

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, AUGUST 7, 2018**

The Council of the City of San José convened in Regular Session at 9:00 a.m. in the Council Chambers at City Hall.

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

Absent Councilmembers: All Present.

*\*Councilmember Sergio Jimenez participated in Closed Session via Teleconference from the Business Center at Super Manzana, 11 Manzana, 9 Privada Lote 10a, Benito Juarez, 77580 Puerto Morelos, Q.R. Mexico.*

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:04 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 Mauldin; Names Of Partie(s) Involved: Workers Compensation Appeals Court; Case No.: ADJ10489758; Amount of Money or Other Relief Sought: Benefits; (2) in re: Claim of Lem; Names Of Partie(s) Involved: Workers Compensation Appeals Court; Case No.: ADJ3853013; ADJ7457754; Amount of Money or Other Relief Sought: Benefits; (3) in re: Claim of Haws; Names Of Partie(s) Involved: Workers Compensation Appeals Court; Case No.: ADJ9436007; ADJ9436200; ADJ9436201; ADJ9436006; ADJ9436461 and ADJ9436462; Amount of Money or Other Relief Sought: Benefits; (4) Sutter's Place, Inc. dba Bay 101 v. City of San José; Names Of Partie(s) Involved: Sutter's Place, Inc. dba Bay 101; City of San José; the Division of Gaming Control; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 13-CV-258057; Amount of Money or Other Relief Sought: Damages according to proof; (5) Hernandez, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Juan Hernandez; Nathan Velasquez; Frank Velasquez; Mark Doering; Mary Doering; Barbara Arigoni; Dustin Haines-Scroding; Andrew Zambetti; Christina Wong; Craig Parsons; I.P. a minor individual; Grag Hyver; Todd Broome; Donovan Rost; Michele Wilson; Cole Cassady; Theodore Jones; Martin Mercado; Christopher Holland, Rachel Casey; City of San José; Loyd Kinsworthy; Lisa Gannon; Kevin Abruzzini; Paul Messier; Paul Spagnoli; Johnson Fong; Jason Ta, and Does 1-15, inclusive; Court: U.S. Court of Appeals; Ninth Circuit, Appellate Division; Case No.: 17-15576 (D.C. No. 5:16-CV-03957-LHK); Amount of Money or Other Relief

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

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

Sought: Damages according to proof; (6) Stand for San José, et al. v. City, et al.; Names Of Partie(s) Involved: City of San José; City Council of the City of San José; Successor Agency to the Redevelopment Agency of the City of San José; Stand for San José; Eileen Hannan; Michelle Brenot; Robert Brown; Karen Shirey; Fred Shirey; and Robert Shields; and Does 1-10 inclusive; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 1-14-CV-274088; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorneys Fees; (7) Plata, Raymond and Michelle v. City of San José; Names Of Partie(s) Involved: Raymond and Michelle Plata, individually and on behalf of other members of a class similarly situated residents and taxpayers, City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 14-CV-258879; Amount of Money or Other Relief Sought: Declaratory Relief, Injunctive Relief; (B) to Confer with Legal Counsel, Anticipated Litigation, pursuant to Sections 54956.9(d)(2) and (e)(2) of the Government Code: Number of matter(s) to be discussed: One (1); (C) Public Employment/Public Employee Evaluation Pursuant to Government Code Section 54957: Title: Independent Police Auditor; Name: Aaron Zisser; (D) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: Property Street Address, Parcel Number, or other Unique Reference of Property: Champions Way; 10.5 acre portion of APN 230-46-084; Negotiation Parties: Nanci Klein for the City of San José and Ed Storm, Deke Hunter for Coleman Airport Partners, LLC and Lew and Keith Wolff for Earthquakes Soccer, LLC.; Under Negotiation: the direction will concern price and terms of payment; (E) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) 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 (IAFF), Local 230; (2) 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 Municipal Employees' Federation, AFSCME Local 101, AFL-CIO; (3) 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; (4) 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; (Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from Closed Session at 12:45 p.m.; Council reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

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

Absent Councilmembers: Jimenez. (Excused)

## **INVOCATION (District 6)**

Grupo Yolotly Guerrerense performed a traditional dance representing women leaders of the Mexican Revolution.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Donald Rocha, seconded by Councilmember Johnny Khamis, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 2.9 deferred to August 14, 2018 as advised by the City Manager. It was announced that a special meeting of the Council is scheduled for Friday, August 10, to begin at 10 a.m. (10-0-1. Absent: Jimenez.)

## **CLOSED SESSION REPORT**

City Attorney Richard Doyle announced the City's authority to appeal in two (2) matters: (A) Hernandez v. the City of San José, Ninth Circuit Court, authority given to petition en banc for Supreme Court review; and (B) Plata v. City, a trial court verdict City prevailed, but in event to file cross-appeal, given authority to appeal.

