

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, NOVEMBER 14, 2017

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

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

Absent: Councilmembers - Carrasco, Arenas, Rocha (9:44).

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

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

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/city> or <http://www.sanjoseca.gov/civiccentertv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

CLOSED SESSION (Cont'd.)

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

Pastor Isabella Nyakundi from Vessel for Honor Ministries provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by third-grade students from Queen of Apostles school.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 1.1 17-268** Mayor Sam Liccardo and City Manager David Sykes presented a commendation to members of the San José Fire Department who distinguished themselves with outstanding performance in the swiftwater- rescue and evacuations during the Coyote Creek Flood and to members of the San José Fire Department who were deployed to respond to two major hurricanes in Texas and Florida. (City Manager)
- 1.2 17-345** Mayor Sam Liccardo and Councilmember Raul Peralez presented a proclamation recognizing the implementation of Sonic Runway, a soundactivated- light artwork installation in front of City Hall. The duration of Sonic Runway is three months beginning November 3, 2017 in partnership with City of San José Office of Cultural Affairs, Playa to Paseos, and the Burning Man Project. (Peralez)
- 1.3 17-351** Mayor Sam Liccardo and Councilmember Johnny Khamis presented a commendation to Boston Medeiros and Rodney Marquez for their heroism in risking their own safety to save the life of their neighbor. (Khamis)
- 1.4 17-343** Mayor Sam Liccardo presented a proclamation declaring November 15, 2017 as National Philanthropy Day in the City of San José. (Mayor)
Heard in the Evening

- 1.5 17-165 Mayor Sam Liccardo, Councilmember Sergio Jimenez and Councilmember Dev Davis presented a proclamation declaring November 17, 2017 as Prematurity Awareness Day in the City of San José. (Jimenez/Davis)
Heard in the Evening
- 1.6 17-344 Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco presented a proclamation declaring the month of November 2017 as "National Alzheimer Awareness Month" in the City of San José. (Carrasco)
Heard in the Evening

CONSENT CALENDAR

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

2.1 Approval of City Council Minutes.

- 17-328 (a) City Council Budget Study Sessions on May 10 - 16, 2017.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Clerk)

Documents Filed: City Council Budget Study Sessions on May 10 and 16, 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.

- 17-368 **Mayor and Council Excused Absence Requests.**

(a) Request for an excused absence for Councilmember Arenas from the Closed Session and the Regular Meeting of the City Council on November 7, 2017 due to illness. (Arenas)

Documents Filed: Memorandum from Councilmember Sylvia Arenas, dated November 7, 2017, requesting an excused absence due to illness.

Action: The absence request was approved. (11-0.)

2.5 City Council Travel Reports.

Councilmember Johnny Khamis discussed the 2017 American Public Transportation Association's Annual Meeting and Expo he attended as a VTA board member representing San José. Mayor Sam highlighted his trip to Washington D.C. where he attended a hearing at the Federal Communications Commission fighting against proposed regulations from the industry and the Trump Administration.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

- 2.7 17-306** Approve a First Amendment to the Lease of Airport Premises between the City of San José and SJ Automotive, LLC dba Lexus of Stevens Creek ("Lexus") to extend the term of its Lease through December 31, 2021, to allow Lexus to continue to park vehicles in a former Airport long term parking lot. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport)

Documents Filed: City Council Action Request from Director of Aviation, John Aitken, A.A.E., dated November 2, 2017, recommending approval of a First Amendment to a Lease.

Action: A First Amendment to the Lease of Airport Premises between the City of San José and SJ Automotive, LLC dba Lexus of Stevens Creek ("Lexus") to extend the term of its Lease through December 31, 2021, to allow Lexus to continue to park vehicles in a former Airport long term parking lot, was approved. (11-0.)

- 2.8 17-307** Approve a Second Amendment to the Lease of Airport Premises between the City of San José and Fox Rent A Car, Inc. ("Fox") to extend the term of its Lease through April 30, 2022, to allow Fox to continue to park vehicles in a former Airport long term parking lot. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport)

Documents Filed: City Council Action Request from Director of Aviation, John Aitken, A.A.E., dated November 2, 2017, recommending approval of a First Amendment to a Lease.

Action: A Second Amendment to the Lease of Airport Premises between the City of San José and Fox Rent A Car, Inc. ("Fox") to extend the term of its Lease through April 30, 2022, to allow Fox to continue to park vehicles in a former Airport long term parking lot, was approved. (11-0.)

- 2.9 17-308** (a) Report on bids and award of contract for the 8687 - Repairs of Water Services and Mains: 2017 project to the lowest responsive bidder, San José Water Company, for the initial term of November 2017 through November 2020, in an amount not to exceed \$1,617,407.

2.9 (Cont'd.)

(b) Adopt a resolution authorizing the City Manager to exercise one option to extend the contract for an additional oneyear- term after the expiration of the initial term in an amount not to exceed \$539,136, and a second option to extend the term of the contract for an additional oneyear- term after the first option year in an amount not to exceed \$539,136, for a total maximum contract amount of \$2,695,678 if both option years are exercised.

