

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, APRIL 17, 2018**

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

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

Absent: Councilmembers - All present.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) Ruiz, Fernando, individually and on behalf of a Class of Persons Similarly Situated, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Jacquez v. City, et al.; Names Of Partie(s) Involved: Gloria Jacquez, individually; R.J., a minor, by and through his guardian ad litem Monica Mendoza, individually and as a successor-in-interest to Decedent Richard Jacquez; City of San José, Jacob Morris, and Does 1-50; Court: United States District Court, Northern District of California; Case No. 16-CV-05330-NC; 16-CV-05343-NC; Amount of Money or Other Relief Sought: Damages according to proof; (2) County Sanitation District 2-3, et al. v. City, et al.; Names Of Partie(s) Involved: County Sanitation District 2-3, West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, City of Milpitas, City of San José, City of Santa Clara, Does 1 through 50, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 18-CV-325480; Amount of Money or Other Relief Sought: Damages according to proof; (3) Le, Van Thi v. Tam Nguyen, Thomas Nguyen, et al.; Names Of Partie(s) Involved: Van Thi Le, Tam Nguyen, an individual; Thomas Nguyen, an individual; and Does 1-100, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 18-CV-323598; Amount of Money or Other Relief Sought: Damages according to proof; (B) 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

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

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

Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San José and San José Police 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 10:20 a.m.; Council 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**

Arizona State Representative Athena Salman 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 Johnny Khamis, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with the addition of Item 2.4, "Mayor and Council Excused Absence Request"; Item 2.12, "Approval of 'Pilgrimage to La Paz' Co-Sponsored by District 2 and District 8 as a City Council Sponsored Event to Expend City Funds and Accept Donations of Materials and Services for the Event"; and Item 2.13, "Actions Related to Councilmember Khamis' Travel to the Kingdom of Saudi Arabia".

## CLOSED SESSION REPORT

None provided.

## CEREMONIAL ITEMS

- 1.1 Mayor Liccardo and Director, Environmental Services, Kerrie Romanow offered a proclamation recognizing April 22, 2018 as Earth Day in the City of San José. (Mayor)
- 1.2 Mayor Liccardo and Councilmember Sylvia Arenas offered a proclamation recognizing April 2018 as Stress Awareness Month in the City of San José.  
(Arenas)
- 1.3 Mayor Liccardo and Councilmember Lan Diep presented commendation to Black Cat Comics, for their service to not only comic book fans, but also for organizing several events that help support their community. (Diep)

## CONSENT CALENDAR

Upon motion by Councilmember Tam Nguyen, 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 18-519 Approval of City Council Minutes.

Regular City Council Meeting Minutes of October 31, 2017.

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

Documents Filed: Regular City Council Meeting Minutes of October 31, 2017.

Action: The City Council Minutes were approved. (11-0.)

### 2.2 18-436 Final Adoption of Ordinances.

None provided.

## **2.3 18-513 Approval of Council Committee Minutes.**

- (a) Transportation and Environment Committee Minutes of February 5, 2018. (Carrasco)
- (b) Transportation and Environment Committee Minutes of March 5, 2018. (Carrasco)
- (c) Neighborhood Services and Education Committee Minutes of February 8, 2018. (Rocha)
- (d) Rules and Open Government Committee Minutes of November 15, 2017. (Mayor)

Documents Filed: (1) Transportation and Environment Committee Minutes of February 5, 2018; (2) Transportation and Environment Committee Minutes of March 5, 2018; (3) Neighborhood Services and Education Committee Minutes of February 8, 2018; (4) Rules and Open Government Committee Minutes of November 15, 2017.

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

## **2.4 18-558 Mayor and Council Excused Absence Requests.**

Request for an excused absence for Mayor Sam Liccardo from the Regular meeting of the Rules and Open Government Committee on April 11, 2018 due to authorized City business.

Documents Filed: Memorandum from Mayor Sam Liccardo, dated April 9, 2018, requesting an excused absence due to authorized City business.

Mayor Sam Liccardo discussed highlights of his recent meeting with the “Big 11 Mayors” in Sacramento to meet with legislators and the Governor to advocate for funding legislation that would help address the homelessness crisis facing the State of California.