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

Absent Councilmembers: All present.

## **CEREMONIAL ITEMS**

- 1.1** A proclamation was presented by Mayor Sam Liccardo and City Manager, David Sykes, supporting the "Food Empowerment Project", which promotes a more sustainable world by educating the community on issues, such as access to healthy foods for low income families, working conditions for farm workers, and depletion of natural resources. (City Manager)
- 1.2** A commendation was presented by Mayor Sam Liccardo and Councilmember Johnny Khamis to Mayetta Behringer, now age 100, for her passion for flying and for serving as a positive role model and a pillar of her community of San José. (Khamis)
- 1.3** A commendation was presented by Mayor Sam Liccardo and Councilmember Sylvia Arenas to Apoorva Panidapu for being an outstanding District 8 student and a quiz show champion. (Arenas)

## **CONSENT CALENDAR**

Upon motion Vice Mayor Magdalena Carrasco, 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: Jimenez.)

### **2.1 Approval of City Council Minutes.**

None provided.

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

None provided.

## **2.3 18-1057 Approval of Council Committee Minutes.**

- (a) Ad-Hoc Committee for Development Services Minutes of October 27, 2016. (Liccardo)
- (b) Smart Cities and Service Improvements Committee Minutes of October 5, 2017. (Jones)
- (c) Rules and Open Government Committee Minutes of January 31, 2018. (Mayor)
- (d) Rules and Open Government Committee Minutes of March 14, 2018. (Mayor)
- (e) Rules and Open Government Committee Minutes of March 21, 2018. (Mayor)
- (f) Rules and Open Government Committee Minutes of April 4, 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) Ad-Hoc Committee for Development Services Minutes of October 27, 2016. (2) Smart Cities and Service Improvements Committee Minutes of October 5, 2017. (3) Rules and Open Government Committee Minutes of January 31, 2018, March 14, 2018 March 21, 2018 and April 4, 2018.

Public Comments: Blair Beekman offered comments regarding the Smart Cities Meeting and urged accountability.

Action: The Council Committee Minutes were approved. (9-0-2. Absent: Arenas, Jimenez.)

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

None provided.

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

None provided.

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

None provided.

**2.7      18-1028      Declaration and Recording of a Statement of the Results of the June 5, 2018 Primary and Special Municipal Election.**

Adopt a resolution declaring and recording a statement of the results of the June 5, 2018 Primary and Special Municipal Election per Elections Code Sections 10263, 10264, and 15400.

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated July 27, 2018, recommending adoption of a resolution.

Action: Resolution No. 78729, entitled: “A Resolution of the Council of the City of San José Reciting that a regular Municipal Election and Special Municipal Election was Held in the City of San José on Tuesday, June 5, 2018; Stating the Offices to be Filled at the Election, and Confirming the Defeat of Measure B and the Passage of Measure C; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Names of the Persons and Offices Voted For, the Measures Voted For, the Number of Votes Given at Each Precinct to Each Person and For and Against Each Measure; and Finding and Declaring Who Received the Highest Number of Votes of the Votes Cast and the Measures that Received a Majority of the Votes Cast”, was adopted. (10-0-1. Absent: Jimenez.)

**2.8      18-1027      Amendment to the Definition of Compensation in the Unclassified Management Defined Contribution 401(a) Plan (Tier 3).**

Approve an ordinance to amend the definition of compensation for the Unclassified Management Defined Contribution 401(a) Plan (Tier 3).

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

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated July 26, 2018, recommending approval of an ordinance.

Action: Ordinance No. 30139, entitled “An Ordinance of the City of San José Amending Section 3.49.030 of Chapter 3.49 of Title 3 of the San José Municipal Code to Amend the Definition of Compensation”, was passed for publication. (10-0-1. Absent: Jimenez.)

**2.9      18-1023      Actions Related to the City Healthcare Program.**

Adopt a resolution to:

(a) Approve the terms of a Side Letter Agreement (attached to the memorandum to Council) related to the City's healthcare program between the City of San José (City) and the bargaining units listed below:

- (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI)
- (2) Association of Engineers and Architects, IFPTE Local 21 (AEA)
- (3) Association of Legal Professionals (ALP)
- (4) Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP)
- (5) City Association of Management Personnel, IFPTE Local 21 (CAMP)
- (6) Confidential Employees' Organization, AFSCME Local No. 101 (CEO)
- (7) San José Fire Fighters, IAFF Local 230 (IAFF)
- (8) International Brotherhood of Electrical Workers, Local No. 332 (IBEW)
- (9) Municipal Employees' Federation, AFSCME Local No. 101 (MEF)
- (10) International Union of Operating Engineers, Local No. 3 (OE#3)
- (11) San José Police Officers' Association (POA)

(b) Approve benefit and cost sharing changes for executive management and professional employees in Unit 99 and other unrepresented employees consistent with the terms of the Side Letter Agreement with the City's bargaining units related to the City's healthcare program. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Manager)

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated July 24, 2018, recommending adoption of a resolution and approval of benefit and cost sharing changes.