CEQA: Exempt, File No. PP17-050, CEQA Guidelines Section 15301, Existing Facilities; Section 15302 Replace or Reconstruction.
(Environmental Services)

Documents Filed: (1) Memorandum from Director, Environmental Services, Kerrie Romanow, dated October 23, 2017, recommending acceptance of a report and adoption of a resolution. (2) Memorandum from Debi Davis, Pro Tem Chair, Treatment Plant Advisory Committee, dated November 13, 2017, providing recommendations.

Action: The Report on bids and award of a contract was approved, and Resolution No. 78411, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Exercise Two Options to Extend the Contract for 8687 – Repair of Water Services and Mains: 2017, to San José Water Company: One Option to Extend the Term for an Additional One-Year After the Initial Term for an Amount Not to Exceed \$539,136, and a Second Option to Extend the Term for an Additional Year After the First Option Year for an Amount Not to Exceed \$539,136", was adopted. (11-0.)

2.10 17-304

Approve a Master Agreement with Envirocom for industrial hygienist services from the date of execution through December 31, 2022, in an amount not to exceed \$1,000,000. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated October 31, 2017, recommending approval of a Master Agreement.

Action: The Master Agreement was approved. (11-0.)

2.11 17-310

Approve the Downtown San José PropertyBased- Improvement District (PBID) Annual Financial Report for FY 2016-17. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Transportation)

Documents Filed: City Council Action Request from Director of Transportation Jim Ortbal, dated October 31, 2017, recommending approval of the PBID Annual Financial Report.

Action: The PBID Annual Financial Report for FY 2016-17 was approved. (11-0.)

- 2.12 17-366** Adopt a resolution of intention to vacate a 25-foot light and air easement located at 5159 and 5181 Brewster Avenue and set a Public Hearing on Tuesday, December 5, 2017, at 1:30 p.m. CEQA: Exempt, File No. PP17-054 & PP17-055, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation. Council District 9. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated November 8, 2017, recommending adoption of a resolution.

Action: Resolution No. 78412, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a 25' Setback Easement Located at 5159 & 5181 Brewster Avenue", was adopted. (11-0.)

- 2.13 17-367** Retroactively approve travel by Mayor Liccardo to Washington, DC, on November 9, 2017 to November 10, 2017 to attend the FCC Broadband Deployment Advisory Committee meeting. Source of Funds: Mayor's Office funds. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Mayor)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated November 6, 2017, requesting retroactive approval of travel.

Action: The travel request was approved retroactively. (11-0.)

- 2.14 17-369** As recommended by the Rules and Open Government Committee on November 8, 2017:
- (a) Retroactively approve the Dump Your Junk at Dahl Elementary School on Saturday, September 16, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (b) Approve the following District 7 events as City Council sponsored Special Events and approve the expenditure of funds:
 - (1) Ring in the New Year Celebration on Sunday, December 31, 2017 at the Vietnamese American Community Center;
 - (2) TET Festival on Saturday, February 24, 2018 at the Vietnamese American Community Center; and
 - (3) Black April Commemoration on Monday, April 30, 2018 at City Hall Rotunda.
 - (c) Approve and accept donations from various individuals, businesses, or community groups to support the event.

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 9, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: District 7 Community Events as a City Council Sponsored Special Events were approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the events, was approved. (11-0.)

- 2.15 17-370** As recommended by the Rules and Open Government Committee on November 8, 2017:
- (a) Retroactively approve Evento Cultural Jaliscience Norte de California held on September 9, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
- CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco/Arenas)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 9, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Evento Cultural Jaliscience Norte de California as a City Council Sponsored Special Event was retroactively approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.16 17-371** As recommended by the Rules and Open Government Committee on November 8, 2017:
- (a) Retroactively approve the Community Pancake Breakfast held on November 4, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 9, 2017, transmitting the recommendations of the Rules and Open Government Committee.

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

- 2.17 17-372** As recommended by the Rules and Open Government Committee on November 8, 2017:
- (a) Approve District 8 Faith Leaders Appreciation Brunch scheduled on November 16, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 9, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 8 Faith Leaders Appreciation Brunch as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.18 17-373** As recommended by the Rules and Open Government Committee on November 8, 2017, approve a \$750 grant for Bagby Elementary for their Home and School Club to support student programs and activities. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Rocha)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated November 9, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: A \$750 grant for Bagby Elementary to support student programs and activities was approved. (11-0.)

END OF CONSENT CALENDAR

3. STRATEGIC SUPPORT

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

City Manager David Sykes announced the appointment of Jennifer Maguire as Assistant City Manager.