Action: The absence was approved. (11-0.)

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

Councilmember Raul Perez offered a presentation on the Okayama Sister Cities trip he took with fellow Councilmembers; and Councilmembers Arenas, Diep, Khamis and Jimenez also offered highlights and useful insights gained from the trip.

Documents Filed: Memorandum from Councilmember Raul Perez, dated April 17, 2018, providing a travel report for his trip to Okayama.

Public Comments: Blair Beekman offered comments regarding the Sister Cities program.

Councilmember Raul Perez offered a presentation on the San José – Okayama Sister Cities trip, and Councilmember Johnny Khamis, Councilmember Sylvia Arenas Councilmember Lan Diep and Councilmember Sergio Jimenez provided additional comments.

Action: The travel reports were accepted. (11-0.)

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

Councilmember Johnny Khamis indicated availability of a report on the latest actuarial values on our pension and post-retirement benefit plans, which the Retirement Board provides annually.

Action: The report was accepted. (10-0-1. Absent: Peralez.)

- 2.7 18-488** As recommended by the Rules and Open Government Committee on March 28, 2018:
- (a) Retroactively approve the Boggini Park Community Clean-Up scheduled on February 10, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

Documents Filed: Memorandum from Councilmember Sylvia Arenas dated March 15, 2018, requesting retroactive approval for a district-sponsored event.

Action: The Boggini Park Community Clean-Up 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.)

- 2.8 18-500** Ratify and approve the City Manager's execution of an Agreement with the Knight Foundation for receipt of \$200,000 in grant funds to develop an Internet of Things (IoT) strategy to inform the City's decisions about where to invest, how to finance infrastructure, how to effectively govern assets, and how to partner effectively with the private sector for the period of July 1, 2017 to July 1, 2018.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

Documents Filed: (1) City Council Action Request from Chief of Staff, Office of the City Manager, Lee Wilcox, dated April 17, 2018, recommending execution of an agreement. (2) Statement and Declaration of conflict of interest form from Councilmember Lan Diep, dated April 16, 2018, declaring a conflict due to serving on the Knight advisory board and sponsored travel.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, the agreement with the Knight Foundation was ratified and approved. (8-0-1-2. Absent: Peralez; Abstain: Diep, Jimenez.)

- 2.9 18-498** Report on bids and award of contract for the 8568 - Gumdrop and Partridge Drive Main Replacement (Rebid) project to the low bidder, Pacific Underground Construction, Inc. in the amount of \$1,589,499 and approval of a contingency in the amount of \$158,949.

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated March 26, 2018, recommending award of a contract.

Action: The Report on bids and award of contract for the 8568 - Gumdrop and Partridge Drive Main Replacement (Rebid) project to the low bidder was accepted. (11-0.)

- 2.10 18-480** Report on bids and award of contract for the 8643 - Cast Iron Replacement FY 17-18 Package III project to the low bidder, Casey Construction, Inc., in the amount of \$1,334,280 and approve a contingency in the amount of \$133,428.  
CEQA: Statutorily Exempt, File No. PP17-031, CEQA Guidelines Section 15301, Existing Facilities, dated April 25, 2017; Expiration Date: April 20, 2022. Council Districts 2 & 10. (Public Works)

Documents Filed: Memorandum from Acting Director of Public Works, Jon Cicerelli, dated March 26, 2018, recommending award of a contract.

Action: The Report on bids and award of contract for the 8568 - Gumdrop and Partridge Drive Main Replacement (Rebid) project to the low bidder was accepted. (11-0.)

- 2.11 18-504** Adopt a resolution approving a list of pavement maintenance projects eligible for San José's 2018-2019 allocation of the Road Maintenance and Rehabilitation Account funding, which was made available by the approval of Senate Bill No. 1 (SB-1), otherwise known as the Road Repair and Accountability Act of 2017.  
CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Transportation)

Documents Filed: Memorandum from Director, Department of Transportation, Jim Ortbal, dated March 26, 2018, recommending adoption of a resolution.

