CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

# MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA** **TUESDAY, APRIL 18, 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 9:40 a.m. to a Closed Session in Room W133; (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: Claim of Snapp; Amount of Money or Other Relief Sought: Administrative Appeal; (2) In re: Claim of Guinnane; Amount of Money or Other Relief Sought: Administrative Appeal; (3) In re: Claim of Gonzalez; Amount of Money or Other Relief Sought: Administrative Appeal; (4) Nichols v. City of San José, et al.; Names Of Partie(s) Involved: Ficia Nichols, City of San José, Officer Schipke (#3910), Officer Ferguson (#3030) and Does 1-25; Court: U.S. District Court, Northern District of California, San José Division; Case No. 14-CV-03383 BLF; Amount of Money or Other Relief Sought: Damages according to proof; (5) 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 and Injunctive Relief; (6) City of Santa Clara v. City of San José ; Names Of Partie(s) Involved: City of Santa Clara, City of San José, City of San José City Council,

## CLOSED SESSION (Cont'd.)

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; (7) 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 Intervenors, 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; (8) 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;

By unanimous consent, Council recessed from the Closed Session at 10:45 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

Caity Redfern from the Children's Musical Theater, performed "Don't Cry for Me, Argentina" from Evita.

## PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

## CEREMONIAL ITEMS

**1.1 Presentation of a proclamation declaring April 22, 2017 as "Earth Day" in the City of San José. (City Manager)**

City Manager Norberto Dueñas and Mayor Liccardo presented a proclamation to Kerrie Romanow and staff from the City of San José Department of Environmental Services declaring April 22, 2017 "Earth Day" in San José.

**1.2 Presentation of a proclamation declaring April 17 – 23, 2017 as Silicon Valley Comic Con Week in the City of San José. (Davis)**

Mayor Liccardo and the City Council presented a proclamation declaring April 17-23 "Silicon Valley Comic Con Week" in the City of San José to Comic Con founders Steve Wozniak and Rick White.

**1.3 Presentation of a proclamation declaring the month of April as National Donate Life Month in the City of San José. (Carrasco)**

Vice Mayor Carrasco and Mayor Liccardo presented a proclamation declaring the month of April as "National Donate Life Month" in the City of San José.

## ORDERS OF THE DAY

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Chappie Jones and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 4.1 deferred to May 2, 2017. (11-0.)

## 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. (11-0.)

**2.1 Approval of Council Minutes:**

None provided.

**2.2 Final Adoption of Ordinances.**

**(a) <u>ORD. NO. 29897</u> – An ordinance of the City of San José amending Chapter 4.47 of Title 4 of the San José Municipal Code by adding new Sections 4.47.096 and 4.47.097 to provide partial suspension of the tax imposed under Chapter 4.47 in order to apply a reduced rate of tax for offices and data centers, amending Chapter 4.46 of Title 4 of the San José Municipal Code by adding a new Section 4.46.039.12 to provide partial suspension of the tax imposed under Chapter 4.46 in order to apply a reduced rate of tax for data centers and amending Section 4.82.320 of Chapter 4.82 of Title 4 to authorize the City Manager to approve tax refunds over $50,000 and less than $500,000. 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)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29897 executed on April 7, 2017 by the City Clerk.

Action: Ordinance No. 29897 was adopted. (11-0.)

**2.3 Approval of Council Committee Minutes.**

**(a) Community and Economic Development Committee Minutes of March 27, 2017. (Khamis)**

**(b) Rules and Open Government Committee Minutes of March 29, 2017. (Mayor)**

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

Documents Filed: (1) Community and Economic Development Committee Minutes of March 27, 2017. (2) Rules and Open Government Committee Minutes dated March 29, 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 Adopt a resolution authorizing the City Manager or his designee to apply for, execute, and accept upon receipt, grants from the Federal Aviation Administration for the Airport Sustainability Plan at the Norman Y. Mineta San José International Airport in a total amount not to exceed $1,000,000. CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism, Grant. (Airport)**

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated March 10, 2017, recommending adoption of a resolution.

