

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, MARCH 21, 2017**

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

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. 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 9:41 a.m. to a Closed Session in Room W133; (A) to confer with Legal Counsel pursuant to subsection (c) of Section 54956.9(d)(4) of the Government Code with respect to anticipated litigation in one (1) matter; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) City of San José v. San José Cannabis Buyers Club, et al.; Names Of Partie(s) Involved: City of San José; San José Cannabis Buyers Club, a limited liability company, dba All American Cannabis Club, A2C2 Stockton, and/or A2C@ Bascom; David Hodges, an individual person; and Does 1-50, inclusive; Court: Superior Court of California, County of Santa Clara; Case No.: 2014-1-CV-272371 ; Amount of Money or Other Relief Sought: Damages according to proof; (2) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (3) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved:

## CLOSED SESSION (Cont'd.)

American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (4) OE#3 v. City of San José; Names Of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (5) ABMEI v. City, et al.; Names of Partie(s) Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No.: UPC SF CE 1358 M; Amount of Money or Other Relief Sought: Damages According to Proof; (6) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; H040979; H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (7) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (8) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: City of San José, John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B; (11) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s) Involved: The People of the State of California ex rel. San José Police Officers Association, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint In Quo Warranto; (12) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court; Names Of Partie(s) Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, a California non-profit Corporation, Proposed Intervenor, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, the People

## CLOSED SESSION REPORT (Cont'd.)

of the State of California ex. Rel. San José Police Officers Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No.: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or, In the Alternative, Supersedeas, or Other Appropriate Relief; (13) San José Retired Employees Association, et al. v. City of San José, et al; Names of Partie(s) Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, the Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (C) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:50 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, T. Nguyen, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

## **INVOCATION**

The New Ballet Studio Company offered a performance for the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation declaring the week of March 20, 2017 “Science Fair Week” in the City of San José. (Carrasco)**

Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Forrest Williams presented a proclamation declaring the week of March 20, 2017 “Science Fair Week” in the City of San José.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Donald Rocha, seconded by Councilmember Dev Davis and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.5 deferred to March 28, 2017 per Administration, and the hearing to be left open for Item 7.1, San José Clean Energy Update.

## **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 Council Minutes:**

None provided.

## **2.2 Final Adoption of Ordinances.**

None provided.

## **2.3 Approval of Council Committee Minutes.**

- (a) Public Safety, Finance and Strategic Support Committee Minutes of February 16, 2017. (Perales)**
- (b) Community and Economic Development Committee Minutes of February 27, 2017. (Khamis)**
- (c) Rules and Open Government Committee Minutes of March 1, 2017. (Mayor)**  
**CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities.**

Documents Filed: (1) Public Safety, Finance and Strategic Support Committee Minutes dated February 16, 2017. (2) Community and Economic Development Committee Minutes dated February 27, 2017. (3) Rules and Open Government Committee Minutes dated March 1, 2017.

Action: The Council Committee Minutes were accepted. (11-0.)

## **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 travel by Sharon Erickson, City Auditor, to Atlanta, Georgia on May 22 – 23, 2017 to attend the Association of Local Government Auditors 2017 Annual Conference. Source of Funds: City Auditor non-personal appropriation and professional development funds. CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities. (City Auditor)**

Documents Filed: Memorandum from City Auditor Sharon W. Erickson, dated March 6, 2017, requesting approval to travel on authorized City business.

Action: The travel by Sharon Erickson, City Auditor, to Atlanta, Georgia on May 22 – 23, 2017 to attend the Association of Local Government Auditors 2017 Annual Conference, was approved. (11-0.)

- 2.8 Approve the First Amendment to the Agreement between the City of San Jose and California Waste Solutions, Inc. (CWS) to increase compensation to CWS for the Large Item Collection service from \$26.86 to \$46.00 through the remaining term of the Agreement and to make service enhancements to the large item collection program. CEQA: 2010 Solid Waste Service Agreements Negative Declaration, File No. PP10-055. (Environmental Services)**

*Renumbered to Item 7.2.*

Action: See Item 7.2 for action taken.

