

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, SEPTEMBER 19, 2017**

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

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

Absent: Council Members - All Present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:15 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pertaining to Public Employment/Public Employee Recruitment/Appointment pursuant to Government Code Section 54957: (1) Department or Agency: City Manager's Office; Title: City Manager. (B) to confer with Legal Counsel regarding anticipated litigation with respect to initiation of litigation in one (1) matter. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: Watson, Lee Darnell v. City of San Jose; Matthew Brackett; Ryan Hansen; Ronald Hughes, et al.; Names of Partie(s) Involved: Watson, Lee Darnell, City of San Jose; Matthew Brackett; Ryan Hansen; Ronald Hughes and Does 1-10; Court: United States District Court, Northern District of California, San Jose Division; Case No.: 15-CV-04054-NC; Amount of Money or Other Relief Sought: Damages according to proof; (2) In re: City of San Jose v. City of Santa Clara; Names of Partie(s) Involved: City of San Jose, City of Santa Clara; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-02303; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (3) In re: City of Santa Clara v. City of San Jose, et al.; Names of Partie(s) Involved: City of Santa Clara, City of San Jose, City of San Jose City Council, Does 1 through X; Federal Realty

## CLOSED SESSION (Cont'd.)

and Investment Trust, and Does 1-20; Court: Superior Court of California, County of San Mateo; Case No.: 17-CIV-00547; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (4) In re: San Jose Retired Employees Association, et al. v. City, et al.; Names of Partie(s) Involved: San Jose Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San Jose Does 1 through 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of the State of California for the County of Santa Clara, Sixth District Court of Appeal; Case No.: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate; (5) In re: San Jose Retired Employees Association, et al. v. City of San Jose, et al.; Names of Partie(s) Involved: San Jose Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy Mcginley, City of San Jose, 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; (D) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8 regarding Property Street Address; Parcel Number or Other Unique Reference of Property: 255 South Montgomery Street (APN 261-37-025), 8 South Montgomery Street (APN 259-38-130), 102 South Montgomery Street (APN 259-48-012), 510 West San Fernando Street (APN 259-48-011, 259-48-013), 150 South Montgomery Street (APN 259-48-053), 105 South Montgomery Street (APN 261-35-003, 261-35-006, 261-35-010), 645 Park Avenue (APN 261-35-014), 525 West Santa Clara Street/566 West Julian Street (APN 259-28-031, 259-28-041, 259-28-043, 259-28-044), 697 W. San Carlos (261-37-030), No address (261-37-028); Negotiating Parties: Nanci Klein for the City of San Jose and Jay Bechtel for Google; Under Negotiation: The direction will concern price and terms of payment; (E) 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 - City of San Jose and Association of Building, Mechanical and Electrical Inspectors (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 - City of San Jose and Association of Engineers & Architects (AEA); (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: City of San Jose - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary; (4) City Association of Management Personnel Agreement (CAMP); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Benefit & Compensation Summary – City of San Jose and City Association of Management Personnel Agreement; (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 – Confidential Employees' Organization, AFSCME Local

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

101 and City of San Jose; (6) International Association of Firefighters (IAFF), Local 230 (IAFF#230); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement Between City of San Jose and International Association of Firefighters (IAFF), Local 230; (7) International Brotherhood of Electrical Workers, Local 332 (IBEW); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement Between City of San Jose and International Brotherhood of Electrical Workers, Local 332 (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 - City of San Jose and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO; (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 Jose and International Union of Operating Engineers, Local No. 3 (OE#3); (10) San Jose Police Officers' Association (SJPOA); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San Jose and San Jose Polices' Association; (11) Association of Legal Professionals of San Jose (ALP); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San Jose and Association of Legal Professionals of San Jose.

By unanimous consent, Council recessed from the Closed Session at 11:45 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chamber.

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

Absent: Council Members - All Present.

## **INVOCATION**

Pastor Tim Wood, Evergreen Valley Church, provided the Invocation. (District 8)

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by third grade students from Christopher Elementary School.

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation declaring the month of September 2017 as "Hispanic Heritage Month" in the City of San José. (Carrasco)**

Mayor Sam Liccardo and Vice Mayor Carrasco, joined by Council Members Sylvia Arenas, Sergio Jimenez, Raul Peralez, and Don Rocha, presented a proclamation to local Hispanic Leaders in the field of law from the Santa Clara County La Raza Lawyers Association, Susanna Inda, Aaron Flemate, and Eugene Flemate, and Carlos Orellana of the La Raza Charitable Foundation, in recognition of "Hispanic Heritage Month" in the City of San José.

## **ORDERS OF THE DAY**

Upon motion by Council Member Sergio Jimenez, seconded by Council Member Chappie Jones and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 4.2 dropped. (11-0.)