Action: Resolution No. 78549, entitled: "A Resolution of the Council of the City of San José Approving a List of Pavement Maintenance Projects Eligible for San Jose's 2018-2019 Allocation of the Road Maintenance and Rehabilitation Account Funding, which was Made Available by the Approval of Senate Bill No. 1, Otherwise Known as the Road Repair and Accountability Act of 2017", was adopted. (11-0.)

- 2.12 18-555** (a) Approve the "Pilgrimage to La Paz" scheduled for April 23, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and  
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

Documents Filed: Joint memorandum from Councilmember Sergio Jimenez and Councilmember Sylvia Arenas dated April 6, 2018, requesting retroactive approval for a district-sponsored event.

Action: The Pilgrimage to La Paz" 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 18-557** (a) Authorize travel for Councilmember Johnny Khamis to the Kingdom of Saudi Arabia (KSA) May 4-9, 2018 with a business and technology delegation to encourage investment by KSA in San José and the Silicon Valley.  
(b) Excuse absences from the regular meetings of the City Council on May 8, 2018, and the Budget Study Session and Rules and Open Government Committee and Committee of the Whole Meeting on May 9, 2018.

## 2.13 (Cont'd.)

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Khamis)  
[Rules Committee referral 4/11/18 - Item A.1.a]

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated April 6, 2018, requesting authorization to travel and excused absences from meetings.

Conversation and questions followed regarding Councilmember Khamis' travel and the controversial aspects of this trip due to Saudi Arabia's human rights record.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Tam Nguyen and carried unanimously, authorization for the trip was granted. (10-0-1. Absent: Rocha.)

- 2.14 18-566** As referred to City Council, without recommendation, by the two councilmembers present at the Rules and Open Government Committee on April 11, 2018, re-affirm a sponsor position for AB 2588 (Chu).  
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Fire)

Documents Filed: Expedited City Council Action request from Acting Fire Chief Robert Sapien, Jr., dated April 5, 2018, recommending reaffirmation of a position of support for AB 2588.

Action: A reaffirmation of a position of support for AB 2588 (Chu) was accepted. (11-0.)

## STRATEGIC SUPPORT

### 3.1 Report of the City Manager, David Sykes (Verbal Report)

City Manager, David Sykes reported on a fire which happened today in District 7, noting the Fire Department responded immediately and no fatalities occurred. He noted that residents may receive updates on the City's Facebook page and Twitter feed.

- 3.3 18-496** Adopt a resolution approving the terms of a collective bargaining agreement between the City and the Municipal Employees' Federation, AFSCME Local 101 (MEF) for the term of July 1, 2018 through June 30, 2021, and authorizing the City Manager to execute an agreement with those terms. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

*Item heard jointly with Items 3.4, 3.5, 3.6, and 3.7.*

Documents Filed: (1) Joint memorandum from Director of Employee Relations, Jennifer Schembri and Budget Director Margaret McCahan, dated April 4, 2018, recommending adoption of a resolution. (2) Memorandum from Acting Director of Public Works, Jon Cicerelli, dated March 29, 2018, providing status of negotiations.

### 3.3 (Cont'd.)

City Manager Dave Sykes offered opening remarks. Director of Employee Relations, Jennifer Schembri and staff thanked the bargaining teams for their collaboration.

Public Comments: Robin Zamora, AFSCME President, and Matt Mason, AEA, offered appreciation for the City's efforts.

Mayor Sam Liccardo asked this his memorandum of April 16, 2018 be included when a motion is made.

Motion: Councilmember Raul Peralez moved approval of staffs' recommendations, including Mayor Sam Liccardo's memorandum dated April 16, 2018 as indicated in Item 3.7 "Action". Councilmember Sergio Jimenez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78550, entitled: "A Resolution of the Council of the City of San José Approving the Terms of an Agreement Between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 (MEF), with a Term of July 1, 2018 – June 30, 2021, and Authorizing the City Manager to Execute an Agreement with MEF", was adopted. (11-0.)

