

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, APRIL 10, 2018**

The Council of the City of San José convened in Regular Session at 9:40 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Carrasco, Davis, Jones, Nguyen, Rocha; Liccardo.

Absent: Councilmembers - Jimenez, Peralez, Diep, Arenas, Khamis. (Excused)

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:45 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Anticipated Litigation/Initiated Litigation Pursuant to Government Code Section 54956.9(d)(4): Matter(s) to be discussed: 1 (one); (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 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;

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/civiccentertv>. 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.)**

(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 10:03 a.m.; Council reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Councilmembers - Carrasco, Davis, Jones, Nguyen, Rocha; Liccardo.

Absent: Councilmembers - Jimenez, Peralez, Diep, Arenas, Khamis. (Excused)

## **INVOCATION**

Pastor Andy Wood, Echo Church, provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Donald Rocha, seconded by Councilmember Chappie Jones, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

## **CLOSED SESSION REPORT**

Authority to initiate litigation and to intervene in an action was given in one matter. The name of the action, the parties, and its substance, shall be disclosed to any person upon inquiry once the action is formally commenced. (6-0-5. Absent: Arenas, Diep, Jimenez, Khamis, Peralez.)

## **CEREMONIAL ITEMS**

- 1.1** Mayor Sam Liccardo, Councilmember Dev Davis, and Acting Fire Chief Robert Sapien, Jr., provided a proclamation recognizing the week of April 8 - 14, 2018 as "National Public Safety Telecommunicators Week" in the City of San José honoring the San José Police and Fire Public Safety Dispatchers for their vital contributions that help protect the people of our community. (Davis)

- 1.2 Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco presented a proclamation recognizing April 2018 as Sexual Assault Month in the City of San José. (Carrasco)
- 1.3 Mayor Sam Liccardo and Councilmember Tam Nguyen presented a proclamation recognizing April as “Black April Remembrance Month” in the City of San José. (Nguyen)

## CONSENT CALENDAR

Upon motion by Councilmember Dev Davis, seconded by Councilmember Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

### 2.1 18-473 Approval of City Council Minutes.

**Recommendation:** Regular Council Meeting Minutes of October 24, 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 24, 2017.

Action: The City Council Minutes were approved. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

### 2.2 18-479 Final Adoption of Ordinances.

**Recommendation:** (a) ORD. NO. 30082 - An ordinance of the City of San José rezoning certain real property of approximately 0.30 gross acre situated at the northwest corner of South Baywood Avenue and Hemlock Avenue (375 and 383 South Baywood) from the CG Commercial General Zoning District to the CP Commercial Pedestrian Zoning District. CEQA: Determination of Consistency with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), Supplemental EIR to the Envision San José 2040 General Plan EIR (Resolution No. 77571), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)  
C18-001- Council District 6

Documents Filed: Proof of Publication of the Title of Ordinance No. 30082 executed on March 30, 2018, submitted by the City Clerk.

Action: Ordinance No. 30082 was adopted. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

(b) ORD. NO. 30083 - An ordinance of the City of San José rezoning certain real property of approximately 2.3 gross acres situated on the west side of Race Street, approximately 300 feet southerly of Park Avenue (237-253 Race Street & 216-280 Grand Avenue) from the A(PD) Planned Development Zoning District to the R-M(PD) Planned Development Zoning District.

## **2.2 18-479 Final Adoption of Ordinances (Cont'd.)**

CEQA: Initial Study/Mitigated Negative Declaration and Environmental Assessment for the Race and Grand Residential Project. Planning Commission recommends approval (6-0-1, Ballard absent), (Planning, Building and Code Enforcement)  
PDC17-019-Council District 6

Documents Filed: Proof of Publication of the Title of Ordinance No. 30083 executed on March 30, 2018, submitted by the City Clerk.

Action: Ordinance No. 30083 was adopted. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

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

None provided.

