



## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JANUARY 9, 2018

The Council of the City of San José convened in Regular Session at 1:31 p.m. in the Council Chambers at City Hall.

Present: Councilmembers - Liccardo, Jimenez, Khamis, Arenas, Diep, Jones, Nguyen, Peralez, Rocha, Carrasco, Davis, (1:39 p.m.)

Absent: All Present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no Update.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:40 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) City of San Jose v. City of Santa Clara; Name(s) of Parties(s) involved: City of San Jose, City of Santa Clara; Court: Superior Court of California, County of San Mateo; Case No: 16-CIV-02303; Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (2) City of Santa Clara v. City of San Jose, et al.; Name(s) of Parties(s) involved: City Of Santa Clara, City of San Jose, City of San Jose City Council, does I through X; Federal Realty And Investment Trust, and does 1-20. Court: Superior Court of California, County of San Mateo; Case No: 17-CIV-00547; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief. (B). To confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: (1). Property Street Address, Parcel Number, or Other Unique Reference of Property: 255 South Montgomery Street (APN 261-37-025) 8 South Montgomery Street (APN 259-38-130) 102 South Montgomery Street (APN 259-48-012) 510 West San Fernando Street (APN 259-48-011, 259-48-013) 150 South Montgomery Street (APN 259-48-053) 105 South Montgomery Street (APN 261-35-003, 261-35-006, 261-35-010) 645 Park Avenue (APN 261-35-014) 525 West Santa Clara Street/566 West Julian Street (APN 259-28-031, 259-28-041, 259-28-043, 259-28-044) 697 W. San Carlos (261-37-030) No address (261-37-028). Negotiating Parties: Nanci Klein for the City of San Jose and Jay Bechtel for Google. Under Negotiation: The direction will concern price and terms of payment. (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.

Access the video, the agenda, and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/civiccentertry>. 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.)**

Name of Existing Contract or MOA: Memorandum of Agreement - City of San Jose and Association of Building, Mechanical and Electrical Inspectors (ABMEI). (2). Association of Engineers & Architects (AEA). Nature of negotiations: wages/salaries, hours, working conditions, etc. Name of Existing Contract or MOA: Memorandum of Agreement — City of San Jose and Association of Engineers & Architects (AEA). (3) City of San Jose - Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: City of San Jose - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Name of Existing Contract or MOA: Benefit & Compensation Summary — City of San Jose and City Association of Management Personnel Agreement. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement — Confidential Employees' Organization, AFSCME Local 101 and City of San Jose; (6) International Association of Firefighters, Local 230 (IAFF#230); 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; (7) International Brotherhood of Electrical Workers, Local 332 (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and Local 332 (IBEW); ); (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3 (OE#3). (10) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement - City of San Jose and Association of Legal Professionals of San Jose.

By unanimous consent, Council recessed from the Closed Session at 10:35 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

## **INVOCATION**

Pastor Mark Averill from Westgate Church provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by Third Graders from Latimer Elementary School.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Lan Diep and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with notation that there is no evening session. (10-0-1. Absent: Davis)

## CEREMONIAL ITEMS

- 1.1 18-391** Mayor Sam Liccardo and Councilmember Chappie Jones presented a Proclamation to the African American Community Service Agency recognizing January 16, 2018 as Martin Luther King Jr. Day in the City of San José.

## CONSENT CALENDAR

Upon motion by Councilmember Chappie Jones, seconded by Councilmember Johnny Khamis and carried unanimously, the Consent Calendar was approved with Item 2.6 pulled and the below listed actions taken as indicated. (10-0-1. Absent: Davis)

**2.1 Approval of City Council Minutes**

None provided.

**2.2 18-023 Final Adoption of Ordinances.**

(a) Ordinance No. 30055 An ordinance of the City of San José amending Chapter 2.08 of Title 2 of the San José Municipal code to add a new part 49 for the local implementation of the Women's Bill of Rights.

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

Documents Filed: Proof of Publication of the Title of Ordinance No. 30055 executed on December 19, 2017 by the City Clerk.

