 (Cont'd.)

The information requested by Council (items 1 through 7) may be provided in the form of an informational memo from staff. Items 8-13 involve changes to the DDA, with Council approving the addendum pursuant to the developer agreeing to those items. Also, referencing the Schedule in Attachment 4 of the DDA, in addition to the day, firm dates should be identified.

Including, Resolution No. 78342, entitled: “A Resolution of the Council of the City of San José Certifying the Museum Place Mixed-Use Project Supplemental Environmental Impact Report to the Downtown Strategy 2000 Plan Environmental Impact Report (SCH #2016112058) and Making Certain Findings Concerning Significant Impacts, Mitigation Measures and Alternatives, and Adopting a Statement Of Overriding Consideration and Mitigation Monitoring and Reporting Program, all in Accordance with the California Environmental Quality Act, as Amended”; Resolution No. 78343, entitled: “A Resolution of the Council of the City of San José (A) Approving the Disposition and Development Agreement (“DDA”) With Insight King Wah LLC for the Construction of a Mixed-Use Project Consisting of Office Space, Hotel Space, Retail Space, Residential Space, Expansion Space for the Tech Museum, and a Garage (“Project”); (B) Authorizing the City Manager to (I) Negotiate and Execute all Ancillary Documents Referenced in the DDA for the Project, and (II) Accept for Transfer and Transfer, Property Required for the Project to Insight King Wah LLC; and (C) Authorizing the City Manager to Negotiate and Execute an Amendment to the Lease Agreement with the Tech Museum of Innovation Related to the Construction and Operation of Expansion Space for the Tech Museum”; Resolution No. 78344, entitled: “A Resolution of the Council of the City of San José Approving a Vesting Tentative Map, Subject to Conditions, to Consolidate 25 Parcels Into Three Parcels And To Resubdivide One Parcel (Identified As Parcel 1 on the Vesting Tentative Map) Into A Maximum of Up To 550 Units Consisting of Approximately 306 Residential Condominium Units and 244 Commercial Condominium Units, on a 2.47 Gross Acre Site, Located at the Northwest Corner of West San Carlos Street and South Market Street (180 Park Avenue)”; and Resolution No. 78345, entitled: “A Resolution of the Council of the City of San José Approving a special use and site development Permits, Subject to Conditions, to Allow the Demolition of Parkside Hall, Remove 20 Ordinance-sized Trees, and to Allow the Construction of a 24-story Mixed-Use Project with 19,000 Square Feet of Ground Floor Retail, 214,000 Square Feet of Office Space, 60,000 Square Feet of Museum Expansion Space, 184 Hotel Rooms, and 306 Residential Condominium Units and Allow the Creation of up to 244 commercial Condominium units on Parcel 1, on a 2.47 gross acre site Located at the Northwest Corner Of West San Carlos Street And South Market Street (180 Park Avenue)”, were adopted. (11-0.)

#### ADJOURNMENT

**The Council of the City of San José adjourned at 10:11 p.m.**

**JOINT CITY OF SAN JOSE CITY COUNCIL/  
FINANCING AUTHORITY AGENDA**

**1:30 P.M.**

**TUESDAY, AUGUST 29, 2017**

**CHAMBERS**

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*Note: Heard Concurrently with Item 7.1. The Meeting of the Finance Authority was called to order at 2:17 p.m.*

**2. Actions Related to the City of San José Financing Authority's Commercial Paper Program to Finance San José Clean Energy.**

- (a) City Council adopt a resolution approving the Fifth Supplement to the Amended and Restated Trust Agreement and authorizing other related actions relating to the City of San José Financing Authority's Lease Revenue Commercial Paper Notes Program in order to allow the issuance of Commercial Paper Notes to finance start-up costs relating to San José Clean Energy in an amount not to exceed \$10 million.**
- (b) City of San José Financing Authority Board adopt a resolution approving and authorizing the execution and delivery of the Fifth Supplement to the Amended and Restated Trust Agreement and authorizing other related actions relating to the City of San José Financing Authority's Lease Revenue Commercial Paper Notes Program in order to allow the issuance of Commercial Paper Notes to finance start-up costs relating to San José Clean Energy in an amount not to exceed \$10 million.**

**CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated August 18, 2017, recommending adoption of a City Council resolution and a San José Financing Authority Board resolution.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Sylvia Arenas and carried unanimously, Resolution No. 78346, entitled: "A Resolution of the Council of the City of San José Approving a Fifth Supplement to the Amended and Restated Trust Agreement and Authorizing Other Related Actions Relating to the City Of San Jose Financing Authority's Lease Revenue Commercial Paper Notes Program in Order to Allow Issuance of Commercial Paper Notes to Finance Start-Up Costs Relating to San

*(Item continued on the next page)*

**2. Actions Related to the City of San José Financing Authority’s Commercial Paper Program to Finance San José Clean Energy.**

José Clean Energy in an Amount Not To Exceed \$10,000,000”; Financing Authority Board Resolution No. SJFA 137, entitled: “A Resolution of the Council of the City of San José Authority Approving and Authorizing the Execution and Delivery of a Fifth Supplement to the Amended and Restated Trust Agreement and Other Related Actions Relating to the City Of San Jose Financing Authority’s Lease Revenue Commercial Paper Notes Program In Order to Allow Issuance of Commercial Paper Notes to Finance Start-Up Costs Relating to San Jose Clean Energy in an Amount Not To Exceed \$10,000,000”, were adopted. (11-0.)

*Please note: Approval of this item requires 8 or more affirmative votes (2/3).*

**The Joint City Council/San José Financing Authority Meeting was Adjourned.**

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

rmk/8-29-17 MIN