Public Comments: Denise Rodriguez, representing Kaiser Permanente, highlighted conflicts with underwriting rates and assumptions and urged a deferral of this item.

Action: Deferred to August 14, 2018 per Orders of the Day.

**2.10 18-1020 Approval of an Agreement with Brian Brush for Illuminated Façade Enhancement at the Market/San Pedro Street Parking Garage Located at 45 N Market Street.**

Adopt a resolution authorizing the City Manager or his designee to execute a design/fabrication/installation agreement with Brian Brush to provide an illuminated enhancement to the façade of the Market/San Pedro Street Parking Garage, located at 45 N Market Street, San José, CA 95113, in an amount not to exceed \$600,000.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3. (Economic Development)

Documents Filed: City Council Action Request from Deputy City Manager/Director of Economic Development Kim Walesh, dated July 25, 2018, recommending adoption of a resolution.

Action: Resolution No. 78731, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement to Design Fabricate and Install a Work of Art with Brian Brush to Provide an Illuminated Enhancement to the Façade of the Market/San Pedro Street Parking Garage in an Amount Not to Exceed \$600,000. (10-0-1. Absent: Jimenez.)

**2.11 18-1018 Actions Related to the Library Department Reorganization.**

Approve the following position changes in the Library Department effective September 1, 2018:

- (a) Add 2.0 FTE Deputy Director (U) (1640) positions; and
- (b) Eliminate the following positions:
  - (1) 1.0 FTE Assistant Director (3548); and
  - (2) 1.0 FTE Senior Librarian (6235).

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

Documents Filed: Joint memorandum from Library Director Jill Bourne and Budget Director Margaret McCahan, dated July 24, 2018, recommending approval of position changes.

Action: Actions Related to the Library Department Reorganization were approved. (10-0-1. Absent: Jimenez.)

**2.12 18-1016 Actions Related to the Measure Q Grant Agreement with Santa Clara Valley Open Space Authority for the Guadalupe Oak Grove Park Outdoor Classroom Project.**

Adopt a resolution:

- (a) Authorizing the City Manager to submit, negotiate and execute a grant agreement with Santa Clara Valley Open Space Authority in the amount of \$30,000 for the Guadalupe Oak Grove Park Outdoor Classroom Project; and
- (b) Supersede Resolution 78465, which was adopted by City Council on December 19, 2017.

**2.12 18-1016 Actions Related to the Measure Q Grant Agreement with Santa Clara Valley Open Space Authority for the Guadalupe Oak Grove Park Outdoor Classroom Project (Cont'd.)**

CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities File No. PP18-001. Council District 10. (Parks, Recreation and Neighborhood Services)

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated July 24, 2018, recommending adoption of a resolution.

Action: Resolution No. 78732, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit, Negotiate and Execute a Grant Agreement with Santa Clara Valley Open Space Authority in the Amount of \$30,000 for the Guadalupe Oak Grove Park Outdoor Classroom Project and Superseding Resolution 78465”, was adopted. (10-0-1. Absent: Jimenez.)

**2.13 18-1019 Amendment to the Schedule of Parkland In-Lieu Fees for Single Resident Occupancy and Secondary or Accessory Dwelling Units.**

Adopt a resolution to revise unit type definitions and requirements for Single Resident Occupancy and Secondary or Accessory Dwelling Units in the Schedule of Parkland In-Lieu Fees to be consistent with the corresponding definitions in San José Municipal Code (Title 20), as may be amended from time to time.

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

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated July 24, 2018, recommending adoption of a resolution.

Public Comments: Craig Mizushima, Housing Trust Silicon Valley; Tim Beaubien, Santa Clara County Association of Realtors; and Mathew Reed, urged various considerations, such as elimination of park fees, urging waiving park fees for accessory dwellings and suggesting staff return with an additional report on the elimination of fees.

Deputy Director of Parks, Recreation and Neighborhood Services, Nicolle Burnham and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. responded to questions.

Motion: Councilmember Raul Peralez moved approval, including direction staff to return in a year to compare the current year with an increase on Accessory Dwelling Units. Councilmember Sylvia Arenas seconded the motion.

Councilmember Sylvia Arenas requested an amendment to the motion, asking that viable ways be explored for low-income families to come into compliance or alternatively giving them options for waiving or reducing fees. Councilmember Raul Peralez agreed to the amendment to the motion on the table.