- 2.9 (a) Approve travel by Councilmember Khamis to Chengdu City, Szechuan, China from March 29 to April 3, 2017 as an official representative of the City of San José for the Smart City Forum and International Tourism Festival. Source of Funds: US-China Friendship City Network, 501(c)(3) nonprofit.**
- (b) Request for an excused absence for Councilmember Khamis from the following meetings due to Authorized City Business:**
- (1) March 29, 2017 Rules and Open Government Committee and Committee of the Whole; and**
  - (2) March 30, 2017 City Council Study Session.**
- (c) Approve the receipt of gifts of air travel and meals received in an official capacity as a representative of the City in accordance with the San José Municipal Code section 12.08.040(c). While the City could reimburse for the meals, they will be provided as a gesture to foster a good working relationship between the City of San José and Chengdu City.**

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

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated March 9, 2017, requesting approval to travel on authorized City business.

Action: The travel request and excused absence for Councilmember Johnny Khamis was approved, with the receipt of gifts of air travel and meals received in an official capacity as a representative of the City in accordance with the San José Municipal Code section 12.08.040(c). (11-0.)

- 2.10 Approve travel by the Mayor's staff, Shireen Santosham, Chief Innovation Officer, to New York City from March 27 to March 29, 2017 for the Bloomberg What Works City Conference. Source of Funds: Bloomberg Philanthropies (cost of travel, lodging and food). CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated March 10, 2017, requesting approval of travel request by staff member Shireen Santosham.

Action: The travel by the Mayor's staff, Shireen Santosham, Chief Innovation Officer, to New York City from March 27 to March 29, 2017 for the Bloomberg What Works City Conference, was approved. (11-0.)

- 2.11 (a) Retroactively approve the Assyrian New Year (Assyrian Flag Raising) Ceremony scheduled on Tuesday, March 21, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**  
**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Khamis)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 17, 2017 transmitting the recommendations of the Rules and Open Government Committee.

Action: The Assyrian New Year (Assyrian Flag Raising) Ceremony scheduled on Tuesday, March 21, 2017 as a City Council sponsored Special Event including approval of the expenditure of funds, and approval and acceptance of donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.12 (a) Approve the Annual Greek Flag Raising Event scheduled on Monday, March 27, 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. PP15-077, Temporary Special Events. (Khamis)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 17, 2017 transmitting the recommendations of the Rules and Open Government Committee.

Action: The Annual Greek Flag Raising Event as a City Council sponsored Special Event including approval of the expenditure of funds, and approval and acceptance of donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.13 As recommended by the Rules and Open Government Committee on March 15, 2017, adopt a position of support for AB 814 (Bloom) so that the City's Legislative Representatives can advocate the City's support position for AB 814. CEQA: Not a Project, File No. PP10-069(d), Legislative Positions. (City Attorney)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 17, 2017 transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of support for AB 814 (Bloom) so that the City's Legislative Representatives can advocate the City's support position for AB 814 was adopted. (11-0.)

- 2.14 As recommended by the Rules and Open Government Committee on March 15, 2017, approve a \$1,800 grant to Branham High School for their Sports Booster Club to support student programs and activities. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Rocha)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 17, 2017 transmitting the recommendations of the Rules and Open Government Committee.

**2.14 (Cont'd.)**

Action: An \$1,800 grant to Branham High School for their Sports Booster Club to support student programs and activities was approved. (11-0.)

**2.15 As recommended by the Rules and Open Government Committee on March 15, 2017:**

- (a) Direct staff to bring forward recommendations on how the structure and scope of the Neighborhoods Commission could be revised or clarified to promote the success of the Commission and also to ensure that staff resources used to support the Commission are deployed efficiently. These recommendations should come to Council on a timeline established by the City Manager's Office that allows the Council to consider them in a timely fashion. Staff should have the freedom to make any recommendations they think would be beneficial to the Commission's work, but should at minimum consider the following items, as further detailed in the memorandum to Council: Size of the Commission; Appointment Process; Commission Scope; and Commission Staffing.**
- (b) Direct staff to invite the Neighborhoods Commission to a retreat to discuss the above issues or other issues of concern. A retreat would be an opportunity for commissioners to discuss these issues amongst themselves and with staff, and potentially make recommendations to the City Council. Given their personal experience serving on the Commission, feedback from commissioners would be very valuable to the Council in its deliberations on this issue.**

**CEQA: Not a Project, File No. PP15-069, City Organizational & Administrative Activities. (Rocha)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated March 17, 2017 transmitting the recommendations of the Rules and Open Government Committee. (2) Supplemental memorandum from Assistant to the City Manager, Zulma Maciel, dated March 21, 2017, confirming direction to staff to report out on issues following its retreat.

