

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, MAY 22, 2018**

The Council of the City of San José convened in Regular Session at 9:32 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Arenas, Carrasco (10:15), 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) In re: Claim of Sedaghatpour; Amount of Money or Other Relief Sought: Administrative Appeal; (2) In re: Claim of Seminatore; Amount of Money or Other Relief Sought: Administrative Appeal; (3) Grijalva v. City, et al.; Names Of Partie(s) Involved: Cosme Grijalva v. City of San José Joshua Bates, Ian Hawkley, and Does 1-10 inclusive; Court: U.S. District Court, Northern District of California, San José Division; Case No. 5:18-cv-01853-EJD; Amount of Money or Other Relief Sought: Damages according to proof; (B) To confer with Legal Counsel – Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(2) and 564956.9(e)(3) and 564956.9(e)(5): (1) In re: Claim of Nadil Haidar; City Department: Police; (C) To Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) 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; (3) 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. (4) 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; (5) 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

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

Engineers, Local No. 3. (6) 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 10:26 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 (District 5)**

Artistic Director of Akoma Arts, Keith Hames and members performed traditional African drumming for the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Dev Davis, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

## **CLOSED SESSION REPORT**

None provided.

## **CEREMONIAL ITEMS**

- 1.1** A proclamation was presented by Mayor Sam Liccardo and Councilmember Chappie Jones recognizing the month of May as Foster Youth Awareness Month in the City of San José to raise awareness and education on the needs of foster youth. (Jones)
- 1.2** A proclamation was presented by the Mayor, Vice-Mayor and all Councilmembers, recognizing May 2018 as National Bike Month in the City of San José. (Arenas)
- 1.3** Mayor Sam Liccardo and Councilmember Tam Nguyen presented a commendation to Boy Scout Troop 817 for their exemplary work on the beautification of the Vietnamese Heritage Garden. (Nguyen)  
*Heard in the Evening.*

- 1.4** Mayor Sam Liccardo and Councilmembers Johnny Khamis and Chappie Jones presented a commendation recognizing Richard McCoy for his years of volunteer service to seniors and veterans in San Jose. (Khamis)
- 1.5** Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmember Sylvia Arenas presented a commendation to Community Leader Arun Singh. (Carrasco)  
*Heard in the Evening.*

## CONSENT CALENDAR

Upon motion by Councilmember Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

### **2.1 18-740 Approval of City Council Minutes.**

**Recommendation:** (a) Regular City Council Meeting Minutes of January 23, 2018.  
(b) Regular City Council Meeting Minutes of February 6, 2018.  
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) Regular City Council Meeting Minute, dated January 23, 2018; (2) Regular City Council Meeting Minutes, dated February 6, 2018.

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

### **2.2 18-706 Final Adoption of Ordinances.**

**Recommendation:** (a) ORD. NO. 30101 – An ordinance amending Section 3.28.030.05 of Chapter 3.28 of Title 3 of the San José Municipal Code to modify the definition of “Compensation” to exclude non-pensionable wage increases in the Federated Employees Retirement Plan.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

Documents Filed: Proof of Publication of the Title of Ordinance No. 30101 executed on May 18, 2018, submitted by the City Clerk.

Action: Ordinance No. 30101 was adopted. (11-0.)

## 2.2 (Cont'd.)

(b) ORD. NO. 30103 – An ordinance of the City of San José rezoning a 15.12-gross acre site located at 12329 Mabury Road from the A -Agricultural Zoning District to the PQP Public/Quasi-Public Zoning District (San Jose Water Works, Owner).  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR) (Resolution No. 76041), the Envision San José 2040 General Plan 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.

Documents Filed: Proof of Publication of the Title of Ordinance No. 30103 executed on May 18, 2018, submitted by the City Clerk.

Action: Ordinance No. 30103 was adopted. (11-0.)

(c) ORD. NO. 31014 – An ordinance of the City of San José rezoning an approximately 3.26-gross acre site, located on the northwest corner of Horning Street and Oakland Road (645 Horning Street) from the LI Light Industrial Zoning District to the CIC(PD) Planned Development Zoning District to allow a ministorage, retail store, gasoline station with six fuel dispensers and canopy, drive-through carwash, and drive-through restaurant uses (Rubnitz James E Et Al, Owner).  
CEQA: Mitigated Negative Declaration for the 645 Horning Street Gas Station, Food and Storage Project.

Documents Filed: Proof of Publication of the Title of Ordinance No. 30104 executed on May 18, 2018, submitted by the City Clerk.

Action: Ordinance No. 30104 was adopted. (11-0.)

## 2.3 Approval of Council Committee Minutes.

### 2.3 18-700 Approval of Council Committee Minutes.

**Recommendation:**

- (a) Rules and Open Government Committee Minutes of June 14, 2017. (Mayor)
- (b) Community and Economic Development Committee Minutes of August 28, 2017. (Khamis)
- (c) Rules and Open Government Committee Minutes of November 1, 2017. (Mayor)
- (d) Rules and Open Government Committee Minutes of November 8, 2017. (Mayor)
- (e) Rules and Open Government Committee Minutes of November 15, 2017. (Mayor)
- (f) Rules In-Lieu Meeting Minutes of November 21, 2017. (Mayor)
- (g) Rules and Open Government Committee Minutes of November 29, 2017. (Mayor)
- (h) Ad-Hoc Committee for Development Service Minutes of November 30, 2017. (Davis)
- (i) Rules and Open Government Committee Minutes of December 6, 2017. (Mayor)