Action: Resolution No. 78132, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Apply for, Execute, and Accept Upon Receipt, Grants from the Federal Aviation Administration for the Airport Sustainability Plan at the Mineta San José International Airport in a Total Amount Not to Exceed $1,000,000", was adopted. (11-0.)

**2.8 Approve travel by the City Attorney, Richard Doyle, to Philadelphia, PA, on June 2 – 3, 2017 to attend the International Municipal Lawyers Association (IMLA) Top 50**

**Meeting. Source of Funds: City Attorney's Office Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities, Catch all, Absences, Travel. (City Attorney)**

**2.8 (Cont'd.)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated April 3, 2017, requesting approval of travel and for an excused absence due to Authorized City Business.

Action: The travel authorization and excused absence were approved. (11-0.)

**2.9 Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement for Consultant Services with AON Consulting, Inc. dba AON Hewitt related to the City health and welfare plans and actuarial services to:**

**(a) Expand the scope of services to include actuarial services for the City's self-funded PPO medical plan beginning July 1, 2016;**

**(b) Increase the current Agreement amount for the term July 1, 2016 to June 30, 2017 by $7,500 to an amount not to exceed $210,049;**

**(c) Increase the current Agreement amount for the term July 1, 2017 to December 31, 2017 by $7,500 to an amount not to exceed $110,613, subject to appropriation of funds;**

**(d) Add up to two additional one-year options to extend the term of the Agreement after the initial term through December 31, 2019, and authorize the City Manager to exercise these options, subject to appropriation of funds in the amount not to exceed $451,365.**

**CEQA: Not a Project, File No. PP10-066(e), Agreements & Contracts, Consultant Services for Design, Study, Research, Inspection, or other Professional Consulting Services to determine the feasibility of a project with no commitment to future action. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Joe Angelo, dated March 23, 2017, recommending adoption of a resolution.

Action: Resolution No. 78133, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with Aon Consulting, Inc. DBA Aon Hewitt Related to the City's Health and Welfare Plans and Actuarial Services to Include Actuarial Services for the city's Self-Funded PPO Medical Plan Beginning July 1, 2016; Increase Compensation; and Extend the Term of the Agreement Through December 31, 2019, Subject to Appropriation of Funds", was adopted. (11-0.)

**2.10 Approve travel payments and authorize travel for Mayor's staff, Ingrid Holguin, Policy Advisor for Strategic Partnerships, to Washington, DC from May 22, 2017 to May 24, 2017 to attend the National League of Cities Roundtable Workgroup: Promoting an Alignment Framework to Build an Early Learning Nation. Source of Funds: National League of Cities for travel payments and hotel accommodations. CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities, Catch all, Absences, Travel. (Mayor)**

Documents Filed: Memorandum dated April 7, 2017, requesting authorization to travel for Mayor's staff, Ingrid Holguin to attend the National League of Cities Roundtable Workgroup: Promoting an Alignment Framework to Build an Early Learning Nation.

**2.10 (Cont'd.)**

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

**2.11 Approve travel payments and authorize travel for Mayor's staff, Shireen Santosham, Chief Innovation Officer, to New York, NY from April 20, 2017 to April 21, 2017 for the Bloomberg What Works Conference as a City of San José representative for the NetGain Internet of Things (IoT) Conference. Source of Funds: Knight Foundation for cost of travel, lodging and food. CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities, Catch all, Absences, Travel. (Mayor) Approved.**

Documents Filed: Replacement memorandum from Mayor Sam Liccardo, dated April 17, 2017, requesting authorization to travel for Mayor's staff, Shireen Santosham, Chief Innovation Officer, to New York, NY from April 20, 2017 to April 21, 2017 for the Bloomberg What Works Conference as a City of San José representative for the NetGain Internet of Things (IoT) Conference.

