

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 22, 2017

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

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, 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 9:35 a.m. to a Closed Session in Room W133; (A) re: Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957; Department or Agency: Airport; Title: Airport Director. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(4) with respect to anticipated litigation in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(e)(5) with respect to anticipated litigation (Claim Filed): (1) in re: Claim of Rob and Renee Souza; City Department: Office of Emergency Services; (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Avila; Amount of Money or Other Relief Sought: Administrative Appeal; (2) City of San José v. City of Santa Clara; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-02303; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (3) City of Santa Clara v. City of San José, et al.; Names Of Partie(s) Involved: City of Santa Clara, City of San José, City of San José City Council, Does I through X;

CLOSED SESSION (Cont'd.)

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; (4) Preservation of Benefit Plan Retirees Association, et al v. City of San José, et al.; Names Of Partie(s) Involved: Preservation of Benefit Plan Retirees Association, Joseph Bass, David Boggini, Lawrence Jay Castellano, Richard Coco, Leslye Corsiglia, Harry Freitas, Michael Guisti, Linda Horwedel (the Beneficiary of Deceased City Retiree Joseph Horwedel), William Hughes, Danny Jordan, Evet Loewen, David Maas, Barry Ng, Anita Phagan, George Rios, Gary Schoennauer, Ken Tanase, Wayne Tanda, Nina Tobin, Randal Turner, Steven Turner, Robert Wilson, City of San José, Board of the Administration of the Federated City Employees' Retirement System; Norberto Duenas, in his Official Capacity as the City Manager of the City of San José, and Does 1-50; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No. 17CV312610; Amount of Money or Other Relief Sought: Petition for Writ of Mandate; (5) San José Retired Employees' Association, et al. v. City, et al.; Names Of Partie(s) Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Clara, Sixth District Court of Appeal; Case No.: 1-12-CV-23360; H040979; H042074; Amount of Money or Other Relief Sought: Verified Petition for Writ of Mandate and Declaratory Relief; (D) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: 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 259-48-059), 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, 529-28-043, 259-28-044) West San Carlos Street (261-37-030) No Address (261-37-028); Negotiating Parties: Nanci Klein for the City of San José and Jay Bechtel for Google; Under Negotiation: The direction will concern price and terms of payment. Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values. (C) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours,

CLOSED SESSION (Cont'd.)

Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

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

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

Absent: Councilmembers - All present.

INVOCATION

Pastor Tony Williams, Maranatha Christian Center, provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to founders of FunMath4Kids. (Nguyen)**
Mayor Sam Liccardo and Councilmember Tam Nguyen offered a commendation to Monjish Bhattacharya and Maya Nayak, founders of FunMath4Kids, who have enriched the lives of hundreds of students in grades K-8 with their unique math tutoring program.
- 1.2 Presentation of a commendation to Elisa Marina Alvarado. (Carrasco)**
Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco provided a commendation to Elisa Marina Alvarado for her leadership and support to the betterment of San José's arts community and the quality of life for our citizens.
- 1.3 Presentation of a commendation to the Leland Robotics FIRST Team 604 (Khamis)**
Mayor Sam Liccardo and Councilmember Johnny Khamis provided a commendation to the Leland Robotics FIRST Team 604 members and mentors for their achievements at the annual FIRST Championships in Houston, Texas.

CONSENT CALENDAR

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

- 2.1 Approval of City Council Minutes.**
- 2.2 Final Adoption of Ordinances:**
 - (a) ORD. NO. 29976 – An ordinance of the City of San José amending Title 20 of the San José Municipal Code to revise land use provisions for temporary and incidental shelter of homeless people, including amending Sections 20.80.1600, 20.80.1610 and 20.80.1620, and adding Sections 20.80.1630, 20.80.1640 and 20.80.1650 to Part 17, Chapter 20.80; adding definitions of “Assembly Use”, “Incidental Shelter”, and “Places of Assembly”; creating standards for incidental shelter of homeless individuals and families; allowing incidental shelter as an incidental permitted use to an existing legal assembly use where the shelter is provided inside existing buildings that are constructed and operating in compliance with the San José Municipal Code. CEQA: Initial Study/Negative Declaration for the Temporary and Incidental Homeless Shelter Municipal Code Amendment. (Planning, Building and Code Enforcement)**
PP17-015 – Citywide

Documents Filed: Proof of Publication of the Title of Ordinance No. 29976 executed on August 11, 2017 by the City Clerk.