Action: Ordinance No. 30055 was adopted. (10-0-1. Absent: Davis)

(b) Ordinance No. 30056 An ordinance of the City of San José amending various sections of Chapter 4.70 of Title 4 of the San José Municipal Code to extend the cap program for the telecommunications users tax through December 31, 2022 and change the 2% annual increase increment to an annual increase of 3%, to take effect retroactively on January 1, 2018.

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

Documents Filed: Proof of Publication of the Title of Ordinance No. 30056 executed on December 19, 2017 by the City Clerk.

Action: Ordinance No. 30056 was adopted. (10-0-1. Absent: Davis)

(c) Ordinance No. 30057 An ordinance of the City of San José amending Chapter 13.32 of Title 13 of the San José Municipal Code to revise and add provisions pertaining to tree removal controls on private property, including amending Section 13.32.020 to add definitions of the terms "invasive tree," "hazardous condition," and imminently dangerous condition," revise how height, tree diameter and circumference are measured to trigger application of tree removal controls, and expand the definition of "unsuitable tree" to include trees that create and imminently hazardous condition, certain trees on land use types beyond one family dwelling, amending Sections 13.32.090 and 13.32.120

*(Item Continued on the Next Page)*

**2.2 18-023 Final Adoption of Ordinances. (Cont'd)**

to streamline the process for review of applications for removal of all trees that are not unsuitable trees, so that a Director's Hearing will only be held upon request and allowing an appeal to be filed only where a Director's hearing has been requested, amending Sections 13.32.041, 13.32.110 and 13.32.130 to clarify tree removal permit requirements included as part of another planning permit, requirements for tree replacement as a condition of approval for tree removal and provisions for safeguarding trees during construction, and making other technical, non-substantive, or formatting changes within Chapter 13.32 of Title 13 to add and amend regulations pertaining to tree removal controls.

CEQA: Pursuant to Section 15168 (c) (2) of the CEQA Guidelines, the City of San José has determined that the project described below is pursuant to or in furtherance of the Final Program Environmental Impact Report (Final Program EIR) and Supplemental Program Environmental Impact Report (Supplemental Program EIR) for the Envision San José 2040 General Plan and addenda thereto, and does not involve new significant impacts beyond those analyzed in the above EIRs. Therefore, the City of San José may take action on the project as being within the scope of both the Final and Supplemental Program EIRs. Planning Commission recommends approval (7-0).  
(Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 30057 executed on December 19, 2017 by the City Clerk.

Action: Ordinance No. 30057 was adopted. (10-0-1. Absent: Davis)

**2.3 Approval of Council Committee Minutes**

None provided.

**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.**

Councilmember Khamis presented a report as Council Liaison to the Police and Fire Department Retirement Board:

Action: Upon motion by Councilmember Johnny Khamis, seconded by Raul Peralez and carried unanimously, the report was approved.  
(10-0-1. Absent: Davis)

2.7 17-529

**Calling for Municipal Elections on June 5, 2018 and November 6, 2018.**

Adopt a resolution calling for a Regular Municipal Election on June 5, 2018 and a Run-Off Municipal Election on November 6, 2018, if necessary, for the purpose of electing a Mayor and Council Members for Districts 1, 3, 5, 7, and 9 and requesting consolidation with the County of Santa Clara. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Clerk):

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated December 21, 2017, recommending adoption of a resolution. (2) A Resolution of the Council of the City of San José calling and giving notice of a regular Primary Municipal Election to be held in the City of San José on June 5, 2018.

