

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, MAY 1, 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 (10:00), Davis, Diep (9:45), Jimenez (9:51), Jones (9:47), Khamis, Nguyen, Peralez, Rocha (9:42); Liccardo.

Absent Councilmembers: All present.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:47 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) In re: Claim of Matteucci; Amount of Money or Other Relief Sought: Administrative Appeal; (2) Case Name: Ward, Debra and Patricia Tapia v. City, Fire Chief William McDonald; Court: Superior Court of California, County of Santa Clara; Case No. 1-11-CV203561; Amount of Money or Other Relief Sought: Damages according to proof; (3) Mendes v. City of San José; Names Of Partie(s) Involved: Brenda Mendes, City of San José and Does 1-50, inclusive; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 17-CV-307930; 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 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

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/tv>. 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.)**

(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 10:13 a.m.; Council reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

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

Absent Councilmembers: All Present.

## **INVOCATION (District 5)**

Juan Manuel Calderón Jaimes, Consul General of Mexico in San José, California, provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Dev Davis, seconded by Councilmember Johnny Khamis, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, including the deferral of Item 2.15 to May 8, 2018.

## **CLOSED SESSION REPORT**

None provided.

## CEREMONIAL ITEMS

- 1.1 18-472** Mayor Sam Liccardo, Councilmember Dev Davis and Director, Planning, Building and Code Enforcement, Rosalynn Hughey declared the month of May as “Building Safety Month” in the City of San José. (Davis)
- 1.2 18-593** Mayor Sam Liccardo and Councilmembers Diep and Jones presented a proclamation recognizing May as Asian American and Pacific Islander Heritage Month, to recognize the achievements of San José’s Asian American and Pacific Islander community, who make up over 30% of San José’s population, and for their contributions to the City. (Diep/Jones)
- 1.3 18-625** Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco presented a commendation to Sophia Rose Ruiz-McGinty for being selected as Consul for the Day. (Carrasco)

## CONSENT CALENDAR

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Rocha.)

- 2.1 18-586 Approval of City Council Minutes.**
- (a) Special Study Session Minutes for the Elected and Appointed Officials Emergency Management Training for December 1, 2017.  
(b) Regular City Council Meeting Minutes for December 12, 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: (1) Special Study Session City Council Meeting Minutes of December 1, 2017; (2) Regular City Council Meeting Minutes dated December 12, 2017.
- Action: The City Council Minutes were approved. (10-0-1. Absent: Rocha.)
- 2.2 18-594 Final Adoption of Ordinances.**
- (a) ORD. NO. 30085 - An ordinance 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 Ave) from the A (PD) Planned Development and R-1-8 Single Family Residence Zoning Districts to the CP Commercial Pedestrian Zoning District.  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617) on December 15, 2015, and Addenda thereto, File No. C17-053.

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

Documents Filed: Proof of Publication of the Title of Ordinance No. 30085 executed on April 20, 2018, submitted by the City Clerk.

Action: Ordinance No. 30085 was adopted. (10-0-1. Absent: Rocha.)

(b) ORD. NO. 30086 - An ordinance 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. CEQA: Mitigated Negative Declaration for the 1705 Berryessa Gas Station Project, File No. PDC15-027. Planning Commission recommends approval (7-0-0).

Documents Filed: Proof of Publication of the Title of Ordinance No. 30086 executed on April 20, 2018, submitted by the City Clerk.

Action: Ordinance No. 30086 was adopted. (10-0-1. Absent: Rocha.)

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

None provided.

## **2.4 18-597 Mayor and Council Excused Absence.**

(a) Request for an excused absence for Mayor Sam Liccardo due to Authorized City Business.

(b) Request for a retroactive excused absence for Vice Mayor Magdalena Carrasco from the Public Safety, Finance and Strategic Support Committee on April 19, 2018 due to Authorized City Business.

Documents Filed: Memoranda from Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco, both dated April 18, 2018, requesting excused absences.

Action: The excused absences were accepted. (10-0-1. Absent: Rocha.)

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

None provided.

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

Councilmember Dev Davis provided highlights from the recent Federated Retirement Board Meeting.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sergio Jimenez and carried unanimously, the report was accepted. (10-0-1. Absent: Rocha.)