*(Item Continued on the Next Page)*



**2.13 18-1019 Amendment to the Schedule of Parkland In-Lieu Fees for Single Resident Occupancy and Secondary or Accessory Dwelling Units.**

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78733, entitled: “A Resolution of the Council of the City of San José Setting Forth the Schedule of Parkland Fees Charged Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code to Define Single Resident Occupancy and Secondary Units or Accessory Dwelling Unit Fee Rates in the Schedule of Parkland Fees as Set Forth in the San José Municipal Code Title 20”, was adopted, with staff to return in a year to compare the current year with an increase on Accessory Dwelling Units and explore viable ways for low-income families to come into compliance or alternatively giving them options for waiving or reducing fees. (10-0-1. Absent: Jimenez.)

**2.14 18-1037 Retroactive Approval of Travel for Mayor Liccardo to attend the Bloomberg Harvard City Leadership Initiative in New York, NY.**

Retroactively approve travel for Mayor Liccardo to attend the Bloomberg Harvard City Leadership Initiative in New York, NY from July 22-July 25, 2018, and accept the gift of funds from Bloomberg Harvard City Leadership Initiative. Source of funds for travel: Bloomberg Harvard City Leadership Initiative.  
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Mayor)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated July 17, 2018, requesting retroactive approval to travel on City business.

Action: Retroactive Approval of Travel for Mayor Liccardo to attend the Bloomberg Harvard City Leadership Initiative in New York, NY was approved. (10-0-1. Absent: Jimenez.)

**2.15 18-1038 Retroactive Approval of Travel for Vice Mayor Carrasco to attend the Sister Cities International Annual Conference in Aurora, Colorado.**

Retroactively approve travel for Vice Mayor Carrasco to attend the Sister Cities International Annual Conference from August 1-August 4, 2018. Source of funds for travel: District 5 office funds.  
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Carrasco)

Documents Filed: Memorandum from Vice Mayor Magdalena Carrasco, dated July 18, 2018, requesting retroactive approval to travel on City business.

Action: Retroactive Approval of Travel for Vice Mayor Carrasco to attend the Sister Cities International Annual Conference in Aurora, Colorado was approved. (10-0-1. Absent: Jimenez.)

**2.16 18-1053 Youth Commission Appointment.**

Appoint Sofia Jaquez to the District 5 Youth Commission Seat for a term expiring May 31, 2019. CEQA: Not a Project, File No. PP17-010, City Administrative Activities, resulting in no changes to the physical environment. (Clerk)

## 2.16 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated July 27, 2018, recommending an appointment to the Youth Commission.

Vice Mayor Magdalena Carrasco introduced the new Youth Commissioner for District 5.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Raul Perez and carried unanimously, the appointment of Sofia Jaquez to the District 5 Youth Commission Seat for a term expiring May 31, 2019, and she was given the Oath of Office by City Clerk Toni J. Taber. (9-0-2. Absent: Davis, Jimenez.)

## 2.17 18-1052 **Employee Member Vacancy on the Federated City Employees' Retirement System Board of Administration.**

As recommended by the Federated City Employees' Retirement System Board of Administration (Board), appoint Qianyu Sun as an employee member to fill an unanticipated vacancy on the Board to 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. (Clerk)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated July 27, 2018, recommending an appointment to the Federated City Employees' Retirement System Board of Administration.

Action: Qianyu Sun was appointed as an employee member to fill an unanticipated vacancy on the Federated City Employees' Retirement System Board of Administration to a term expiring November 30, 2021. (10-0-1. Absent: Jimenez.)

## 2.18 18-1072 **Approval of the Vinci Park Elementary Dumpster Day Sponsored By Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on August 1, 2018:

1. Approve the District 4 Dumpster Day at Vinci Park Elementary School scheduled on September 15, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.
2. Approve and accept donations from various individuals, businesses or community groups to support the event.

Documents Filed: Memorandum from Councilmember Lan Diep, dated July 24, 2018, recommending approval of a City Council Sponsored Special Event.

Action: The Vinci Park Elementary Dumpster 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. (10-0-1. Absent: Jimenez.)

**2.19 18-1071 Retroactive Approval of Caltrans Community Meeting Sponsored By Council District 2 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on August 1, 2018:

1. Retroactively approve the Caltrans Community Meeting scheduled on August 1, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.
2. Approve and accept donations from various individuals, businesses or community groups to support the event.

Documents Filed: Memorandum from Councilmember Sergio Jimenez, dated July 19, 2018, recommending approval of a City Council Sponsored Special Event.

Public Comments: Blair Beekman spoke on Caltrans funding.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Johnny Khamis and carried unanimously, the Caltrans Community Meeting as a City Council Sponsored Special Event was retroactively approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (8-0-3. Absent: Arenas, Davis, Jimenez.)

## **STRATEGIC SUPPORT**

**3.3 18-1050 Audit of the Department of Public Works: Enhancing Management of Capital Projects.**

Accept the results of an audit of the Department of Public Works:  
Enhancing Management of Capital Projects.