Action: As recommended by the Rules and Open Government Committee on March 15, 2017, Staff was directed to bring forward recommendations on how the structure and scope of the Neighborhoods Commission could be revised or clarified to promote the success of the Commission and also to ensure that staff resources used to support the Commission are deployed efficiently. These recommendations should come to Council on a timeline established by the City Manager's Office that allows the Council to consider them in a timely fashion. Staff should have the freedom to make any recommendations they think would be beneficial to the Commission's work, but should at minimum consider the following items, as further detailed in the memorandum to Council: Size of the Commission; Appointment Process; Commission Scope; and Commission Staffing. Additionally, staff was directed to invite the Neighborhoods Commission to a retreat to discuss the above issues or other issues of concern. A retreat would be an opportunity for commissioners to discuss these issues amongst themselves and with staff, and potentially make recommendations to the City Council. Given their personal experience serving on the Commission, feedback from commissioners would be very valuable to the Council in its deliberations on this issue.

**CONSENT CALENDAR**



## STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas discussed recovery assistance provided to San José residents and offered appreciation to City staff and government agencies that have offered aid. He and Mayor Sam Liccardo offered information on Small Business Administration low-interest disaster loans being offered, indicating that applications must be received by May 19, 2017. The City Manager highlighted the success of the City's 2<sup>nd</sup> Annual Career Fair that was held last weekend.

### 3.3 As recommended by the Transportation and Environment Committee on March 6, 2017, accept the audit of Our City Forest. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Reports that involve no approval of any City Actions. (City Auditor)

Documents Filed: (1) Memorandum from Councilmember Donald Rocha, dated March 20, 2017, providing recommendations. (2) Supplemental memorandum from Director of Transportation Jim Ortbal and Director, Planning, Building and Code Enforcement Harry Freitas, dated March 13, 2017, providing the Administration's response to the audit. (3) Memorandum from City Clerk Toni J. Taber, dated March 9, 2017, transmitting the recommendations of the Transportation and Environment Committee.

City Auditor Sharon Erickson provided a presentation. Staff offered additional comments, and extensive discussion ensued.

Public Comments: Stacy Stafford Scott, Our City Forest Board Chair, spoke on the success and integrity of Our City Forest and their need for funding.

Motion: Councilmember Donald Rocha moved acceptance of the audit of Our City Forest, including his memorandum dated March 20, 2017, with the portion relating to fees and charges to be brought back during the budget hearing to allow for further staff analysis. Councilmember Johnny Khamis seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the memorandum from Councilmember Donald Rocha, dated March 20, 2017, was accepted, directing staff to "(a) As soon as practicable, increase the tree mitigation fee for development projects such that it aligns with the actual cost of planting a tree (as discussed on page 31 of the audit); (b) Ensure that a procedure is in place to review and update the tree mitigation fee as costs change over time, either by including it in the annual Fees and Charges Report or through some other method; (c) For the purpose of tracking whether tree plantings that are required as mitigations for development approvals actually occur, clarify for staff that it isn't necessary to require photographic evidence that a tree was planted, as they suggest at the top of page 4 of the Administration's response to the audit. Instead, direct them to work with Our City Forest to determine whether it's possible to track how many trees are planted

### 3.3 (Cont'd.)

with mitigation money from specific projects with their existing database, similar to how they currently track how many trees are planted through other funding sources”. Including the request that City staff and Our City Forest be prepared to offer thoughts on the below questions at the City Council hearing on March 21, 2017: “(a) Is there anything that the City can do to make it easier for Our City Forest to identify viable locations to plant trees? And (b) Would it be possible for Our City Forest to plant more trees if it loosened some of its prerequisites for planting a tree, such as requiring residents to sign a stewardship agreement before a tree is planted?” And with the portion relating to fees and charges to be brought back during the budget hearing to allow for further staff analysis. (11-0.)

### 3.4 **Adopt a resolution setting a new fee schedule for City-Generated Zone Towing Services with rates not to exceed the allowable tow fees under the State of California Highway Patrol Tow Services Agreement for the Golden Gate Region- San José Office to take effect March 22, 2017, with the below contractors:**

- (a) **Matos Auto Towing & Transport**
- (b) **City Towing, Inc.**
- (c) **Century Tow**
- (d) **Motor Body Company, Inc.**
- (e) **Courtesy Tow Services, Inc.**
- (f) **Alongi Brothers, Inc.**

**CEQA: Not a Project, File No. PP10-067(a), Non-Project Specific Funding Mechanism, Increase or Adjustment to Fees, Rates & Fares. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated March 1, 2017, recommending adoption of a resolution.