**2.7      18-528      Action Related to Establishment of a VEBA Advisory Committee.**

- (a) Adopt a resolution to provide for the selection and term of office of members of the Voluntary Employees Beneficiary Association Advisory Committee for the Police and Fire Voluntary Employees Beneficiary Association and the Federated Employees' Voluntary Employees Beneficiary Association.
  - (b) Approve an ordinance amending various sections of Chapter 2.08 of Title 2 to establish the provisions for the administration of the Voluntary Employees Beneficiary Association Advisory Committee.
- CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated April 19, 2018, recommending adoption of a resolution and approval of an ordinance.

Action: Resolution No. 78563, entitled: "A Resolution of the Council of the City of San José Amending Sections 2.08.080, 2.08.090, 2.08.130 and 2.08.150 of Chapter 2.08 of Title 2 of the San José Municipal Code Relating to the Establishment of the Voluntary Employees Beneficiary Association Advisory Committee", was adopted. (10-0-1. Absent: Rocha.)

**2.8      18-591      Adopt a resolution to authorize the City Manager to execute the Programmatic Agreement with the Federal Transit Administration, California State Historic Preservation Officer, and the Valley Transportation Authority for the BART Silicon Valley - Phase II Extension Project in Santa Clara County for the City of San José as a Concurring Party.**

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

Action: Deferred to May 22, 2018 per Administration.

**2.9      18-543      Actions Related to the Vacation of Setback Easements Located at 2823 Quinto Way within Tract No. 1098.**

- (a) Adopt a resolution of intention to vacate the 25-foot and 12.5-foot light and air easements located within Tract No. 1098;
  - (b) Set a Public Hearing on Tuesday, May 22, 2018, at 1:30 p.m., for consideration of the vacation; and
  - (c) Direct the City Clerk to file the vacation map and advertise said public hearing.
- CEQA: Statutorily Exempt, File No. PP18-013, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation. Council District 9. (Public Works)

Documents Filed: Memorandum from Acting Director of Public Works John Cicerelli, dated April 9, 2018, recommending adoption of a resolution.

Action: Resolution No. 78564, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate 25' and 12.5' Light and Air Easements Located Within Tract 1098", was adopted. (10-0-1. Absent: Rocha.)

- 2.10 18-544** Approve the proposed Fiscal Year 2017/18 - 2022/23 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program and of the Fiscal Year 2016-2017 Rule 20B (In-Lieu Fee) Underground Master Plan.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Public Works)

Documents Filed: Memorandum from Acting Director of Public Works John Cicerelli, dated April 9, 2018, recommending adoption of a resolution.

Public Comments: Blair Beekman offered underground utility concerns.

Action: The proposed Workplan and underground Utility Program were approved. (10-0-1. Absent: Rocha.)

- 2.11 18-561** Approve an ordinance designating as public right-of-way, 6,480 square feet of City-owned land located at the northernmost terminus of North 21st Street, north of the intersection with Santa Clara Street.  
CEQA: Categorically Exempt, File No. PP18-049, CEQA Guidelines Section 15301, Existing Facilities. Council District 3. (Public Works)

Documents Filed: City Council Action Request, dated April 19, 2018, recommending approval of an ordinance.

Action: Ordinance No. 30093, entitled: “A Ordinance of the Council of the City of San José Dedicating as Public Right-of-Way Approximately 6,483 Square Feet of City-Owned Property at the Northernmost Terminus of 21<sup>st</sup> Street”, was passed for publication. (10-0-1. Absent: Rocha.)

**2.12 18-531      Actions Related to the Annexation Area No. 1 to Convention Center Facilities District No. 2008-1.**

- (a) Accept the landowner approval forms to annex hotel property into Convention Center Facilities District No. 2008-1 as Annexation No. 1.
  - (b) Adopt a resolution:
    - (1) Approving the annexation of territory to Convention Center Facilities District No. 2008-1 and levying a special tax within Annexation No. 1; and
    - (2) Directing the City Clerk to record a notice of special tax lien.
  - (c) Adopt the following 2017-2018 Funding Sources Resolution and Appropriation Ordinance amendments in the Convention Center Facilities District Revenue Fund:
    - (1) Increase the revenue estimate for Convention Center Facilities District Special Tax by \$2,475,892; and
    - (2) Increase the Unrestricted Ending Fund Balance by \$2,475,892.
- CEQA: Determination of Consistency to the San José Downtown Strategy 2000 Final Environmental Impact Report, Resolution No. 72767, and Addenda thereto, File No. PP08-002. Council Districts 3, 4 & 7. (Public Works/Finance/City Manager)

Documents Filed: Joint memorandum from Acting Director of Public Works John Cicerelli, Director of Finance Julia H. Cooper and Budget Director Margaret McCahan, dated April 9, 2018, recommending acceptance of landowner approval forms, adoption of a resolution and adoption of an appropriation ordinance and funding sources resolution amendments.