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

Documents Filed: Memorandum from City Auditor Sharon Erickson, dated July 27, 2018, providing the Audit of the Department of Public Works: Enhancing Management of Capital Projects.

City Auditor Sharon Erickson and Director of Public Works, Matt Cano provided a presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, the Audit of the Department of Public Works was accepted. (9-0-2. Absent: Carrasco, Jimenez.)

**Potential General Obligation Bond Ballot Measure**

- (a) Review and discuss the community survey results regarding a potential general obligation bond ballot measure;
- (b) Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 6, 2018, to submit to the electors of the City of San José a general obligation bond measure with the following statement of the measure to be printed in the ballot:

**General Obligation Bond Measure**

To:

- Upgrade 911 communications/ police/ fire facilities to improve public safety and emergency/ disaster response;
- Repair deteriorating bridges;
- Repave worst streets/potholes;
- Repair storm drain system/ protect open space to prevent creek pollution;
- Provide housing affordable for families/ homeless/ veterans; and
- Address urgent infrastructure needs.

Shall San José issue \$950,000,000 in general obligation bonds with an average levy of 16¢ per \$1,000 of assessed value, averaging \$51,075,000 annually while bonds are outstanding, requiring community oversight/ audits? (YES/NO)

- (c) Council discussion and consideration of whether the full text of the proposed measure should be printed in the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code Section 12111, to be incorporated into the resolution (as Exhibit A) calling for the election;
- (d) Council discussion and consideration of whether to print rebuttal arguments in the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated into the resolution calling for the election;
- (e) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election;
- (f) Council discussion and consideration of whether to direct the City Clerk to transmit a copy of the measure to the City Attorney to prepare an Impartial Analysis, pursuant to Elections Code Section 9280; and
- (g) Direct the City Clerk to take all actions necessary to place this measure for a November 6, 2018 Special Municipal Election.

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. (City Manager)

### 3.4 18-1029 Potential General Obligation Bond Ballot Measure (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated August 6, 2018, recommending adoption of a resolution, including ballot statements as indicated. (2) Memorandum from Councilmember Sergio Jimenez, dated August 3, 2018, recommending additional criteria to staff recommendations. (3) Memorandum from Councilmember Donald Rocha, dated August 6, 2018, recommending modifications to staff recommendations. (4) Memorandum from Councilmember Johnny Khamis, dated August 6, 2018, recommending modifications to staff recommendations. (5) Memorandum from City Manager, David Sykes, dated July 27, 2018, recommending Review and discussion of community survey results regarding a potential general obligation bond ballot measure and adoption of a resolution.

Public Comments: Offering comments, additional recommendations and opinions on the proposed ballot measure, were: Brian Schmidt (Greenbelt Alliance); Alice Kaufman (Committee for Green Foothills); Olivia Navarro (Liuna Laborers Local 276); Ray Bramson (Destination: Home); Mathew Reed; Christine Fitzgerald (Silicon Valley Independent Living Center); Andrea Mackenzie (Santa Clara Valley Open Space Authority); Huascar Castro (SV@home); Aaron Eckhause; Tim Beaubien (Santa Clara County Association of Realtors); Craig Mizusaima (Housing Trust S.V.); Geoffrey Morgan (First Community Housing); Blair Beekman; Roma Dawson; Ahani Kleinhaus; Dave Poeschel; Pat Pizzo; Matt Warren (Law Foundation of Silicon Valley), and Mariela Garcia (Sacred Heart Community Service).

Chief of Staff, Office of the City Manager, Lee Wilcox introduced the topic, Dave Metz representing FM3 Research offered polling results; Director of Public Works, Matt Cano and Assistant Director of Finance, Lisa Taitano continued the presentation.

Motion: Councilmember Raul Peralez moved approval of Mayor Sam Liccardo's memorandum, including the recommendation #2 from Councilmember Donald Rocha, and including Councilmember Sergio Jimenez' memo regarding the list, excluding 1(a) regarding geographic equity & disrepair. Councilmember Dev Davis seconded the motion.

Director of Transportation Jim Ortbal responded to questions regarding the infrastructure bond. Councilmember Johnny Khamis indicated he could not support the motion as he finds it too broad and unaccountable.

Substitute Motion: Councilmember Johnny Khamis moved his memorandum dated August 6, 2018. The motion failed for lack of a second.

This motion was bifurcated into two parts, the first relating to the Infrastructure Bond, the second relating to Housing.

#1: Action: On a call for the question, staff instruction to bring forward language for Council to consider regarding Potential General Obligation Bond Ballot Measure: Disaster Preparedness, Public Safety, and Infrastructure Bond passed unanimously. (10-0-1. Absent: Jimenez.)

