

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 28, 2017

The Council of the City of San José convened in Regular Session at 9:33 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - Diep. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:40 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) Hernandez, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Juan Hernandez, Nathan Velasquez, Frank Velasquez, Rachel Casey, Mark Doering, Mary Doering, Barbara Arigoni, Dustin Haines-Scrodin, Andrew Zambetti, Christina Wong, Craig Parsons, the Minor I.P., Greg Hyver, Todd Broome, Donovan Rost, Michele Wilson, Cole Cassady, Theodore Jones, Martin Mercado, Christopher Holland, City of San José, Police Officers Loyd Kinsworthy, Lisa Gannon, Kevin Abruzzini, Paul Messier, Paul Spagnoli, Johnson Fong, Jason TA; Anthony Yi, the Minor H.A.; the Minor S.M.; Victor Gasca; Daniel Arciga; Rafael Medina; Anthony McBride; and Does 1-55; Court: U.S. District Court Northern District of California; Case No.: 5:16-CV-03957 LHK; Amount of Money or Other Relief Sought: Damages according

CLOSED SESSION (Cont'd.)

to proof; (2) City of San José v. City of Santa Clara; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-02303; Amount of Money or Other Relief Sought: Writ of Mandate and Complaint for Declaratory Relief; (3) 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 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.: 16-CIV-00547; Amount of Money or Other Relief Sought: Writ of Mandate and Complaint for Declaratory Relief; (4) 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; (5) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: 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; (6) 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; (7) 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; (8) 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. (9) 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. (10) 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. (11) 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.

CLOSED SESSION REPORT (Cont'd.)

(12) 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; (13) People of the State of California, et al. v. City of San José, et al.; Names of Parties 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; (14) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court; Names Of Parties Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, a California non-profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, the People 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; (15) San José Retired Employees Association, et al. v. City of San José, et al; Names of Parties 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 Real Property Designated Representatives Pursuant to Government Code Section 54956.8; (1) Property Street Address, Parcel Number, or other Unique Reference of Property: 200 Edenvale Avenue, San Jose, California; Negotiating Parties: Nanci Klein for the City of San José and Mark Felipe from Asha Companies, Inc.; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (2) Property Street Address, Parcel Number, or other Unique Reference of Property: Japantown Corporation Yard; 5.25 gross acres in size, bounded by Sixth Street, Seventh Street, Jackson Street and Taylor Street (696 North 6th Street and 1675 North 6th Street); Negotiating Parties: Nanci Klein for the City of San José and Christopher Longinetti for Williams Dame; Susan Smartt for Related California Urban Residential; and Charles Thornton for Paul Hastings LLP; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (D) 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);

CLOSED SESSION REPORT (Cont'd.)

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 11:45 p.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Absent: Councilmembers - All present except for Councilmember Lan Diep, who participated via teleconference* for Item 3.5.

**from the Business Center at Millenium Hilton, 55 Church Street, New York, NY 10007*

INVOCATION

Rohnny Raeanna Vallarta from Movimiento de Arte y Cultura Latino Americana (MACLA) sang and performed "Come Home" by One Republic on the ukulele.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the month of March 2017 as “Arts Education Month” in the City of San José. (Rocha)

Mayor Sam Liccardo and Councilmember Donald Rocha offered a proclamation declaring the month of March 2017 as “Arts Education Month” in the City of San José.

1.2 Presentation of a proclamation proclaiming the month of March 2017 as “American Red Cross Month” in the City of San José. (City Manager)

Mayor Sam Liccardo, Councilmembers Peralez, Jimenez, Rocha, Nguyen, Jones, Davis, Arenas, Khamis, Vice Mayor Magdalena Carrasco and City Manager Norberto Dueñas provided a proclamation proclaiming the month of March 2017 as “American Red Cross Month” in the City of San José.

Heard in the Evening.

1.3 Presentation of a commendation to Stephen Sherman, EMT, for his heroic efforts at the scene of a fatal hit and run accident in San José. (Jimenez)

Mayor Sam Liccardo and Councilmember Sergio Jimenez provided a proclamation recognizing Stephen Sherman, EMT, for his quick and valiant actions on October 2, 2016 at the scene of a fatal hit and run accident in San José. Stephen jumped into action blocking off traffic and providing urgently needed medical assistance to the victim. He assisted first responders to effectively do their job, and kept the public at large safe.