3.2 Labor Negotiations Update.

None provided.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 17-085 Report on the Implementation of the Urban Village Component of the Envision San José 2040 General Plan. *DEFERRED*

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. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Economic Development/Planning, Building and Code Enforcement) (Deferred from 5/23/17 - Item 4.1, 6/6/17 - Item 4.1, 8/29/17 - Item 4.3)

Action: Deferred to November 28, 2017 per Administration.

4.2 17-305

Public Hearing on the Vacation of a 25-foot Setback Easement at 5159 and 5181 Brewster Avenue. DROP

Conduct a Public Hearing and adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the vacation of a 25-foot public easement for light and air (“setback easement”) located at 5159 and 5181 Brewster Avenue;
- (b) Vacating the 25-foot setback easements located at 5159 and 5181 Brewster Avenue; and
- (c) 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. PP17-054 & PP17-055, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation. Council District 9. (Public Works)

Action: Dropped Renoticed- per Administration.

4.3 17-302

- (a) Consider the Negative Declaration and addenda thereto and Statutory Exemption in accordance with CEQA.
 - (b) Consider an ordinance amending Title 20 (the Zoning Code) of the San José Municipal Code to:
 - (1) Change the terminology for existing medical cannabis uses;
 - (2) Add “Medical Cannabis Business” and “Non-Medical Cannabis Business” as newly restricted uses; and
 - (3) Make other technical, non-substantive, or formatting changes.
 - (c) Consider an ordinance of the City of San José amending Title 6 (Business Licenses and Regulations) of the San José Municipal Code by amending Chapter 6.88 to:
 - (1) Allow each Registered Collective to conduct non-medical (“recreational/adult-use”) cannabis activities;
 - (2) Allow each Registered Collective to deliver non-medical cannabis to customers and establish the parameters under which deliveries could take place;
 - (3) Approve other changes to update the Code to align with new state laws, amend not-for-profit requirements, update definitions; and
 - (4) Make other technical, non-substantive, or formatting changes.
- CEQA: Negative Declaration (File No. PP11-039, Resolution No. 75984), as addended by File Nos. PP11-076, PP14-030, PP16-076 and PP17-070; and Statutory Exemption pursuant to Section 26055(h) of the California Business and Professions Code: Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. (Planning, Building and Code Enforcement/Police)
PP17-070 – Citywide

4.3 (Cont'd.)

Documents Filed: (1) Joint memorandum from Councilmembers Rocha, Jimenez and Khamis, dated November 9, 2017, recommending adoption of the staff recommendation with additional staff direction. (2) Memorandum from Councilmember Lan Diep, dated November 13, 2017, providing recommendations. (3) Memorandum from Police Chief Edgardo Garcia, dated October 31, 2017, outlining Planning Commission recommendations with additional direction. (4) Memorandum from Interim Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated November 1, 2017, transmitting regarding adoption of an ordinance amending Title 20 of the San José Municipal Code. (5) Proof of Publication of Notice of Public Hearing, executed on October 23, 2017, submitted by the City Clerk. (6) Letter from State Assemblymember Ash Kalra, dated November 14, 2017, regarding amendments to Title 6 and Title 20 of the San José Municipal Code. (7) Letter from President & CEO, Silicon Valley Organization, Matthew Mahood, dated November 13, 2017, offering support to Council memoranda. (8) Letter from Jack Buck, LOUD, LLC, offering support to the proposed amendments. (9) Eighty (80) letters (on usb drive) from the Renters Rights Coalition of Silicon Valley, dated October 26, 2017, offering support to renters' rights.

Offering a presentation were: Police Chief Edgardo Garcia, Police Department Division Manager, Wendy Sollazzi and Assistant to the City Manager, Michelle McGurk.

Public Comments: Offering comments and suggestions regarding the proposed amendments, were: Jack Buck, Kevin Capilla, Ran Martin, Sean Kelly Rye and Tim Gildersleeve.

Motion: Councilmember Donald Rocha moved acceptance of the memorandum he cosigned with Councilmembers Jimenez and Khamis, dated November 9, 2017. Councilmember Johnny Khamis seconded the motion.

Councilmember Lan Diep requested a friendly amendment to include Items 1, 2, 4 and 5 from his memorandum dated November 13, 2017. Councilmembers Rocha and Khamis agreed to the amendment.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 30029, entitled: "A Ordinance of the Council of the City of San José Amending Sections 20.10.040, 20.50.100, 20.70.100, 20.80.760, 20.80.765, 20.80.775, 20.80.780, 20.80.790, 20.100.1530, 20.100.1535, And 20.100.1540 of Title 20 (Zoning) of the San Jose Municipal Code Relating to Medical And Non-Medical Marijuana to Change "Medical Marijuana Collective" to "Medical Cannabis Collective," "Medical Marijuana Collective Cultivation Site Only," to "Medical Cannabis Collective Cultivation Site Only," "Medical Marijuana Collective Dispensary Site Only," to "Medical Cannabis Collective Dispensary Site Only," and to Add "Medical Cannabis Business," and "Non-Medical Cannabis Business" as Newly Enumerated Restricted Uses in Specified Industrial Zoning Districts and the Downtown Primary Commercial Zoning District and to Make Other Technical, Formatting, Non-Substantive Changes"; and Ordinance No. 30030, entitled: "A Ordinance of the Council of the City of San José Amending Chapter 6.88 of Title 6 of the San José Municipal Code Pertaining to Medical Cannabis Collectives, Medical Cannabis Businesses, Non-Medical Cannabis Businesses and to the Personal Cultivation and Use of Cannabis", were passed for publication. Additionally, the joint memorandum from Councilmembers Rocha, Jimenez and Khamis, dated November 9, 2017, recommending that the City Council adopt the staff recommendation and adopt the following additional staff direction was approved, as follows: As the State releases marijuana regulations over the coming months, staff is directed to analyze how the State rules will regulate ownership of cannabis collectives, and bring forward a recommendation as to whether San Jose should allow a single