Action: Resolution No. 78476, entitled: "A Resolution of the Council of the City of San José calling and giving notice of a regular Primary Municipal Election to be held in the City of San José on June 5, 2018, and, if necessary, a regular run-off Municipal Election on November 6, 2018, for the purpose of electing one person to the Office of Mayor, and one person each from Council Districts One, Three, Five, Seven and Nine to the Council of The City of San José for full four-year terms; requesting the consolidation of the primary election with the Statewide direct primary election to be held in Santa Clara County on June 5, 2018 and the run-off election with the General Election to be held in Santa Clara County on November 6, 2018; requesting the Board of Supervisors of the County of Santa Clara to canvass the returns of said elections and to permit the County Registrar of Voters to render certain services to the City of San José relating to the conduct of said elections; and directing that certain other actions be taken with regard to the Election", was adopted. (10-0-1. Absent: Davis)

2.8 17-537

**City Manager's Travel to Fort Worth, Texas.**

Authorize travel for City Manager David Sykes to Fort Worth, Texas on January 18 – 21, 2018 to participate in the Large Cities Executive Forum. Source of Funds: City Manager's Non-Personal Appropriation.

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 City Manager David Sykes, dated December 15, 2017, recommending authorization to travel to Fort Worth, TX on January 18-21, 2018.

Action: Travel authorization for City Manager David Sykes to Fort Worth, TX to participate in the Large Cities Executive Forum, was approved. (10-0-1. Absent: Davis)

2.9 18-005

**Actions Related to Mayor's Staff Travel to Las Vegas, NV.**

Accept travel payments and authorize travel for Mayor's staff, Shireen Santosham, to Las Vegas from January 9 - 11, 2018, for the Consumer Electronics Show. Source of Funds: CityLab.

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 December 18, 2017,

Action: Travel payments and authorized travel for Mayor's staff, Shireen Santosham to Las Vegas from January 9-11, 2018, was approved. (10-0-1. Absent: Davis)

**2.10 18-032 Retroactive Approval of Community Meeting Sponsored by Council District 5 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 January 3, 2018:

- 1) Retroactively approve the Community Meeting scheduled on December 6, 2017 as City Council sponsored Special Events and approve the expenditure of funds; and
- 2) 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.

(Carrasco)

[Rules Committee referral 01/03/18 - Item G.1.a ]

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 3, 2018, transmitting the recommendations of the Rules and Open government Committee.

Action: District 5 Event 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: Davis)

**2.11 18-033 Retroactive Approval of Literacy Month Event Sponsored by Council District 5 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 January 3, 2018:

- 1) Retroactively approve Literacy Month Event scheduled on November 30, 2017 as City Council sponsored Special Events and approve the expenditure of funds; and,
- 2) 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.

(Carrasco)

[Rules Committee referral 01/03/18 - Item G.1.b ].

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 3, 2018, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Literacy Month Event 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: Davis)

2.12 18-034

**Retroactive Approval of Community Events Sponsored by Council District 7 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 January 3, 2018:

1) Retroactively approve the following District 7 events as a City Council sponsored special events and approve the expenditure of funds:

a. Santee Neighborhood Association Gift Give Away with Santa scheduled on December 18, 2017 at the Franklin McKinley Children's Initiative;

b. Alma Neighborhood Association Family Tree Gift Give Away scheduled on December 18, 2017 at the Alma Community Center;

c. Valley Palms Neighborhood Association Christmas Celebration scheduled on December 20, 2017 at the Paseo Center Community Room; and

2) 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. (Nguyen)

[Rules Committee referral 01/03/18 - Item G.1.c]

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 3, 2018, transmitting the recommendations of the Rules and Open Government Committee.

Action: District 7 Events 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: Davis)

2.13 18-035

**Retroactive Approval of Community Events Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on January 3, 2018:

1) Retroactively approve the following District 8 events as City Council sponsored Special Events and approve the expenditure of funds:

a. Holiday Cookies and Coats Drive on Sunday, December 10, 2017;

b. Holiday Cookies and Coats Drive from Thursday, December 21, 2017 to Friday, December 22, 2017; and

2) 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)

[Rules Committee referral 01/03/18 - Item G.1.d]

Documents Filed: Memorandum from Councilmember Sylvia Arenas, District 8, dated December 21, 2017.