### 3.4 18-506

Adopt a resolution:

(a) Approving the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, IFPTE, Local 21 (AEA), Units 41/42 for the term of July 1, 2018 through June 30, 2021, and authorizing the City Manager to execute an agreement with those terms; and

(b) Approving the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, IFPTE, Local 21 (AEA), Unit 43 for the term of July 1, 2018 through June 30, 2021, and authorizing the City Manager to execute an agreement with those terms.

*Item heard jointly with Items 3.3, 3.5, 3.6, and 3.7.*

Documents Filed: Joint memorandum from Director of Employee Relations, Jennifer Schembri and Budget Director Margaret McCahan, dated April 4, 2018, recommending adoption of a resolution.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78551, entitled: "A Resolution of the Council of the City of San José Approving Agreements with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43, with Terms of July 1, 2018 – June 30, 2021, and Authorizing the City Manager to Execute Agreements", was adopted. (11-0.)

### 3.5 18-507

Adopt a resolution approving the terms of a collective bargaining agreement between the City and the Association of Maintenance Supervisory Personnel, IFPTE, Local 21 (AMSP) for the term of July 1, 2018 through June 30, 2021, and authorizing the City Manager to execute an agreement with those terms.

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

*Item heard jointly with Items 3.3, 3.4, 3.6, and 3.7.*



### 3.5 (Cont'd.)

Documents Filed: Joint memorandum from Director of Employee Relations, Jennifer Schembri and Budget Director Margaret McCahan, dated April 4, 2018, recommending adoption of a resolution.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78552, entitled: “A Resolution of the Council of the City of San José Approving an Agreement between the City of San José and the Association of Maintenance Supervisory Personnel, IFPTE, Local 21 (AMSP), with Terms of July 1, 2018 – June 30, 2021, and Authorizing the City Manager to Execute an Agreement with those Terms”, was adopted. (11-0.)

- 3.6 18-508** Adopt a resolution approving the terms of a collective bargaining agreement between the City and the City Association of Management Personnel, IFPTE, Local 21 (CAMP) for the term of July 1, 2018, through June 30, 2021, and authorizing the City Manager to execute an agreement with those terms.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)  
*Heard jointly with Items 3.3, 3.4, 3.5, and 3.7.*

***Item heard jointly with Items 3.3, 3.4, 3.5, and 3.7.***

Documents Filed: Joint memorandum from Director of Employee Relations, Jennifer Schembri and Budget Director Margaret McCahan, dated April 4, 2018, recommending adoption of a resolution.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78553, entitled: “A Resolution of the Council of the City of San José Approving an Agreement between the City of San José and the City Association of Management Personnel, IFPTE, Local 21 (CAMP), with Terms of July 1, 2018 – June 30, 2021, and Authorizing the City Manager to Execute an Agreement with those Terms”, was adopted. (11-0.)

- 3.7 18-514** (a) Adopt a resolution approving compensation and benefit changes for executive management and professional employees in Unit 99 and other unrepresented employees (Units 81/82), for Fiscal Years 2018-2019, 2019-2020, and 2020-2021.  
(b) Approve a 2.75% Crisis Intervention Training premium pay for the Chief of Police U (2227) and Assistant Police Chief U (2225), effective July 1, 2018.  
(c) Approve a 1% increase to the Crisis Intervention Training premium pay for the Chief of Police U (2227), and Assistant Police Chief U (2225), effective June 30, 2019.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

***Item heard jointly with Items 3.3, 3.4, 3.5, and 3.6.***

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated April 16, 2018, recommending adoption of a resolution. (2) Joint memorandum from Director of Employee Relations, Jennifer Schembri and Budget Director Margaret McCahan, dated April 4, 2018, recommending adoption of a resolution. (3) Memorandum from City Manager Dave Sykes, dated April 5, 2018, recommending approval of compensation and benefit changes.