Heard in the Evening.

1.4 Presentation of a commendation to amateur boxer Xavier Meza. (Carrasco)

Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmember Sylvia Arenas presented a commendation to Xavier Meza, a student-athlete, who holds a 4.0 grade point average and ranks #1 in the state of California at 70 lbs. for his age group in amateur boxing with aspirations of making the USA Olympic Boxing team when he turns 18 years old.

Heard in the Evening.

1.5 Presentation of a proclamation declaring March 30, 2017 as “Welcome Home Vietnam Veterans Day” in the City of San José. (Khamis)

Mayor Sam Liccardo, Councilmember Johnny Khamis and former Vice Mayor Rose Herrera proclaimed March 30, 2017 as “Welcome Home Vietnam Veterans Day” in the City of San José.

1.6 Irene Chavez, VP and Area Manager from Kaiser Permanente San José, presented a \$50,000 check from Kaiser Permanente to aid victims from the recent flooding disaster in San José.

ORDERS OF THE DAY

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.5 not to be heard before 4:00 p.m. (10-1. Absent: Diep.)

Mayor Sam Liccardo acknowledged delegates from Dublin, Ireland, who were present to celebrate the City of San José's 31-year bond with its Irish "Sister City".

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action of March 28, 2017:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: Hernandez, et al. v. City of San José, et al.

Adverse Parties: Juan Hernandez, Nathan Velasquez, Frank Velasquez, Rachel Casey, Mark Doering, Mary Doering, Barbara Arigoni, Dustin Haines-Scrodin, Andrew Zambetti, Christina Wong, Craig Parsons, the Minor I.P., Greg Hyver, Todd Broome, Donovan Rost, Michele Wilson, Cole Cassady, Theodore Jones, Martin Mercado, Christopher Holland; City of San José, Police Officers Loyd Kinsworthy, Lisa Gannon, Kevin Abruzzini, Paul Messier, Paul Spagnoli, Johnson Fong, Jason TA; Anthony Yi; the Minor H.A.; the Minor S.M.; Victor Gasca; Daniel Arciga; Rafael Medina; Anthony McBride; and Does 1-55.

Council Vote:

Ayes: Jones, Jimenez, Peralez, Carrasco, Davis, Nguyen, Arenas, Rocha, Khamis; Liccardo.

Noes: None.

Disqualified: None.

Absent: Diep.

CONSENT CALENDAR

Upon motion by Councilmember Donald Rocha, seconded by Councilmember Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-1. Absent: Diep.)

2.1 Approval of Council Minutes:

None provided.

2.2 Final Adoption of Ordinances.

- (a) **ORD. NO. 29889** – An ordinance of the City of San José rezoning certain real property of approximately 4.9 acres, situated on the northeast side of San Felipe Road (3550 San Felipe Road) from the A Agricultural and R-1-5 Single Family Residence Zoning District to the CN Commercial Neighborhood Zoning District. CEQA: Mitigated Negative Declaration for Oakmont of Evergreen Assisted Living Facility. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29889 executed on March 17, 2017, submitted by the City Clerk.

Action: Ordinance No. 29889 was adopted. (10-1. Absent: Diep.)

- (b) **ORD. NO. 29890** – An ordinance of the City of San José rezoning certain real property of approximately 0.55 acre, situated on the east side of Aiello Drive, approximately 950 feet southerly of Umbarger Road (2744 Aiello Drive) from the IP Industrial Park Zoning District to the LI Light Industrial Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29890 executed on March 17, 2017, submitted by the City Clerk.

Action: Ordinance No. 29890 was adopted. (10-1. Absent: Diep.)

- (c) **ORD. NO. 29891** – An ordinance of the City of San José rezoning certain real property of approximately 0.42 acre, situated on the northwest corner of Seacliff Way and Tully Road (1645 Tully Road), from the CP Commercial Pedestrian Zoning District to the CG Commercial General Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29891 executed on March 17, 2017, submitted by the City Clerk.