4.3 Amendment to Title 6 (Business Licenses and Regulations) and Title 20 (Cont'd.)

cannabis business to operate more than one of the 16 dispensaries currently licensed in San Jose. (There is an existing prohibition against a single business operating more than one dispensary in San José Municipal Code section 6.88.310. See Attachment A for full text of this code section as revised by staff per their recommendation for this item.)

Also, including Items 1, 2, 4 and 5 from Councilmember Lan Diep's memorandum dated 11/13/17: (1) Allow the transfer of one's ownership of a licensed dispensary - in its entirety or by fractional share - to a new owner by sale, inheritance, or other legal means; (2) Limit any single entity from owning or having a controlling stake in no more than two licensed dispensaries within San Jose; (4) Return to Council by the autumn of 2018 (*by way of an information memorandum*) to provide an update on the impacts of the commercial cannabis program, such as revenues generated, associated illegal activities, code enforcement complaints, impacts to staff time and administrative resources; (5) Study the viability of an impact fee to counteract the adverse impacts of commercial cannabis, and the possibility of achieving the following with the revenue from such fees: (a) Campaigns educating minors about the dangers of cannabis; (b) More police staff to regulate the commercial activity of nonmedicinal cannabis and to combat the sale of marijuana from unlicensed sources; (c) More planning department staff to study and align San Jose's zoning with its general plan, as a prerequisite to considering the possibility of allowing the sale of cannabis outside of the currently designated areas.
(11-0.)

- 4.4 17-315 Approve an ordinance amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code modifying the definition of Rental Unit to exempt restricted affordable or government operated rental units, to remove the suspension of Part 6 and 7, and to modify the scope of the exception to the material or habitual lease violation of tenancy cause for eviction to:
- (a) Remove the exception for the addition of a brother or sister to a tenant household; and
 - (b) Reduce the maximum occupancy limit on that protection to the greater of the number allowed by the rental agreement or two adults per bedroom.
- CEQA: Statutorily Exempt, File No. PP17-030, CEQA Guidelines Section 15061(b)(3), No potential for causing a significant effect on the environment. (Housing)

Documents Filed: (1) Joint memorandum from Councilmembers Khamis, Davis and Diep, dated November 9, 2017. (2) Memorandum from Councilmember Sylvia Arenas, dated November 13, 2017. (3) Memorandum from Director of Housing, Jacky Morales-Ferrand, dated October 26, 2017, recommending approval of an ordinance. (4) Twenty-three (23) letters from the public expressing opposition for further rent control measures.

Mayor Sam Liccardo recommending beginning the discussion regarding the Tenant Protection Ordinance (TPO), followed by the allowable rent increase/banking, Ration Utility Billing (RUBs), duplexes, the rent registry and pass through of the rent registry fees and related issues of the rent registry. Lastly, a discussion of staffing issues and a cleanup item on all the other recommendations. He noted that items could be voted on separately if needed.

4.4 Amendments to the Tenant Protection Ordinance (Cont'd.)

Director of Housing, Jacky Morales-Ferrand, Program Manager, Rachel VanderVeen and Senior Deputy City Attorney Shasta Green, offered a presentation and responded to questions from Council.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Two hundred forty-three (243) members of the public spoke, offering their concerns, questions and recommendations.

TENANT PROTECTION ORDINANCE

Motion: Councilmember Donald Rocha moved approval of staff's recommendations, including Councilmember Sylvia Arenas memorandum dated November 13, 2017. Councilmember Sylvia Arenas seconded the motion.

Substitute Motion: Councilmember Dev Davis moved approval of Councilmember Sylvia Arenas memorandum of November 13, 2017 and including item #1 from the memorandum she co-signed with Councilmember Johnny Khamis and Councilmember Lan Diep, dated November 9, 2017. Councilmember Johnny Khamis seconded the motion.

The substitute motion failed. (5-6. Noes: Jimenez, Peralez, Carrasco, Nguyen, Arenas, Rocha.)