Action: District 8 Events 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: Davis)

**2.14 18-036**

**Approval of East San Jose Leadership Reception Sponsored by Council District 5 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 January 3, 2018:

1) Approve the East San Jose Leadership Reception event scheduled on January 18, 2018 as City Council sponsored Special Events and approve the expenditure of funds; and approve the expenditure of funds; and

2) 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. (Carrasco)

[Rules Committee referral 01/03/18 - Item G.1.e]

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 3, 2018, transmitting the recommendations of the Rules and Open Government Committee.

Action: District 5 Event 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: Davis)

**2.15 18-037**

**Approval of District 8 Grant for Laurelwood Elementary School.**

As recommended by the Rules and Open Government Committee on January 3, 2018. Approve grant for Laurelwood Elementary School for their Walk'n'Roll: program to help promote parent involvement and encourage students to participate to walk to school.

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

[Rules Committee referral 01/03/18 - Item G.2]

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 3, 2018, transmitting the recommendations of the Rules and Open Government Committee.

Action: Grant for Laurelwood Elementary School for their Walk'n'Roll: program to help promote parent involvement and encourage students to participate to walk to school was approved.

(10-0-1. Absent: Davis)

**END OF CONSENT CALENDAR**

**STRATEGIC SUPPORT SERVICES**

**Report of the City Manager, David Sykes (Verbal Report).**

None provided.

**3.2 Labor Negotiations Update.**

None provided.



**Retirement Services Audit.**

As recommended by the Public Safety, Finance, and Strategic Support Committee on October 19, 2017, accept the audit of Retirement Services. CEQA: Not a Project, File No. PP17-009 Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City actions. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 10/19/17 - Item (d)5] (Deferred from 11/7/17 - Item 3.3 and 11/28/17 - Item 3.3)

Documents Filed: (1) Report from City Auditor Sharon W. Erickson, entitled, “Audit of Retirement Services: Greater Transparency Needed in the Budgeting Process, Interactions Among Stakeholders, Investment Policies, and Plan Administration”, (Report 17-06) dated October 12, 2017. (2) Memorandum from City Auditor Sharon W. Erickson, dated November 21, 2017. (3) Memorandum from Mayor Sam Liccardo, dated November 3, 2017. (4) Memorandum from Mayor Sam Liccardo, Councilmember Johnny Khamis, Councilmember Lan Diep, Councilmember Chappie Jones, and Councilmember Devora “Dev” Davis, dated January 5, 2018. (5) “Response to Audit of Retirement Services: Greater Transparency Needed in the Budgeting Process, Interactions Among Stakeholders, Investment Policies, and Plan Administration” from Federated City Employees’ Retirement System Chair Matt Loesch, P.E., and Police and Fire Department Retirement Plan Chair, Nick Muyo, dated December 22, 2017. (6) “Staff perspective on the Stanford Institute for Economic Policy Research (SIEPR) Analysis of City of San Jose Retirement Plans Investment Portfolios” from Daryn Miller, dated December 21, 2017.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Chappie Jones, and carried unanimously, the Audit of Retirement Services was approved, including acceptance of Memorandum from Mayor Sam Liccardo, Councilmember Khamis, Councilmember Diep, Councilmember Jones, and Councilmember Davis dated January 5, 2018, recommending:

1. Accept the Audit of Retirement Services, and the accompanying study from Stanford.
2. In response to Recommendation #11 and #12, direct that Staff join with our Council representatives to report to the full Council at least monthly with a status report on key Board decisions and relevant issues such as Fund performance, budgetary implications of that performance, and of any contemplated changes in demographic or economic assumptions.
3. Direct the City Attorney to clarify whether, under Measure G and other relevant authority, the City should consider investment fees within the Council-approved budget for Retirement Services’ administrative costs. (While Retirement Services staff has expressed its own view to Recommendation 3, the City must have an independent assessment of the issue). If so, then direct staff to ensure greater disclosure of those anticipated costs, and the performance of those fund managers, as part of the Council’s annual budget process.
4. Direct the City Manager to prioritize Recommendation #14 (p. 33 of audit), to designate a city staff person to liaise with Retirement Boards and facilitate communication with budget office and council offices on some of the audit recommendations.