## **2.3 18-700 Approval of Council Committee Minutes.**

- (j) Smart Cities and Service Improvements Committee Minutes of December 7, 2017. (Jones)
  - (k) Neighborhood Services and Education Committee Minutes of December 14, 2017. (Rocha)
  - (l) Rules In-Lieu Meeting Minutes of December 20, 2017. (Mayor)
  - (m) Ad-Hoc Committee for Development Service Minutes of March 23, 2017. (Khamis)
- 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) Rules and Open Government Committee Minutes of June 14, 2017; (2) Community and Economic Development Committee Minutes of August 28, 2017; (3) Rules and Open Government Committee Minutes of November 1, 2017; (4) Rules and Open Government Committee Minutes of November 8, 2017; (5) Rules and Open Government Committee Minutes of November 15, 2017; (6) Rules In-Lieu Meeting Minutes of November 21, 2017; (7) Rules and Open Government Committee Minutes of November 29, 2017; (8) Ad-Hoc Committee for Development Service Minutes of November 30, 2017; (9) Community and Economic Development Committee Minutes of August 28, 2017; (j) Rules and Open Government Committee Minutes of November 1, 2017; (10) Rules and Open Government Committee Minutes of November 8, 2017; (11) Rules and Open Government Committee Minutes of November 15, 2017; (12) Rules In-Lieu Meeting Minutes of November 21, 2017; (13) Rules and Open Government Committee Minutes of November 29, 2017; (14) Ad-Hoc Committee for Development Service Minutes of November 30, 2017; (15) Rules and Open Government Committee Minutes of December 6, 2017; (16) Smart Cities and Service Improvements Committee Minutes of December 7, 2017; (17) Neighborhood Services and Education Committee Minutes of December 14, 2017; (18) Rules In-Lieu Meeting Minutes of December 20, 2017; (19) Ad-Hoc Committee for Development Service Minutes of March 23, 2017.

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

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

None provided.

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

Councilmember Lan Diep reported on his trip to Washington D.C. where he was sworn into the Supreme Court Bar, and he also spoke at a conference for Asian Pacific American Institute for Congressional Studies (APAICS).

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

None provided.

**2.7      18-702      City Attorney's Travel to Portland, OR.**

Approve travel by the City Attorney, Richard Doyle, to Portland, Oregon, on June 8-10, 2018 to attend the International Municipal Lawyers Association (IMLA) Top 50 Meeting. Source of Funds: City Attorney's Office Non Personal Services Appropriation.

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

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 2, 2018, requesting authorization to travel for official City business.

Action: The travel request was authorized. (11-0.)

- 2.8      18-672      Preliminarily approve the report, as prepared by San Jose Hotels Inc., or as modified by Council; and adopt a resolution of intention to set the time and date for the Public Hearing to disestablish the Hotel Business Improvement District, originally established under the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq., on Tuesday, June 12, 2018 at 1:30 p.m., as the date and time for the Public Hearing on the proposed elimination of the assessed levy.**
- CEQA: Statutorily Exempt, CEQA Guidelines Section 15061(b), Review for Exemption, File No. PP08-048. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated April 30, 2018, recommending adoption of a resolution.

Action: Resolution No. 78585, entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Disestablish the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing, was adopted. (11-0.)

- 2.9      18-673      Preliminarily approve the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council, and adopt a resolution of intention to levy the annual assessment for Fiscal Year 2018-2019 and set Tuesday, June 5, 2018 at 1:30 p.m. as the date and time for the Public Hearing on the levy of the proposed assessments.**
- CEQA: Statutorily Exempt, CEQA Guidelines Section 15061(b), Review for Exemption, File No. PP08-048. Council District 3. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated April 27, 2018, recommending adoption of a resolution.

Action: Resolution No. 78586, entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2018-2019 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989; and Setting a Date and Time for the Public Hearing, was adopted. (11-0.)

- 2.10 18-674** Preliminarily approve the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council, and adopt a resolution of intention to levy the annual assessment for Fiscal Year 2018-2019, to suspend collection of the Downtown BID assessments for businesses that qualify for the business tax financial hardship exemption under the City's general business tax ordinance and set Tuesday, June 5, 2018 at 1:30 p.m. as the date and time for the Public Hearing on the levy of the proposed assessments. CEQA: Statutorily Exempt, CEQA Guidelines Section 15061(b), Review for Exemption, File No. PP08-048. Council District 3. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated April 27, 2018, recommending adoption of a resolution.

Action: Resolution No. 78587, entitled: "A Resolution of the Council of the City of San José Declaring its Intent to Levy Assessments for Fiscal Year 2018-2019 in the Japantown Business Improvement District and Suspend Collection of the Assessments for Businesses that Qualify for the Business Tax Financial Hardship Exemptions Under the City's General Business Tax Ordinance; and Setting a Date and Time for the Public Hearing, was adopted. (11-0.)

- 2.11 18-688** Adopt a resolution authorizing the City Manager to:
- (a) Execute a Purchase Order with Elite IV (Stockton, CA) for fuel tank inspection, testing and cleaning services at Citywide fuel sites for an initial twelve-month period, starting on or about May 23, 2018 and ending on or about May 22, 2019, for an amount not-to-exceed \$116,065; and
  - (b) Execute up to four one-year options to extend the term of the Purchase Order with the last option year ending on or about May 22, 2023, subject to the annual appropriation of funds.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated May 11, 2018, recommending adoption of a resolution.

Action: Resolution No. 78588, entitled: "A Resolution of the Council of the City of San Authorizing the City Manager to Execute a Purchase Order with Elite IV (Stockton, CA) for Fuel Tank Inspection, Testing and Cleaning Services at Citywide Fuel Sites for an Initial Twelve-Month Term in an Amount Not to Exceed \$116,065, and to Execute up to Four One-Year Options to Extend the Term Subject to the Annual Appropriation of Funds", was adopted. (11-0.)

- 2.12 18-689** Adopt a resolution authorizing the City Manager to amend Purchase Order 54465 with Harris Blade Rental (Livermore, CA) for the rental of construction and earthmoving equipment, to increase compensation by \$40,000, for a revised maximum compensation not-to-exceed \$330,000, for the current term ending May 31, 2018. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

**2.12 18-689 (Cont'd.)**

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated May 11, 2018, recommending adoption of a resolution.

Action: Resolution No. 78589, entitled: “A Resolution of the Council of the City of San Authorizing the City Manager to Amend Purchase Order 54465 with Harris Blade Rental (Livermore, CA) for the Rental of Construction and Earthmoving Equipment, to Increase Compensation by \$40,000, for a Revised Maximum Compensation Not-to-Exceed \$330,000, for the Current Term Ending May 31, 2018”, was adopted. (11-0.)

**2.13 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, the California Department of Transportation, and the Santa Clara Valley Transportation Authority with the City of San José as a Concurring Party for the Bay Area Rapid Transit Silicon Valley - Phase II Extension Project in Santa Clara County.