Councilmember Sylvia Arenas requested a friendly amendment, asking to include that staff return to the Neighborhood Services Committee on what a plan would look like to address the impacts of inadequate housing on children including the steps they could take to incorporate this into their upcoming Annual Action Plan, federal funding update. The friendly amendment was accepted.

Action: On a call for the question, the motion carried, and Ordinance No. 30031, entitled: "A Ordinance of the Council of the City of San José Amending Part 12 to Chapter 17.23 of Title 17 of the San José Municipal Code to Modify the Definition of Rental Unit, to Modify the Scope of the Exception to the Material or Habitual Lease Violation Cause for Eviction, and to Repeal Section 17.23.1290, Which Suspended Part 6 and Part 7 of this Chapter", was passed for publication, including Councilmember Sylvia Arenas' memorandum dated November 13, 2017 to: (1) Accept staff recommendation on Amendments to the Tenant Protection Ordinance with the following amendment: to add "minor in their care" to the list of allowed children, by editing TPO Section 17.23.1250.A.2.b.ii to end with the sentence: "The Landlord has the right to approve or disapprove a prospective additional tenant who is not a dependent child, foster child, minor in the tenant's care, spouse or domestic partner, or parent of a Tenant, provided that the approval is not unreasonably withheld." (2) Modify staff recommendation of the Apartment Rental Ordinance, Section 17.23.350.C's final sentence to read: "Provided that no increase in the Rent is allowed for a Tenant's dependent child, foster child, minor in the tenant's care, spouse or domestic partner, or parent which terms may be further defined in the Regulations." (3) Add "minor in the tenant's care" to any other place in the Apartment Rental Ordinance and Tenant Protection Ordinance which includes the other relevant family members who can safely join a tenant household, including ARO Regulations 5.02.3b and 10.02.

Additionally, direct Housing Staff to report back to the Neighborhood Services Committee on what a plan would look like to address the impacts of inadequate housing on children including the steps they could take to incorporate this into their upcoming Annual Action Plan, federal funding update.

(10-1. Noes: Khamis)

Actions Related to the Apartment Rent Ordinance and Regulations.

(a) Approve an ordinance amending Parts 1 through 9 of Chapter 17.23 of Title 17 of the San José Municipal Code to make changes including revising the petition and hearing process, providing for the registration of rent stabilized units, exempting units with affordable housing vouchers from annual rent increase limitations, authorizing tenant buyout agreements, and including one of the following options:

(1) Retain the limit on annual rent increases as 5% with no banking, and implement a capital improvement pass through petition process for specified improvements including sustainability, safety and seismic upgrades and major system upgrades that improve housing services.

(2) Modify the annual increase to 100% of the San Francisco-Oakland-San José Consumer Price Index for All Urban Consumers (CPI-U), with a 2% floor and an 8% ceiling for annual increases, allow maximum allowable rate form of banking with a limit of 5% in any one year; implement a capital improvement pass through petition process for specified improvements including sustainability, safety and seismic upgrades, major system upgrades that improve housing services and major maintenance replacements for a five-year period, and allow the pass through of 50% of program administrative fees. (b) Adopt a resolution approving the Regulations implementing Parts 1 through 9 of Chapter 17.23 of Title 17 of the San José Municipal Code.

(c) Accept the Staff Report and its recommendation not to include a one-year lease requirement or duplexes in this amendment to Chapter 17.23 of Title 17 of the San José Municipal Code.

CEQA: Statutorily Exempt, File No. PP17-075, CEQA Guidelines Section 15061(b)(3), No potential for causing a significant effect on the environment. (Housing)

Documents Filed: (1) Joint memorandum from Councilmember Sylvia Arenas and Councilmember Sergio Jimenez, dated November 9, 2017 regarding actions related to the ARO. (2) Memorandum from Councilmember Chappie Jones, dated November 9, 2017, regarding actions related to the ARO. (3) Joint Memorandum from Councilmember Dev Davis, Councilmember Johnny Khamis and Councilmember Lan Diep, dated November 9, 2017, regarding actions related to the ARO. (4) Joint memorandum from Vice Mayor Magdalena Carrasco and Councilmember Raul Peralez, dated November 9, 2017, regarding actions related to the ARO. (5) Memorandum from Councilmember Donald Rocha, dated November 13, 2017, regarding actions related to the ARO. (6) Memorandum from Councilmember Sergio Jimenez, dated November 13, 2017, regarding actions related to the ARO. (7) Memorandum from Director of Housing, Jacky Morales-Ferrand, dated November 3, 2017, recommending approval of an ordinance. (8) Supplemental memorandum from Director of Housing, Jacky Morales-Ferrand, dated November 13, 2017, providing recent recommendations made by the Housing and Community Development Commission on November 9, 2017.