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**Retirement Services Audit. (Cont'd)**

5. Encourage the Chief Executive Officer of Retirement Services and the respective Boards to prioritize the following audit recommendations for completion in the next twelve months:

- a. Recommendations #2 and #3 (p. 13-19 of audit): Retirement Services should prepare a comprehensive annual budget document covering the entire aggregate expense of administering plans, including staffing and investment and manager fees (pursuant to our direction in Paragraph 3, above) for Council approval each year;)
- b. Recommendation #7 (p. 27 of audit): Joint annual meeting with Retirement Boards/City Council;
- c. Recommendation #15 (p. 35 of audit): Boards should adopt a formal set of performance metrics for both the plan administration and investment program and provide to Council with an opportunity for input;
- d. Recommendation #16 (p. 52 of audit): Establish more comprehensive policy on fees;
- e. Recommendation #17 (p. 60 of audit): Establish policy on investment manager evaluation; and
- f. Recommendation #18 (p. 64 of audit): Clarify lines of authority over investment decisions and implementation.

The above was modified with the following amendments:

- 1. Recommendation #8: The City should structure a formal process to orient new City Councilmembers about the Retirement plans, listed on Page 28 of Report 17-06, from City Auditor, Sharon W. Erickson, entitled, "Audit of Retirement Services: Greater Transparency Needed in the Budgeting Process, Interactions Among Stakeholders, Investment Policies, and Plan Administration", dated October 12, 2017.
- 2. Supplementary future meetings to be scheduled on an annual basis, with recommendation that the City Auditor Sharon W. Erickson, should lead an appraisal effort to determine whether recommendations in the audit report support her findings and if it made any impact.
- 3. Further direction to staff, (City Auditor, Sharon Erickson) to complement this effort by presenting any issues identified to the annual joint meetings to be scheduled, or otherwise conduct audit as deemed necessary.

This was further addended with staff direction to present:

- a one-page summary of the current status of the plan,
- a one-page history of it; and.
- a one-page summary of the impact to our fiscal operation and possible suggestion of its direction.

Finally, when this information is available, a more detailed discussion will be heard and, on Council's direction, convene a public meeting with the anticipated goal of engaging with, and educating the community on the plan, while simultaneously providing explanation to, and, creating a broader understanding of the plan to the public.

(10-0-1. Absent: Peralez)

**3.4 18-007**

**Worker's Compensation Program: Evaluation of Service Delivery Options.**

As recommended by the Public Safety, Finance, and Strategic Support Committee on December 14, 2017: Support Committee on December 14, 2017:

(a) Accept the evaluation of service delivery options for administering workers' compensation claims, including providing services In-House with City staff, through a Third-Party Administrator, and a Hybrid Model that includes both In-House and Third Party claims administration.

(b) Direct the City Manager to:

(1) Continue the current Worker's Compensation Pilot Program (Hybrid Model) through the completion of the State audit of the In-House program;

(2) Develop a work plan for bringing the entire worker's compensation program In-House in stages upon successful completion of the State audit; and

(3) Return through the budget process with funding recommendations for bringing the program In-House in stages beginning in 2019-2020.

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

(Human Resources)

[Public Safety, Finance, and Strategic Support Committee referral 12/14/17 - Item (d)1]

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated December 22, 2017, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: Deferred to 1/30/18 per Administration.

**3.5 17-540**

**Retirement Plans Investments Annual Report.**

As recommended by the Public Safety, Finance and Strategic: Support Committee on December 14, 2017, accept the Annual Pension and Healthcare Fiscal Year-End Investment Performance Report for the Police and Fire Department Retirement Plan (P&F Plan) and the Federated City Employees' Retirement System (Federated System) for Fiscal Year 2016-2017.