Public Comments: Aaron Resendez spoke to price-gouging and a need for community outreach. Scott Largent asserted the existence of towing scams in San José; and Ray Perez offered that towing rates have become excessive.

Diane Buchanan, Deputy Director, Planning, Building and Code Enforcement, responded to questions from Council

Motion: Councilmember Raul Peralez indicated that he would like to have additional information from staff, and moved that this item be deferred for two weeks. Councilmember Sergio Jimenez seconded the motion.

Action: On a call for the question, the motion carried, and the Fee Schedule for City-Generated Zone Towing Service Agreements was deferred to April 4, 2017 to allow staff time to provide additional information. (11-0.)

- 3.5 As recommended by the Smart Cities and Service Improvements Committee on March 2, 2017, review and accept the City of San José 2017-2019 Innovation and Technology Strategic Plan. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Assessments that involve no approvals of any City Actions.  
[Smart Cities and Service Improvements Committee referral 3/2/17 – Item (d)(2)]**

Action: Deferred to March 28, 2017 per Administration.

- 3.6 Approve the updated response to the 2011-2012 Santa Clara County Civil Grand Jury Report entitled “An Analysis of Pension and Other Post-Employment Benefits.” CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Reports. (City Manager)**

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated March 16, 2017, recommending approval of the updated response to the Civil Grand Jury report.

Public Comments: Blair Beekman commended the City for balanced judgement in this matter.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Raul Peralez and carried unanimously, the updated response to the 2011-2012 Santa Clara County Civil Grand Jury Report entitled “An Analysis of Pension and Other Post-Employment Benefits” was approved. (9-0-2. Absent: Nguyen, Rocha.)

## **COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.1 As recommended by the Community and Economic Development Committee on January 23, 2017, accept the report and approve an ordinance to:**
- (a) Amend Title 4 of the San José Municipal Code to create a temporary partial suspension from the Commercial-Residential-Mobilehome Park Building Tax (SJMC 4.47) to achieve a rate of 1% for the following uses:**
    - (1) Office, General Business (SJMC 20.200.813);**
    - (2) Office, Research and Development (SJMC 20.200.818); and**
    - (3) Data Center (SJMC 20.200.265) to allow the City Council the flexibility to review the uses included and verify that these sectors are being accurately represented this provision shall sunset March 31, 2022.**
  - (b) Amend Section 4.82.320 of Chapter 4.82 of Title 4 of the San José Municipal Code to authorize the City Manager or designee to compromise or settle tax refund claims for amounts between fifty thousand dollars (\$50,000.00) and a threshold to be determined by the City Council in its consideration of the proposed ordinance, with the written approval of the City Attorney.**
- CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making, Code or Policy change that involves no changes in the physical environment.**

Action: Deferred to April 4, 2017 per Administration.

## NEIGHBORHOOD SERVICES

- 5.1 (a) Approve an ordinance amending Chapter 4.80 of Title 4 of the San José Municipal Code to add a new Part 62 to establish the St. James Park Management District Fund.
- (b) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the St. James Park Management District Fund, effective on the date on which the ordinance establishing the St. James Park Management District Fund becomes effective:
- (1) Establish a Fees, Rates and Charges revenue estimate in the amount of \$1,931,395;
  - (2) Establish a Personal Services appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$33,450;
  - (3) Establish a Non-Personal/Equipment appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$195,000; and
  - (4) Establish an Unrestricted Ending Fund Balance in the amount of \$1,702,945.
- (c) Approve the following ongoing position changes in the Department of Parks, Recreation and Neighborhood Services:

<u>Job Classification</u>	<u>FTE</u>
Analyst I/II FT	1.00
Analyst I PT	-0.50
Groundswoker FT	1.00
Recreation Leader PTU	0.25
<b>Total PRNS Position Changes</b>	<b>1.75</b>

**CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making, Code or Policy change that involves no changes in the physical environment; Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism; and Not a Project, File No. PP10-069, City Organizational & Administrative Activities. Council District 3. (Parks, Recreation and Neighborhood Services/City Manager)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez, dated March 17, 2017, with additional recommendations to staff. (2) Memorandum from Councilmember Johnny Khamis, dated March 20, 2017, recommending acceptance of the report, Council memoranda with additional recommendations. (3) Email correspondence from Ben Grant, SPUR Urban Design Policy Director, dated March 15, 2017, urging support.