## 2.12 (Cont'd.)

Action: Resolution No. 78565, entitled: “A Resolution of the Council of the City of San José Approving Annexation of Territory to Convention Center Facilities District No. 2008-1 and Levying a Special Tax in Such Territory (Annexation No. 1)””; Resolution No. 78566, 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 Fiscal Year 2017-2018 to Adjust Revenues in the Convention Center Facility District Revenue Fund”; and Ordinance No. 30094, entitled “An Ordinance of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Convention Center Facility District Revenue Fund for the Convention Center Facilities District Special Tax; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Rocha.)

- 2.13 18-599** As recommended by the Rules and Open and Government Committee on April 18, 2018:
- (a) Retroactively approve "Conversations with Dev" scheduled on April 11, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and
  - (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.

Documents Filed: Memorandum from Councilmember Dev Davis, dated April 6, 2018, recommending retroactive approval of a City Council sponsored Special Event.

Action: The City Council sponsored Special Event was retroactively approved. (10-0-1. Absent: Rocha.)

- 2.14 18-600** As recommended by the Rules and Open Government Committee on April 18, 2018:
- (a) Approve the SVCTBA Tech Smart City Conference scheduled on May 11, 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 Johnny Khamis, dated April 12, 2018, recommending retroactive approval of a City Council sponsored Special Event.

Action: The City Council sponsored Special Event was retroactively approved. (10-0-1. Absent: Rocha.)

- 2.15 18-520** Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement with History San José, from July 1, 2018 to June 30, 2038, for the operations and maintenance of the City-owned historical facilities within History Park at Kelley Park and the Peralta Adobe - Fallon House Historic Site, as well as management of the City's historic collections for an annual amount not to exceed \$784,000, subject to annual appropriations as approved by City Council.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
Council Districts 3 and 7. (Economic Development)

Action: Deferred to May 8, 2018 Per Administration.

- 2.16 18-630** As recommended by the Rules and Open Government Committee on April 25, 2018:
- (a) Approve the “Mamapalooza! A Mother’s Day Affair at Evergreen Village Square” scheduled on May 12, 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 Dev Davis, dated April 17, 2018, recommending approval of a City Council sponsored Special Event.

Action: The City Council sponsored Special Event was approved. (10-0-1. Absent: Rocha.)

## STRATEGIC SUPPORT

- 3.3 18-580** (a) Adopt a resolution authorizing the City Manager to negotiate and execute the following:
- (1) Amendment to the Master Non-Exclusive Installation and Property Use Agreement between the City and AT&T DBA New Cingular Wireless PCS, LLC, to amend the terms of the Form Site License Agreement; and
  - (2) Funding and Reimbursement Agreement between the City and AT&T DBA New Cingular Wireless PCS, LLC, to cover the Permitting and Process Improvement costs related to the Permitting of Small Cells.
- (b) Adopt the following 2017-2018 Funding Sources Resolution and Appropriation Ordinance amendments in the General Fund:
- (1) Decrease the revenue estimate for Other Revenue by \$750,000; and
  - (2) Decrease the appropriation to the City Manager’s Office for Broadband and Digital Inclusion Strategy by \$750,000.
- 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) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco, Councilmember Sylvia Arenas and Councilmember Dev Davis, dated April 27, 2018, recommending acceptance of staff’s recommendation, with additional direction. (2) Memorandum by Councilmember Dev Davis, dated April 30, 2018, recommending acceptance of staff’s recommendations, the joint memorandum dated April 27, 2018, and with additional direction for the City Manager. (3) Statement and Declaration of Conflict of Interest Form from Councilmember Johnny Khamis, dated May 1, 2018, declaring a financial conflict of interest. (4) Joint memorandum from Deputy City Manager, Civic Innovation and Digital Strategy, Kip Harkness, Deputy City Manager/Director of Economic Development Kim Walesh and Budget Director Margaret McCahan, dated April 19, 2018, recommending adoption of a resolution and adoption of an appropriation ordinance and funding sources resolution amendments. (5) Letter from George Karayannis, Managing Director of Panasonic CityNOW, dated April 27, 2018, offering support.