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

**2.12 (a) Approve travel payments and authorize travel for Mayor Liccardo to Seattle, Washington from May 2, 2017 to May 4, 2017 for the Daniel Rose Fellowship. Source of Funds: Rose Center for Public Leadership (cost of travel, lodging and food).**

**(b) Request for an excused absence from the Regular Meeting of the Joint Rules and Open Government Committee Meeting on May 3, 2017.**

**CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities, Catch all, Absences, Travel. (Mayor)**

Documents Filed: Memorandum dated April 11, 2017, requesting authorization to travel for Mayor Liccardo to Seattle, Washington from May 2, 2017 to May 4, 2017 for the Daniel Rose Fellowship.

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

**2.13 As recommended by the Rules and Open Government Committee on April 12, 2017:**

**(a) Approve the Puerto Rican Flag Raising scheduled on Friday, June 2, 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 April 14, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Puerto Rican Flag Raising 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.)

**2.14 As recommended by the Rules and Open Government Committee on April 12, 2017:**

**(a) Approve the Canada Day Flag Raising and Reception scheduled on Friday, June 23, 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. (Peralez)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated April 14, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Canada Day Flag Raising 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.)

**2.15 As recommended by the Rules and Open Government Committee on April 12, 2017:**

**(a) Retroactively approve Pizza & Policy Community Office Hours that took place March 10, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**

**(b) Retroactively approve and accept donations from various individuals, businesses, and community groups to support the March 10, 2017 event.**

**(c) Retroactively approve Pizza & Policy Community Office Hours scheduled for April 7, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**

**(d) Retroactively approve and accept donations from various individuals, businesses, and community groups to support the April 7, 2017 event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Carrasco)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated April 14, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Pizza & Policy Community Office Hours 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 retroactively approved. (11-0.)

**2.16 As recommended by the Rules and Open Government Committee on April 12, 2017:**

**(a) Retroactively approve the Community Pancake Breakfast that took place January 28, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**

**(b) Retroactively approve the acceptance of donations from various individuals, businesses, and community groups to support the January 28, 2017 event.**

**(c) Retroactively approve the Community Pancake Breakfast on April 8, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**

**(d) Retroactively approve and accept donations from various individuals, businesses, and community groups to support the April 8, 2017 event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Carrasco)**

**2.16 (Cont'd.)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated April 14, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Community Pancake Breakfast 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 retroactively approved. (11-0.)

**2.17 As recommended by the Rules and Open Government Committee on April 12, 2017:**

**(a) Approve Dumpster Day scheduled on May 6, 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. (Rocha)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated April 14, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Dumpster Day 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 As recommended by the Rules and Open Government Committee on April 12, 2017:**

**(a) Retroactively approve the Viet Heritage Gardens Grand Re-Opening and Ribbon Cutting Ceremony on Friday, April 7, 2017 at Viet Heritage Gardens as a City Council sponsored Special Event and approve the expenditure of funds. Event was approved in February but cancelled due to weather.**

**(b) Retroactively approve the Late-Night Gym at Santee Event that occurred every Wednesday beginning January 11, 2017 to present at Bridges Academy as a City Council sponsored Special Event and approve the expenditure of funds.**

**(c) Approve the Late-Night Gym at Santee Event every Wednesday until June 14, 2017 at Bridges Academy as a City Council sponsored Special Event and approve the expenditure of funds.**

**(d) Retroactively approve the Council District 7 Coyote Creek Flood Rescue and Recovery Efforts Townhall Meeting on Thursday, March 23, 2017 at Tully Community Branch Library as a City Council sponsored Special Event and approve the expenditure of funds.**

**(e) Approve the following District 7 events as City Council sponsored Special Events and approve the expenditure of funds:**