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)

*Deferred from 5/1/18 Item 2.8 to 5/22/18 per Administration.*

Documents Filed: Memorandum from Rosalynn Hughey, Director, Planning, Building and Code Enforcement, dated May 7, 2018, recommending adoption of a resolution.

Public Comments: Blair Beekman offered comments regarding the BART extension.

Action: Resolution No. 78590, entitled: “A Resolution of the Council of the City of San Authorizing the City Manager to Execute the Programmatic Agreement with the Federal Transit Administration, the California State Historic Preservation Officer, the California Department of Transportation and the Santa Clara Valley Transportation Authority, with the City of San José as a Concurring Party, for the BART Silicon Valley Phase II Extension Project in Santa Clara County”, was adopted. (11-0.)

**2.14 18-649** Approve a Sixth Amendment to the Master Agreement with West Yost & Associates, Inc. increasing the compensation by \$35,000, for a total contract amount not to exceed \$535,000, and increasing the term of the agreement by 3 months from June 30, 2018 to September 30, 2018 for the purpose of completing work on the Nordale Pump Station Replacement Project.

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

Documents Filed: City Council Action Request from Director of Public Works, Matt Cano, dated May 11, 2018, recommending approval of an amendment to a Master Agreement.

Action: A Sixth Amendment to a Master Agreement with West Yost & Associates, Incorporated, was approved. (11-0.)

**2.15 18-697**

Adopt a resolution:

- (a) Authorizing the City Manager or designee to submit a request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2018-19 Transportation Development Act, Article 3 (TDA3) State grant funding in the amount of \$843,927 for bicycle and pedestrian projects;
- (b) Making the certifications and assurances required under the TDA3 grant; and
- (c) Authorizing the City Manager or designee to accept TDA3 grant funding awarded from MTC and to negotiate and execute any grant documents to effectuate the grant.

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 30, 2018, recommending adoption of a resolution.

Action: Resolution No. 78591, entitled: “A Resolution of the Council of the City of San José: (1) Authorizing the City Manager or Designee to Submit a Request to the Metropolitan Transportation Commission (MTC) for the Allocation of Fiscal Year 2018-2019 Transportation Development Act, Article 3 (TDA3) State Grant Funding in the Amount of \$843,927 for Citywide Bicycle and Pedestrian Projects; (2) Making the Certifications and Assurances Required Under the Grant Program; and (3) Authorizing the City Manager or Designee to Accept Any Grant Funding Awarded from MTC and to Negotiate and Execute Any Grant Documents Necessary to Effectuate the Grant”, was adopted. (11-0.)

**2.16 18-705**

**Employee Member Vacancy on the Federated City Employees' Retirement System Board of Administration.**

Direct the City Clerk to accept petitions for the unscheduled Employee Representative vacancy on the Federated City Employees' Retirement System Board of Administration for a term expiring November 30, 2021.

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 11, 2018, recommending acceptance of petitions for a vacancy on the Federated City Employees' Retirement System Board of Administration.

Action: The City Clerk was directed to accept petitions for the unscheduled Employee Representative vacancy on the Federated City Employees' Retirement System Board of Administration for a term expiring November 30, 2021. (11-0.)

**2.17 18-693**

Approve the forgiveness of a \$1,000,000 Healthy Neighborhoods Venture Loan to Center for Training and Careers, Inc. used for the acquisition and rehabilitation of the property at 749 Story Road, for fulfilling the conditions of its contract.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 7. (Housing)

**2.17 18-693 (Cont'd.)**

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated May 10, 2018, recommending approval of a HN VF Loan.

Action: The forgiveness of a \$1,000,000 Healthy Neighborhoods Venture Loan to Center for Training and Careers, Inc. used for the acquisition and rehabilitation of the property at 749 Story Road, for fulfilling the conditions of its contract, was approved. (11-0.)

- 2.18 18-712** As recommended by the Rules and Open Government Committee on May 9, 2018:
- (a) Approve the Oak Hill Memorial Day scheduled on May 28, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.
- CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Khamis)

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated April 27, 2018, requesting approval for a district-sponsored event.

Action: The Oak Hill Memorial Day 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.)

- 2.19 18-720** As recommended by the Rules and Open Government Committee on May 9, 2018:
- (a) Retroactively approve the Evergreen Business Walk scheduled on May 4, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.
- CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Arenas)

Documents Filed: Memorandum from Councilmember Sylvia Arenas, dated May 3, 2018, requesting approval for a district-sponsored event.

Action: The Evergreen Business Walk 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.)

## **Actions Related to the Agreements for the Diridon Integrated Station Concept Plan.**

### **Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute the Cooperative Agreement between the City of San José, the Santa Clara Valley Transportation Authority (VTA), Caltrain, and the California High-Speed Rail Authority (“Partner Agencies”).
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute the Funding Agreement between the City of San José and the VTA, in an amount not to exceed \$750,000, as the City’s share of an agreement between the VTA and Arcadis/Bentham Crouwel for planning and design services to develop the Diridon Integrated Station Concept Plan.
- (c) Adopt the following 2017-2018 Appropriation Ordinance amendments in the General Purpose Parking Capital Fund:
  - (1) Decrease the Unrestricted Ending Fund Balance in the amount of \$250,000; and
  - (2) Increase the Transfer to the Construction Excise Tax Fund in the amount of \$250,000.
- (d) Adopt the following 2017-2018 Funding Source Resolution and Appropriation Ordinance amendments in the Construction Excise Tax Fund:
  - (1) Increase the estimated revenue for Transfer and Reimbursement in the amount of \$250,000; and
  - (2) Increase the San José Regional Transportation Hub appropriation in the amount of \$250,000.