Councilmember Johnny Khamis recused himself from this item due to a financial conflict of interest.

Deputy City Manager, Civic Innovation and Digital Strategy, Kip Harkness provided an introduction, and Director of Civic Innovation, Dolan Beckel offered a presentation.



### 3.3 (Cont'd.)

Public Comments: Offering comments, suggestions and concerns, were: Jason Hall, CWA Local 9423; Warren Gannon, Senior Citizens Commission; Celia Alvarez and Angelica Flores, Viviendas Quetzal; Luz Mendoza, Vecinos Activos Dialogos; Perry Mistry, Blair Beekman, and Aurelia Sanchez.

Motion: Councilmember Dev Davis moved her memorandum, dated April 30, 2018 and the joint memorandum from she and Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmember Sylvia Arenas dated April 27, 2018, including additional direction as indicated below in “Action”. Councilmember Sylvia Arenas seconded the motion.

Councilmember Chappie Jones requested a friendly amendment, asking that the portion of the motion regarding rating two processes for a future project be withdrawn. The amendment was respectfully declined.

Extensive Council discussion continued, and staff responded to questions.

Councilmember Donald Rocha indicated that he could not support the motion on the floor, indicating he did not believe this to be a core service.

Action: On a call for the question, the motion carried, staffs’ recommendations, including the joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco, and Councilmembers Arenas and Davis, dated April 27, 2018, and the memorandum from Councilmember Dev Davis, dated April 30, 2018, including the conversion of any of the sodium lights that are getting a small cell to be converted to LED, was approved. Additionally, through the June budget process, the City Manager was directed to create a “Digital Inclusion Fund” within the General Fund that will be used to support efforts to close the digital divide for the residents of San Jose, with a focus on low-income youth as well as other vulnerable populations, such as the elderly and disabled. Resolution No. 78567, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Following: (1) Amendment to the Master Non-Exclusive Installation and Property Use Agreement between the City and AT&T DBA New Cingular Wireless PCS, LLC, to Amend the Terms of the Form Site License Agreement and (2) Funding and Reimbursement Agreement between the City and AT&T DBA New Cingular Wireless PCS, LLC, to Cover the Permitting and Processing Improvements Costs Relating to the Permitting of Small Cells”; Resolution No. 78568, 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 Fiscal Year 2017-2018 to Adjust Revenues in the General Fund”; and Ordinance No. 30095, entitled: “A Ordinance of the Council of the City of San José Amending Resolution No. 78229 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2017-2018 to Adjust Revenues in the General Fund”, were adopted. (9-1-0-1. Noes: Rocha; Abstain: Khamis.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 18-529** Approve an ordinance of the City of San José amending Chapter 17.38 of Title 17 of the San José Municipal Code to establish mandatory registration within the vacant building monitoring program for Downtown buildings and vacant storefronts that have been vacant for 30 days.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. Council District 3. (Economic Development/Planning, Building and Code Enforcement)  
Ordinance No. 30096 passed for publication, including the joint memorandum from Councilmembers Sergio Jimenez, Chappie Jones, Johnny Khamis and Vice Mayor Magdalena Carrasco, dated April 27, 2018.

Documents Filed: (1) Joint memorandum from Councilmember Raul Peralez, Vice Mayor Magdalena Carrasco, Councilmember Chappie Jones, and Councilmember Johnny Khamis, dated April 27, 2018, recommending staff's recommendation. (2) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Rosalynn Hughey, Director, Planning, Building and Code Enforcement, dated April 16, 2018, recommending approval of an ordinance.

Motion: Councilmember Raul Peralez moved the memorandum he cosigned with Vice Mayor Magdalena Carrasco and Councilmembers Jones and Khamis, dated April 27, 2018. The motion was seconded by Councilmember Johnny Khamis.

Action: On a call for the question, the motion carried unanimously, and the memorandum from Councilmember Raul Peralez, Vice Mayor Magdalena Carrasco, Councilmember Chappie Jones, and Councilmember Johnny Khamis, dated April 27, 2018, was accepted, and Ordinance No. 30096, entitled: "A Ordinance of the Council of the City of San José Amending Chapter 17.38 of Title 17 of the San José Municipal Code to Establish Mandatory Registration of Vacant or Abandoned Buildings and Storefronts in Downtown", was passed for publication. (10-0-1. Absent: Rocha.)