**(1) Coyote Creek Flood Action Day on April 19, 2017 at the Vietnamese American Community Center;**

**(2) Clean Up with Tam on April 29, 2017 at Ezie Street and Santa Rosa Drive;**

**(3) Clean Up with Tam on May 13, 2017 at the Vietnamese American Community Center;**

**2.18 (Cont'd.)**

**(4) Dump Your Junk Day on May 6, 2017 at OB Whaley Elementary School;**
**(5) Dump Your Junk Day on May 20, 2017 at Hubbard Elementary School;**
**(6) Dump Your Junk Day on June 10,2017 at Daniel Lairon Elementary School;**
**(7) Dump Your Junk Day on September 16, 2017 at Captain Dahl Elementary School;**
**(8) Dump Your Junk Day on October 21, 2017 at Ramblewood Elementary School;**
**(9) Coffee with A Cop on June 17, 2017 at the Vietnamese American Community Center.**

**(f) Approve and accept donations from various individuals, businesses, or community groups to support the events listed in (a) to (e).**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Nguyen)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated April 14, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Retroactive approval of Viet Heritage Gardens Grand Re-Opening and Ribbon Cutting Ceremony at Viet Heritage Gardens, and Council District 7 Coyote Creek Flood Rescue and Recovery Efforts Townhall Meeting as City Council Sponsored Special Events were retroactively approved, and expenditure of and funds and authorization to accept donations from various individuals, businesses or community groups to support the events were retroactively approved. Late-Night Gym at Santee Event and the District 7 events: Coyote Creek Flood Action Day, Vietnamese American Community Center; Clean Up with Tam on April 29, 2017 at Ezie Street and Santa Rosa Drive; Clean Up with Tam on May 13, 2017 at the Vietnamese American Community Center; Dump Your Junk Day on May 6, 2017 at OB Whaley Elementary School; Dump Your Junk Day on May 20, 2017 at Hubbard Elementary School; Dump Your Junk Day on June 10,2017 at Daniel Lairon Elementary School; Dump Your Junk Day on September 16, 2017 at Captain Dahl Elementary School; Dump Your Junk Day on October 21, 2017 at Ramblewood Elementary School;Coffee with A Cop on June 17, 2017 at the Vietnamese American Community Center, as 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 were approved. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas updated the Council on Facebook's Developer Conference currently being held in San José; Comic Con, which will be starting on April 21, 2017 at the Convention Center, and the Nvidia Tech Conference and Apple's Worldwide Developers Conference, which will be held in Downtown San José in June.

**3.3 Review the following actuarial valuation reports and audit reports of the actuarial valuations:**

**(a) Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2016;**

**(b) Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation (Pension) as of June 30, 2016;**

**(c) Federated City Employees' Retirement System Actuarial Valuation (Pension) as of June 30, 2016;**

**(d) Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2016;**

**(e) Audit of the Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2016;**

**(f) Audit of the Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation (Pension) as of June 30, 2016;**

**(g) Audit of the Federated City Employees' Retirement System Actuarial Valuation (Pension) as of June 30, 2016; and**

**(h) Audit of the Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2016.**

**Recommendation:**

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

Documents Filed: Memorandum from Director of Retirement Services Roberto Peña, dated April 3, 2017.

Actuarial Valuation Reports and Audit Reports of the Actuarial Valuations were provided by Director of Retirement Services Roberto Peña. He and Chief Investment Officer, Arn Andrews responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the Actuarial Valuation Reports and Audit Reports of the Actuarial Valuations were accepted. (11-0.)