Action: Ordinance No. 29976 was adopted. (11-0.)

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.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards

None provided.

2.7 Actions Related to the Amendment to the Agreement with Price Waterhouse Coopers (PwC) for Internet of Things Strategy

(a) **Adopt a resolution authorizing the City Manager or designee to negotiate and execute the First Amendment to the Master Consultant Agreement with Price Waterhouse Coopers for digital inclusion and broadband strategy consulting services to provide additional consulting services related to the Internet of Things strategy and increase the City's compensation in the amount of \$200,000, funded in full by a Knight Foundation Grant, for a total contract amount not to exceed \$515,000.**

(b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**

(1) **Increase the City Manager's Office Non-Personal/Equipment appropriation in the amount of \$200,000; and**

(2) **Increase the estimate for Other Revenue by \$200,000.**

CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. (City Manager)

Documents Filed: Joint memorandum from Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated August 4, 2017, recommending adoption of a resolution and adoption of an appropriation ordinance and funding sources resolution amendment.

Action: Resolution No. 78313, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Negotiate and Execute a First Amendment to the Master Consultant Agreement with Price Waterhouse Coopers Public Sector LLP For Digital Inclusion and Broadband Strategy Consulting Services, to Amend the Scope of Services and Increase the Compensation to an Amount not to Exceed \$515,000"; Resolution No. 78320, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the

2.7 (Cont'd.)

Fiscal Year 2017-2018 to Adjust Revenues in the General Fund”; and Ordinance No. 29980, entitled “An Ordinance of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the General Fund for the City manager’s Office Non-Personal/Equipment Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

- 2.8 Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City of San José and United Neighborhoods of Santa Clara County (UNSCC) to provide UNSCC a grant of \$595,000 to administer and disburse reimbursements to homeowners under the CALMS/Metcalf Area Homeowner Reimbursement program, utilizing funds associated with the 2001 Cooperative Agreement with Calpine Metcalf Energy. CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. Council District 2. (City Manager)**

Action: Dropped.

- 2.9 Adopt a resolution authorizing the City Manager or his designee to execute a Fourth Amendment to the Sublease for the use of real property for the Spartan Keyes Neighborhood Action Center, between the City of San José and Roem Development Corporation, allowing for continued use of 2,256 square feet of commercial space for community gatherings as well as office space for staff retroactive to July 1, 2017. CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. Council District 3. (Economic Development)**

Documents Filed: City Council Action Request from Deputy City Manager/Director of Economic Development Kim Walesh dated August 22, 2017, recommending adoption of a resolution.

Action: Resolution No. 78314, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Execute a Fourth Amendment to the Sublease for the Use Of Real Property for the Spartan Keyes Neighborhood Action Center, Between the City of San José and Roem Development Corporation”, was adopted. (11-0.)

- 2.10 Adopt a resolution authorizing the City Manager or his designee to execute all documents needed to transfer 4,643 total square feet of land to the State of California to support the I-280/I-880/Stevens Creek Boulevard interchange improvement projects. CEQA: Environmental Impact Report for the Improvements at SR-17/I-280/I-880 Interchange and I-880/Stevens Creek Boulevard Interchange Project that was adopted by City of San Jose, Resolution No. 76398. Council District 6. (Economic Development)**

Documents Filed: City Council Action Request from Economic Development Assistant Director, Nanci Klein dated August 22, 2017, recommending adoption of a resolution.

2.10 (Cont'd.)

Action: Resolution No. 78315, entitled: “A Resolution of the Council of the City of San José Declaring Certain City-Owned Property Located Adjacent to State Highway as Surplus to the Needs of the City and Authorizing the City manager or His Designee to Execute all Documents Needed to Transfer 4,643 Total Square Feet of Land to the State of California to Support the I-280/I-880/Stevens Creek Boulevard Interchange Improvement Projects”, was adopted. (11-0.)