Motion: Councilmember Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo dated March 17, 2017, including allowing negotiation with developers supporting the St. James Park Management District regarding the 50% reduced parkland in-lieu fees rate, to see if a longer term could be negotiated, allowing a more sustainable source of funding. Councilmember Chappie Jones seconded the motion.

## 5.1 (Cont'd.)

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. responded to questions and indicated he would report back on more sustainable sources of funding as requested by Council.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29894, entitled “An Ordinance of the City of San José Amending Chapter 4.80 Of Title 4 of the San José Municipal Code to Add a New Part for the Saint James Park Management District Fund”, was passed for publication. Ordinance No. 29895, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the St. James Park Management District Fund; and Providing that this Ordinance Shall Become Effective On April 28, 2017”, and Resolution No. 78108, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the St. James Park Management District Fund”, were adopted, with additional direction per the joint memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez, dated March 17, 2017, to (1) Report back in Fall 2017 to City Council with a status update on: (a) Detailed work plan for the park that expands activation and programming year-round and describes enhanced security and maintenance; (b) Spending plan of costs to be paid by the St. James Park management District and prioritization of those costs; and (c) Progress on a long-term governance model; and (2) Include the stakeholders of the St. James Park Advisory Group for input on all of the above. Additionally, to allow negotiation with developers supporting the St. James Park Management District regarding the 50% reduced parkland in-lieu fees rate, to see if a longer term could be negotiated, allowing a more sustainable source of funding. (9-0-2. Absent: Nguyen, Rocha.)

## 5.2 **As recommended by the Neighborhood Services and Education Committee on February 9, 2017, accept the Department of Parks, Recreation and Neighborhood Services’ report on Sustainable Park Maintenance. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Staff Reports. (Parks, Recreation, and Neighborhood Services)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Councilmember Donald Rocha and Councilmember Sergio Jimenez, dated February 24, 2017, recommending additional direction to staff. (2) Joint memorandum from Councilmember Donald Rocha and Councilmember Sergio Jimenez, dated February 24, 2017, recommending additional direction to staff. (3) Memorandum from City Clerk Toni J. Taber, dated February 16, 2017, transmitting the recommendations of the Neighborhood Services and Education Committee. (4) Letter from James Eggers, Executive Director, Sierra Club, Loma Prieta Chapter, dated February 27, 2017, offering support to Council memoranda. (5) Email correspondence from John Urban and David Noel, dated March 14 and March 15, 2017, offering support to Council memoranda.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. offered a presentation and provided additional background. Park Supervisor, Jeff Gomez, David Parvo and Cheryl Hedges provided a report.

## 5.2 (Cont'd.)

Public Comments: Urging the importance of a well maintained park system, were: Greg Peck, Los Paseos Neighborhood; Rich Grialou, Martin Fontana Park Association; Alice Kaufman, Committee for Green Foothills; James Eggers, Sierra Club; Mackenzie Mossing, Santa Clara Valley Audubon Society, and Mike Flaughter.

Motion: Councilmember Sergio Jimenez moved approval of the report including production of a Manager's Budget Addendum (MBA), including a requirement that the City Manager's Office identify the source of funding for the \$3.5 million of the on-going cost, encouraging a review of non-general fund sources. Councilmember Johnny Khamis seconded the motion.

Action: On a call for the question, the Department of Parks, Recreation and Neighborhood Services' report on Sustainable Park Maintenance was accepted, with further direction to staff to produce a Manager's Budget Addendum (MBA), including a requirement that the City Manager's Office identify the source of funding for the \$3.5 million of the on-going cost, encouraging a review of non-general fund sources. (10-0-1. Absent: Rocha.)

*Councilmember Donald Rocha left the meeting approximately 7:10 p.m.*

## ENVIRONMENTAL & UTILITY SERVICES

### 7.1 **Accept the staff report on the San José Clean Energy update. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Reports that involve no approval of any City Actions. (Environmental Services)**

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated March 17, 2017, recommending deferral of Item 7.1 and deferral of the April 25, 2017 report-out from staff. (2) Memorandum from Director, Environmental Services, Kerrie Romanow, dated March 7, 2017, recommending acceptance of the staff report. (3) Supplemental memorandum from Director, Environmental Services, Kerrie Romanow, dated March 20, 2017, providing additional information on potential governance models from the Clean Energy program and sharing feedback from a community meeting. (4) Letter from March Collins, President, League of Women Voters, dated March 7, 2017 offering questions and concerns. (5) "Community Choice Aggregation En Banc Background Paper" relating to an En Banc hearing held February 1, 2017.