Action: Ordinance No. 29891 was adopted. (10-1. Absent: Diep.)

2.2 Final Adoption of Ordinances. (Cont'd.)

- (d) **ORD. NO. 29892** – An ordinance of the City of San José rezoning certain real property of approximately 0.34 gross acre situated on the west terminus of Sharon Drive, approximately 990 feet east of South De Anza Boulevard (7169 Sharon Drive), from the R-2 Two Residence Zoning District to the R-M(PD) Planned Development Zoning District. CEQA: Exempt, File No. PDC16-014, CEQA Section 15303(b), New Construction or Conversion of Small Structure. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29892 executed on March 17, 2017, submitted by the City Clerk.

Action: Ordinance No. 29892 was adopted. (10-1. Absent: Diep.)

- (e) **ORD. NO. 29893** – An ordinance of the City of San José rezoning certain real property of approximately 9.9-gross acres situated on the west side of South King Road approximately 840 feet north of Aborn Road (2905 South King Road), from the A(PD) Planned Development Zoning District to the LI(PD) Planned Development Zoning District. CEQA: Mitigated Negative Declaration for the “2905 South King Road Ministorage & Light Industrial Project”. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29892 executed on March 17, 2017, submitted by the City Clerk.

Public Comment: Zico Tu expressed concerns regarding the setback requirements.

City Attorney Richard Doyle responded that this project is still in the rezoning phase, the hearing for a permit has not yet been heard, and setbacks are still to be determined. The speaker was directed to a member of staff for further clarification.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Tam Nguyen, and carried, Ordinance No. 29892 was adopted. (9-1-1. Noes: Rocha, Absent: Diep.)
(First Reading: 11-0.)

- (f) **ORD. NO. 29894** – 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. 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;

Documents Filed: Proof of Publication of the Title of Ordinance No. 29894 executed on March 24, 2017, submitted by the City Clerk.

Action: Ordinance No. 29894 was adopted. (10-1. Absent: Diep.)

2.3 Approval of Council Committee Minutes.

- (a) **Smart Cities and Service Improvements Committee Minutes of March 2, 2017. (Jones)**
- (b) **Rules and Open Government Committee Minutes of March 8, 2017. (Mayor)**

Documents Filed: (1) Smart Cities and Service Improvements Committee Minutes of March 2, 2017. (2) Rules and Open Government Committee Minutes dated March 8, 2017.

Action: The Council Committee Minutes were accepted. (10-1. Absent: Diep.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Adopt a resolution authorizing the Director of Housing to negotiate and execute amendments to the City's ground lease and loan documents for the restricted-affordable Donner Lofts property, located at 156 E. St. John Street, to accommodate permanent-period financing from the State Department of Housing and Community Development's Transit Oriented Development program. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. Council District 3. (Housing) Resolution No. 78113 adopted.

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated March 7, 2017, recommending adoption of a resolution.

Action: Resolution No. 78113, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute Amendments to the City of San José Ground Lease and Loan Documents for the Donner Lofts Apartments", was adopted. (10-1. Absent: Diep.)

2.8 Adopt a resolution to amend the City of San José Pay Plan effective March 28, 2017, to create the following classifications:

- (a) **Supervising Community Service Officer (6126) with a salary range of \$79,248.00- \$96,553.60 annually;**
- (b) **Crime and Intelligence Data Technician (1199) with a salary range of \$52,374.40- \$63,668.80 annually; and**
- (c) **Police Cadet U PT (2213) with a salary range of \$29,702.40- \$36,171.20 annually.**

2.8 (Cont'd.)

CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making, Municipal Code, Title 3. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources, Joe Angelo, dated March 6, 2017, recommending adoption of a resolution.

Action: Resolution No. 78114, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications”, was adopted. (10-1. Absent: Diep.)

2.9 Review of the Fiscal Year 2015–2016 Annual Development In-Lieu Fee Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Reports that involve no approvals of any City Actions. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng dated March 6, 2017, recommending approval of the Annual Development In-Lieu Fee Report.