2.11 Recommendation:

(a) Adopt a resolution to:

(1) Amend the City of San José Pay Plan effective August 27, 2017, to change the salary range for the following classification:

(a) Park Ranger FT/PT (2423/2424) with a salary range of \$63,793.60- \$77,771.20 annually;

(2) Amend the City of San José Pay Plan effective August 27, 2017, to create the following classification:

(a) Senior Park Ranger (2426) with a salary range of \$70,220.80- \$85,571.20 annually; and

(3) Amend the City of San José Pay Plan effective August 27, 2017, to retitle and change the salary range for the following classification:

(a) Supervising Park Ranger (2425) (formerly Senior Park Ranger) with a salary range of \$77,230.40- \$94,099.20 annually.

(b) Approve the addition of 1.0 Supervising Park Ranger and 4.0 Senior Park Ranger and the elimination of 5.0 Park Ranger and 2.0 Park Ranger PT.

CEQA: Not a project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources/Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: (1) Joint memorandum from Deputy City Manager Julia Edmonds-Mares, Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated August 7, 2017, recommending adoption of a resolution and approval of additional staff. (2) Email correspondence from Doris Livezey, received August 13, 2017, stressing the importance of park rangers.

Action: Resolution No. 78316, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications”, was adopted. (11-0.)

2.12 As recommended by the Rules and Open Government Committee on August 16, 2017:

(a) Approve the Cambrian Schools Fun Run scheduled for Sunday, October 15, 2017 as a City Council sponsored Special Event.

(b) Approve and accept donations from various individuals, businesses or community groups to support these events.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Rocha)
[Rules Committee referral 8/16/17 – Item G.1.a.]

2.12 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 18, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Cambrian Schools Fun Run scheduled for Sunday, October 15, 2017 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.)

2.13 As recommended by the Rules and Open Government Committee on August 16, 2017:

- (a) Retroactively approve the Evergreen Music, Art & Wine Stroll held on August 4, 2017 as a City Council sponsored Special Event.**
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support these events.**

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 18, 2017, transmitting the recommendations of the Rules and Open Government Committee.

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

2.14 As recommended by the Rules and Open Government Committee on August 16, 2017:

- (a) Retroactively approve the Viva Parks-Welch Park held on August 3, 2017 as a City Council sponsored Special Event.**
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support these events.**

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 18, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Viva Parks-Welch Park held on August 3, 2017 as a City Council Sponsored Special Event was retroactively approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was retroactively approved. (11-0.)

2.15 As recommended by the Rules and Open Government Committee on August 16, 2017:

- (a) Retroactively approve the Appreciation Reception for the Vietnamese American Summer Program at the Vietnamese American Community Center scheduled for Saturday, August 11, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**

2.15 (Cont'd.)

- (b) **Approve the following District 7 events as City Council sponsored Special Events and approve the expenditure of funds:**
- (1) **Flood Recovery Townhall Meeting on August 23, 2017 at the Franklin McKinley School District;**
 - (2) **Mid-Autumn Celebration on September 30, 2017 at Yerba Buena High School;**
 - (3) **Ice Cream Social on September 23, 2017 at Woodbridge Mobilehome HOA;**
 - (4) **Celebration of National Hispanic Heritage Month on October 14, 2017 at Seven Trees Library;**
 - (5) **One Year Anniversary Celebration of Vietnamese American Community Center on October 15, 2017 at the Vietnamese American Community Center.**
- (c) **Approve and accept donations from various individuals, businesses, or community groups to support the events listed in paragraphs 1-2.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 3, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: (a) Retroactive approval of the Appreciation Reception for the Vietnamese American Summer Program at the Vietnamese American Community Center scheduled for Saturday, August 11, 2017 as a City Council Sponsored Special Event, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was retroactively approved. (b) District 7 events as follows were approved as City Council sponsored Special Events: (1) Flood Recovery Townhall Meeting on August 23, 2017 at the Franklin McKinley School District; (2) Mid-Autumn Celebration on September 30, 2017 at Yerba Buena High School; (3) Ice Cream Social on September 23, 2017 at Woodbridge Mobilehome HOA; (4) Celebration of National Hispanic Heritage Month on October 14, 2017 at Seven Trees Library; and (5) One Year Anniversary Celebration of Vietnamese American Community Center on October 15, 2017 at the Vietnamese American Community Center; and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support these events, were approved. (11-0.)