- 4.2 18-584** Approve the Statement of the City Council's intent to maintain the General Plan and zoning designation of the property located at 435 S. Market Street, the current site of the Convention Center South Hall Site, planned expansion of the San Jose Convention Center, as Public Quasi Public (PQP). CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. Council District 3. (Economic Development)  
**Item was dropped per Administration.**

- 4.3 18-592** (a) Hold a Public Hearing and take public comment on the proposed Substantial Amendment to the Fiscal Year 2017-2018 Annual Action Plan to:  
(1) Reallocate approximately \$650,000 in grant funding;  
(2) Recognize an additional \$200,000 in program income and commit \$115,000 of it; and  
(3) Funds for these changes will be made available by taking the following actions:  
(i) Decrease the CDBG fund allocation for Legal Services from \$530,000 to \$30,000.

### 4.3 (Cont'd.)

- (a) (ii) Decrease the CDBG fund allocation for Place-Based Street and Infrastructure Enhancements from \$1,830,000 to \$1,680,000.
  - (iii) Increase the CDBG fund allocation for Revenues by \$200,000.
  - (b) Adopt a resolution approving the proposed Substantial Amendment for submission to the U.S. Department of Housing and Urban Development.
  - (c) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Community Development Block Grant Fund:
    - (1) Increase the estimate for Revenue from the Use of Money/Property by \$200,000;
    - (2) Decrease the Housing Rehabilitation Loans and Grants Appropriation to the Housing Department by \$150,000;
    - (3) Increase the Housing Emergency and Minor Repair Program appropriation to the Housing Department by \$515,000; and
    - (4) Decrease Ending Fund Balance by \$165,000.
  - (d) Adopt the following 2017-2018 Appropriation Ordinance amendments in the HOME Invest Partnership Fund:
    - (1) Decrease the Housing Loans and Grants appropriation to the Housing Department by \$68,000; and
    - (2) Increase Ending Fund Balance by \$68,000.
- 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. (Housing/City Manager)

Documents Filed: Joint memorandum from Director of Housing Jacky Morales-Ferrand and Budget Director Margaret McCahan, dated April 18 2018, recommending holding a public hearing, adoption of a resolution and adoption of an appropriation ordinance and funding sources resolution amendments.

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 Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78569, entitled: “A Resolution of the Council of the City of San José Approving the Substantial Amendment to the Fiscal Year 2017-18 Annual Action Plan”; Ordinance No. 30097, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Community Development Block Grant Fund for the Housing Emergency and Minor Repair Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 78570, 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 Fiscal Year 2017-2018 to Adjust Revenues in the Community Development Block Grant Fund”; and Ordinance No. 30098, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Home Investment Partnership Program Fund for Housing Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

**4.4      18-530              PP14-036 - Amendments to Title 5 (Housing) and Title 20 (The Zoning Ordinance) for California Government Code Section 65915 Et Seq. (State Housing Density Bonuses and Incentives Law).**

Approve an ordinance of the City of San José amending Section 5.08.450 of Chapter implement California Government Code Section 66915 (State Housing Density Bonus 5.08 of Title 5 and adding Chapter 20.190 to Title 20 of the San José Municipal Code to and Incentives Law) and provide affordable housing incentives and waivers consistent with the San Jose General Plan.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR) (Resolution No. 76041) and Supplemental Environmental Impact Report (EIR) (Resolution No. 77617), and Addenda thereto and does not involve new significant impacts beyond those analyzed in the FEIR or the Supplemental EIR. Planning Commission recommends approval (7-0-0) (Planning, Building and Code Enforcement)  
PP14-036 – Citywide

Documents Filed: (1) Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated April 20, 2018 transmitting the Planning Commission recommendations. (2) Supplemental memorandum from Rosalynn Hughey, Director, Planning, Building and Code Enforcement, dated April 25, 2018, responding to a letter written on behalf of the Building Industry Association (BIA).

Rosalynn Hughey, Director, Planning, Building and Code Enforcement offered a presentation and responded to questions from Council.

Public Comments: Providing comments were Dennis Martin, BIA Bay Area; Ersin Ordonez, Mid Pen Housing, and Kirk Vartan.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas and carried unanimously, Ordinance No. 30099, entitled: “A Ordinance of the Council of the City of San José Adding a New Chapter 20.190 to Title 20 of the San José Municipal Code and Amending Section 5.08.450 of Chapter 5.08 of Title 5 of the San José Municipal Code to Implement California Government Code Sections 65915 *et seq.* (State Housing Density Bonuses and Incentives Law) and Provide Affordable Housing Incentives Consistent with the San José General Plan”, was passed for publication. (10-0-1. Absent: Carrasco.)