## **CLOSED SESSION REPORT**

City Attorney Rick Doyle indicated there was no report. Mayor Sam Liccardo announced the appointment of current Assistant City Manager Dave Sykes as City Manager.

## **CONSENT CALENDAR**

Upon motion by Council Member Raul Peralez, seconded by Council Member Sergio Jimenez and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0)

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

None provided.

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

None provided.

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

None provided.

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

None provided.

## **2.5 City Council Travel Reports.**

Council Member Raul Peralez presented a report on the SPUR Study Tour for BART Phase II attended by District 3 Chief of Staff, Christina Ramos.

Documents Filed: Memorandum from Council Member Raul Peralez, dated September 18, 2017, transmitting the travel report.

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

None provided.

## **2.7 Approve the First Amendment to the Agreement between the City of San José and Smarte Carte, Inc. to provide for a maximum Cart Fee compensation amount payable by the City to Smarte Carte in an amount not to exceed \$850,000 for FIS Facility Luggage Carts through the remaining four-year term of the Agreement. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport)**

Documents Filed: Memorandum from Director of Aviation Services John Aitken, recommending approval of the agreement.

Action: The First Amendment to the Agreement between the City of San José and Smarte Carte, Inc. to provide for a maximum Cart Fee compensation amount payable by the City to Smarte Carte in an amount not to exceed \$850,000 for FIS Facility Luggage Carts through the remaining four-year term of the Agreement was approved. (11-0.)

- 2.8**
- (a) Authorize domestic travel for Councilmember Lan Diep to Atlanta, GA from October 7, 2017 to October 11, 2017 to join the Valley Transportation Authority at the Annual Meeting of the American Public Transportation Association in his role as a member of the VTA Board of Directors. Source of Funds: Valley Transportation Authority and District 4 Office Budget.**
  - (b) Approve the receipt of gifts of air travel, ground travel, hotel 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).**
  - (c) Authorize the use of District 4 funds for incidental expenses related to official travel.**

**CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Diep)**

Documents Filed: Memorandum from Council Member Lan Diep, dated August 30, 2017, recommending authorization of travel, approval of receipt of gifts, and authorization of funds.

## 2.8 (Cont'd.)

Action: Domestic travel for Councilmember Lan Diep to Atlanta, GA from October 7, 2017 to October 11, 2017 to join the Valley Transportation Authority at the Annual Meeting of the American Public Transportation Association in his role as a member of the VTA Board of Directors was authorized; receipt of gifts of air travel, ground travel, hotel 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) was approved; and the use of District 4 funds for incidental expenses related to official travel was authorized. (11-0.)

## 2.9 **Adopt a resolution authorizing certification and submittal of the FY 2016 2017 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board by September 30, 2017, in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City actions. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated September 13, 2017, recommending adoption of a resolution and submission of the annual report.

Action: Resolution No. 78360 entitled, “A Resolution of the Council of the City of San Jose Authorizing Certification and Submittal of the FY 2016-2017 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board by September 30, 2017, in Conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit Requirements, Pursuant to the Federal Clean Water Act” was adopted. (11-0.)

## 2.10 **Adopt a resolution authorizing the City Manager to:**

- (a) **Execute a Purchase Order with Pierce Manufacturing, Inc. (Appleton, WI) for the purchase of one new Tractor Drawn Aerial Ladder Fire Truck for the Fire Department, in an amount not to exceed \$1,364,490, including applicable sales tax and license fees.**
- (b) **Approve a contingency of \$120,000 to fund any additional costs for final design or configuration changes.**

Documents Filed: Memorandum from Director of Finance Julia Cooper, recommending execution of a purchase order and approval of a contingency.

Action: Resolution No. 78361, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to 1) Execute a Purchase Order with Pierce Manufacturing, Inc. for the Purchase of One New Tractor Drawn Aerial Ladder Fire Truck for the Fire Department, in an Amount Not-To-Exceed \$1,364,490, including Applicable Sales Tax and License Fees and 2) Approve A Contingency of \$120,000 to Fund any Additional Costs for Final Design or Configuration Changes” was adopted. (11-0.)

- 2.11 (a) **Authorize travel by Councilmember Khamis to Atlanta, Georgia, USA from October 7, 2017 to October 11, 2017 as an official representative of the City of San José and a Valley Transportation Authority (VTA) Boardmember for the 2017 American Public Transportation Association (APTA) EXPO Transportation Premier Showcase. Source of Funds: VTA Board Office Account, Division 11005, Boardmember Expenses #509010.**
- (b) **Authorize an excused absence for Councilmember Khamis from the following meetings due to Authorized City Business:**
- (1) **The October 11, 2017 meeting of the Rules and Open Government Committee and Committee of the Whole.**
- (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 positive working relationship between the City of San José and VTA.**

**CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Khamis)**

Documents Filed: Memorandum from Council Member Johnny Khamis, dated August 31, 2017, recommending authorization of travel and an excused absence, and approval of the receipt of gifts.