## **2.4 18-455 Mayor and Council Excused Absence Requests.**

Request for an excused absence for Councilmember Sylvia Arenas from the Regular meeting of Ad Hoc Committee Meeting and the Regular meeting of the Study Session, Public Life in San Jose, on March 22, 2018 due to illness.

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

Documents Filed: Memorandum from Councilmember Sylvia Arenas, dated March 22, 2018, requesting an excused absence due to illness.

Action: The absence request was approved. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

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

None provided.

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

None provided.

## **2.7 18-474 Actions Related to Councilmember Diep's Travel to Phoenix, AZ.**

Authorize travel for Councilmember Lan Diep to Phoenix, AZ from May 5-6, 2018 to attend a media training for the minority elected officials organized by the New American Leaders. Source of Funds: The Fund for the City of New York and District 4 Funds.

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

## 2.7 (Cont'd.)

Documents Filed: Memorandum from Councilmember Lan Diep, dated March 22, 2018, requesting authorization to travel on official City business.

Action: The authorization to travel was accepted. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

## 2.8 18-478 **Neighborhoods Commission Caucus Process.**

Approve the 2018 Caucus Process recommended by the Neighborhoods Commission to select Neighborhood Commissioners in Districts 1, 3, 5, 7, and 9.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. Council Districts 1,3,5,7, and 9. (City Manager)

Documents Filed: Memorandum from Chief of Staff, Office of the City Manager, Lee Wilcox, dated March 28, 2018, recommending approval of the 2018 Caucus Process.

Action: The 2018 Caucus Process recommended by the Neighborhoods Commission to select Neighborhood Commissioners in Districts 1, 3, 5, 7, and 9 was approved. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

## 2.9 18-477 **Approval of City Hall Facility Free Use on Saturday, April 14, 2018, for Civic Leaders Academy Graduation.**

Adopt a resolution authorizing “Free Use” for events and activities held at City Hall on Saturday, April 14, 2018 for the two Citywide Civic Leaders Academies graduation.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates & Fares without changes to or expansion of services. (City Manager)

Documents Filed: City Council Action Request from Chief of Staff, Office of the City Manager, Lee Wilcox, dated April 10, 2018, recommending adoption of a resolution.

Action: Resolution No. 78545, entitled: “A Resolution of the Council of the City of San José Authorizing “Free Use” for Events and Activities Held at City Hall on Saturday, April 14, 2018 for Two Citywide Civic Leaders Academies Graduation”, was adopted. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

## 2.10 18-471 **Approval of City Hall Facility Free Use on Saturday, April 28, 2018, for Earth Ride.**

Adopt a resolution authorizing “Free Use” for events and activities held at City Hall on Saturday, April 28, 2018 for Earth Ride.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates & Fares without changes to or expansion of services. (Environmental Services)

## 2.10 (Cont'd.)

Documents Filed: City Council Action Request from Director, Environmental Services, Kerrie Romanow, dated March 28, 2018, recommending adoption of a resolution.

Action: Resolution No. 78546, entitled: “A Resolution of the Council of the City of San José Authorizing “Free Use” for Events and Activities Held at City Hall on Saturday, April 28, 2018 for Earth Ride”, was adopted. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

## 2.11 18-484      **Approval of Lake Cunningham Bike Park Grand Opening Ceremony Sponsored By Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on March 28, 2018:  
(a) Approve the Lake Cunningham Bike Park Grand Opening Ceremony scheduled on April 14, 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.

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

Documents Filed: Memorandum from Councilmember Sylvia Arenas dated March 22, 2018, requesting approval for a district-sponsored event.

Action: The Lake Cunningham Bike Park Grand Opening Ceremony 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. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

## 2.12 18-532      **Retroactive Approval of Silicon Valley Comic Con Flag Raising Sponsored By Council District 6.**

Retroactive approval of the Silicon Valley Comic Con Flag flying over City Hall from April 6-8, 2018.