**COMMUNITY & ECONOMIC DEVELOPMENT**

**4.1 Adopt a resolution:**

**(a) Authorizing the issuance of:**

**(1) a tax-exempt multifamily housing revenue note designated as "City of San José Multifamily Housing Revenue Note (Villa de Guadalupe Apartments), Series 2017A-1 (the "Series 2017A-1 Tax-Exempt Note") in a principal amount of approximately $31,090,000;**

**(2) a taxable multifamily housing revenue note designated "City of San José Multifamily Housing Revenue Note (Villa de Guadalupe Apartments), Series 2017A-2 (the "Series 2017A-2 Taxable Note" and, with the Series 2017A-1 Tax-Exempt Note, the "Series 2017A Notes") in a principal amount of approximately $7,410,000; and**

**(3) a tax-exempt multi-family housing revenue bonds designated as City of San José Junior Multifamily Housing Revenue Bonds (Villa de Guadalupe Apartments), Series 2017B (the "Series 2017B Junior Bonds" and, with the Series 2017A Notes, the "Series 2017 Obligations") in a principal amount of approximately $3,404,327;**

**(b) Approving a loan of Series 2017A Obligation proceeds to Burnham VDG Venture LP, a California limited partnership created by Standard Property Company, a California corporation, to finance the acquisition and rehabilitation of the Villa de Guadalupe Apartments located at 2151 Plaza De Guadalupe, in San José (the "Property");**

**(c) Approving in substantially final form the Funding Loan Agreement, Borrower Loan Agreement, Junior Indenture of Trust, Junior Loan Agreement, Junior Bond Purchase Agreement, Regulatory Agreement and Declaration of Restrictive Covenants and Junior Bond Purchase Agreement (the "Series 2017 Obligation Documents"); and**

**(d) Authorizing and directing the City Manager, Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2017 Obligation Documents and related documents as necessary.**

**CEQA: Exempt, File No. PP17-028, CEQA Guidelines Section 15301, Existing Facilities. Council District 5. (Housing/Finance)**

Action: Deferred to May 2, 2017 per Orders of the Day.

**4.2 (a) Approve an ordinance adding Part 11 to Chapter 17.23 of the San José Municipal Code to provide procedures for an owner's withdrawal of rent stabilized apartments from the rental market including requirements for noticing, relocation benefits, the tenant rights to return, and control of rents for apartments constructed or returned to the rental market within five years of withdrawal.**

**(b) Adopt a resolution establishing a schedule for Relocation Assistance and establish the Filing Fee and other fees pursuant to the ordinance.**

**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.**

***Note: Items 4.2 and 4.3 were heard together.***

**4.2 (Cont'd.)**

Documents Filed: (1) Joint memorandum from Councilmember Dev Davis and Councilmember Lan Diep, dated April 14, 2017, offering recommended changes to the staff report. (2) Memorandum from Councilmember Johnny Khamis, dated April 14, 2017 offering recommended changes to the staff report and Tenant Protection Ordinance. (3) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated April 17, 2017, requesting additional research and providing additional data. (4) Email correspondence dated April 17-19, 2017, from Roberta Moore, Joan Keller, Doug Goss, Kenneth Rosales, Maria-Louise Javier, Felix Rosales, Sita Kern, Marlene Bennett, Prem Andrzejek, Melissa Morris, Frances Quezada, Roger Pennington, Jayden Lee, Kyra Kazantzis, Ken Pyle, Hillary Armstrong, Anna Salas, Lyman Taylor, Roger Pennington, Danielle Pirslin, and Alia Merla. Signatures of 160 residents opposing proposed TPO and Ellis Act, provided by Vince Rocha, dated April 17, 2017. Joint letter from Silicon Valley Rising, Working Partnerships and South Bay Labor Council, dated April 14, 2017, asking to protect renters in San José. Findings from a recent survey provided by EMC Research, dated April 2017. Letter from Sandy Perry, Affordable Housing Network, dated April 10, 2017, supporting full just cause eviction protection and a strong Ellis Act Ordinance. Letter from Matthew Mahood, Silicon Valley Organization and from Anil Babbar, California Apartment Association, both dated April 17, 2017, offering concerns with the TPO and Ellis Act Ordinances. Letter from Camille Llanes-Fontanilla, and from Yolanda Chavez, dated April 18, 2017, supporting stronger protections for renters. Letter from Working Partnerships, dated April 17, 2017, asking to include duplexes under the ARO.