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

(Retirement Services)

[Public Safety, Finance, and Strategic Support Committee referral 12/14/17 - Item (d)3]

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated December 22, 2017, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (2) Office of Retirement Services: "Annual Report on Investment Performance", dated, December 2017.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, staff recommendations were accepted, and the Annual Pension and Healthcare Fiscal Year-End Investment Performance Report for the Police and Fire Department Retirement Plan (P&F Plan) was approved, and the Federated City Employees' Retirement System (Federated System) for Fiscal Year 2016-2017, was approved.

(10-0-1. Absent: Peralez)

**Amendment to Title 4 - Business Tax.**

Approve an ordinance amending Section 4.76.290.5 to Chapter 4.76 of Title 4 of the San José Municipal Code to further extend the deadline from December 15, 2017 to June 29, 2018 for residential landlords of 1 or 2 units to register with the City and pay the Business Tax owed as of July 1, 2017 without incurring interest or penalties, to take effect retroactively on December 15, 2017.

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 Finance Director Julia Cooper, and Economic Development Director Kim Walesh, dated December 22, 2017, recommending extending the business tax modernization outreach plan and grace period to June 29, 2018.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Johnny Khamis, and carried unanimously, staff recommendations were accepted, and Ordinance No. 30058, entitled, An Ordinance of the City Of San Jose amending Section 4.76.290.5 of Chapter 4.76 of Title 4 of the San Jose Municipal Code to extend the deadline from December 15, 2017 to June 29, 2018 for residential landlords of 1 or 2 units to apply for a business tax certificate and pay the business tax owed as of July 1, 2017 without incurring interest or penalties, to take effect retroactively on December 15, 2017, was passed for publication.

(10-0-1. Absent: Peralez)

**Actions Related to the Agreement with City and County of San Francisco for the 2017 Bay Area Urban Areas Security Initiative Grant Allocation.**

(a) Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2017 UASI grant allocation in the amount of \$1,377,130, and to negotiate and execute additional amendments and related documents without further City Council action.

(b) Adopt the following 2017-2018 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:

(1) Establish a City-Wide Expenses appropriation to the Police Department for the Urban Areas Security Initiative Grant - Police 2017 in the amount of \$720,000;

(2) Establish a City-Wide Expenses appropriation to the City Manager's Office/Office of Emergency Management (OEM) for the Urban Areas Security Initiative Grant - OEM 2017 in the amount of \$192,263;

(3) Establish a City-Wide Expenses appropriation to the Fire Department for the Urban Areas Security Initiative Grant - Fire 2017 in the amount of \$130,825; and

(4) Increase the estimate for Revenue from Federal Government by \$1,043,088.

CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application and 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. (Police/Fire/City Manager)

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**Actions Related to the Agreement with City and County of San Francisco (Cont'd)**

Documents Filed: (1) Memorandum Police Chief Edgardo Garcia, Fire Acting Chief, Robert Sapien, Jr.; Office of Emergency Management Director, Raymond Riordan; and Budget Director, Margaret McCahan, dated December 18, 2017, recommending authorization to enter into an Agreement with the City and County of San Francisco to allocate 2017 Urban Areas Security Initiative (UASI) grant funds to the City of San Jose in the total amount of \$1,377,130 and adoption of related appropriation ordinance and funding sources resolution amendments in the general fund. (2) Agreement between the City and County of San Francisco and the City of San Jose for the distribution of FY 2017 UASI grant funds.

Public Comments: Blair Beekman commented on making the Bay UASI agreement public and for streamlining the policy process.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha, and carried unanimously, staff recommendations were accepted, and Resolution No. 78477, entitled, A Resolution of the Council of the City of San Jose authorizing the City Manager to execute an Agreement between the City of San Jose and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2017 UASI grant allocation in the amount of \$1,377,130, and to negotiate and execute additional amendments and related documents without further City Council action, was adopted.  
(10-0-1. Absent: Arenas)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha, and carried unanimously, staff recommendations were accepted, and Resolution No. 78483, entitled, "A Resolution of the Council of the City of San Jose amending Resolution No. 78229 setting forth the estimated sources of funds for the fiscal year 2017-2018 to adjust revenues in the general fund", was adopted, and Ordinance No. 30059, entitled, "An Ordinance of the City of San Jose amending Ordinance No. 29962 to appropriate moneys in the general fund for the Urban Areas Security Initiative grant; and providing that this ordinance shall become effective immediately upon adoption", was adopted,  
(10-0-1. Absent: Arenas)