2.16 As recommended by the Rules and Open Government Committee on August 16, 2017, approve a \$3,000 grant for Cambrian School District to help equip their music classrooms with instruments and music supplies to support student music education programs. CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (Rocha)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 18, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: A \$3,000 grant for Cambrian School District to help equip their music classrooms with instruments and music supplies to support student music education programs was approved. (11-0.)

STRATEGIC SUPPORT SERVICES

3.3 As recommended by the Rules and Open Government Committee meeting on June 21, 2017, provide the following updates regarding the City's Tow Services Agreement:

- (a) Update on staff's discussion with tow contractors on how the current towing services agreement is working.**
- (b) Update on the financial model of the contract and areas of concern that may be affecting the tow companies. Examples might include, but are not limited to:**
 - (i) The cost of the towing, storage, and disposal of vehicles such as RVs, motorhomes, trailers, or homemade vehicles that are abandoned, inoperable, and of no value.**
 - (ii) The Contract Compensation Fee contractors are required to pay the City of San José for the towing of an abandoned vehicle, regardless of the cost to dispose of the vehicle.**

CEQA: Not a Project, File No. PP10-066, Agreements & Contracts. (Rocha)

Action: Deferred to September 26, 2017 per Administration.

3.4 Recommendation:

- (a) Discuss moving Open Forum on the City Council Agenda, in both afternoon and evening meetings, to the beginning of the Council Meeting before the Consent Calendar.**
- (b) If the action in subsection (a) is approved, adopt a resolution amending Rule 2 of the Council Rules of Conduct (superseding Resolution No's. 78063 and 78145) to move Open Forum on the City Council Agenda, in both afternoon and evening meetings, to the beginning of the Council Meeting before the Consent Calendar.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 18, 2017, recommending discussion of changes to City Council Agenda Order.

Public Comments: Scott Largent offered comments.

Motion: No action taken.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Adopt a resolution:

- (a) Approving the Willow Glen Community Benefit and Improvement District Annual Report for Fiscal Year 2017-2018 as filed or modified by Council;**
- (b) Confirming the individual assessments as proposed, or modified by Council; and**
- (c) Directing the Director of Public Works to deliver the assessment role to the County for collection with the property taxes.**

CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. Council District 6. (Public Works)

4.1 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works, Barry Ng, dated July 31, 2017, recommending acceptance of a report and adoption of a resolution.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78317, entitled: “A Resolution of the Council of the City of San José Approving the Willow Glen Community Benefit And Improvement District Annual Report For Fiscal Year 2017-2018 As Filed, Or Modified by the City Council; Confirming the Individual Assessments as Proposed or Modified by the City Council, Including the Assessment On City Owned Property Of Approximately \$10,349; Directing that the City Assessment Payment be Made; and Directing the Director of Public Works to Deliver the Assessment Roll to the County of Santa Clara For Collection With The Property Taxes”, was adopted. (11-0.)

4.2 **As recommended by the Rules and Open Government Committee on August 16, 2017, adopt a position of support for SB 35 (Wiener) if certain amendments are included in the final bill and direct staff to engage with the Author to introduce a clean-up bill in 2018 so that the City’s Legislative Representatives can advocate the City’s position if amended. CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (Housing/Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 18, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: A position of support was adopted for SB 35 (Wiener) if certain amendments are included in the final bill and direct staff to engage with the Author to introduce a clean-up bill in 2018 so that the City’s Legislative Representatives can advocate the City’s position if amended. (11-0.)