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.  
(Transportation/Economic Development/City Manager)

### ***Renumbered from Item 6.1***

Documents Filed: (1) Memorandum from Councilmember Dev Davis, dated May 21, 2018, recommending acceptance of staff recommendations with additional direction to staff. (2) Joint memorandum from Director of Transportation Jim Ortbal, Deputy City Manager/Director of Economic Development Kim Walesh and Budget Director Margaret McCahan, dated May 11, 2018, recommending adoption of resolutions and approval of a grant agreement and adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 78592, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Cooperative Agreement between the City of San José, the Santa Clara Valley Transportation Authority, CalTrain, and the California High-Speed Rail Authority for the Diridon Integrated Station Concept Plan”; Resolution No. 78593, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Funding Agreement between the City of San José, the Santa Clara Valley Transportation Authority (VTA), in an Amount Not to Exceed \$750,000, as the City’s Share of an Agreement Between the VTA and Arcadis/Bentham Crouwel for Planning and Design Services to Develop the Diridon Integrated Station Concept Plan”; Resolution No. 78594, 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 Construction Excise Tax Fund”; and Ordinance No. 30102, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to

## 2.20 (Cont'd.)

Appropriate Moneys in the General Purpose Parking Fund for the Transfer to the Construction Excise Tax Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Ordinance No. 30105, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Construction Excise Tax Fund for the San José Regional Transportation Hub; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Carrasco.)

## 2.21 18-752 Tax Fairness, Transparency and Accountability Act of 2018.

**Recommendation:** As recommended by the Rules and Open Government Committee on May 16, 2018, adopt an oppose position for the Tax Fairness, Transparency and Accountability Act of 2018 and recommend Council to adopt a resolution opposing the initiative.  
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Manager)  
[Rules Committee referral 5/16/18 - Item G.4]

Documents Filed: City Council Action Request from Chief of Staff, Office of the City Manager, Lee Wilcox, dated May 2, 2018, recommending adoption of an oppose position.

Councilmember Johnny Khamis pulled Item 2.21 to register a “No” vote.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Sergio Jimenez and carried, Resolution No. 78595, entitled: “A Resolution of the Council of the City of San José Opposing the Tax Fairness, Transparency and Accountability Act of 2018”, was adopted. (9-1-1. Noes: Khamis. Absent: Carrasco.)

2.22 18-751 As recommended by the Rules and Open Government Committee on May 16, 2018 and pursuant to the City’s streamlined bill process for responding quickly to legislative proposals, re-affirm a position in support of AB 2504 (Low).  
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Police)  
[Rules Committee referral 5/16/18 - Item G.3]

Documents Filed: City Council Action Request from Police Chief Edgardo Garcia, dated May 2, 2018, recommending adoption of a position of support for AB 2504.

Public Comments: Blair Beekman expressed support for LGBTQ education/training for police officers.

Action: A position of support for AB 2504 (Low) was reaffirmed. (10-0-1. Absent: Carrasco.)

- 2.23 18-750** As recommended by the Rules and Open Government Committee on May 16, 2018 and pursuant to the City's streamlined bill process for responding quickly to legislative proposals, re-affirm a position in support of AB 2463 (Quirk-Silva and Cervantes).  
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment.  
(Economic Development)  
[Rules Committee referral 5/16/18 - Item G.2]

Documents Filed: City Council Action Request from Deputy City Manager/Director of Economic Development Kim Walesh, dated May 2, 2018, recommending adoption of a position of support for AB 2463.

Action: A position of support for AB 2463 (Quirk-Silva and Cervantes) was reaffirmed. (10-0-1. Absent: Carrasco.)

## **STRATEGIC SUPPORT**

### **3.3 18-701 Actions Related to the General Obligation Bond Measure for November 2018 Citywide Ballot.**

- (a) City Council discussion of community survey results on potential general obligation bond measure for possible placement on the November 6, 2018 citywide ballot.
- (b) Direct the City Manager to conduct additional polling to further refine potential ballot language and projects and to return to the City Council by August 10, 2018 with recommendations regarding placing a general obligation bond on the November 6, 2018 citywide ballot.

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

Documents Filed: (1) Memorandum from Councilmember Donald Rocha, dated May 18, 2018, recommending approval of the staff recommendation with additional direction. (2) Joint memorandum from Chief of Staff, Office of the City Manager, Lee Wilcox, and Director of Finance Julia H. Cooper, dated May 11, 2018, recommending actions related to the General Obligation Bond Measure.

Providing a presentation outlining the bond update, survey results and 'next steps', were Chief of Staff, Office of the City Manager, Lee Wilcox; Assistant to City Manager, Michele McGurk; and Curt Baylow, FM3 Research. Council discussion followed, and staff and Mr. Baylow responded to questions.

Motion: Councilmember Johnny Khamis moved approval of Councilmember Donald Rocha's memorandum, dated May 18, 2018, approving staff recommendations and providing additional direction to prioritize inclusion of \$270 million within the bond proposal that staff will bring forward in August for the purpose of repairing neighborhood streets in poor condition. Councilmember Lan Diep seconded the motion.

### 3.3 (Cont'd.)

Public comments: Roland Lebrun challenged the necessity of building another facility with the associated costs.

Action: On a call for the question, the motion carried unanimously, and the survey results and staff recommendations were accepted, with direction to the City Manager to conduct additional polling to further refine potential ballot language and projects and to return to the City Council by August 10, 2018 with recommendations regarding placing a general obligation bond on the November 6, 2018 citywide ballot, and including Councilmember Donald Rocha's memorandum, dated May 18, 2018, to approve the staff recommendation and provide additional direction to prioritize inclusion of \$270 million within the bond proposal that staff will bring forward in August for the purpose of repairing neighborhood streets in poor condition. (11-0.)

### 3.4 18-690

- (a) Approve continued participation in the Microsoft Enterprise License Agreement for State and Local Governments ("Enterprise Agreement"), a cooperative agreement administered by the County of Riverside, California on behalf of State and Local public agencies.
- (b) Approve enrollment with Insight Public Sector (Tempe, AZ), who provided the lowest responsive and responsible bid from authorized Microsoft Licensing Solutions Providers pursuant to the terms and conditions of the Enterprise Agreement.
- (c) Adopt a resolution authorizing the City Manager to:
  - (1) Execute purchase orders and other required enrollment documentation to purchase Microsoft Office 365 and related enterprise licenses for an initial three-year term beginning on June 1, 2018, and ending on May 31, 2021, in an amount not to exceed \$5,272,776, subject to the appropriation of funds;
  - (2) Execute additional purchase orders and required enrollment documents for up to two additional three-year options to extend the term through May 31, 2027, subject to the appropriation of funds; and
  - (3) Execute amendments, change orders, and required enrollment documents as required to cover any unanticipated changes, including additional subscriptions at the Enterprise Agreement discounted rates as may be required, subject to the appropriation of funds.