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

Documents Filed: Memorandum from Councilmember Dev Davis dated April 3, 2018, retroactively requesting approval for a district-sponsored event.

Public Comments: Blair Beekman offered comments.

Action: The Silicon Valley Comic Con Flag flying over City Hall from April 6-8, 2018, was approved. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

**2.13 18-533 Approval of Agreement Related to the Voluntary Employee Beneficiary Association (VEBA).**

Approval of an Indemnity and Defense Agreement with the Board of the Federated City Employees' Retirement System and the Board of the San José Police and Fire Department Retirement Plan in connection with the transfer of funds out of the Section 115 Health Care Trusts to the Voluntary Employee Beneficiary Association (VEBA). CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)  
[Rules Committee referral 4/4/18 - Item A.1.a]

Documents Filed: Indemnity and Defense Agreement draft.

Action: An Indemnity and Defense Agreement with the Board of the Federated City Employees' Retirement System and the Board of the San José Police and Fire Department Retirement Plan was approved. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

**2.14 18-535 SB 959 (Beall) Water Corporation: Advice Letters.**

**Recommendation:** As recommended by the Rules and Open Government Committee on April 4, 2018, re-affirm a support position for SB 959 (Beall).  
CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no changes to the physical environment.  
(Environmental Services)  
[Rules Committee referral 4/4/18 - Item G.2]

Documents Filed: Expedited City Council Action Request from Director, Environmental Services, Kerrie Romanow, dated April 4, 2018, recommending reaffirmation of a position of support for SB 959.

Action: A position of support reaffirmed for SB 959 (Beall). (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

## **NEIGHBORHOOD SERVICES**

- 5.1 18-453**
- (a) Accept the report on the Request for Qualifications for comprehensive Capital Improvement Program consultant services.
  - (b) Adopt a resolution authorizing the City Manager to negotiate and execute Agreements with Verde Design (Santa Clara, CA); Callander Associates (San José, CA); Sasaki, Walker, and Associates Group (San José, CA); Moore, Iacofano, Goltsman, Inc. (San José, CA); and LPA, Inc. (San José, CA) for Capital Improvement Program consultant services for a five-year term commencing on or about May 1, 2018 and ending on or about April 30, 2023, with maximum compensation not to exceed \$3,750,000.  
CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action.  
(Parks, Recreation and Neighborhood Services)

## 5.1 (Cont'd.)

Documents Filed: Memorandum from Director of Human Resources Joe Angelo, dated March 29, 2018, recommending acceptance of a report and adoption of a resolution.

Director of Human Resources Joe Angelo and staff responded to questions.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 78548, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements with Verde Design (Santa Clara, Ca); Callander Associates (San Jose, Ca); Sasaki, Walker, And Associates Group (San Jose, Ca); Moore, Iacofano, Goltsman, Inc. (San Jose, Ca); and LPA, Inc. (San Jose, Ca) for Capital Improvement Program Consultant Services for a Five-Year Term Commencing on or about May 1, 2018 and Ending on or about April 30, 2023, with Maximum Compensation not to Exceed \$3,750,000", was adopted. (6-0-5. Absent: Jimenez, Peralez, Diep, Arenas, Khamis.)

## OPEN FORUM

- (1) Blair Beekman discussed phasing out Bigbelly trash and recycling units and the advantages of civic innovation.
- (2) Andrew Morrow offered comments on 'uranium swapping'.

## ADJOURNMENT

The Council of the City of San José adjourned at 2:10 p.m.

- Notice of City Engineer's Pending Decision on Final Maps

### 18-542 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>
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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>Developer</u>
10466	Raleigh Rd/Great Oaks Blvd. (north of Hwy 85)	2	70 lots/60 units	Pulte Group
<u>Type</u>				
Residential				



Minutes Recorded, Prepared and Respectfully Submitted by,

***DRAFT***

Toni J. Taber, CMC  
City Clerk

rmk/4-10-18/ MIN