Action: Travel by Councilmember Khamis to Atlanta, Georgia, USA from October 7, 2017 to October 11, 2017 as an official representative of the City of San José and a Valley Transportation Authority (VTA) Boardmember for the 2017 American Public Transportation Association (APTA) EXPO Transportation Premier Showcase was authorized; an excused absence for Council Member Khamis was authorized from the October 11, 2017 Rules and Open Government Committee Meeting; and 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) was approved. (11-0.)

- 2.12 (a) **Authorize travel by Councilmember Khamis to Washington, District of Columbia, USA on September 26 and 27, 2017 as an official representative of the City of San José for the re-scheduled 2017 Silicon Valley Leadership Group Washington, D.C. Advocacy Trip. Source of Funds: Mayor and Council Travel Funds.**
- (b) **Authorize an excused absence for Councilmember Khamis from the following meetings due to Authorized City Business:**
- (1) **September 26, 2017 afternoon and evening meetings of the San José City Council.**
- (2) **September 27, 2017 meeting of the Rules and Open Government Committee and Committee of the Whole.**

**CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Khamis)**

Documents Filed: Memorandum from Council Member Johnny Khamis, dated August 31, 2017, recommending authorization of travel and excused absences.

**2.12 (Cont'd.)**

Action: Travel by Councilmember Khamis to Washington, District of Columbia, USA on September 26 and 27, 2017 as an official representative of the City of San José for the re-scheduled 2017 Silicon Valley Leadership Group Washington, D.C. Advocacy Trip was authorized; and excused absences for Councilmember Khamis were authorized from the September 26, 2017 afternoon and evening meetings of the San Jose City Council and the September 27, 2017 Rules and Open Government Committee Meeting. (11-0.)

**2.13 Approve international travel for Aleta Dimas, Senior Librarian, and Adrian Barrientos, Librarian to travel to Guadalajara, Mexico, to attend the Guadalajara International Book Fair November 24 30, 2017. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Library)**

Documents Filed: Memorandum from Library Director Jill Bourne, dated August 28, 2017, recommending approval of international travel.

Action: International travel for Aleta Dimas, Senior Librarian, and Adrian Barrientos, Librarian to travel to Guadalajara, Mexico, to attend the Guadalajara International Book Fair November 24 30, 2017 was approved. (11-0.)

- 2.14 (a) Authorize travel by Mayor Liccardo to Washington, District of Columbia, USA on September 26 and 27, 2017 as an official representative of the City of San José for the re scheduled 2017 Silicon Valley Leadership Group Washington, D.C. Advocacy Trip. Source of Funds: Mayor/Council Travel Budget.**
- (b) Authorize an excused absence for Mayor Liccardo from the following meetings due to Authorized City Business:**
- (1) September 26, 2017 afternoon and evening meetings of the San José City Council.**
  - (2) September 27, 2017 meeting of the Rules and Open Government Committee and Committee of the Whole.**

**CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated September 7, 2017, recommending authorization of travel and excused absences.

Action: Travel by Mayor Sam Liccardo to Washington, District of Columbia, USA on September 26 and 27, 2017 as an official representative of the City of San José for the re-scheduled 2017 Silicon Valley Leadership Group Washington, D.C. Advocacy Trip was authorized; and excused absences for Mayor Sam Liccardo were authorized from the September 26, 2017 afternoon and evening meetings of the San Jose City Council and the September 27, 2017 Rules and Open Government Committee Meeting. (11-0.)



- 2.15 Approve an increase to the contingency for the 8288 Mineta San José International Airport Jetbridges at Gate 29 and Gate 30 project in the amount of \$704,080 for a total contingency amount of \$1,584,180. CEQA: Determination of Consistency with the Final Environmental Impact Report, as supplemented, for the San José International Airport Master Plan Update (Resolution Nos. 67380 and 71451), File No. PP16-089. (Public Works/Airport)**

Documents Filed: Joint Memorandum from Director of Public Works Barry Ng and Director of Aviation Services John Aitken, recommending approval of an increase to the contingency.

Action: An increase to the contingency for the 8288 Mineta San José International Airport Jetbridges at Gate 29 and Gate 30 project in the amount of \$704,080 for a total contingency amount of \$1,584,180 was approved. (11-0.)

- 2.16 Approve Amendment No. 2 to the Agreement with the California High Speed Rail Authority to extend the expiration date from September 30, 2017 until June 30, 2018 and to make corresponding changes to the deliverable dates. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New and Amended) resulting in no physical changes to the environment. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated September 12, 2017, recommending approval of the amendment to the agreement.