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated April 30, 2018, recommending approval of continued participation in the Agreement, enrollment with Insight Public Sector, and adoption of a resolution.

Director of Finance Julia H. Cooper provided an introduction, and Finance Deputy Director, Jennifer Cheng and Chief Information Officer Rob Lloyd continued with a presentation.

Motion: Councilmember Dev Davis moved approval of staff recommendations, including additional action as noted below in "Action". Councilmember Sylvia Arenas seconded the motion.

### 3.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, with direction to staff to take a broader look at what Enterprise suites are available the next time this is evaluated, continued participation in the Microsoft Enterprise License Agreement for State and Local Governments (“Enterprise Agreement, and enrollment with Insight Public Sector (Tempe, AZ), who provided the lowest responsive and responsible bid from authorized Microsoft Licensing Solutions Providers pursuant to the terms and conditions of the Enterprise Agreement, were approved; and Resolution No. 78596, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Purchase Orders and Other Necessary Documents Required as Part of a Microsoft Enterprise License Agreement for State and Local Governments with Insight Public Sector, for an Initial Three-Year Term through May 31, 2021 in an Amount Not to Exceed \$5,272,776, to Execute Additional Purchase Orders and Enrollment Documents for Up to Two Three-Year Options to Extend the Term through May 31, 2027, and to Execute Amendments, Change Orders and Enrollment Documents are Required to Cover Any Unanticipated Changes, Subject to the Appropriation of Funds”, was adopted. (11-0.)

### 3.5 18-657 **Actions Related to the Design-Build Contract with Steve P. Rados, Inc. for the 4880-Fourth Street 84-inch Interceptor Phase VI-A Project.**

- (a) Approve the design-build contract with Steve P. Rados, Inc. for the 4880-Fourth Street 84-Inch Interceptor Phase VI-A Project in an amount not to exceed \$42,526,881 for the performance of design and construction services under the contract.
- (b) Approve a design-build contingency in the amount of \$2,126,400 for City-approved changes to the design scope and construction services.
- (c) Adopt a resolution authorizing the Director of Public Works to negotiate and execute change orders in excess of \$100,000 for City-approved changes to the design scope of work and construction services in an amount not to exceed the design-build contingency.
- (d) Adopt a resolution finding that the contract with Steve P. Rados, Inc. for the design and construction of the 4880-Fourth Street 84-Inch Interceptor Phase VI-A Project will result in lower costs and faster project completion than if the City used a traditional design-bid-build procurement process.
- (e) Adopt the following 2017-2018 Appropriation Ordinance amendments in the Sewer Service and Use Charge Capital Improvement Fund:
  - (1) Decrease the Unrestricted Ending Funding Balance in the amount of \$6,500,000;
  - (2) Decrease the appropriation to the Public Works Department for the Immediate Replacement and Diversion Projects in the amount of \$2,300,000;
  - (3) Decrease the appropriation to the Public Works Department for the Urgent Rehabilitation and Repair Projects in the amount of \$3,500,000; and
  - (4) Increase appropriation to the Public Works Department for the 60” Brick Interceptor, Phase VIA and VIB in the amount of \$12,300,000.

CEQA: Determination of Consistency with the Mitigated Negative Declaration for Sewer Interceptor Phase VIA Public Project (Resolution No. 77626), File No. PP10-160. (Public Works/City Manager)

### 3.5 (Cont'd.)

Documents Filed: (1) Joint memorandum from Director of Public Works, Matt Cano and Budget Director Margaret McCahan, dated May 10, 2018, recommending approval of a contract, adoption of a resolution adoption of appropriation ordinance amendments. (2) Supplemental memorandum from Director of Public Works, Matt Cano, dated May 17, 2018, supporting Council's finding regarding using a design-build delivery method.

Director of Public Works, Matt Cano and staff offered a presentation.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez and carried unanimously, the design-build contract with Steve P. Rados, Inc. for the 4880-Fourth Street 84-Inch Interceptor Phase VI-A Project and a design-build contingency in the amount of \$2,126,400 for City-approved changes to the design scope and construction services were approved and Resolution No. 78597, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute Any Single and/or Multiple Change Orders for the 4880 – Fourth Street 84-Inch Interceptor Phase VI-A Project in Excess of \$100,000 up to the Amount of the Contingency of \$2126,400"; Resolution No. 78598, entitled: "A Resolution of the Council of the City of San José Finding that the Contract with Steve P. Rados, Inc. for the Design and Construction of the 4880-Fourth Street Interceptor Phase VI-A Project will Result in Lower Costs and Faster Project Completion than if the City Used a Traditional Design-Bid-Build Procurement Process; and Ordinance No. 30106, entitled: "A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Sewer Service and Use Charge Capital Improvement Fund for the 60" Brick Interceptor,, Phase Via and VIB; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (8-0-3. Absent: Carrasco, Nguyen, Rocha.)

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

### **4.1 18-694 Actions Related to the Transfer of Undeveloped Housing Asset Property (known as Sycamore Terrace) located at 15520 Almaden Expressway at Coleman Road.**

(a) Adopt a resolution:

- i) approving the transfer on or before October 30, 2018, of an undeveloped Low and Moderate Income Housing Asset property (known as Sycamore Terrace) located at 15520 Almaden Expressway at Coleman Road (south San Jose), Assessor Parcel Numbers 694-02-002 and 694-02-015 from the Housing Department to the Parks, Recreation and Neighborhood Services Department for the future construction of additional park and open space for Almaden Lake Park at 15520 Almaden Expressway in exchange for the appraised value of the property consistent with California Community Redevelopment law; and
- ii) authorizing the City Manager to submit a grant application and, if awarded, negotiate, and execute a grant agreement with the Santa Clara Valley Open Space Authority for an amount up to \$300,000 in funding for the transfer of the Sycamore Terrace property located at 15520 Almaden Expressway at Coleman Road and to take all actions necessary to effectuate the grant