### 3.7 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78554, entitled: “A Resolution of the Council of the City of San José Implementing Changes to Compensation and Benefits for Executive Management and Professional Employees (Unit 99) and Other Unrepresented Employees (Units 81/82), for Fiscal Years 2018-2019, 2019-2020, and 2020-2021 and Changes to Compensation for Police Chief and Assistant Police Chief”, was adopted, including the memorandum from Mayor Sam Liccardo, dated April 16, 2018: (A) Approving compensation for Council Appointees (City Manager, City Attorney, City Clerk, Independent Police Auditor, and City Auditor), consistent with Unit 99 “management and professional employees,” for Fiscal Year 2018-2019, 2019-2020, and 2020-2021, and amend the pay plan, if necessary; and (B) Based upon the Annual Performance Reviews for those appointees that have had a review—the City Manager, City Attorney, City Clerk, and City Auditor—authorize a 2.5% increase in merit pay for each of the appointees effective July 1, 2018. (11-0.)

- 3.8 18-497** Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Vendor Agreement with Kaiser Foundation Health Plan, Inc., for medical insurance for City employees, retirees, and their dependents, increasing the not to exceed Agreement amount from \$255,343,698 to a revised not to exceed amount of \$466,446,407 and extending the term of the Agreement from December 31, 2018 to December 31, 2020.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources, Caroline H. Krewson, dated March 26, 2018, recommending adoption of a resolution.

Action: Dropped per Administration.

- 3.9 18-469** Adopt a resolution authorizing the Director of Public Works to:  
(a) Award and execute the 8727 - FEMA - Alum Rock Falls Road Landslide Repair LOP #19 (SCSJC90) construction contract to the lowest responsive bidder, and to approve a change order reserve/contingency of twenty-five percent (25%) of the contract award, in a total amount (contract plus reserve/contingency) not to exceed \$1,462,500; and  
(b) Decide any timely bid protest(s), make the City’s final determination as to the lowest responsive bidder that is responsible, or reject all bids and rebid the project; and  
(c) Negotiate and issue any change orders up to the amount of the reserve/contingency if the Director awards and executes a construction contract for the Project.  
CEQA: Statutorily Exempt, File No. PP18-003, CEQA Guidelines Section 15269, Emergency Projects. (Public Works/Transportation)

Documents Filed: Joint memorandum from Acting Director of Public Works, Jon Cicerelli and Director, Department of Transportation, Jim Ortbal, dated March 26, 2018, recommending adoption of a resolution.

### 3.9 (Cont'd.)

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78555, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to (1) Award a Construction Contract for the 8727 FEMA – Alum Rock Falls Road Landslide Repair LOP #19 (SCSJC90) Project to the Lowest Responsive and Responsible Bidder in an Amount Not to Exceed \$1,170,000 and to Approve a Twenty-Five (25) Percent Change Order Reserve/Contingency in an Amount Not to Exceed \$292,500; (2) Decide Any Timely Bid Protest(s), Make the City’s Final Determination as to the Lowest Responsive Bidder that is Responsible, or Reject all Bids and Re-Bid the Project; and (3) Negotiate and Execute any Single and/or Multiple Change Orders Paid from the Contingency for the Project in any Amount up to the Amount of the Contingency”, was adopted. (11-0.)

- 3.10 18-470** Accept the Semi-Annual Status Report on the Citywide Capital Improvement 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. (Public Works)

Documents Filed: Memorandum from Acting Director of Public Works, Jon Cicerelli, dated March 26, 2018, recommending acceptance of a report.

Acting Director of Public Works, Jon Cicerelli and staff provided a presentation and responded to questions.

Public Comments: Blair Beekman offered comments regarding construction labor.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Chappie Jones and carried unanimously, the Semi-Annual Status Report on the Citywide Capital Improvement Program was accepted. (11-0.)

- 3.11 18-509** Review the following actuarial valuation reports:
- (a) Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2017;
  - (b) Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation (Pension) as of June 30, 2017;
  - (c) Federated City Employees’ Retirement System Actuarial Valuation (Pension) as of June 30, 2017; and
  - (d) Federated City Employees’ Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2017.
- CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Retirement Services)

Documents Filed: Memorandum from Chief Executive Officer, Office of Retirement Services, Roberto L. Peña, dated April 6, 2018, recommending acceptance of reports. (11-0.)

Chief Executive Officer, Office of Retirement Services, Roberto L. Peña introduced Chief Investment Officer Prabhu Palani, CFA and responded to questions.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Johnny Khamis and carried unanimously, the actuarial valuation reports were accepted. (11-0.)