Director of Housing Jacky Morales-Ferrand offered opening comments and began the presentation. Housing Policy & Program Administrator Rachel VanderVeen continued the presentation.

Motion: Councilmember Dev Davis moved approval of the memorandum she coauthored with Councilmember Lan Diep. Councilmember Lan Diep seconded the motion.

Councilmember Raul Peralez offered a substitute motion, moving both staff memos and allowing staff to return with a more complete analysis. Councilmember Sergio Jimenez seconded the motion. Following discussion, they agreed to include a recommendation from staff as indicated below in "Action".

Action: On a call for the question, the substitute motion carried, and Resolution No. 78134, entitled: "A Resolution of the Council of the City of San José Establishing Relocation Assistance Amounts and Fees for the Ellis Act Ordinance, Part 11 of Chapter 17.23"; and Ordinance No. 29902, entitled "An Ordinance of the City of San José Amending Title 17 of the San José Municipal Code to Add Part 11 to Chapter 17.23 Regarding Withdrawal of Rent Stabilized Buildings from the Rental Market Under the Ellis Act", was adopted, with direction as outlined in Staff's supplemental memorandum dated April 17, 2017 to: (1) Request that the City Council direct the City Manager to complete additional research regarding the impact of subjecting all replacement units to re-control by the Ellis Act; and (2) Provide the City Council with additional research regarding existing Ellis Act Ordinances throughout California. (6-5. Noes: Jones, Diep, Davis, Khamis; Liccardo.)

**4.3 (a) Approve an ordinance adding Part 12 to Chapter 17.23 of the San José Municipal Code to include a Tenant Protection Ordinance limiting no-cause evictions and establishing requirements for property owners to state a Good Cause for eviction in certain limited circumstances.**

**(b) Direct the City Manager to instruct staff to incorporate into the forthcoming revised Apartment Rent Ordinance, a requirement that a property owner offer a renewable one-year written lease to tenants.**

**(c) Direct the City Manager to instruct staff to return with an amendment to Ordinance No. 28730 (the Interim Apartment Ordinance) to remove the exemption for units with rental subsidies and to make that change to the forthcoming revised Apartment Rent Ordinance.**

**(d) Direct the City Manager to instruct staff to research different relocation benefits and return to Council with a report on the potential to unify existing policies of the City.**

**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. (Housing)**

***Note: Items 4.2 and 4.3 were heard together.***

Documents Filed: (1) Joint memorandum from Councilmember Dev Davis and Councilmember Lan Diep, dated April 14, 2017, recommending acceptance of the staff report with modifications. (2) Joint memorandum from Councilmember Sylvia Arenas and Councilmember Sergio Jimenez, dated April 14, 2017, recommending acceptance of the staff report with modifications. (3) Joint memorandum from Councilmember Raul Peralez and Councilmember Donald Rocha, dated April 14, 2017, recommending acceptance of the staff report with modifications. (4) Memorandum from Councilmember Donald Rocha, dated April 17, 2017, offering additional recommendations regarding the Apartment Rent Ordinance. (5) Supplemental memorandum from Director of Housing, Jacky Morales-Ferrand, dated April 17, 2017, providing recommendations made by the Housing and Community Development Commission and making corrections and clarifications to the previous staff memorandum. (6) Email correspondence from Roberta Moore, dated April 10 and April 17, 2017, outlining recommendations for Councils' consideration. (7) Email from Son Nguyen, dated April 13, 2017 and Estela Lozano urging just cause eviction and a strong Ellis Act Ordinance.

Mayor Sam Liccardo opened the floor for public comment.

Public Comments: Offering varying viewpoints regarding the Ellis Act Ordinance, tenant protection, just cause evictions, and the plight of the homeless in San José, 176 members of the public spoke, addressing both topics Item 4.2 and 4.3.