#### 4.1 (Cont'd.)

- (b) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:
    - (1) Decrease the Future PDO/PIO Projects Reserve appropriation by \$811,000; and
    - (2) Establish a Transfer to the Low and Moderate Income Housing Asset Fund appropriation to the Finance Department in the amount of \$811,000.
  - (c) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10: Council District 10 Construction and Conveyance Tax Fund:
    - (1) Decrease the Unrestricted Ending Fund Balance by \$426,000; and
    - (2) Establish a Transfer to the Low and Moderate Income Housing Asset Fund appropriation to the Finance Department in the amount of \$426,000.
  - (d) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution amendments in the Low and Moderate Income Housing Asset Fund:
    - (1) Increase the estimate for Transfers and Reimbursements in the amount of \$1,237,000; and
    - (2) Increase the Housing Project Reserve by \$1,237,000.
- CEQA: Categorically Exempt, CEQA Guidelines Section 15316, Transfer of Ownership of Land to Create Parks, File No. PP18-028. Council District 10. (Housing/Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: (1) Joint memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., Director of Housing Jacky Morales-Ferrand and Budget Director Margaret McCahan, dated May 14, 2018, recommending adoption of resolutions and approval of a grant agreement and adoption of an appropriation ordinance and funding sources resolution amendments. (2) Letters from Santa Clara Valley Audubon Society, Committee for Green Foothills, California Native Plant Society, and SF Bay Citizens Committee to Complete the Refuge, dated May 18, 2018; Sierra Club, Loma Prieta Chapter, dated May 19, 2018; San José Park Advocates, dated May 20, 2018, all approving support of additional park and open space; (3) Seventeen (17) email from the public offering support to staffs' recommendations.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., and Director of Housing Jacky Morales-Ferrand provided a presentation and responded to questions from Council.

Public Comments: (1) Mackenzie Mossing, Audubon Society, spoke in support of the transfer. (2) Jim Cool recommended that this parcel not be sold. (3) Robert Aguirre asked that this property be considered for a homeless encampment.

Motion: Councilmember Johnny Khamis moved approval of the staff recommendations. The motion was seconded by Councilmember Dev Davis.

#### 4.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78599, entitled: “A Resolution of the Council of the City of San José: (A) Approving the Transfer of the Undeveloped Low and Moderate Income Housing Asset Property (Known as Sycamore Terrace) Located at 15520 Almaden Expressway at Coleman Road, Assessor Parcel Numbers 694-02-002 and 694-02-015 from the Housing Department to the Parks, Recreation and Neighborhood Services Department for the Future Construction of Additional Park and Open Space for Almaden Lake Park at 15520 Almaden Expressway in Exchange for the Appraised Value of the Property Consistent with California Community Redevelopment Law; and (B) Authorizing the City Manager to Submit a Grant Application and, if Awarded, Negotiate and Execute a Grant Agreement with the Santa Clara Valley Open Space Authority for an Amount up to \$300,000 in Funding for the Transfer of the Sycamore Terrace Property Located at 15520 Almaden Expressway and to Take All Actions Necessary to Effectuate the Grant”; Ordinance No. 30107, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Subdivision Park Trust Fund for the Transfer to the Low and Moderate Income Housing Asset Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 30108, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 for the Transfer to the Low and Moderate Income Housing Fund; Fund for the Transfer to the Low and Moderate Income Housing Asset Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 30109, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29962 to Appropriate Moneys in the Low and Moderate Income Housing Asset Fund for the Housing Project Reserve; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78604, 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 Low and Moderate Income Housing Asset Fund”, were adopted. (11-0.)

#### 4.2 18-581 **Actions Related to the Vacation of Setback Easements Located at 2823 Quinto Way within Tract No. 1098.**

Conduct a Public Hearing and adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the vacation of the 25-foot and 12.5-foot light and air easements (“setback easements”) located within Tract No. 1098;
  - (b) Vacating the 25-foot and 12.5-foot setback easements located within Tract No. 1098; and
  - (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.
- CEQA: Categorically Exempt, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation, File No. PP18-013. Council District 9. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Matt Cano, dated May 1, 2018, recommending conducting a public hearing and adoption of a resolution.

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

## 4.2 (Cont'd.)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, Resolution No. 78600, entitled: “A Resolution of the Council of the City of San José Vacating the 25’ and 12.5’ Light and Air Easements Located Within Tract No. 1098”, was adopted. (11-0.)

## 4.3 18-695

- (a) Approve an ordinance amending Section 17.23.315 of the Apartment Rent Ordinance, Chapter 17.23 of Title 17 of Municipal Code to modify the date on which existing written Ratio Utility Billing Systems (RUBS) pass through agreements are no longer effective and changing the timing regarding petitions for the one-time offset rent increase, specifically:
- (1) All verbal utility pass through agreements are void upon the effective date of the ordinance amendment;
  - (2) All written utility pass through agreements with new tenants executed after January 1, 2018 are void upon the effective date of the ordinance amendment;
  - (3) The petition filing period for offset petitions will be July 5, 2018 to October 31, 2018, no longer linked to the rent registry process;
  - (4) All pre-existing written utility pass through agreements will be void following the decision of a Petition Examiner determining the outcome of the offset petition. If the landlord does not file a petition, the existing written utility pass through agreement shall be void after October 31, 2018; and
  - (5) If the landlord has a written utility pass through agreement with a new tenant executed prior to May 1, 2018 and the landlord can prove that he/she has prior to June 30, 2017 required utility pass through agreements with the same terms for all tenants in the building, the landlord may continue, on the same terms as for a pre-January 1, 2018 pass through agreement, to apply that pass through agreement and to petition for an offset rent increase.
- (b) Direct staff to submit to the City Manager for approval the proposed amendment adding a Chapter 13 to the Apartment Rent Ordinance Regulations, which describe the offset petition process.

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

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated May 10, 2018, recommending approval of an ordinance.

Director of Housing Jacky Morales-Ferrand provided a presentation and responded to questions.

Public Comment: Noble Barr, California Apartment Association, and Robert Aguirre expressed concerns.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Sylvia Arenas and carried unanimously, Ordinance No. 30110, entitled: “A Ordinance of the Council of the City of San José Amending Part 3 of Chapter 17.23 of Title 17 of the San José Municipal Code to Modify the Provisions Regarding the One-Time Rent Increase for Units with Pass Through Agreements”, was passed for publication. (10-0-1. Absent: Liccardo.)