Action: The Fiscal Year 2015–2016 Annual Development In-Lieu Fee Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements, was approved. (10-1. Absent: Diep.)

2.10 Approve a Continuation Agreement between the City of San José and Kimley-Horn and Associates, Inc. for traffic signal retiming services, to increase the maximum compensation from \$200,000 to \$464,000, and extend the contract term by one year to December 31, 2017. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. Council Districts 2, 3, 4, 5, 7, and 8. (Transportation)

Documents Filed: City Council Action Request from Director of Transportation Jim Ortbal, dated March 28, 2017, recommending approval of a Continuation Agreement.

Action: A Continuation Agreement between the City of San José and Kimley-Horn and Associates, Inc. for traffic signal retiming services, to increase the maximum compensation from \$200,000 to \$464,000, and extend the contract term by one year to December 31, 2017, was approved. (10-1. Absent: Diep.)

2.11 Retroactively authorize travel by Councilmember Diep to New York City, NY from March 26 – March 29, 2017 as an official representative of the City of San José in attending a gathering hosted by Local Progress and New York City Council Speaker Melissa Mark Viverito with nationwide local elected officials to explore and develop legislative, legal, organizing, and budgetary strategies in the event federal funding to cities is lost due to local policies related to immigration;

(1) Retroactively authorize excused absences for Councilmember Diep from the following meetings due to Authorized City Business:

2.11 (Cont'd.)

- (2) (a) **March 27, 2017 Community and Economic Development Committee;**
(b) **March 28, 2017 City Council meeting.**
- (3) **Retroactively approve the receipt of gifts from the Center for Popular Democracy for air travel and meals received in an official capacity as a representative of the City in accordance with San José Municipal Code Section 12.08.040(C).**

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

Documents Filed: Memorandum from Councilmember Lan Diep, dated March 21, 2017, requesting retroactive approval and excused absences for official City business.

Action: Retroactive approval for travel by Councilmember Lan Diep to New York City, NY from March 26 – March 29, 2017, including excused absences and approval of the receipt of gifts from the Center for Popular Democracy for air travel and meals received in an official capacity as a representative of the City in accordance with San José Municipal Code Section 12.08.040(C), were approved. (10-1. Absent: Diep.)

2.12 Authorize the City Attorney to join in Amicus Curiae briefs along with the City of Chicago and other cities in the federal court cases challenging President Trump's Executive Orders on immigration. CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 23, 2017, recommending authorization to join in Amicus Curiae briefs.

Action: Authorization for the City Attorney to join in Amicus Curiae briefs along with the City of Chicago and other cities in the federal court cases challenging President Trump's Executive Orders on immigration, was approved. (10-1. Absent: Diep.)

2.13 As recommended by the Rules and Open Government Committee on March 22, 2017, retroactively approve a \$500 grant to the Santa Teresa Little League to support their upcoming recreational season in San José. CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism. (Jimenez)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 24, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Retroactive approval of a \$500 grant to the Santa Teresa Little League to support their upcoming recreational season in San José was approved. (10-1. Absent: Diep.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas noted the City's extremely successful airport refunding bond sale and congratulated the Finance Department, the Airport Department, and the support from our City Attorney's Office for all their efforts over the past year.

- 3.3 (a) **Adopt a resolution continuing the proclamation of the existence of a local emergency as a result of flooding.**
(b) **Discussion of current flood recovery efforts.**
CEQA: Statutory Exempt, Section 15269, Emergency Projects Undertake specific actions necessary to prevent or mitigate an emergency. (City Manager)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Peralez, Diep, and Nguyen, dated March 23, 2017, directing the City Attorney to take action against individuals taking advantage of flood victims. (2) Memorandum from City Manager Norberto Dueñas, dated March 17, 2017, recommending adoption of a resolution. (3) Letter from County of Santa Clara Office of the Executive, Jeffrey V. Smith, dated March 22, 2017, outlining events regarding the floods in San José. (4) "True Story" of his family's experience with the flood, provided by Brian Tanaka.

Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness offered a presentation on flood recovery efforts.