#2: Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried, staff instruction to bring forward language for Council to consider the Potential General Obligation Bond Ballot Measure: Affordable Housing Bond, was passed. (9-1-1. Noes: Khamis. Absent: Jimenez.)

The City Council gave direction to the City Manager to bring forward ballot language, tax statements, and resolutions for Council consideration at a Special Meeting to be held on August 10, 2018.

**3.5      18-1030      Charter Amendment on Salary Setting and Competing Ballot Measures.**

(a) Council discussion of community survey results regarding a potential ballot measure amending the process in which Mayor and Council salaries are set under the City Charter and authorizing the Council to place competing ordinances on a citywide ballot at the same time the Council places a voter-sponsored initiative on the ballot;

(b) Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 6, 2018, to submit to the electors of the City of San José a measure to amend the City Charter with the following statement of the measure to be printed in the ballot:

2018 Charter Amendments

Shall the City of San José Charter be amended to:

- Remove the Mayor and Council's ability to approve their salaries;
  - Require the Salary Setting Commission to adjust the base salaries for the Mayor and City Council once every ten years;
  - Limit base salary increases after each 10-year adjustment to annual adjustments for inflation; and
  - Align the City Charter with State law to allow the City Council to place competing ordinances on the same ballot in Municipal Elections?
- (YES/NO)

(c) Council discussion and consideration of whether the full text of the proposed City Charter amendment should be printed in the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code 12111, to be incorporated into the resolution calling for the election;

(d) Council discussion and consideration of whether to print rebuttal arguments in the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code 9285, to be incorporated into the resolution calling for the election;

(e) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election;

(f) Council discussion and consideration of whether to direct the City Clerk to transmit a copy of the measure to the City Attorney to prepare an Impartial Analysis, pursuant to Elections Code Section 9280; and

*(Item continued on the next page)*

**3.5      18-1030      Charter Amendment on Salary Setting and Competing Ballot Measures (Cont'd.)**

(g) Direct the City Clerk to take all actions necessary to place this measure on the ballot for a November 6, 2018 Special Municipal Election.

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

Documents Filed: (1) Joint memorandum from Councilmember Sergio Jimenez and Councilmember Donald Rocha, dated August 3, 2018, supporting staffs' recommendations with modifications. (2) Memorandum from Councilmember Raul Peralez, dated August 6, 2018, recommending a requirement that Council have a supermajority vote before placing any competing measure on the ballot. (3) Memorandum from Councilmember Sylvia Arenas, dated August 7, 2018, recommending acceptance of the Mayor's memo with additional steps. (4) Memorandum from City Manager, David Sykes, dated July 27, 2018, recommending Review and discussion of community survey results regarding a potential general obligation bond ballot measure and adoption of a resolution.

*Item deferred to a special meeting of the Council on Friday, August 10, 2018.*

**3.6      18-1031      Charter Amendment on Construction Contract Procurement Modernization.**

(a) Discussion and consideration of a Council-sponsored charter amendment for the November 6, 2018 statewide general election;

(b) If Council wishes to proceed with a charter amendment, adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 6, 2018, to submit to the electors of the City of San José the following charter amendment measure:

2018 Charter Amendment - Construction Contract Procurement Modernization

Shall the City of San José Charter be amended to:

- Prioritize selecting contractors on cost, but enable consideration of factors like experience and work quality;
- Increase opportunities for small, local, and economically disadvantaged businesses to compete for contracts;
- Modify the bidding threshold from \$100,000 to \$600,000, adjusted annually for inflation;
- Lower the "design-build" contract threshold from \$5,000,000 to \$1,000,000; and
- Allow modernization of public noticing? (YES/NO)

(c) Council discussion and consideration of whether the full text of the proposed City measure should be printed in the November 6, 2018, Voter's Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;

*(Item continued on the next page)*

### 3.6 Charter Amendment on Construction Contract Procurement Modernization (Cont'd.)

(d) Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure in the November 6, 2018, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;

(e) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 6, 2018, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election;

(f) Council discussion and consideration of whether to direct the City Clerk to transmit a copy of the measure to the City Attorney to prepare an Impartial Analysis, pursuant to Elections Code Section 9280; and

(g) Direct the City Clerk to take all actions necessary to place this measure for a November 6, 2018, Special Municipal Election.

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

***Heard immediately following item 3.3 (18-1050)***

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated August 6, 2018, requesting modification to language in Exhibit A of the resolution.

Chief of Staff, Office of the City Manager, Lee Wilcox introduced the topic, Dave Metz representing FM3 Research offered polling results and indicated sample ballot language. Director of Public Works, Matt Cano continued the presentation.

Motion: Councilmember Johnny Khamis moved approval of his memorandum, dated August 6, 2018. Councilmember Dev Davis seconded the motion.

Substitute Motion: Councilmember Raul Peralez moved approval of the staff recommendation, including Mayor Sam Liccardo's memorandum dated August 6, 2018. Councilmember Donald Rocha seconded the motion.