*Councilmember Donald Rocha left the meeting at approximately 4:30 p.m.  
Council recessed between 6:06 p.m. and 6:21 p.m.*

**4.5      18-587              Report on the Cost of Development in San José.**

**Recommendation:** Accept staff report on the Cost of Development in San José.  
CEQA: Not a Project, File No PP17-009, Staff Report, Assessment, Annual Reports and Informational memos that involve no approvals of any City action. (Economic Development/Planning, Building and Code Enforcement)  
*Heard last on the Agenda*

## 4.5 (Cont'd.)

Documents Filed: Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Rosalynn Hughey, Director, Planning, Building and Code Enforcement, dated April 20, 2018, recommending acceptance of staffs' recommendations. (2) Letters from SV@Home, dated April 30, 2018; Catalyze SV, dated May 1, 2018, San José Park Advocates, dated April 20, 2018 and an email from Randy Shingai, received April 26, 2018.

Public Comments: Offering comments and considerations, were members of the public: Mathew Reed; Abovbacar Ndiaye, Working Partnerships; Blair Beekman, Randy Shingai, Dean Daily, Kirk Vartan, and John S. Leyba.

Mayor Sam Liccardo proposed having the staff presentation, but restricting Council questions to clarification only, and bringing the broader questions and discussion to a future meeting.

Deputy Director, Planning Building and Code Enforcement, Chris Burton provided a presentation, and Tim Kelly, representing Keyser Marston & Associates, provided the Urban Village Implementation Analysis. Mr. Kelly responded to questions from Council

*No action was taken. This item to be continued for broader discussion and further Q&A to a future meeting of the Council.*

## NEIGHBORHOOD SERVICES

- 5.1 18-582** Endorse the concept of and authorize the Department of Parks, Recreation and Neighborhood Services and Office of Economic Development/Cultural Affairs to guide the San Jose Light Tower Corporation as they investigate options to design and construct in downtown an artistically inspired and iconic structure as a gift to the City of San José.  
CEQA: Statutorily Exempt, File No. PP17-001, CEQA Guidelines Section 15262, Feasibility and Planning Studies.  
(Parks, Recreation and Neighborhood Services/Economic Development)

Documents Filed: (1) Joint memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Deputy City Manager/Director of Economic Development Kim Walesh, dated April 17, 2018. (2) Email from Lee Kopp, dated May 1, 2018, urging acceptance of the light tower art piece.

Public Comments: offering support to the proposal, were: Steve Borkenhagen; Mark Tersini, KT Urban; Scott Knies, SJDA; Kirk Vartan, Joe Noonan, Richard Ajlyni, Erik Schoennauer, Mel Matsushima and John Ball. Mackenzie Mossing, Santa Clara Valley Audubon Society addressed concerns of light pollution and impact to wildlife.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, the Department of Parks, Recreation and Neighborhood Services and Office of Economic Development/Cultural Affairs were authorized to guide the San Jose Light Tower Corporation as they investigate options to design and construct in downtown an artistically inspired and iconic structure as a gift to the City of San José. (9-0-2. Absent: Khamis, Rocha.)

## TRANSPORTATION & AVIATION SERVICES

### 6.1 18-512 Actions Related to the Design-Build Procurement for Terminal B Interim Facility Project at the Airport.

(a) Adopt a resolution in accordance with San José Municipal Code Section 14.07.310:

- (1) Finding that the cost of the proposed design-build contract for the Terminal B Interim Facility Project (the “Project”) at the Norman Y. Mineta San Jose International Airport will exceed \$5,000,000, and that the use of the design-build delivery method process is likely to save money and/or result in faster Project completion than if the City used the traditional design-bid-build method of project delivery;
- (2) Approving the Request for Proposals and the evaluation criteria and process by which the City shall select a design-build entity for the Interim Facility Project; and
- (3) Authorizing the Acting Director of Public Works to issue addenda to the RFP to add any additional requirements or to make such other revisions to the RFP that are consistent with the scope and selection criteria as approved by Council.

(b) Adopt a resolution finding that the Airport traffic and transit improvement conditions set forth in Part 4 of Chapter 25 of the San José Municipal Code have been met and that the City may therefore expand the number of air carrier gates at the Airport beyond the existing thirty (30) gates, as provided in the Airport Master Plan.