Public Comments: Offering personal experiences and urging continued support for victims of the floods in San José, were: Brian Tanaka, Angelica Carrillo, Suzanne Brenner, Shaunn Cartwright, and Blair Beekman.

Mayor Sam Liccardo and City Manager Norberto Dueñas outlined efforts to offer continued support to those impacted by the flood. Council discussion followed.

Motion: Councilmember Tam Nguyen moved approval of the memorandum he coauthored with Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco, Councilmember Raul Peralez and Councilmember Lan Diep, dated March 23, 2017. Councilmember Raul Peralez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78115, entitled: "A Resolution of the Council of the City of San José Continuing the Proclamation of Existence of a Local Emergency Issued by the Director of Emergency Services", was adopted, including the memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco, and Councilmembers Raul Peralez, Lan Diep and Tam Nguyen, dated March 23, 2017, directing the City Attorney to bring unfair business practices law suits, per sections 17200 & 17500 of California's Business and Professions Code, against businesses and property owners who have taken advantage of flood victims with unfair business practices. The City Attorney may do so either alone, or may work with nonprofits providing legal assistance to bring private actions. The City Attorney should

3.3 (Cont'd.)

return through the budget process to identify dollars needed to perform this work. The City Attorney should report back to City Council, in closed session if more appropriate, the status of any private actions taken. (10-1. Absent: Diep.)

3.4 **Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports that involve no approvals of any City Actions. (City Manager)**

Action: Deferred to April 4, 2017 per Administration.

3.5 (a) **Conduct a Public Hearing on the FY 2017-2018 Mayor's March Budget Message.**

(b) **Approve the FY 2017-2018 Mayor's March Budget Message.**

CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports that involve no approvals of any City Actions. (Mayor)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated March 17, 2017, recommending direction to the City Manager to submit a balanced budget for FY 2017-2018. (2) Memorandum from Councilmember Donald Rocha, dated March 27, 2017, recommending additional direction to staff regarding park maintenance enhancements. (3) Letter from members of SV@Home, dated March 27, 2017, urging support of CDBG funding. (4) CommUniverCity San José's Annual Report, 2015-2016. (5) Proof of Publication of Notice of Public Hearing, executed on March 21, 2017, submitted by the City Clerk.

Councilmember Lan Diep participated via teleconference beginning at 4:59 p.m. from the Business Center at Millennium Hilton, 55 Church Street, New York, NY.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Jennifer Goto, CommUniverCity, countered recommendations made by Councilmember Donald Rocha regarding CommUniverCity. Offering support to recommendations regarding the Office of Immigrant Affairs, were Lety Perez, Eunice Hernandez and Salvador Villalobos, Sacred Heart Community Service. Nicole Montalvo, SV@Home offered recommendations for CDBG funding for critical programs, such as homelessness.

Mayor Sam Liccardo closed the public hearing.

Council discussion followed.

Motion: Vice Mayor Magdalena Carrasco moved approval of the FY 2017-2018 Mayor's March Budget Message, including the memorandum from Councilmember Donald Rocha, dated March 27, 2017.

3.5 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and the FY 2017-2018 Mayor's March Budget Message was approved, including the memorandum from Councilmember Donald Rocha, dated March 27, 2017, that as part of the Manager's Budget Addendum (MBA), as staff was directed to prepare on park maintenance enhancements at the March 21 council meeting, staff is directed to analyze a funding strategy that would defund programs which are currently funded with ongoing money in the base budget, and use the savings to fund park maintenance enhancements. Staff may make their own recommendations as to which programs the Council may want to consider defunding, or, if they do not wish to make recommendations, can use the list of suggestions included in the analysis section of Councilmember Rocha's memorandum dated March 27, 2017. For each program, staff should provide information and analysis that would help the Council evaluate whether it should be defunded, including the following: the amount of ongoing money that could be freed up in FY 2017-18 by defunding the program, a description of the services the program currently provides, and the number of positions that would be cut. (11-0.)

3.6 **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)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 17, 2017, transmitting the recommendations of the Smart Cities and Service Improvements Committee.

Chief Information Officer Rob Lloyd provided a presentation, and Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness, responded to questions from Council.

Council discussion followed.