Action: Amendment No. 2 to the Agreement with the California High Speed Rail Authority to extend the expiration date from September 30, 2017 until June 30, 2018 and to make corresponding changes to the deliverable dates was approved. (11-0.)

- 2.17 As recommended by the Rules and Open Government Committee on September 13, 2017:**

- (a) Approve the Boys & Girls Club grant announcement event scheduled on September 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. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Diep)**

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

Action: The Boys & Girls Club grant announcement event scheduled on September 21, 2017 was approved, and donations from various individuals, businesses or community groups to support the event were approved and accepted. (11-0.)

**2.18 As recommended by the Rules and Open Government Committee on September 13, 2017:**

- (a) Approve the Fall Festival scheduled on September 28, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Peralez)**

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

Action: Dropped.

**2.19 As recommended by the Rules and Open Government Committee on September 13, 2017:**

- (a) Approve the 5th Annual July 4th Family Fun Festival and Firework Show scheduled on Wednesday, July 4, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Khamis)**

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

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Raul Peralez and carried unanimously, the 5th Annual July 4th Family Fun Festival and Firework Show scheduled on Wednesday, July 4, 2018 was approved, and donations from various individuals, businesses or community groups to support the event were approved and accepted. (11-0.)

**2.20 As recommended by the Rules and Open Government Committee on September 13, 2017:**

- (a) Retroactively approve the Shred-A-Thon and E-Waste Collection Day held on Saturday, September 16, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Jones)**

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

**2.20 (Cont'd.)**

Action: The Shred-A-Thon and E-Waste Collection Day held on Saturday, September 16, 2017 was retroactively approved, and donations from various individuals, businesses or community groups to support the event were retroactively approved and accepted. (11-0.)

**2.21 As recommended by the Rules and Open Government Committee on September 13, 2017:**

(a) **Retroactively approve the Mexican Flag Raising held on September 15, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**

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

**CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco/Peralez/Jimenez/Arenas/Rocha)**

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

Action: The Mexican Flag Raising held on September 15, 2017 was retroactively approved, and donations from various individuals, businesses or community groups to support the event were retroactively approved and accepted. (11-0.)

**2.22 As recommended by the Rules and Open Government Committee on September 13, 2017, approve a grant for \$5,000 to Cambrian School District to support the student health and wellness programs at all six schools in the Cambrian district. To be paid by Council District 9 funds. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Rocha)**

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

Action: A grant for \$5,000 to Cambrian School District to support the student health and wellness programs at all six schools in the Cambrian district was approved. (11-0.)

**2.23 As recommended by the Rules and Open Government Committee on September 13, 2017:**

(a) **Adopt a resolution condemning President Donald Trump's rescission of the Deferred Action for Childhood Arrivals Program (DACA).**

(b) **Direct the City Attorney's Office to support the State of California in any and all legal actions against the Trump administration for its abrupt termination of the DACA program.**

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

## 2.23 (Cont'd.)

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

Public Comments: Ray Perez voiced support for the recommendation.

Action: Resolution No. 78362 entitled: "A Resolution of the Council of the City of San Jose Condemning President Donald Trump's Rescission of the Deferred Action for Childhood Arrivals Program" was adopted, and the City Attorney's Office was directed to support the State of California in any and all legal actions against the Trump administration for its abrupt termination of the DACA program. (11-0.)

### END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas reported that the Building Division and Development Services were recognized at the Annual Conference of the International Code Council (ICC).

### 3.3 Adopt a resolution authorizing the Director of Finance to select and purchase City property and liability insurance policies for the period October 1, 2017 to October 1, 2018, at a total cost not to exceed \$1,850,000, including a 12.6% contingency for additional property or assets scheduled, with the following insurance carriers:

- (a) American Home Assurance Company for Property & Casualty Insurance, including Boiler & Machinery.
- (b) Old Republic Aerospace, Phoenix Aviation Managers, for Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (Primary and Excess) and Police Aircraft Hull & Liability including War Risks & Extended Perils.
- (c) The Travelers Indemnity Company of CT for Automobile Liability, or other insurance carriers that the City is currently in negotiations with, (Airport fleet vehicles including Shuttle Buses, Regional Wastewater Facility fleet vehicles, and Airport Shuttle Bus physical damage).
- (d) QBE Specialty Insurance Company for Secondary Employment Law Enforcement Professional Liability.
- (e) National Union Fire Insurance Company of Pittsburg, PA for Life/Accidental Death and Dismemberment Policy for the Police Air Support Unit.
- (f) Berkley Regional Insurance Company for Government Fidelity/Crime Coverage.

### 3.3 (Cont'd.)

**(g) Hudson Insurance Company, for Fiduciary Liability Coverage for the VEBA Health Savings Trust.**

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

Documents Filed: (1) Memorandum from Director of Finance Julia Cooper, dated August 28, 2017, recommending adoption of a resolution. (2) Supplemental Memorandum from the Treatment Plant Advisory Commission, dated September 15, 2017, transmitting the recommendation of the Commission.