NEIGHBORHOOD SERVICES

5.1 **Recommendation:**

- (a) **Accept the staff report on the Neighborhoods Commission retreat and staff recommendations regarding the structure of the Neighborhoods Commission as follows:**
 - (1) **Maintain the current scope of the Commission;**
 - (2) **Maintain the 10-district caucus method for nominations in the Neighborhoods Commission appointment process;**
 - (3) **Reduce the size of the Neighborhoods Commission from 20 members to 11, with one seat per district and one city-wide seat; and**
 - (4) **Maintain the current staffing levels in support of the Commission’s work; and**
- (b) **If the staff recommendations are approved, approve an ordinance amending Sections 2.08.3410 and 2.08.3440 of Title 2 of the San José Municipal Code to implement these recommendations (Attachment A to the memorandum to Council).**

5.1 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Councilmember Donald Rocha, Councilmember Raul Peralez and Councilmember Dev Davis, dated August 17, 2017, recommending acceptance of the staff report with modifications, and with direction to the City Manager. (2) Joint memorandum from Councilmember Chappie Jones and Councilmember Sergio Jimenez, dated August 18, 2017, recommending acceptance of the staff report with modifications. (3) Memorandum from Deputy City Manager Julia Edmonds-Mares, dated August 11, 2017, recommending acceptance of the staff report. (4) Email correspondence from Delbert Ng, received on August 15, 2017, expressing opposition to the recommendations. (5) Letter from Nichole Edraos, Chair, San José Neighborhoods Commission, dated August 11, 2017, requesting a one-year stay of the suggested changes.

Public Comments: Offering comments, recommendations and personal observations, were: Ed Rast, Nicole Edraos, Jim Carter, Bruce R. Sullivan, Nick Labosky, Mimi M. Hernandez, and Jonathan Fleming.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Peralez, and carried unanimously, the memorandum co-authored by Councilmembers Rocha, Peralez, Davis and Mayor Sam Liccardo, dated August 17, 2017, was approved, accepting the staff recommendation, with the exception of (a)(3) Reduce the size of the Neighborhoods Commission from 20 members to 11, with one seat per district and one city-wide seat; and (a)(4) Maintain the current staffing levels in support of the Commission's work, and directing the City Manager to ensure that Commission recommendations are included in staff memos to Council with a brief summary of discussions heard, and create new procedures to more efficiently support the work of the Commission. This should be done without increasing current staffing levels, and in partnership with the Neighborhoods Commission Bylaws ad hoc group, and including the provision in the memorandum from Councilmembers Jones and Jimenez, dated August 18, 2017, to direct staff to return to the Neighborhood Services and Education Committee in June 2018 with an update on the Neighborhoods Commission. (11-0.)

- 5.2
- (a) **Report on bids and award of contract for the 7620-Arcadia Softball Facility Project to the low bidder, Goodland Landscape Construction, Inc., for the base bid and Bid Alternate No. 1 in the amount of \$16,791,161, and approval of a five percent contingency in the amount \$840,000.**
 - (b) **Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Parks and Recreation Bond Projects Fund:**
 - (1) **Increase the Beginning Fund Balance by \$748,000; and**
 - (2) **Increase the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department by \$748,000.**
 - (c) **Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes:**
 - (1) **Decrease the Beginning Fund Balance by \$65,100;**

5.2 (c) (Cont'd.)

- (2) **Decrease the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$65,100;**
 - (3) **Increase the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department by \$1,300,000; and**
 - (4) **Decrease the Infrastructure Backlog Reserve by \$1,300,000.**
- (d) Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:**
 - (1) **Decrease the Beginning Fund Balance \$33,600;**
 - (2) **Decrease the Arcadia Softball Facility Maintenance Yard appropriation to the Parks, Recreation, and Neighborhood Services Department by \$33,600;**
 - (3) **Increase the Arcadia Softball Facility Maintenance Yard appropriation to the Parks, Recreation, and Neighborhood Services Department by \$129,000;**
 - (4) **Decrease the Park Yards Future Projects Reserve by \$129,000.**
- (e) Adopt the following 2017-2018 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:**
 - (1) **Establish the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$144,000; and**
 - (2) **Decrease the Future PDO/PIO Projects Reserve appropriation by \$144,000.**

CEQA: Addendum to the Evergreen East Hills Vision Strategy Environmental Impact Report and Supplemental Environmental Impact Report (Resolution No. 74742), File No. PP14-088. Council District 8. (Parks, Recreation and Neighborhood Services/Public Works/City Manager)

Action: Deferred to September 12, 2017 per Administration.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Recommendation:

- (a) **Approve the Cooperative Agreement and Fourth Amendment to the Franchises Agreement with Allied Waste Services of North America, LLC to resolve a dispute about the living wage requirements in the Commercial Solid Waste and Recyclables Collection Franchises Agreement for sorters and housekeepers at the Newby Island Recyclery.**
- (b) **Adopt a resolution setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Cooperative Agreement and Fourth Amendment to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organic processing services.**

CEQA: Not a Project, File No. PP10-067(a), Non-Specific Funding Mechanism, Increase or Adjustment to Fees, Rates & Fares. (Environmental Services/Public Works/City Attorney)

(Deferred from 6/27/17 – Item 7.1(a), 8/8/17 – Item 7.1 and 8/15/17 – Item 7.1)

Documents Filed: (1) Joint memorandum from Councilmember Raul Peralez, Councilmember Donald Rocha and Councilmember Sergio Jimenez, dated August 11, 2017, recommending deferral of the item to August 22, 2017. (2) Joint memorandum from Councilmember Raul Peralez, Councilmember Donald Rocha and Councilmember Sergio Jimenez, dated August 18, 2017, recommending approval of staff recommendations with additional items. (3) Joint supplemental memorandum from Director, Environmental Services, Kerrie Romanow and Director of Public Works Barry Ng, dated August 4, 2017, clarifying changes to the Solid Waste Services Rates. (4) Letter from Nayantara Mehta, National Employment Law Project, dated June 27, 2017, expressing concerns. (5) Letter from Nikki Fortunato Bas, Partnership for Working Families, dated June 27, 2017, expressing opposition. (6) Letter from Evan Boyd, Allied Waste, requesting approval.

Public Comment: Offering comments, recommendations and personal observations, were: Emily Finn, David Urhausen, Jeffrey Buchanon, and Doug Block.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78318, entitled: “A Resolution of the Council of the City of San José Fixing and Determining Maximum Commercial Solid Waste Services Rates in the City of San José Pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC DBA Republic Services Including the Total Costs for Organics Processing Services, Effective October 1, 2017”, was adopted, including the memorandum co-authored by Councilmembers Rocha, Peralez, and Jimenez, dated August 11, 2017, approving staff recommendations, and directing staff to return to the City Council with the following items for Council consideration: (a) An analysis of whether there are any employees who do work under the residential waste contracts who are not covered by living or prevailing wage standards in those contracts. (b) If there are employees under the residential waste contracts that are not covered by wage standards or

7.1 (Cont'd.)

by labor peace provisions, staff should bring forward options for inserting living wage standards into those contracts that would cover employees who are currently not covered, and receive Council direction as to whether staff should seek to insert those standards into the residential contracts as part of the current effort to negotiate contract extensions. (c) An opportunity for the Council to direct staff to require that residential waste contractors submit Employee and Labor Relations Plans as part of the contract extension negotiations to ensure continued labor peace on the City's garbage contracts. (d) A proposal to amend the City's Living Wage Policy to establish that for all garbage contracts, whether residential or commercial, employees who expend any time on work for the City would be covered under the living wage policy. The current covered employee standard, which holds that all employees who expend at least half of their time on work the City are covered, would continue to apply for all contracts other than garbage contracts. (3) When staff comes back to Council with the work directed in Recommendation 2, they should also provide an overview of all City garbage contracts and the labor standards included in those contracts for the purpose of educating the Council on this issue and framing a discussion about how we can pursue a consistent approach to labor standards across multiple contracts, *additionally, including a study of other City's contracts and whether they have a living wage provision and what the living wage rates are.*

LAND USE

10.1 Public Hearing on Consent Calendar.

- (a) **Adopt a resolution approving the renaming of an approximately 1,000 foot private street of Logic Drive to All Programmable Drive, located to the west of and intersecting Union Avenue (Xilinx Inc., Matt Jorgensen, Owner). Director of Planning, Building and Code Enforcement recommends approval. CEQA: Exempt per CEQA Guidelines Section 15301 for Existing Facilities. ST17-003 – Council District 9**

Documents Filed: City Council Action Request from Rosalynn Hughey, Interim Director, Planning, Building and Code Enforcement, dated August 22, 2017, recommending adoption of a resolution.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78319, entitled: "A Resolution of the Council of the City of San José Approving the Renaming of Logic Drive, an Approximately 1,000 Foot Private Street West of Union Avenue, to All Programmable Drive", was adopted. (11-0.)