CEQA: Addendum to the Norman Y. Mineta San José International Airport Master Plan Update Project Environmental Impact Report and Addenda thereto (Resolution Nos. 67380 and 71451), File No. PP18-038. (Airport/Public Works)

Documents Filed: Joint memorandum from Director of Aviation, John Aitken, A.A.E. and Acting Director of Public Works John Cicerelli, dated March 29, 2018, recommending adoption of resolutions.

Director of Aviation, John Aitken, A.A.E. and staff provided a presentation.

Public Comments: Blair Beekman and Zachary Kaufman spoke to reaching out to other cities regarding expansion and building for the future.

Mayor Sam Liccardo asked to include direction to incorporate durability and scalability into the design.

Motion: Councilmember Johnny Khamis moved approval of staffs’ recommendations, including comments as provided by Mayor Sam Liccardo. Councilmember Dev Davis seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78571, entitled: “A Resolution of the Council of the City of San José (1) Finding that the Cost of the Proposed Design-Build Contract for the Terminal B Interim Facility Project at the Norman Y. Mineta San José International Airport Will Exceed \$5,000,000, and that the Use of the Design-Build Delivery Method Process is Likely to Save Money and/or Result in Faster Project Completion than if the City Used the Traditional Design-Bid-Build Method of Project Deliver; (2) Approving the Request for Proposals (“RFP”) and the Evaluation Criteria and Process by which the City Shall Select a Design-Build Entity for the Interim Facility Project; and (3) Authorizing the Acting Director of Public Works to Issue Addenda to the RFP to Add Any Additional Requirements or to Make Other Revisions to the RFP that

## 6.1 (Cont'd.)

are Consistent with Scope and Selection Criteria as Approved by Council”; and Resolution No. 78572, entitled: “A Resolution of the Council of the City of San José Finding that the Traffic and Transit Improvement Conditions at the Norman Y. Mineta San José International Airport Set Forth in Part 4 of Chapter 25 of the San José Municipal Code Have Been Met and that the City May Expand the Number of Air Carrier Gates Beyond the Existing Thirty (30) Gates, as Provided in the Airport Master Plan”, were adopted, including direction to incorporate durability into the design.  
(9-0-2. Absent: Diep, Rocha.)

## 6.2 18-385 San José Complete Streets Design Guidelines.

(a) As recommended by the Transportation and Environment Committee on February 5, 2018, accept the report on San José’s Complete Streets Design Guidelines and adopt a resolution to:

- (1) Adopt the San José Complete Streets Design Guidelines that will serve as the official street design guide to be used by staff in the design of San José streets for all roadway users;
- (2) Adopt Complete Streets principles, implementation methods, and exceptions as required by the Valley Transportation Authority (VTA) to be eligible to receive VTA 2016 Measure B funding; and
- (3) Endorse the National Association of City Transportation Officials' (NACTO) Design Guidance, which serves as a model for the City’s Complete Streets Guidelines.

(b) Approve an ordinance making minor amendments to the San José Municipal Code Title 9, 11, 13, 17 and 19 to align with the above Council actions.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Impact Report (Resolution No. 76041) and the Envision San José General Plan and Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. (Transportation)

[Transportation and Environment Committee referral 2/5/18 - Item (d)1]

*Deferred from 3/27/18 Item 6.1 to 5/1/18 per Administration*

Documents Filed: Joint memorandum from Councilmember Raul Perez, Vice Mayor Magdalena Carrasco, Councilmember Sergio Jimenez, Councilmember Chappie Jones and Councilmember Johnny Khamis, dated April 27, 2018, recommending acceptance of staff recommendations with additional direction. (2) Memorandum from Councilmember Raul Perez, dated May 1, 2018, offering additional direction. (3) Memorandum from Director of Transportation Jim Ortbal, dated April 9, 2018, recommending acceptance of the staff report and approval of an ordinance. (4) Letter from the Public Space Authority, dated May 1, 2018, offering support.

Director of Transportation Jim Ortbal and Kahi Khattab, Principal Engineer offered a presentation.

Public Comments: Erik Schoennauer, representing Greystar/Hanover/Alliance/Avalon offered support, and Kirk Vartan proposed a focus on bike infrastructure. Blair Beekman offered additional comments.