**Sister Cities Travel Policy.**

As referred to City Council, without recommendation, by the two councilmembers present at the Rules and Open Government Committee on April 11, 2018:

Direct staff to amend the Council Travel Policy (9-5) to include the following regarding all City Council travel to Sister Cities:

(a) If the Mayor is unavailable to join a Sister City or official delegation overseas, (s)he may nominate a single member of the Council to represent the City, subject to Council approval.

(b) If public funding is to be used for that travel, more than one member of the Council may participate in such delegations only with formal Council approval. Additional Councilmembers may participate only if they identify a non-public, lawful source of funding.

(c) Councilmembers shall not use public dollars to bring additional City Council staff along as part of an international delegation.

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

[Rules Committee referral without recommendation 4/11/18 - Item G.4]

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated April 5, 2018, offering amendments to Council Travel Policy 9-5. (2) Memorandum from Councilmember Lan Diep, dated April 13, 2018, offering Policy suggestions. (3) Memorandum from Councilmember Donald Rocha, dated April 26, 2018, recommending deferral of consideration, with staff to return to Council with further analysis. (4) Memorandum from Councilmember Sylvia Arenas, dated April 16, 2018, regarding draft revisions to the Policy with direction to staff. (5) Memorandum from Councilmember Sergio Jimenez, dated April 17, 2018, recommending approval of Councilmember Donald Rocha's memorandum of April 26, 2018 with modifications. (6) Three email correspondence from the public regarding greater accountability.

Councilmember Chappie Jones offered a meeting disclosure.

Deputy City Manager/Director of Economic Development Kim Welsh responded to questions from the Council. Mayor Sam Liccardo provided extensive observations regarding Sister Cities relationships.

Public Comments: Expressing the importance of the Sister Cities program, asking for greater accountability were Ray Quigley, Blair Beekman and Happy Sakamoto. Shauna Cartwright offered support to Councilmember Rocha's memo.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Peralez and carried unanimously, it was recommended that this item be heard as the last item in this meeting. (10-0-1. Absent: Carrasco.)

Council returned to this item at 7:13 p.m. Following discussion, Council unanimously agreed to defer this item to the August 2018 Community & Economic Development Committee (CEDC) meeting to review and provide an analysis of economic development, expenditures, return on investment and scheduling conflicts, and report back to Council thereafter. (11-0.)

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.1 18-495** Conduct a Public Hearing regarding an economic development subsidy in connection with a reduction in construction taxes and parkland fees for twenty additional units in a Downtown residential high-rise at 33 N. Fifth Street in the amount of \$236,133, pursuant to California Government Code Section 53083.  
CEQA: Addendum to the Downtown Strategy 2000 Final Program Environmental Impact Report, adopted by City Council Resolution No.72767 on June 21,2005; the Envision San José 2040 General Plan Final Program Environmental Impact Report, adopted by City Council Resolution No.76041 on November 1, 2011; and the Envision San José 2040 General Plan Supplemental Environmental Impact Report, adopted by City Council Resolution No. 77617 on December 15, 2015.  
Planning File No. SP17-009. Council District 3. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated March 26, 2018, recommending conducting a public hearing.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Perez and carried unanimously, staff recommendations were accepted. (10-0-1. Absent: Carrasco.)

## **5. NEIGHBORHOOD SERVICES**

### **5.1 18-428 Park Ranger Program Annual Report.**

As recommended by the Public Safety, Finance and Strategic Support Committee on March 15, 2018, accept the 2017 Annual Report on the Park Ranger Program.  
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City actions.  
(Parks, Recreation and Neighborhood Services)  
[Public Safety, Finance and Strategic Support Committee - Item (d) 4]  
Deferred from 4/3/18 Item 5.1 to 4/17/18 per Administration.

Documents Filed: (1) Joint memorandum from Councilmember Raul Perez and Councilmember Chappie Jones, dated April 13, 2018, recommending acceptance of the report with additional considerations. (2) Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., dated March 2, 2018, recommending acceptance of the report. (3) Supplemental joint memorandum from Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., and Police Chief Edgardo Garcia, dated April 13, 2018, responding to questions raised at the March 15 2018 PSFSS Committee Meeting. (4) Joint memorandum from Acting Fire Chief Robert Sapient, Jr. and Chief of Staff, Office of the City Manager, Lee Wilcox, dated April 13, 2018, providing recommendations regarding emergency ambulance services. (5) Eleven (11) email and correspondence from members of the public regarding the Park Ranger Program in San José.