## **6. TRANSPORTATION & AVIATION SERVICES**

- 6.1 18-650**      **Actions Related to the Agreements for the Diridon Integrated Station Concept Plan.**  
*Renumbered to Item 2.20*

## **7. ENVIRONMENTAL & UTILITY SERVICES**

- 7.1 18-658**      (a) Report on bids and award of a construction contract for 7757-Advanced Facility Control and Meter Replacement - Phase 1 Project to the low bidder, C. Overaa & Co., for the base bid and Add Alternate Nos. 1 to 4, in the amount of \$5,790,000, and approve a 20 percent construction contingency in the amount of \$1,158,000.
- (b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute one or more change orders in excess of \$100,000 for the duration of the project, not to exceed the total contingency amount approved for the project.
- CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP16-130. (Environmental Services/Public Works)

Documents Filed: (1) Letter from Debi Davis, Acting Chair, Treatment Plant Advisory Committee, dated May 18, 2018, providing recommendations. (2) Joint memorandum from Director, Environmental Services, Kerrie Romanow, and Director of Public Works, Matt Cano, dated April 30, 2018, recommending acceptance of a report and adoption of a resolution.

Staff responded to questions regarding contingency fees.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 78601, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute any Single and/or Multiple Change Orders for the 7757 – Advanced Facility Control and Meter Replacement – Phase 1 Project in Excess of \$100,000 up to the Amount of the Contingency of \$1,158,000”, was adopted. (10-0-1. Absent: Liccardo.)

- 7.2 18-659**      Report on bids and award of contract for the 8641 - South Bay Water Recycling Pump Station Heating, Ventilation, and Air Conditioning Project to the low bidder, Blocka Construction Inc., in the amount of \$406,000 and approve a contingency in the amount of \$40,600.
- CEQA: Addendum to the Spreckles Sanitary Sewer Force Main Supplement and Pump Station Rehabilitation Project Mitigated Negative Declaration (Resolution No. 76630), File No. PP17-067. (Environmental Services)

Documents Filed: (1) Letter from Debi Davis, Acting Chair, Treatment Plant Advisory Committee, dated May 18, 2018, providing recommendations. (2) Memorandum from Director, Environmental Services, Kerrie Romanow, dated April 30, 2018, recommending acceptance of a report on bids and award of a contract.

## 7.2 (Cont'd.)

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sylvia Arenas and carried unanimously, the Report on bids and award of contract for the 8641 - South Bay Water Recycling Pump Station Heating, Ventilation, and Air Conditioning Project to the low bidder, Blocka Construction Inc., in the amount of \$406,000 with related contingencies was approved. (10-0-1. Absent: Liccardo.)

## 7.3 18-691 Commercial Solid Waste Customer Service Rates.

**Recommendation:**

- (a) Hold a Public Hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services; and
- (b) Adopt a resolution setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organics processing services.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates & Fares without changes to or expansion of services. (Environmental Services)

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated April 30, 2018, recommending adoption of a resolution.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78602, entitled: “A Resolution of the Council of the City of San José Fixing and Determining Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, Including the Total Costs for Organics Processing Services, Effective July 1, 2018”, was adopted. (10-0-1. Absent: Liccardo.)

## OPEN FORUM

Michael Feinstein shared a plan to elect California State legislature differently.

## ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon Council Session at 5:21 p.m.

## RECESS/RECONVENE

The City Council recessed at 5:21 p.m. from the afternoon Council Session and reconvened at 6:02 p.m. in the Council Chambers, City Hall.

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

Absent Councilmembers: Rocha.

## PUBLIC SAFETY

- 8.1 18-654** Accept the 2017 Independent Police Auditor Year End Report.  
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.  
(Independent Police Auditor)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated May 21, 2018, withdrawing his memorandum of May 18, 2018. (2) Memorandum from Mayor Sam Liccardo, dated May 18, 2018, providing direction to the City Manager regarding Seal Beach negotiations. (3) 2017 IPA Year End Report, including presentation to City Council, dated May 22, 2018, provided by Independent Police Auditor, Aaron B. Zisser. (4) Email from José Manuel Valle, received May 22, 2018, providing a Silicon Valley De-Bug report.

Independent Police Auditor, Aaron B. Zisser and Police Chief Edgardo Garcia provided reports.

Public Comments: Nineteen (19) members of the public provided comments, personal experiences and suggestions.

Extensive Council discussion followed.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez and carried unanimously, acceptance of the year-end report was deferred, to allow the Independent Police Auditor to include the raw data and to clarify the data on page 35 regarding race disparities in who is released with no charges. (9-0-2. Absent: Khamis, Rocha.)

**8.2 18-655 San José Police Department Internal Affairs Department Initiated Investigation Report.**

Accept the San José Police Department's Internal Affairs Unit report on Department Initiated Investigations for calendar year 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. (Police)

Documents Filed: Memorandum from Police Chief Edgardo Garcia, dated May 1, 2018, recommending acceptance of the Internal Affairs Report.

Public Comments: Sixteen (16) members of the public provided comments, personal experiences and suggestions.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Lan Diep and carried unanimously, the San José Police Department Internal Affairs Department Initiated Investigation Report was accepted. (9-0-2. Absent: Khamis, Rocha.)

## **LAND USE**

### **10.1 Land Use on Consent Calendar**

**10.1 18-661 C18-008 - Conforming Rezoning of Real Property Located at 510 North Third Street.**

Consideration of an ordinance of the City of San José rezoning a 0.4-gross acre site, located at 510 North Third Street from the CO Commercial Office Zoning District to the CP Commercial Pedestrian Zoning District (David Eves, Owner).  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report (EIR) (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Program EIR (Resolution No. 77617), and Addenda thereto. The project does not involve new significant impacts beyond those analyzed in the above EIRs. Director of Planning, Building and Code Enforcement recommends approval. (PBCE)  
C18-008 - Council District 3

Documents Filed: (1) City Council Staff Report, File No. C18-008, dated May 2, 2018. (2) Proof of Publication of Notice of Public Hearing, executed on April 27, 2018, submitted by the City Clerk. (3) Email from Dennis Martin, dated May 17, 2018.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, Ordinance No. 30111, entitled: “A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 0.43-Gross Acre Situated at the Northeast Corner of North 3<sup>rd</sup> Street and East Empire Street (501 North 3<sup>rd</sup> Street), from the CO Commercial Office Zoning District to the CP Commercial Pedestrian Zoning District”, was passed for publication. (10-0-1. Absent: Rocha.)