4.5 Actions Related to the Apartment Rent Ordinance and Regulations (Cont'd.)

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Sergio Jimenez and carried, staffs' recommendations were accepted, and Resolution No. 78413, entitled: "A Resolution of the Council of the City of San José Adopting Regulations for the Implementation of the Apartment Rent Ordinance Parts 1-9 of Chapter 17.23 of Title 17 of the San José Municipal Code and Superseding all Prior Regulations Adopted in Connection with Chapter 17.23", was adopted as amended; and Ordinance No. 30032, entitled: "A Ordinance of the Council of the City of San José Amending Parts 1 through 8 and Adding a New Part 9 to Chapter 17.23 of Title 17 of the San José Municipal Code to Revise the Apartment Rent Ordinance", was passed as amended for publication.
(10-1. Noes: Khamis)

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Sergio Jimenez and carried, Pursuant to action taken and referred to under item 4.4 to approve Councilmember Arenas' memo: (2) Modify staff recommendation of the Apartment Rental Ordinance, Section 17.23.350.C's final sentence to read: "Provided that no increase in the Rent is allowed for a Tenant's dependent child, foster child, minor in the tenant's care, spouse or domestic partner, or parent which terms may be further defined in the Regulations." (3) Add "minor in the tenant's care" to any other place in the Apartment Rental Ordinance and Tenant Protection Ordinance which includes the other relevant family members who can safely join a tenant household, including ARO Regulations 5.02.3b and 10.02.
(10-1. Noes: Khamis)

RATION UTILITY BILLING (RUBS)

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Dev Davis and carried, action on Ratio Utility Billing (RUBS) was deferred to March 2018, provide options to Council for action and return with further study on submeter installations and try to incentivize submetering, and strike paragraph in ordinance stating RUBS is not allowed.
(8-3. Noes: Arenas, Carrasco, Jimenez.)

RENT REGISTRY

Motion: Councilmember Johnny Khamis moved to eliminate the Rent Registry. The motion was seconded by Councilmember Dev Davis.

Substitute Motion: Councilmember Raul Peralez moved to maintain the rent registry as recommended by staff. The motion was seconded by Councilmember Donald Rocha.

Action: On a call for the question, the substitute motion carried, and staff recommendations to maintain the rent registry was accepted.
(8-3. Noes: Davis, Diep, Khamis)

ALLOWABLE RENT INCREASE/BANKING

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis, the motion was carried to keep rate at 5% with no banking.
(6-5. Noes: Arenas, Carrasco, Jimenez, Peralez, Rocha.)

Apartment Rent Ordinance Staffing and Fee Implementation.**Recommendation:**

(a) Approve the proposed staffing plan for the Rental Rights and Referrals Program as follows:

(1) Add 5.0 positions (1.0 Senior Analyst, 3.0 Analyst I/II, and 1.0 Public Information Representative I/II) in the Housing Department effective January 1, 2018; and

(2) Add 1.0 position (1.0 Legal Analyst I/II) in the City Attorney's Office effective January 1, 2018.

(b) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution Amendments in Multi-Source Housing Fund:

(1) Increase the appropriation to the Housing Department for Personal Services by \$295,218;

(2) Increase the appropriation to the Housing Department for Non-Personal/Equipment budget by \$682,189;

(3) Increase the appropriation to the Finance Department for Overhead by \$99,034;

(4) Increase the appropriation to the City Attorney's Office for Personal Services by \$54,442; and

(5) Increase the Fees, Rates and Charges estimate by \$1,130,885.

(c) Adopt a resolution amending the 2017-2018 Schedule of Fees and Charges (Resolution No. 72737, as amended) to increase the annual Rental Rights and Referrals Program fees for rent stabilized apartments subject to San José Municipal Code Chapter 17.23 by \$25.50, from \$30.30 to \$55.80 per unit annually, effective retroactively from July 1, 2017, to be collected through a supplemental billing for the additional balance of the fee for rent stabilized units.

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

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated November 14, 2017. (2) Joint memorandum from Vice Mayor Magdalena Carrasco and Councilmember Raul Peralez, dated November 9, 2017. (3) Joint memorandum from Councilmember Sylvia Arenas and Councilmember Sergio Jimenez, dated November 9, 2017. (4) Memorandum from Councilmember Chappie Jones, dated November 9, 2017. (5) Joint memorandum from Councilmember Dev Davis, Councilmember Johnny Khamis and Councilmember Lan Diep, dated November 9, 2017. (6) Memorandum from Councilmember Donald Rocha, dated November 13, 2017. (7) Memorandum from Councilmember Sergio Jimenez, dated November 13, 2017. (8) Memorandum from Director of Housing, Jacky Morales-Ferrand, dated November 3, 2017. (9) Supplemental memorandum from Director of Housing, Jacky Morales-Ferrand, dated November 13, 2017 providing HCDC recommendations.

Motion: Councilmember Chappie Jones moved approval of the staffs' recommendations, including the memorandum from Mayor Sam Liccardo dated November 14, 2017. Councilmember Donald Rocha seconded the motion.