Public Comments: Eleven (11) members of the public offered comments and opinions regarding the role of park rangers and concerns regarding ranger safety.

## 5.1 (Cont'd.)

City Manager Dave Sykes and Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., provided opening comments, and San José Park Ranger staff offered a presentation.

Motion: Councilmember Raul Perez moved approval of staff recommendations, including the joint memorandum from Councilmembers Perez and Jones dated April 13, 2018. Councilmember Chappie Jones seconded the motion.

Councilmember Johnny Khamis requested a friendly amendment, including consideration that the Water District fund two additional police officers rather than two additional park rangers. Councilmembers Perez and Jones accepted the amendment to the motion.

Action: On a call for the question, the motion carried unanimously, and the 2017 Annual Report on the Park Ranger Program was accepted, including actions as outlined in the staff supplemental memorandum dated April 13, 2018 and including the joint memorandum from Councilmember Raul Perez and Councilmember Chappie Jones, dated April 13, 2018 recommending consideration that the Park Ranger Program be included under the oversight of the Independent Police Auditor (IPA). This item to return to the Public Safety, Finance and Strategic Support Committee (PSFSS) for a review of recommendations, evaluating the collection of data and to return back to Council within a 6-month timeframe. Also, including consideration that the Water District fund two additional police officers rather than two additional park rangers. (11-0.)

## PUBLIC SAFETY

### 8.1 18-534

- (a) Council by motion waive the 10-day noticing requirement for the following item, and consider the following recommendation;
  - (b) Accept the “updated” status update on Santa Clara County’s release of Request for Proposal (RFP) for Emergency Ambulance Services and potential impacts to the 911 Emergency Medical Services Provider Agreement between the City of San José and the County of Santa Clara and direct the City Manager to:
    - (1) Work with other Santa Clara County First-Responder Agencies on ways to achieve cost-recovery, including a First Responder Advanced Life Support fee (FRALS) in the short-term, and public-private model in the long-term.
    - (2) Request the Santa Clara County amend the existing RFP to require inclusive of a FRALS to achieve cost-recovery for first-responder agencies.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.  
(Fire/City Manager)

Documents Filed: Joint memorandum from Acting Fire Chief Robert Sapien, Jr. and Chief of Staff, Office of the City Manager, Lee Wilcox, dated April 13, 2018, recommending waiving the 10-day noticing requirement requested and acceptance of an updated status report.

Staff responded to Council’s questions.

Public Comments: Blair Beekman spoke off topic.

## 8.1 (Cont'd.)

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones and carried unanimously, the 10-day noticing requirement was waived, and the “updated” status update on Santa Clara County’s release of Request for Proposal (RFP) for Emergency Ambulance Services and potential impacts to the 911 Emergency Medical Services Provider Agreement between the City of San José and the County of Santa Clara with direction to the City Manager, was accepted. (11-0.)

## LAND USE

### 10.1 Land Use on Consent Calendar

- (a) **18-450 Conforming Rezoning (C17-053) for Real Property Located at 951 Saratoga Avenue.**

**Recommendation:** Consideration of an ordinance of the City of San José rezoning an approximately 0.84-gross acre site, located at the southwest corner of Saratoga Avenue and Borina Drive (951 Saratoga Avenue) from the A(PD) Planned Development Zoning District and the R-1-8 Residential Zoning District to the CP Commercial Pedestrian Zoning District (Morningstar Education Group LLC, Owner).  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report adopted by City Council Resolution No. 76041 on November 1, 2011; and the Envision San José 2040 General Plan Supplemental Environmental Impact Report adopted by City Council Resolution No. 77617 on December 15, 2015; and addenda thereto.  
C17-053 - Council District 1  
*Deferred from 4/10/18 Item 10.1(a) to 4/17/18 per Administration.*

Documents Filed: City Council Staff Report from Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated April 5, 2018 regarding File No. C17-053.