### **END OF CONSENT CALENDAR**

## LAND USE - REGULAR AGENDA

### 10.2 18-622 Urban Village Implementation Framework.

**Recommendation:** Adopt a resolution approving the Urban Village Implementation and Amenity Framework to further implementation of the Urban Village General Plan Major Strategy and the individual Urban Village Plans, as recommended by staff.  
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Planning, Building and Code Enforcement)  
*Deferred from 5/8/18 Item 10.2 to 5/22/18 per Administration.*

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmember Chappie Jones, dated May 18, 2018, recommending acceptance of staff recommendations, with additional direction to staff. (2) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated May 11, 2018, recommending adoption of a resolution. (3) Email from Dennis Martin, dated May 17, 2018, providing correspondence from BIA (Building Industry Association), dated May 17, 2018, offering comments on the urban village planning process. (4) Three (3) Proof of Publication of Notice of Public Hearings, executed on April 23, 2018, April 30, 2018, and May 1, 2018, submitted by the City Clerk.

Director, Planning, Building and Code Enforcement, Rosalynn Hughey provided an introduction, and Planning, Building and Code Enforcement Division Manager, Michael Brilliot continued with a presentation.

Public Comment: Six members of the public offered concerns and questions regarding the framework as presented. Erik Schoennauer offered support.

Action: Upon motion by Councilmember Chappie Jones, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Resolution No. 78603, entitled: “A Resolution of the Council of the City of San José Adopting the Urban Village Implementation and Amenity Framework Which Establishes Urban Village Amenity Incentive Program that Applies to Applications to Rezone Sites in Urban Village Plan Areas from Commercial to Residential or Mixed Use Residential Uses”, was adopted, including the joint memorandum from Mayor Liccardo, Vice Mayor Carrasco, and Councilmember Jones, dated May 18, 2018, to: (1) Accept the staff recommendation and adopt a resolution approving the Urban Village Implementation and Amenity Framework with the following modifications: (a) Clarify that the city-wide average project value will be adjusted and refined on a periodic basis based on economic conditions; (b) Require that the Affidavit for Acceptance of Conditions outlined in Section E2 of the Framework be signed prior to issuance of the Certificate of Occupancy, to allow development projects to proceed with construction expeditiously; (2) Direct staff to begin work to develop the new Urban Village Commercial and Urban Village Mixed-Use zoning districts as is contemplated in the Framework. Also, add clarification to say developers can still be required to have certain amenities. (9-0-2. Absent: Carrasco, Rocha.)

**PP18-046 - Amendment to Title 20 of the San José Municipal Code for Residential Zoning Districts.**

Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code (Zoning Ordinance) to amend sections of Chapter 20.30 “Residential Zoning Districts” to modify development standards and requirements for Secondary Dwelling Units (also known as ADUs), including lot size, unit area, unit type, setbacks and height, in compliance with newly adopted State Law provisions; and to amend sections of Chapter 20.90 and to “Reduction in Required Off-Street Parking Spaces” and “Setbacks” for reductions in parking spaces for one-dwelling residential uses in compliance with adopted State Law provisions; to add definition of “conversion” to Chapter 20.200; and to make other technical, non-substantive, or formatting changes within those sections of Title 20.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report (EIR) (Resolution No. 76041), and Supplemental Envision San José 2040 General Plan EIR (Resolution No. 77617) and Addenda thereto; Downtown Strategy 2000 Final EIR (Resolution No. 72767) and Addenda thereto; North San José Development Policies Final EIR (Resolution No. 72768) and Addenda thereto; and Diridon Station Area Plan Final EIR (Resolution No. 77096) and Addenda thereto, collectively, the “Final Program EIRs”. The project does not involve new significant impacts beyond those analyzed in the Final Program EIRs.(Planning, Building and Code Enforcement) PP18-046 – Citywide

Action: Deferred to June 19, 2018 per Administration.

**OPEN FORUM**

Blair Beekman spoke on mental health issues and moving forward with a positive philosophy.

**ADJOURNMENT**

The meeting of the City Council of the City of San José was adjourned at 10:37 p.m. in the memory of Renee Kay Horton, who passed away on January 15, 2018 at the age of 81. Renee was born in Elkhart County, Indiana into the loving family of Phyllis and Franklin Robinson. When she was 13 years old, they moved to San Mateo, California. It was here that she met her beloved husband, Robert or Bob Horton. They were married on February 21, 1959 at the historic lodge in Brookdale surrounded by Redwood trees in the Santa Cruz Mountains. This was a magical place for Renee, it served as inspiration for her life-long passion as an artist, painting beautiful watercolors. Renee and her husband Bob, made their home in San Jose and enjoyed their time together as sports car enthusiasts and car club members. Renee was a spiritual and compassionate soul who had a huge heart. She opened her home to share her love with as many as 8 rescue cats which earned her the nick name of “Kitty Mama”, her sweet babies kept her happy and fulfilled. Renee also spent time working at the Phoenix Gallery following her gifted artistry as well as working at CVS making friends and building relationships everywhere she went. She was an involved member of the McLaughlin Corridor Neighborhood Association to which she served dutifully as treasurer for more than 30 years. Renee was a true gem and one of a kind who was held in the highest regard by all that knew and loved her. Her beautiful smile brightened the world and her heart was kind, empathetic, warm and understanding. May you rest in peace Renee Kay Horton.

## 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>Developer</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 receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council_ District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10469	4701 N. First Street	1	Terra Ventures	12 Lots	Commercial

This notice is to be posted with the City Council's regular agenda for 5/22/18.

Minutes Recorded, Prepared and Respectfully Submitted by,

***DRAFT***

Toni J. Taber, CMC  
City Clerk

rmk/5-22-18/ MIN