Public Comments: Blair Beekman discussed issues regarding technology and the need for public involvement.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Dev Davis and carried unanimously, the City of San José 2017-2019 Innovation and Technology Strategic Plan was accepted. (9-0-2. Absent: Carrasco, Diep.)

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)**
 - (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. (Economic Development)

[Community and Economic Development Committee referral 1/23/17 – Item (d)(2)]

Action: Deferred to April 4, 2017 per Administration.

4.2 Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Parking Operations and Maintenance Agreement of the Edenvale Garden Park Parking Facility with Asha Companies, based upon the terms and conditions outlined in the memorandum to Council. CEQA: Exempt, Section 15301 Existing Facilities, File No. PP16-016. Council District 2. (Economic Development)

Documents Filed: (1) Joint memorandum from Councilmember Sergio Jimenez and Councilmember Raul Peralez, dated March 24, 2017, recommending adoption of the proposed resolution. (2) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated March 17, 2017, recommending adoption of a resolution.

Public Comments: Sarah McDermott, Unite Here L19, offered comments regarding the Hayes Mansion property.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Resolution No. 78116, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Negotiate and Execute a Parking Operations and Maintenance Agreement of the Edenvale Garden Park Parking Facility with Asha Companies”, was adopted, including the memorandum from Councilmember Sergio Jimenez and Councilmember Raul Peralez dated March 24, 2017, to adopt the proposed resolution, including prioritizing the retention and fair treatment of employees during this transition. (10-1. Absent: Diep.)

4.3 Accept the Calendar Year 2016 Annual Progress Report on the Implementation of the San José 2014-23 Housing Element, which includes as an attachment the Fiscal Year 2015-16 Housing Successor to Redevelopment Agency Annual Report, per reporting requirements of Senate Bill 341 Redevelopment. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports. (Planning, Building and Code Enforcement/Housing)

Documents Filed: Joint memorandum from Director, Planning, Building and Code Enforcement Harry Freitas and Director of Housing Jacky Morales-Ferrand, dated March 6, 2017, recommending acceptance of the Annual Progress Report.

Director, Planning, Building and Code Enforcement Harry Freitas and Director of Housing Jacky Morales-Ferrand provided the report to Council, and extensive discussion followed.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, the Calendar Year 2016 Annual Progress Report on the Implementation of the San José 2014-23 Housing Element, which includes as an attachment the Fiscal Year 2015-16 Housing Successor to Redevelopment Agency Annual Report, per reporting requirements of Senate Bill 341 Redevelopment was accepted. (9-0-2. Absent: Diep, Khamis.)

RECESS/RECONVENE

The City Council recessed at 6:00 p.m. from the afternoon Council Session and reconvened at 6:31 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Diep. (Exused)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Report on bids and award of contract for the 7651 – The Alameda – A Plan for the Beautiful Way Project – Phase II to the low bidder, Redgwick Construction Co., in the amount of \$3,683,335, and approve a ten percent contingency in the amount of \$368,334.**
- (b) Adopt the following 2016-2017 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:**
- (1) Increase The Alameda Phase II appropriation to the Transportation Department by \$750,000; and**
 - (2) Decrease the Ending fund balance by \$750,000.**
- CEQA: Exempt, File No. PP13-046, CEQA Guidelines Section 15301(c), Existing Facilities. Council District 6. (Public Works/Transportation/City Manager)**

6.1 (Cont'd.)

Documents Filed: Joint memorandum from Director of Public Works Barry Ng, Director of Transportation Jim Ortbal and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated March 13, 2017, recommending acceptance of a report and adoption of appropriation ordinance amendments.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Ordinance No. 29896, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Building and Structure Construction Tax Fund for the Alameda “Beautiful Way” Phase 2 (OBAG); and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-1. Absent: Diep.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Adopt a resolution declaring an end to the City-wide water supply shortage and superseding Resolution No.77833.**
(b) **Direct staff to continue to promote efficient water use practices.**
CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Environmental Services)

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated March 9, 2017, recommending adoption of a resolution and continued promotion of efficient water use practices.