Motion: Councilmember Sergio Jimenez moved approval of the ordinance he coauthored with Councilmember Sylvia Arenas, dated April 14 2017. Councilmember Donald Rocha requested that the motion include direction to Housing to return to Council with a workplan to evaluate whether duplexes should be added to the ARO. Councilmember Sergio Jimenez agreed to the recommendation. Councilmember Donald Rocha seconded the motion.

**4.3 (Cont'd.)**

Extensive discussion followed.

Councilmember Chappie Jones offered a substitute motion, regarding staff's 'alternative enrollment', to provide automatic enrollment after ten months, removing exemptions with unit subsidies. Mayor Sam Liccardo seconded the motion.

On a call for the question, the substitute motion failed. (5-6. Noes: Arenas, Carrasco, Jimenez, Nguyen, Peralez, Rocha.)

Action: On a call for the question, the joint memorandum from Councilmember Sergio Jimenez and Councilmember Sylvia Arenas, dated April 14, 2017, was approved as amended, to: (1) Adopt Staff Policy Alternative # 2: Implement an Ordinance with Just Cause Eviction Requirements with automatic enrollment for all tenants covered by that Alternative, with an ordinance to be considered at the Council Meeting of May 9, 2017, declining staff's recommendation Number 1 in its memorandum dated April 7, 2017. (2) Adopt staff recommendations 2-4 in the memorandum dated April 7, 2017, with the amendment as outlined in the April 14, 2017 memorandum from Councilmember Donald Rocha and Peralez, directing Staff to prepare a policy for Council consideration when they return to Council with a final Apartment Rent Ordinance in August: Tying the annual allowed rent increase for rent controlled units to the Consumer Price Index and allowing banking, consistent with the original staff recommendation for item 4.1 at the April 19, 2016 City Council meeting; additionally, (3) Return with an Urgency Ordinance ASAP for immediate implementation of Full Just Cause with automatic enrollment for all tenants covered by Alternative #2. Also including Councilmember Donald Rocha's direction for Housing to return to Council with a workplan to evaluate whether duplexes should be added to the Apartment Rent Ordinance. (6-5. Noes: Jones, Diep, Davis, Khamis; Liccardo.)

## 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) (Continued from 3/21/17 – Item 7.1)**

Documents Filed: (1) Supplemental memorandum from Director, Environmental Services, Kerrie Romanow, dated April 7, 2017, providing additional information per the March 21, 2017 Council Meeting. (2) Letter from Ruth Merino and Julie Allingham, San José Community Energy, and from Ann Hancock, Center for Climate Protection, dated April 17, 2017, offering support to Community Choice Energy. (3) Letters from Jeff Byron, Russell Hancock (Joint Venture Silicon Valley), Rob Best (Stanford University), and Mothers Out Front – South Bay Team, all dated April 17, 2017, offering support to Community Choice Energy.

**7.1 (Cont'd.)**

Richard Zahner, representing Community Choice, offered presentation

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Offering support and comments regarding the future of clean energy, were Blair Beekman, Linda Knowles (Mothers Out Front), Kate Nickerson, Ruth Merino (SJCE); Michael Classon and Margaret Bruce (Center for Climate Protection), Chris Dier, James Tuleya (Carbon-Free Silicon Valley), Nassim Nouri (Green Party), Anna Koster (Quaker Church).

Council discussion followed, and staff and members of the public responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, the staff report on the San José Clean Energy update was accepted. (11-0.)

**OPEN FORUM**

Documents Filed: Letter from Mark Jansen, dated April 18, 2017, regarding residential permit parking in the Eden Neighborhood.

1. Blair Beekman offered comments on the 'just cause' ordinance, and suggested a banking system for tenants.
2. Mark Jansen asked the Council to support residential permit parking in the Eden Neighborhood.
3. Tim Gildersleeve spoke against banning the Communist flag, declaring it a violation of freedom of speech.

**ADJOURNMENT**

Mayor Sam Liccardo adjourned the Council Meeting session at 10:39 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

*DRAFT*

Toni J. Taber, CMC
City Clerk

rmk/04-18-17 MIN