Councilmember Tam Nguyen offered a friendly amendment to have staff return with a plan to provide more focus on development strategies to build. The amendment was respectfully declined by the maker of the motion.

4.6 Apartment Rent Ordinance Staffing and Fee Implementation (Cont'd.)

Action: On a call for the question, the motion carried, and the staff recommendations were approved, including the memorandum from Mayor Sam Liccardo, dated November 14, 2017, to (1) Approve Phase I and Phase II of the proposed staffing plan for the Rental Rights and Referrals Program, adding 6 FTE to reach 14.5 FTE, with a fee increase to \$55.80 by January 1, 2018; (2) Require staff to return during the Spring budget process with: (a) A current workload assessment for the 14.5 FTE already budgeted; (b) The status, workplan, and effectiveness assessment of the on-line registry; (c) An analysis of the extent to which technology, alternative staffing models (e.g., outsourcing to a non-profit for short-term, one-time needs), or other options may reduce the costs and staffing needed; (d) An assessment of the need for the staffing proposed in Phase III, and whether outsourcing to a non-profit might more appropriately address near-term needs that will not require sustained staffing. In particular, explain why the City needs three FTE for outreach. Resolution No. 78414, 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 Multi-Source Housing Fund"; and Resolution No. 78415, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737, as Previously Amended by Resolutions Nos. 73019, 73056, 73242, 73637, 73831, 73879, 73881, 74035, 74047, 74452, 74839, 74841, 74981, 75135, 75334, 75338, 75442, 75502, 75509, 75600, 75610, 75639, 75641, 75684, 75725, 75783, 75863, 75913, 76085, 76230, 76282, 76397, 76476, 76611, 76663, 76953, 77018, 77102, 77110, 77137, 77253, 77382, 77558, 77784, 78032, 78163, And 78210 to Increase the Annual Rental Rights and Referrals Program Fees for Rent Stabilized Apartments Subject To San José Municipal Code Chapter 17.23 By \$25.50, From \$30.30 To \$55.80 Per Unit, To Be Effective January 1, 2018", were adopted. (10-1. Noes: Khamis)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

(a) 17-296 General Plan Amendment: Land Use/Transportation Diagram. DROP

Recommendation: Approve Director Initiated General Plan Amendment to address Land Use/Transportation Diagram errors at locations within the boundaries of the Rincon South Urban Village, Jackson-Taylor Specific Plan, Martha Gardens Specific Plan, and Evergreen Village. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report GP17-014 - Council Districts 3 and 8
Dropped - Renoticed per Administration.

(b) 17-297 General Plan Text Amendment: Envision San José 2040 General Plan and The Alameda (East) Urban Village Plan. DROP

Recommendation: Approve Director Initiated General Plan Text Amendment to make minor modifications to the Envision San José 2040 General Plan and the Alameda (East) Urban Village Plan, including clarifying revisions to General Plan Policy IP-2.11 and The Alameda (East) Urban Village Policy LU-2.1, updates to Appendix 5 of the General Plan, and other minor grammatical and clarifying revisions. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
GPT17-003 - Citywide
Dropped - Renoticed per Administration.

(c) 17-298 General Plan Text Amendment: General Plan Land Use Designations. DROP

Recommendation: Approve Director Initiated General Plan Text Amendment to clarify General Plan Land Use designations associated with the vacation or sale of City right-of-way and State freeways and transportation corridors. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
GPT17-004 - Citywide
Dropped - Renoticed per Administration.

(d) 17-299 **General Plan Text Amendment: Diridon Station Area Plan. DROP**

Recommendation:

Approve Director Initiated General Plan Text Amendment to add text from the adopted Diridon Station Area Plan Final Program Environmental Impact Report to the General Plan, and associated General Plan Amendment to reinstate the Downtown Core and modify the boundaries of the Midtown Specific Plan and the Downtown Growth Area. CEQA: Determination of Consistency with the Diridon Station Area Plan Final Program Environmental Impact Report (Resolution No. 77096) and Addenda thereto. Planning Commission recommends approval (7-0-0). (Planning Building and Code Enforcement)
GPT17-005/GP17-011 - Council District 3
Dropped - Renoticed per Administration.

(e) 17-300 **General Plan Text Amendment: Revision to Policy IP-5.10. DROP**

Recommendation:

Approve Director Initiated General Plan Text Amendment to revise Policy IP-5.10 to clarify that the commercial component of a Signature Project must be constructed before or concurrently with residential uses. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
GPT17-006 - Citywide
Dropped - Renoticed per Administration.

(f) 17-301 **Conforming Rezoning for Real Property Located at 6970 Santa Teresa Boulevard. DROP**

Recommendation:

Consideration of an ordinance of the City of San José rezoning a 0.51-gross acre site, located at the north east corner of Santa Teresa Boulevard and Realm Drive (6970 Santa Teresa Boulevard) from the IP Industrial Park Zoning District to the CN Commercial Neighborhood Zoning District (American Real Estate Group LLC, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) Supplemental EIR to Envision San José General Plan EIR (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-039 - Council District 2
Dropped - Renoticed per Administration.