Director, Environmental Services, Kerrie Romanow and Assistant City Manager Environmental Services, Ashwini Kantak offered a presentation, and panel members consisted of industry experts from the California Energy Commission, PG&E, CPUC, and Cal ISO staff, provided a panel discussion and an extensive Q&A session.

Public Comment: Offering support to San José Clean Energy, were: Nassim Nouri, Nadia Nouri (Green Party of Santa Clara); James Eggers (Sierra Club); Rebecca Habermann, Ariana N. Habermann, Karina, Linda Hutchins-Knowles, Anika Knowles (Mothers Out Front); Charles Tate (Almaden Valley Community Association); Emma Persselin, Aiden, Angela Nelson (Youth and Future Generations); Jan Pepper (Peninsula Clean Energy);

## 7.1 (Cont'd.)

Public Comments (Cont'd.): Dave Pine (Peninsula Clean Energy); Ruth Merino (San Jose Community Energy); Margaret Bruce and Michael Closson (Center for Climate Protection); Satchi Thockchom (The Harker School), Blair Beekman, Brian Moss, Julie Allingham, Bruce Natgel, and Claudia Azalde. Dave Truslow opined that this should be a ballot initiative, and Richard Zahner indicated this needs more analysis.

Council discussion ensued, and staff and panel members responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, this item was continued to a date to be determined. (9-0-2. Absent: Nguyen, Rocha.)

## 7.2 **Approve the First Amendment to the Agreement between the City of San Jose and California Waste Solutions, Inc. (CWS) to increase compensation to CWS for the Large Item Collection service from \$26.86 to \$46.00 through the remaining term of the Agreement and to make service enhancements to the large item collection program. CEQA: 2010 Solid Waste Service Agreements Negative Declaration, File No. PP10-055. (Environmental Services)**

*Renumbered from Item 2.8.*

Documents Filed: “Replacement” Council Action Request from Director, Environmental Services, Kerrie Romanow, dated March 21, 2017, providing an updated basis for recommendation regarding the service enhancements associated with the First Amendment to California Waste Solutions.

Staff responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Tam Nguyen and carried unanimously, the First Amendment to the Agreement between the City of San Jose and California Waste Solutions, Inc. (CWS) to increase compensation to CWS for the Large Item Collection service from \$26.86 to \$46.00 through the remaining term of the Agreement and to make service enhancements to the large item collection program, was approved. (10-1. Absent: Rocha.)

## OPEN FORUM

Blair Beekman spoke on public oversight for the City’s surveillance issues, offered kudos to the energy program discussed during today’s meeting and said ‘good-bye’ to Dr. Walter Katz.

- **NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS**

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>		<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10389	1875 Dobbin Drive	3	Dobbin Holding Co.	Road	14	MFA	Approval

## **ADJOURNMENT**

Mayor Sam Liccardo adjourned the Council Meeting session at 8:23 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

***DRAFT***

Toni J. Taber, CMC  
City Clerk

rmk/3-21-17 MIN



**HOUSING AUTHORITY OF  
THE CITY OF SAN JOSE**

**1:30 P.M.**

**TUESDAY, MARCH 21, 2017**

**CHAMBERS**

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**The Housing Authority of the City of San José was Called to Order at 8:15 p.m.**

- 2. Board of Commissioners for the Housing Authority of the City of San José (City Housing Authority) authorize the City Housing Authority's Executive Director to submit a letter to the Housing Authority of the County of Santa Clara to support the 2018 Moving to Work Annual Plan. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Housing)**

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated March 3, 2017, recommending authorization of support to the 2018 Moving to Work Annual Plan.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the Housing Authority of the City of San José (City Housing Authority) authorize the City Housing Authority's Executive Director to submit a letter to the Housing Authority of the County of Santa Clara to support the 2018 Moving to Work Annual Plan, was approved. (10-0-1. Absent: Rocha.)

**The Housing Authority of the City of San José adjourned at 8:21 p.m.**