Council Member Johnny Khamis indicated he would abstain from the vote.

Director of Finance Julie Cooper and Risk Manager Stephanie Williams presented on the Citywide insurance renewals and answered questions from the Council.

Action: Upon motion by Council Member Sylvia Arenas, seconded by Council Member Raul Peralez and carried unanimously, Resolution No. 78363 entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Finance to Select and Purchase Property and Liability Insurance Policies for the Period October 1, 2017 to October 1, 2018 at a Cost Not to Exceed \$1,850,000, Including a 12.6% Contingency for Additional Property or Assets Scheduled" was adopted. (10-0-0-1. Abstain: Khamis.)

### 3.4 Adopt a resolution to:

- (a) Accept the Chief Investment Officer (CIO) Compensation study results;**
- (b) Amend the City of San José Pay Plan effective November 1, 2017, to create a salary range for the classification of Assistant Director & Chief Investment Officer with a new pay range of salary range of \$220,000 \$295,000 annually;**
- (c) Approve and include standard Executive Package for the Senior Staff of the City of San José.**

**CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Retirement Services)**

Documents Filed: (1) Memorandum from Director of Retirement Services Roberto L. Peña, dated September 8, 2017, recommending adoption of a resolution; (2) Supplemental Memorandum from Director of Retirement Services Roberto L. Peña, dated September 11, 2017, providing clarification.

Motion: Council Member Don Rocha moved the staff recommendation. Council Member Chappie Jones seconded the motion.

Federated City Employees' Retirement System Board of Administration Chair Matt Loesch, Police & Fire Retirement Board of Administration Chair Nick Muyo, and Police & Fire Retirement Board of Administration Vice Chair Vincent Sunzeri responded to questions from the City Council.

### 3.4 (Cont'd.)

Council Member Dev Davis requested an amendment to the motion to accept staff recommendations and direct the Boards to consider performance based compensation.

City Attorney Rick Doyle noted that the retirement boards have the authority to reach compensation deals arrangements

Council Member Don Rocha indicated he was unable to support the amendment to the motion.

Action: Upon a call for the question, the motion carries, Resolution No. 78348, entitled, "A Resolution of the Council of the City of San Jose Amending the City of San Jose Pay Plan" was adopted. (10-1-0. Noes: Rocha.)

### 3.5 As recommended by the Rules and Open Government Committee on September 13, 2017:

- (a) That staff be directed to analyze the administrative and budget implications of implementing the Opportunity to Work rules within the City organization and return to City Council with the results of their analysis and an implementation plan for Council consideration.
- (b) That the City Attorney be directed to provide an explanation of why the Opportunity to Work ordinance does not apply to the City of San José, along with an explanation whether it applies to other public agencies within San José.

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

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated September 14, 2017, transmitting the recommendation of the Rules and Open Government Committee; (2) Joint Supplemental Memorandum from City Attorney Richard Doyle and City Manager Norberto Dueñas, dated September 15, 2017, providing additional information.

Motion: Council Member Don Rocha made a motion to approve the recommendation. Council Member Sergio Jimenez seconded the motion.

Public Comments: Laverne Washington, President of AFSCME/CEO, Kevin Fish, Robyn Zamora, President of AFSCME/MEF, and David Urhausen, South Bay Labor Council, spoke in support of the recommendation.

Mayor Sam Liccardo clarified that the recommendation is to approve part (a), and part (b) was direction to the City Attorney's Office from the Rules and Open Government Committee.

Council Member Don Rocha agreed with the Mayor's clarification to the motion, noting that the memorandum indicates staff will be directed to bring forward the issue to Closed Session and discuss with the City Council prior to labor negotiations in 2018.

### 3.5 (Cont'd.)

Council discussion ensued. City Attorney Rick Doyle and Director of Employee Relations Jennifer Schembri responded to questions from the City Council.

Public Comments: Ruth Silver Taube, Alexander Community Center and Wage Theft Coalition, and Jeffrey Buchanan, Working Partnerships USA, voiced support for the recommendation.

City Manager Norberto Dueñas, Director of Employee Relations Jennifer Schembri, and Assistant City Manager Dave Sykes responded to questions from the City Council.

Director of Finance Julia Cooper responded to questions from the City Council.

Action: Upon a call for the question, the motion carries to direct staff to analyze the administrative and budget implications of implementing the Opportunity to Work rules within the City organization and return to City Council with the results of their analysis and an implementation plan for Council consideration, and to direct staff to bring forward the issue to Closed Session and discuss with the City Council prior to labor negotiations in 2018. (9-2. Noes: Davis, Khamis.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 **As recommended by the Community and Economic Development Committee on August 28, 2017, accept the Audit of Residential High-Rises: Considerations for a City with a Growing Number of Tall Buildings. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (City Auditor)**

Documents Filed: (1) Office of the City Auditor Report to the City Council, dated August 2017, on the Audit of Residential High-Rises; (2) Supplemental Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated September 6, 2017, updating the response to the audit.