- (b) **18-449 Planned Development Rezoning (PDC15-027) for Real Property Located at 1705 Berryessa Road.**

(a) Adopt a resolution adopting the 1705 Berryessa Gas Station Project Mitigated Negative Declaration, for which an Initial Study was prepared, in accordance with the California Environmental Quality Act, as amended, and adopting a related mitigation monitoring and reporting program.  
(b) Consideration of an ordinance of the City of San José rezoning a 1.04-gross acre site, located at the northwest corner of Berryessa Road and Lundy Avenue (1705 Berryessa Road) from the A(PD) Planned Development Zoning District to the CP(PD) Commercial Neighborhood Planned Development Zoning District to facilitate a future permit for the demolition of the existing kiosk, carwash building and the construction of an approximately 3,212-square foot new convenience store, 2,490-square foot retail/deli building, and 1,086 carwash tunnel (AU Energy, LLC Nick Goyal, Owner).  
CEQA: Mitigated Negative Declaration for the 1705 Berryessa Gas Station Project. Planning Commission recommends approval (7-0-0).

## 10.1 Land Use on Consent Calendar (Cont'd.)

(Planning, Building and Code Enforcement)

PDC15-027 - Council District 4

*Deferred from 4/10/18 Item 10.1(b) to 4/17/18 per Administration.*

Documents Filed: Memorandum from Planning Commission Secretary Rosalynn Hughey, dated April 5, 2018, transmitting the Planning Commission recommendation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis, and carried unanimously, Resolution No. 78556, entitled: “A Resolution of the Council of the City of San José Adopting the 1705 Berryessa Road Gas Station Project Mitigated Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted; and Ordinance No. 30085, entitled: “A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 0.84-Gross Acre Situated at the Southwest Corner of Saratoga Avenue and Borina Drive (951 Saratoga Avenue) from the A(PD) Planned Development and R-1-8 Single Family Residence Zoning Districts to the CP Commercial Pedestrian Zoning District”, and Ordinance No. 30086, entitled: “A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 1.04 Gross Acres Situated on the Northwest Corner of Berryessa Road and Lundy Avenue (1705 Berryessa Road) from the A(PD) Planned Development Zoning District to the CP(PD) Planned Development Zoning District”, were passed for publication. (11-0.)

### END OF CONSENT CALENDAR

## OPEN FORUM

1. Andrew Morrow suggested a firearm-free day for police officers based on a lottery process.
2. Blair Beekman discouraged stun guns for use by park rangers and offered comments regarding Councilmember Johnny Khamis’ trip to Saudia Arabia.

## ADJOURNMENT

The Council of the City of San José adjourned at 7:33 p.m. in memory of of Finis Haruko Uyeda. Finis passed away peacefully on February 28, 2018 at the age of 84. Finis and her husband Lester moved to San José, California in 1963, which they called home for the next 55 years. Finis became a mother to her three children and worked in school administration at Franklin McKinley and Seven Trees Elementary until she retired. Upon retiring, Finis kept busy helping to take care of her 5 grandchildren and remained active in the community. Finis was a member of the Wesley United Methodist Church and a volunteer at the Yu-Ai Kai Senior Center. Before passing, she wanted it communicated that she loved everyone and to thank them for making her life so wonderful. She lived a selfless and caring life - A life truly worth living. Her personality was infectious and she enjoyed life to the fullest, making every day count.



## 18-575 Notice of City Engineer's Pending Decision on Final Maps.

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>	<u>Developer</u>
10415	Araujo Street	4	9/10	SFD	Approve	Rescom Devl

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Developer</u>
10460	Sharon Drive	1	6/7	SFD	Seven Hills LLC

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Developer</u>
10456	15980 Carlton Ave	9	1/6	SFD	Hencken Development Consultants

This notice is to be posted with the City Council's regular agenda for 4/17/18.

Minutes Recorded, Prepared and Respectfully Submitted by,

***DRAFT***

Toni J. Taber, CMC  
City Clerk

rmk/4-17-18/ MIN