## 6.2 (Cont'd.)

Action: Upon motion by Councilmember Raul Perez, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 78573, entitled: “A Resolution of the Council of the City of San José Adopting a Complete Streets Design Policy”, was adopted, approving the staff recommendations, and including Item #2 from the joint memorandum from Vice Mayor Magdalena Carrasco, Councilmembers Perez, Jones, Jimenez and Khamis, dated April 27, 2018, allowing the installation of enhanced sidewalk surfaces and decorative pavement in public right-of-way (ROW) as part of private development proposals with the condition that the adjacent property owner would be responsible for the maintenance of those improvements. with direction to staff to conform with rules and guidelines. Ordinance No. 30100, entitled: “A Ordinance of the Council of the City of San José Amending Various Sections in Titles 9, 11, 17 and 19 and Adding a New Chapter 13.05 to Title 13 of the San José Municipal Code to Implement the San José Complete Streets Design Standards and Guidelines”, was passed for publication. (8-0-3. Absent: Diep, Jimenez, Rocha.)

- 6.3 18-578** (a) Approve award of a construction contract for the 2018 Arterial Resurfacing Project to the low bidder, MCK Services, Inc. in the amount of \$12,923,358.  
(b) Approve a 5% contingency in the amount of \$646,168.  
CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP18-029. (Transportation)

Documents Filed: Memorandum from Director of Transportation Jim Ortbal, dated April 9, 2018, recommending approval of a construction contract.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Tam Nguyen and carried unanimously, the award of a construction contract for the 2018 Arterial Resurfacing Project to the low bidder, with related contingencies, was approved.  
(8-0-3. Absent: Diep, Jimenez, Rocha.)

## ENVIRONMENTAL & UTILITY SERVICES

### 7.1 18-583 Actions Related to the San José Clean Energy Risk Management Policy.

- (a) Adopt a resolution approving the Energy Risk Management Policy which details roles, responsibilities, strategies, controls, and authorities to manage risks for San José Clean Energy.  
(b) Approve March 1, 2019 as the Phase II (Residential) & III (Commercial) launch date to serve these customers.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Community Energy/Finance)

Documents Filed: Joint memorandum from Director, Community Energy Department, Lori Mitchell and Director of Finance Julia H. Cooper, dated April 17, 2018, recommending adoption of a resolution.

Director, Community Energy Department, Lori Mitchell offered a presentation and indicated a launch of the website in June 2018.



## 7.1 (Cont'd.)

Motion: Councilmember Chappie Jones moved approval, with an additional request that staff include an 'info memo' prior to the launch and to include it digitally with color. Councilmember Raul Perez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78574, entitled: "A Resolution of the Council of the City of San José Approving a New Council Policy No. 1-23 Entitled "Energy Risk Management", was approved, with staff to provide a follow-up info memo including exceptions and risk factors involved. (7-0-4. Absent: Carrasco, Diep, Jimenez, Rocha.)

## OPEN FORUM

1. Blair Beekman addressed the technology snafu in providing videos from last weeks' meetings, commented favorably on today's May Day celebration and offered criticism of "Bigbelly".
2. Mayank Bisht offered input on consumption costs and his willingness to share data.

## ADJOURNMENT

The meeting of the City Council was adjourned at 7:38 p.m. in the memory of San Jose Fire Department Chaplain Father William John Stout, who passed away on March 14, 2018 at the age of 85. Father Stout was born in San José on January 27, 1933 and attended St. Mary's School and Bellarmine College Preparatory School. He earned degrees from Gonzaga University and Santa Clara University, and was ordained a priest in San Francisco in 1964. Father Stout's contributions in and beyond the City of San José are immeasurable. As a high school teacher, he taught chemistry, earth science, physics, mathematics; including years at Bellarmine College Preparatory School and William C. Overfelt High School. He served the parishioners of Our Lady Star of the Sea Parish in Alviso, and recently, Our Lady of Peace Church in Santa Clara. In chaplaincy, he assisted at Agnew's State Hospital, Valley Medical Center, and extended his generosity, guidance, and comfort to the San José Fire Department for 45 years. Father Stout established the Annual Firefighter Memorial Mass to mark the contributions of firefighters who passed each year. Father Stout often shared the story of St. Florian, the Patron Saint of Firefighters, who suffered death for his faith and is invoked as a powerful protector in danger from fire or water. St. Florian's Day is May 4, and this week the San José Fire Department will miss their annual visit and cake from their beloved Father Stout.

Minutes Recorded, Prepared and Respectfully Submitted by,

*draft*

Toni J. Taber, CMC  
City Clerk

rmk/05/01/18 MIN