City Auditor Sharon Erickson, Building Official Chu Chang, and Interim Director of Planning, Building and Code Enforcement Rosalynn Hughey presented on the Audit of Residential High Rises.

Public Comments:

- (1) Shawn Cartwright expressed frustration with high rise developers and deals received by them.
- (2) Hanif Ismail voiced concerns with building issues and posited that residential input should be sought to improve building quality.

Building Official Chu Chang and Assistant City Manager Dave Sykes responded to questions from the City Council.

#### 4.1 (Cont'd.)

Motion: Council Member Raul Peralez made a motion to accept the Audit of Residential High Rises. Council Member Khamis seconded the motion.

Director of Parks, Recreation and Neighborhood Services and City Auditor Sharon Erickson responded to questions from Council Member Sergio Jimenez on the collection of parkland fees.

Action: On a call for the question, the motion carried unanimously to accept the Audit of Residential High Rises: Considerations for a City with a Growing Number of Tall Buildings. (8-0-3. Absent: Carrasco, Diep, Rocha.)

- 4.2 (a) **Accept the status report regarding potential changes to the Affordable Housing Impact Fee and Inclusionary Housing Programs.**
- (b) **Adopt a resolution that amends Resolution No. 77218 as previously amended by Resolution No. 708010 (collectively, “Housing Impact Fee Resolution”) to:**
- (1) **Revise the definition of “dwelling unit” to clarify the distinguishing characteristics of a unit subject to the Affordable Housing Impact Fee; and**
  - (2) **Allow developers of qualifying projects with Affordable Rental Apartments to apply for a different method of calculating their required Affordable Housing Impact Fee.**
- (c) **Direct the City Attorney and Housing Department to return with a new ordinance imposing an inclusionary housing obligation on for sale projects with three (3) to nineteen (19) homes.**

**CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand, dated September 5, 2017, recommending acceptance of the report, adopting a resolution, and providing direction to the City Attorney and Housing Department; (2) Joint Memorandum from Council Member Chappie Jones and Council Member Johnny Khamis, dated September 19, 2017, recommending acceptance of the staff recommendation; (3) One (1) letter from the public.

Action: Dropped per Orders of the Day.

- 4.3 (a) **Accept the Administration’s plan to use \$487,500 in fees, fines, and donations collected by the City to procure consulting services to survey structures that are potentially eligible for historic designation in the City and hire staffing with historic preservation experience to serve as the Historic Preservation Officer and manage the survey; and**



#### 4.3 (Cont'd.)

**(b) Authorize adding 1.0 limit dated Principal Planner position, to the Planning, Building and Code Enforcement Department, through June 30, 2019.**

**CEQA: Not a Project, File No. PP17 010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Planning, Building and Code Enforcement)**

Documents Filed: Joint Memorandum from Interim Director of Planning, Building and Code Enforcement Rosalynn Hughey and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 6, 2017, recommending acceptance of the administration's plan and authorizing adding a position.

Interim Director of Planning, Building and Code Enforcement Rosalynn Hughey introduced the item and responded to questions from Mayor Sam Liccardo.

Public Comments: Executive Director of the Preservation Action Council voiced satisfaction that the City is moving forward to update historic survey.

Interim Director of Planning, Building and Code Enforcement Rosalynn Hughey responded to questions from Council Member Johnny Khamis on the process moving forward.

Motion: Council Member Johnny Khamis made a motion to accept the staff recommendation. Council Member Sergio Jimenez seconded the motion.

Interim Director of Planning, Building and Code Enforcement Rosalynn Hughey answered questions from the City Council.

Action: On a call for the question, the motion carried unanimously to accept the Administration's plan to use \$487,500 in fees, fines, and donations collected by the City to procure consulting services to survey structures that are potentially eligible for historic designation in the City and hire staffing with historic preservation experience to serve as the Historic Preservation Officer and manage the survey; and authorize adding 1.0 limit dated Principal Planner position, to the Planning, Building and Code Enforcement Department, through June 30, 2019. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

**6.1 Approve the following City of San José priorities and locally preferred alternatives for the BART Phase II project, as guidance to the City's VTA Board members in determining the final project description, completion of environmental clearance, and initiation of final design:**