END OF CONSENT CALENDAR

- 10.2 Consideration of an ordinance of the City of San José rezoning certain real property located on a 0.32-gross acre site, located at 1236 Minnesota Avenue, from the R-1-8 Single-Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District to allow the creation of a flag lot for the development of a new single-family residence behind an existing single-family residence (Cyrus and Rebecca Colburn, Owners). CEQA: Exempt per CEQA Guidelines Section 15303(a), for new Construction or Conversion of Small Structures. Planning Commission recommends denial (3-2-2; Bit-Badal and Vora opposed; Abelite and Allen absent). (Planning, Building and Code Enforcement)
PDC15-048 – Council District 6
(Deferred from 8/8/17 – Item 10.8)**

Documents Filed: (1) Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated August 11, 2017, transmitting the Planning Commission Staff Report. (3) Proof of Publication of Notice of Public Hearing, executed on June 2, 2017, submitted by the City Clerk.

Action: Dropped per Administration.

10.3 Recommendation:

- (a) Adopt a resolution certifying the Museum Place Mixed-Use Project Supplemental Environmental Impact Report and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act, as amended.**
- (b) Adopt a resolution:**
 - (1) Approving the Disposition and Development Agreement with Insight King Wah LLC for the development of a mixed-use office, hotel, residential, Tech Museum expansion, and garage project;**
 - (2) Authorizing the City Manager to negotiate and execute all documents related to the transfer of the City property to Insight King Wah LLC for the mixed-use project; and**
 - (3) Authorizing the City Manager to negotiate and execute a Lease Amendment with the Tech Museum of Innovation for the construction and operation of the expansion space for the Tech Museum.**
- (c) Adopt a resolution approving Vesting Tentative Map No. T16-024, subject to conditions, to consolidate 25 parcels into three parcels, and to subdivide one parcel into a mixed-use project consisting of approximately 306 residential condominium units and 244 commercial condominium units and the remaining two parcels will consist of the existing Tech Museum and Civic Auditorium, on an approximately 2.5 gross acre site, located on the northwest corner of West San Carlos Street and South Market Street (180 Park Avenue) (City of San José, Owner).**

10.3 (Cont'd.)

- (d) Adopt a resolution approving Site Development Permit and Special Use Permit No. SP17-031, subject to conditions, to allow the demolition of Parkside Hall and construction of a 24 story mixed-use development with approximately 19,000 square feet of ground floor retail, approximately 214,000 square feet of office, approximately 60,000 square feet of museum space, 184 hotel rooms, and 306 residential units, and the removal of 20 ordinance-sized trees.

**CEQA: Supplemental Environmental Impact Report for the Museum Place Mixed-Use Project to the “The Downtown Strategy 2000 Final Program Environmental Impact Report,” adopted by City Council Resolution No. 72767 on June 21, 2005; “Envision San José 2040 General Plan Final Program Environmental Impact Report,” adopted by City Council Resolution No. 76041 on November 1, 2011; and “Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report,” adopted by City Council Resolution No. 77617 on December 15, 2015, and the November 1, 2016 Addendum thereto. Planning Commission recommends approval (5-0-2; Ballard & Vora absent). (Planning, Building and Code Enforcement)
SP17-031 & T16-024 – Council District 3
(Deferred from 8/8/17 – Item 10.9)**

Documents Filed: (1) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated August 18, 2017, recommending adoption of a resolution. (2) Letter from John DiNapoli, President, JP DiNapoli, dated August 29, 2017, offering support to the project.

The public hearing on item 10.3 was opened and public testimony taken. The item was then continued to the August 29, 2017 City Council Meeting for the staff presentation, continued public hearing, council deliberation and vote.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Lee Strieb, James Kerkstra, and Don Ryman offered comments.

Mayor Sam Liccardo closed the public hearing.

Action: The Council continued the item to August 29, 2017.

OPEN FORUM

1. Dan Pan, Bill and Lubow spoke regarding CPI for housing.
2. Scott Largent spoke offered comments on policy change.

ADJOURNMENT

The Meeting of the City Council was adjourned at 6:04 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

TT/rmk/8-22-17 MIN