END OF CONSENT CALENDAR

- Open Forum

Blair Beekman provided comments on the rent registry.

- Adjournment

The meeting of the City Council of the City of San José was adjourned at 12:30 a.m. in the memory of Hank Coca, who passed away at the age of 85 on April 29, 2017. It is an honor to recognize Hank for his contributions to our downtown community as owner of Hank Coca's Furniture Store.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/11-14-17 MIN

17-375 Notice of City Engineer's Pending Decision on Final Maps

Recommendation: In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

Tract: 10437, Location- 39 N. Fifth Street, CD3, Developer-SJSC Towers LLC, Lots/Units - 1/630, Type-MFA

Tract: 10444, Location- 3770 Quimby Road, CD8, Developer-Quimby Road Holdings, LLC, Lots/Units - 8/7, Type-SFD

This notice is to be posted with the City Council's regular agenda for 11/14/17.

**JOINT CITY OF SAN JOSE CITY COUNCIL/SAN JOSE FINANCING
AUTHORITY/SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY
OF SAN JOSE AGENDA**

November 14, 2017

The Joint meeting of the City of San José City Council/San José Financing Authority/Successor Agency to the Redevelopment Agency of the City of San José was called to order at 2:02 p.m.

2. 17-311 Actions Related to the Sale and Issuance of Multiple Series of Tax Allocation Refunding Bonds.

Recommendation:

(a) Successor Agency to the Redevelopment Agency of the City of San José (the "Successor Agency") adopt a resolution:

(1) Confirming the approval of the issuance of refunding bonds (the "Refunding Bonds") to refund certain outstanding obligations of the former Redevelopment Agency of the City of San José;

(2) Approving the preliminary and final official statements for such Refunding Bonds and authorizing and approving other related actions in connection with the Refunding Bonds; and

(3) Authorizing the Executive Officer and Chief Financial Officer of the Successor Agency, or their designees, to take all actions necessary or advisable in the issuance, sale, and delivery of the Refunding Bonds.

(b) Successor Agency adopt a resolution:

(1) Authorizing the Executive Officer to negotiate and execute an amendment to the current Agreements with Ross Financial and Public Financial Management (PFM) to expand the scope of services and to increase the compensation by amounts not to exceed \$15,000 and \$32,000 for total contract amounts not to exceed \$136,800 and \$210,200; and

(2) Authorizing the City Attorney to negotiate and execute an amendment to the current Agreement with Jones Hall, a Professional Law Corporation (Jones Hall), to expand the scope of services and increase the compensation by an amount not to exceed \$85,000 for a total contract amount not to exceed \$535,000.

(c) City of San José Financing Authority Board adopt a resolution authorizing the execution and delivery of irrevocable refunding instructions and authorizing other related actions in connection with the City of San José Financing Authority Revenue Bonds, Series 2001A (4th & San Fernando Parking Facility Project) and the City of San José Financing Authority Lease Revenue Bonds, Series 2001F (Convention Center Refunding Project).

2. 17-311 **Actions Related to the Sale and Issuance of Multiple Series of Tax Allocation Refunding Bonds (Cont'd.)**

(d) City Council of the City of San José adopt a resolution authorizing the execution and delivery of irrevocable refunding instructions and authorizing other related actions in connection with the City of San José Financing Authority Revenue Bonds, Series 2001A (4th & San Fernando Parking Facility Project) and the City of San José Financing Authority Lease Revenue Bonds, Series 2001F (Convention Center Refunding Project).

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

Note: Item heard immediately following Consent Calendar.

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated November 1, 2017, recommending adoption of resolutions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, Successor Agency Resolution No. 7067, entitled: "A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Confirming the Issuance of Refunding Bonds in Order to Refund Certain Outstanding Obligations of the Dissolved Redevelopment Agency of the City of San José, Approving the Preliminary and Official Statements for such Refunding Bonds and Providing for other Matters Property Relating Thereto"; Successor Agency Resolution No. 7068, entitled: "A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José: (A) Authorizing the Executive Officer to Negotiate and Execute an Amendment to the Current Agreements with Ross Financial and Public Financial Management to Expand the Scope of Services and to Increase the Compensation; and (B) Authorizing the City Attorney to Negotiate and Execute an Amendment to the Current Agreement with Jones Hall, a Professional Law Corporation, to Expand the Scope of Services and Increase the Compensation"; Financing Authority Resolution No. 140, entitled: "A Resolution of the San José Financing Authority Authorizing the Execution and Delivery of Irrevocable Refunding Instructions and Authorizing Other Related Actions"; Resolution No. 78416, entitled: "A Resolution of the Council of the City of San José Authorizing the Execution and Delivery of Irrevocable Refunding Instructions and Authorizing Other Related Actions", were adopted. (11-0.)