- (a) Support the West Station Option for the Downtown Station location.**
- (b) Support the North Station Option for the Diridon San José Central Station location.**
- (c) Support continued efforts by VTA, with the collaboration and support of BART, to determine a way to enable the Single Bore Tunnel method to be used in construction of the subway tunnel under Downtown San Jose to partially mitigate the significant construction impacts associated with Twin Bore, cut and cover construction methods.**
- (d) Emphasize the need for VTA to continue detailed levels of coordination of the City of San José on station access planning, integration with surrounding urban areas, and final station design to ensure that the stations and station areas appropriately represent San José.**
- (e) Establish as a priority the effective integration of the BART project, station location and portal entrances into Diridon San Jose Central Station planning and area development.**
- (f) Emphasize the importance for VTA to develop an extensive Construction Outreach and Management Program.**

**CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. Council Districts 3, 4 & 6. (Transportation/Economic Development)**

Documents Filed: (1) Joint Memorandum from Director of Transportation Jim Ortbal and Deputy City Manager/Director of Economic Development Kim Walesh, dated September 7, 2017, recommending priorities and alternatives for the BART Phase II project; (2) Joint Memorandum from Mayor Sam Liccardo, Council Member Raul Peralez, Council Member Lan Diep, Council Member Dev Davis, and Council Member Johnny Khamis, dated September 15, 2017, recommending acceptance of the staff recommendation with additional direction; (3) Memorandum from Vice Mayor Carrasco, dated September 14, 2017, recommending acceptance of the staff recommendation with additional direction; (4) Letter from Grocery Outlet, dated September 12, 2017, in support of the West Option; (5) Two (2) letters from the public; (6) Letter from SPUR, dated September 19, 2017, providing input on the recommendation; (7) Letter from Sharks Sports & Entertainment, LLC, dated September 18, 2017.

Director of Transportation Jim Ortbal introduced the team working on the project and presented on the BART Phase II Project.

## 6.1 (Cont'd.)

### Public Comments:

- (1) Roland Lebrun noted neither choice was a good one and suggested visiting London to see how their project was implemented.
- (2) Charlie Faas expressed a need for San Jose State University to have safe travel methods between transportation stations and the university campus.
- (3) As owner and operator of the Grocery Outlet store, Darren Johst urged the Council to adopt the west option as the east option would force the closure of his business.
- (4) Ray Perez voiced support for BART and encouraged extending light rail to 24-hours a day.
- (5) Teresa Alvarado spoke in support of the west option.
- (6) Scott Knies, San Jose Downtown Association, expressed support for the recommendation and was grateful for discussion of a single-bore option.

VTA Phase II Project Engineer Christian Davey discussed the single-bore option and, joined by Director of Transportation Jim Ortbal, VTA Chief of Engineering Carolyn Ganot, Fire Chief Curtis Jacobson, responded to questions from Mayor Sam Liccardo.

Council Member Raul Peralez cautioned the need to minimize impact to downtown, and asked questions of Director of Transportation Jim Ortbal and VTA Chief of Engineering Carolyn Gonat.

Motion: Council Member Raul Peralez made a motion to approve the staff recommendation, the memorandum authored by Vice Mayor Carrasco and the joint memorandum signed by Council Member Raul Peralez. Council Member Dev Davis seconded the motion.

Council discussion ensued with responses to questions from Director of Transportation Jim Ortbal and VTA Chief of Engineering Carolyn Gonat. Council Member Arenas urged the project team to ensure outreach to affected businesses is completed.

Action: Upon a call for the question, it carried unanimously, and (1) the following City of San José priorities and locally preferred alternatives for the BART Phase II project were approved, as guidance to the City's VTA Board members in determining the final project description, completion of environmental clearance, and initiation of final design: (a) Support the West Station Option for the Downtown Station location; (b) Support the North Station Option for the Diridon San José Central Station location; (c) Support continued efforts by VTA, with the collaboration and support of BART, to determine a way to enable the Single Bore Tunnel method to be used in construction of the subway tunnel under Downtown San Jose to partially mitigate the significant construction impacts associated with Twin Bore, cut and cover construction methods; (d) Emphasize the need for VTA to continue detailed levels of coordination of the City of San José on station access planning, integration with surrounding urban areas, and final station design to ensure that the stations and station areas appropriately represent San José; (e) Establish as a priority the effective integration of the BART project, station location and portal entrances into Diridon San Jose