Director, Environmental Services, Kerrie Romanow, offered an introduction, and Environmental Services Department Deputy Director Jeff Provenzano provided a presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78117, entitled: “A Resolution of the Council of the City of San José Declaring an End to the Citywide Water Shortage and Superseding Resolution No. 77833”, was adopted, with direction to staff to continue to promote efficient water use practices. (10-1. Absent: Diep.)

- 7.2 **Direct staff to initiate negotiations with all existing Recycle Plus residential solid waste contractors to negotiate new agreements that would replace the existing agreements, which will expire June 30, 2021, and return to Council by September 2017:**
(a) **For consideration of term sheets detailing the key service enhancements and cost provisions in the new service agreements if negotiations are successful; or**
(b) **To report on a timeframe and strategy to complete a procurement process if negotiations are not successful.**
CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Environmental Services)

7.2 (Cont'd.)

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated March 15, 2017, recommending initiating negotiations with Recycle Plus residential solid waste contractors.

Director, Environmental Services, Kerrie Romanow, offered a presentation.

Public Comments: Offering support to staff recommendations, were: David Urhausen (South Bay Labor Council); Doug Bloch (Teamsters Joint Council 7); Tracy Adams (GreenWaste Recovery); Larry Daugherty (Teamsters Local 350); Louie Pellegrini (Garden City Sanitation); and Weslie McConkey.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, staff was directed to initiate negotiations with all existing Recycle Plus residential solid waste contractors to negotiate new agreements that would replace the existing agreements, expiring June 30, 2021, and return to Council by September 2017: (a) For consideration of term sheets detailing the key service enhancements and cost provisions in the new service agreements if negotiations are successful; or (b) To report on a timeframe and strategy to complete a procurement process if negotiations are not successful. (10-1. Absent: Diep.)

7.3 **Report on bids and award of contract for the 8341-Sanitary Sewer Repairs 2016-17 Package II to the low bidder, Southwest Pipeline & Trenchless Corp., in the amount of \$1,384,504, and approve a ten percent contingency in the amount of \$138,450. CEQA: Exempt, File No. PP17-024, CEQA Guidelines Section 15301(b), Existing Facilities, and Section 15302(c), Replacement or Reconstruction. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated March 6, 2017, recommending acceptance of a report on bids and award of a contract.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Tam Nguyen and carried unanimously, the report on bids and award of contract for the 8341-Sanitary Sewer Repairs 2016-17 Package II to the low bidder, Southwest Pipeline & Trenchless Corp., in the amount of \$1,384,504, with related contingencies, was accepted. (10-1. Absent: Diep.)

Councilmember Donald Rocha left the meeting at approximately 7:45 p.m.

PUBLIC HEARINGS

11.2 STUDY SESSION PRESENTATION: Land Use Overview.

Accept the staff presentation on land use planning in San José, including development history, major strategies of the Envision San José 2040 General Plan, key area plans and policies, and workplan priorities. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (PBCE)

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated February 17, 2017, recommending acceptance of the staff presentation.

Director, Planning, Building and Code Enforcement Harry Freitas offered an introduction, ‘Blueprint for the City’; Director of Housing Jacky Morales-Ferrand continued with the plan for housing growth; Economic Development Assistant Director, Nanci Klein offered an introduction of the Regional Jobs Center, and Rosalynn Hughey, Assistant Director, Planning, Building and Code Enforcement, concluded the presentation.

Action: Council accepted the report. No action required.

OPEN FORUM

1. Blair Beekman addressed cybersecurity issues.
2. Andrew Dawson urged the clean-up of San José’s creeks, identifying areas that are full of garbage.

ADJOURNMENT

The Council of the City of San José adjourned at 8:51 p.m. in the memory of Frank Navarro, who passed away on February 26, 2017. It is our honor to recognize Frank for his many contributions to our community and his dedication to guiding, teaching and motivating children as a coach for the Eastridge Little League. He will be remembered for his passion, drive and absolute love for coaching. (Perez)

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 receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10415	0 Araujo Street (Westerly Terminus of Pietro Dr.)	4	Rescom Development & Investment Inc.	10 / 9	SFD

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/03/28/17 MIN