Councilmember Johnny Khamis noted that he cannot support the substitute motion, opining a lack of clarity in the Charter.

Action: On a call for the question, the substitute motion carried, and Resolution No. 78734, entitled: "A Resolution of the Council of the City of San José Calling and Giving Notice of, on its Own Motion, the submission to the Electors of the City of San José at a Special Municipal Election to be Consolidated with the Next General Election on November 6, 2018, a Ballot Measure Proposal to Amend Section 1217 of Article XII of the San José City Charter to Modify Construction Contract Procurement and the Bidding Process", was adopted, including direction as outlined in Mayor Sam Liccardo's memorandum dated August 6, 2018, to (A) Adopt a resolution of the City Council calling and giving notice for a Special Municipal Election to be held on November 6, 2018, and to submit to the voters of the City of



### 3.6 Charter Amendment on Construction Contract Procurement Modernization (Cont'd.)

San José a measure to amend the City Charter with the statement of the measure as described in paragraph (b) of the City Manager's July 27, 2018, Memorandum regarding item 3.6. (B) To save \$89,000 in City costs on this measure, approve a Resolution directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San Jose Mercury News, a newspaper of general circulation within the City of San Jose, instead of printing the full text of the measure in the Sample Ballot; (C) Allow rebuttal arguments, pursuant to Elections Code Section 9285; (D) Authorize the Mayor to submit a ballot argument in support of the measure, pursuant to Elections Code Section 9282; (E) Direct the City Attorney to prepare an Impartial Analysis of the measures, where, as authorized under Elections Code Section 9280, the following statement will be printed in the Impartial Analysis to be prepared by the City Attorney: "If you would like to read the full text of the measure, see <http://www.sanjoseca.gov/index.aspx?nid=5694> or call 408-535-1260 and a copy will be sent at no cost to you."; and (F) Direct the City Clerk to perform all other actions necessary to place the measure on the November 6, 2018 ballot.

Additionally, the City Attorney's Office was directed to return with a Municipal Code definition of labor compliance focusing on labor violations.

(8-2-1. Noes: Jones, Khamis. Absent: Jimenez.)

### 3.7 18-1021 Actions Related to the Fiscal Year 2018-2019 Property Tax Levy for General Obligation Bonds.

Adopt a resolution establishing the FY 2018-19 property tax levy on all taxable property within the City of San José for the purpose of funding the City's general obligation bonded indebtedness and pay the related administration fee to the County.

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. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated July 24, 2018, recommending adoption of a resolution.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Peralez, and carried unanimously, Resolution No. 78735, entitled: "A Resolution of the Council of the City of San José Establishing the Fiscal Year 2018-2019 Property Tax Levy for the City's General Obligation Bond Indebtedness", was adopted. (10-0-1. Absent: Jimenez.)

**3.8 18-1024 Public Hearing on the Fiscal Year 2018-2019 Sanitary Sewer Service and Use Charge and Storm Sewer Service Charge Assessments for the 2018-2019 Santa Clara County Secured Property Tax Roll.**

Conduct a Public Hearing on the Fiscal Year 2018-2019 annual report prepared by the Director of Finance detailing the Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges filed with the City Clerk's Office; and adopt a resolution to confirm the approval of the report and the placement of the charges as set forth therein on the 2018-2019 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony.

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

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated August 6, 2018, recommending adoption of a resolution with modifications. (2) Memorandum from Director of Finance Julia H. Cooper, dated July 16, 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.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78376, entitled: "A Resolution of the Council of the City of San José Confirming the Approval of the Annual Report for Fiscal Year 2018-2019 of the Director of Finance on Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges, and Confirming the Approval of the Placement of Charges as Set Forth Therein on the 2018-2019 Tax Roll", was adopted. (10-0-1. Absent: Jimenez.)

**3.9 18-1025 Public Hearing on the Fiscal Year 2018-2019 Annual Residential Solid Waste Collection Service Charges for the 2018-2019 Santa Clara County Secured Property Tax Roll.**

Conduct a Public Hearing on the Fiscal Year 2018-2019 annual report prepared by the Director of Finance detailing the Residential Solid Waste Collection Service Charges filed with the City Clerk's Office; and adopt a resolution to confirm the approval of the report and the placement of charges as set forth therein on the 2018-2019 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony.

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated July 16, 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.

### 3.9 Public Hearing on the Fiscal Year 2018-2019 Annual Residential Solid Waste (Cont'd.)

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78377, entitled: “A Resolution of the Council of the City of San José Confirming the Approval of the Annual Report for Fiscal Year 2018-2019 of the Director of Finance on Residential Solid Waste Collection Service Charges, and Confirming the Approval of the Placement of Charges as Set Forth Therein on the 2018-2019 Tax Roll”, was adopted. (10-0-1. Absent: Jimenez.)