## 6.1 (Cont'd.)

Central Station planning and area development; and (f) Emphasize the importance for VTA to develop an extensive Construction Outreach and Management Program; (2) the recommendations from the Memorandum submitted by Mayor Sam Liccardo, and Council Members Raul Peralez, Lan Diep, Dev Davis, and Johnny Khamis were approved: Accept staff recommendations for City priorities and locally preferred alternatives including strong support for the single bore tunneling method for the BART Phase II Project with additional direction to request the following of the VTA Board: 1. Request that VTA and the City work with San Jose State University (SJSU) to consider project elements and requests that include, but are not limited to: street signage and wayfinding, interim transit programs for impacted riders during construction, and a plan for pedestrian safety with respect to increased truck traffic due to construction; 2. Consider a station entrance at the corner of 3rd and Santa Clara Street for the Downtown Station - as identified and described in the staff report- under the west station location and single bore tunneling method; 3. Request that VTA in coordination with City staff present their Construction Outreach and Management Plan (COMP) to the City Council for review and adoption; 4. Further request that City staff report back to Council in early 2018 with an update on: a. Interagency discussions related to future planning of Diridon San Jose Central Station; b. VTA and the City's discussions with BART on the locally preferred alternatives. This should happen as soon as information is available; c. A strategy on the City's preparation for future construction coordination; d. The BART Station Security Plan with City staff review and input prior to any VTA action on an agreement between VTA and BART; and the Memorandum submitted by Vice Mayor Carrasco was approved (3) Support the recommendations in the staff memo on item 6.1 in addition to mandate that VTA develop a robust outreach plan with our local business community, residents and stakeholders in multiple languages and work with the respective Council offices to address concerns. (10-0-1. Absent: Rocha.)

## PUBLIC SAFETY

### 8.1 **Accept the final report of the one-year Safe Communities Multi Family Housing Pilot Program in the Hoffman/Via Monte area. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memo that involve no approvals of any City action. Council District 10. (Police)**

Documents Filed: (1) Memorandum from Police Chief Edgardo Garcia, dated August 28, 2017, recommending acceptance of the report; (2) Memorandum from Council Member Johnny Khamis, dated September 18, 2017, recommending acceptance of the staff recommendation with additional direction.

Police Chief Edgardo Garcia introduced the final report of the one-year Safe Communities Multi Family Housing Pilot Program in the Hoffman/Via Monte area and offered the presentation. Kona Shen from My90 presented the results of the survey.

## 8.1 (Cont'd.)

### Public Comments:

- (1) Students involved with Youth at Safe Communities, Christina, Carlos, and Anahi spoke in support of the program.
- (2) Shawn Cartwright opined on the involvement of landlords in the project.
- (3) Ray Perez offered congratulations to the Police Department for doing a good job.
- (4) Mark Trout spoke off topic.
- (5) Police Captain Johnson Fong read into the record a letter from Violet Martinez, a resident of Hoffman Court.

Motion: Council Member Johnny Khamis made a motion to accept the report and the memorandum authored by Council Member Johnny Khamis with part 1 deferred to the budget process, and part 2 to return with Council discussion in December 2017. Vice Mayor Magdalena Carrasco seconded the motion.

Council discussion ensued.

Action: On a call for the question, the motion carries unanimously to accept the report and approve recommendations (3) – (6) from the memorandum authored by Council Member Johnny Khamis: 3. Direct the City Manager to have Code Enforcement continue to engage with property owners through warning letters and hearings to create an environment where property owners are encouraged to interact with their tenants about neighborhood problems; 4. Since Hoffman-Via Monte continues to be a gang hot spot, as recognized by the Mayor's Gang Prevention Task Force, direct the City Manager to have PRNS explore the possibility of having annual Viva Parks events at Chris Hotts Park so neighbors can grow to know each other better, becoming more confident and empowered to tackle the challenges going on in the neighborhood; 5. Request that the City Manager have the Housing Department keep a high priority on the neighborhood gaining its own meeting space within the upcoming low-income development on the two City-owned lots at Gallup and Mesa; and 6. Request that the City Manager have the SJPD explore extending the pilot with My90 or initiate a Request for Proposal (RFP) for the functionality My90 provided in confidentially communicating with residents about meeting opportunities and engaging with residents about neighborhood problems. (10-0-1. Absent: Rocha.)

## **PUBLIC HEARINGS**

### **10.1 Public Hearings on Consent Calendar**

No Public Hearings on Consent Calendar

**10.2 Accept staff analysis of a proposed General Plan amendment to create overlay designations for mobilehome parks with residential designations with a recommendation of no action to amend the General Plan. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Planning, Building and Code Enforcement/Housing)**

Action: Deferred to 10/3/17 per Administration.

**OPEN FORUM**

- (1) Shawn Cartwright voiced concerns about disabled access in the City Council Chambers.
- (2) Cheryl Lubow and Seigi Tadokoro voiced opposition to the proposed changes to the apartment rent ordinance.
- (3) Mark Trout presented various comments.
- (4) Danielle Pirslin asked the City Council to consider adding parking to a recently approved project on Hamilton Avenue by the Planning Commission, advised against passing new fees, and suggested landlord licensing.

**ADJOURNMENT**

Mayor Sam Liccardo adjourned the Council Session at 6:39 p.m. in the memory of Ann Woo, who dedicated her life to bringing the art of Chinese dance to local communities and most recently served as cofounder and Executive Director of the Chinese Performing Artists of America Center.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

SG/9-19-17 MIN

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