#### 3.10 18-1066 Actions Related to a Cardroom Measure and Cardroom Regulations

Status report, discussion and direction to the staff on possible cardroom tax measures and changes to cardroom regulations.

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

Documents Filed: Joint memorandum from Chief of Staff, Office of the City Manager, Lee Wilcox, and Chief of Police Edgardo Garcia, dated August 7, 2018 providing a cardroom revenue measure update.

Public Comments: Erik Schoennauer, representing Bay 101 Club, offered appreciation for the Staffs’ efforts and encouraged acceptance of the recommendation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, the status report was accepted. (10-0-1. Absent: Jimenez.)

## COMMUNITY & ECONOMIC DEVELOPMENT

#### 4.1 18-1022 Actions Related to the Issuance of Tax-Exempt Multifamily Housing Revenue Bonds and the Loan of the Bond Proceeds Thereof for the El Rancho Verde Apartments Project Located at 300 and 303 Checkers Drive.

Adopt a resolution:

- (a) Authorizing the issuance of a tax-exempt multifamily housing revenue notes designated as “City of San José Multifamily Housing Revenue Note (El Rancho Verde Apartments), Series 2018A” (the “Series 2018A Note”) and “City of San José Multifamily Housing Revenue Note (El Rancho Verde Apartments), Series 2018B” (the “Series 2018B Note” and with the “Series 2018A Note, the “Notes”) in an aggregate principal amount not to exceed \$318,000,000;
- (b) Approving the loan of the proceeds of the Notes to ERV Community Partners, LP, a California limited partnership created by Community Preservation Partners, LLC, a California limited liability corporation, to finance the acquisition and rehabilitation of the El Rancho Verde Apartments located at 300 and 303 Checkers Drive, in San José (the “Development”);
- (c) Approving in substantially final form the Funding Loan Agreements, Borrower Loan Agreements and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2018 Note Documents”);

#### 4.1 18-1022 Actions Related to the Issuance of Tax-Exempt Multifamily Housing (Cont'd.)

(d) Authorizing and directing the City Manager, Director of Housing, Director of Finance or the Assistant Director of Finance, or their designees, to execute and, deliver the Series 2018 Note Documents together with any other documents required in connection with this transaction, including any documents ancillary to the 2018 Note Documents; and

(e) Authorizing an increase in the issuance fee and a reduction in annual monitoring fees, notwithstanding the requirements of the City's Policy for Issuance of Multifamily Housing Revenue Bonds, as provided in the memorandum to Council.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP18-069. Council District 3. (Housing/Finance)

#### *Heard immediately following Consent Calendar*

Documents Filed: (1) Memorandum from Councilmember Sergio Jimenez, dated August 3, 2018, recommending approval of staff recommendations. (2) Joint memorandum from Director of Housing Jacky Morales-Ferrand and Director of Finance Julia H. Cooper, dated July 16, 2018, recommending adoption of a resolution. (3) Supplemental memorandum from Director of Finance Julia H. Cooper, dated July 30, 2018, noting a change in the 2018B Notes interest rate.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78738, entitled: "A Resolution of the Council of the City of San José Approving the Issuance of Tax-Exempt Multifamily Housing Revenue Notes and the Loan of the Proceeds Thereof and Approving Related Documents for the El Rancho Verde Apartments Project", was adopted. (10-0-1. Absent: Jimenez.)

## OPEN FORUM

Blair Beekman spoke on community outreach and importance of mental health issues.

## ADJOURNMENT

The meeting of the City Council of the City of San José was adjourned at 5:08 p.m. to a Special Meeting to convene at 10 a.m. on Friday, August 10, 2018, in Council Chambers. The meeting was adjourned in memory of Paul Mayer, who passed on May 24, 2018 at 93 years of age and is survived by 6 children, 12 grandchildren, and 9 great-grandchildren. Mr. Mayer heroically served his country as a Second Lieutenant in the United States Army Air Corps and as a B-17 pilot during World War II. A humble man dedicated to standing up for others, Paul Mayer was the inspiration behind San Jose's Just Cause ordinance which protects tens of thousands of renters today.

Minutes Recorded, Prepared and Respectfully Submitted by,

***draft***

Toni J. Taber, CMC  
City Clerk

rmk/08-07-18 MIN

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

**18-1082                      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:

Proposed		Council				
Tract	Location	District	Developer	Lot/Units	Type	Decision
10437	39 N. 5th St	3	SJSC	1/630	MFA	Approve
		Properties LLC		Residential		
						and 6 commercial Condominiums

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:

Tract	Location	District	Developer	Lots/Units	Type
10465	Raleigh Rd.	2	Pulte Group	20 lots/72 units	MFA
	Great Oaks Blvd (north of HWY 85)				