**Amendment to Title 6 Administrative Citation Schedule of Fines for the Cannabis Regulatory Program.**

Adopt a resolution amending the Administrative Citation Schedule of Fines to add and update fines for violations of Chapter 6.88 of Title 6 of the San José Municipal Code related to the City's Cannabis Regulatory Program, and repealing Resolution 77772.

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

Documents Filed: (1) Memorandum from Police Chief Edgardo Garcia, dated December 15, 2017, recommending adoption of a resolution. (2) A Resolution of the Council of the City of San Jose Amending the Administrative Citation Schedule of Fines for certain violations of the San Jose Municipal Code.

*(Item Continued on the Next Page)*

**Amendment to Title 6 Administrative Citation Schedule of Fines (Cont'd)**

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, staff recommendation was accepted, and Resolution No. 78478, entitled, "A Resolution of the Council of the City of San Jose Amending the Administrative Citation Schedule of Fines for certain violations of the San Jose Municipal Code in order to add and update fines related to the City's Cannabis Regulatory Program; and repealing Resolution No. 77772", was adopted. (10-0-1. Absent: Peralez)

**COMMUNITY & ECONOMIC DEVELOPMENT****Agreement with Silicon Valley Creates for the Creative Center for the Arts.**

(a) Conduct a Public Hearing regarding an economic development subsidy in connection with a below-market Ground Lease Agreement for a privately-funded cultural and arts facility at the former Japantown Corporation Yard in the amount of \$5,749,920 over the 55-year term

(b) Adopt a resolution authorizing the City Manager or his designee to execute a Ground Lease Agreement with Silicon Valley Creates, a non-profit organization, for a 0.75-acre, City-owned parcel (APN: 249-39-044) at the former Japantown Corporation Yard site (between Jackson Street and Taylor Street at N. 7th St.) for the construction and operation of the Creative Center for the Arts, for a term of 55 years and for an amount of \$1 per year.

CEQA: Japantown Corporation Yard Redevelopment Project Final Environmental Impact Report and addenda thereto, Resolution No. 74384. Council District 3. (Economic Development)

Documents Filed: (1) Memorandum from Economic Development Director, Kim Walesh, dated December 11, 2017, recommending conduct of a public hearing regarding an economic development subsidy. (2) Ground Lease Agreement by and between the City of San Jose and Svcreates for Creative Center for The Arts.

Economic Development Manager, Nancy Klein, and Economic Development Analyst, Lori Severino gave a presentation and responded to questions.

Public Comments: Offering comments on the Ground Lease Agreement with Silicon Valley Creates were: Roy Hirabayashi, (representing Japantown Community Congress); Wisa Uemura, (Executive Director for San José Taiko) and Chad Johnson, (CEO of CreaTV San Jose)

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, staff recommendation was approved, and Resolution No. 78479 entitled, "A Resolution of the Council of the City of San Jose authorizing the City Manager or his designee to execute a Ground Lease Agreement with Silicon Valley Creates, a non-profit organization, for a 0.75-acre, City-owned parcel (apn: 249-39-044) at the former Japantown Corporation Yard site (between Jackson Street and Taylor Street at N. 7th Street) for the construction and operation of the Creative Center for The Arts for a term of 55 years and for an amount of \$1 per year, was adopted. (11-0)

**Actions Related to the Quetzal Gardens Affordable Apartment Community.  
Located at 1695 Alum Rock Avenue.**

(a) Adopt a resolution:

(1) Approving up to a total commitment of \$9,984,212 in Low and Moderate Income Housing Asset Funds for a Construction-Permanent Loan to Resources for Community Development, or an affiliated development entity, for the Quetzal Gardens Apartments, a new affordable development to be located at 1695 Alum Rock Avenue, in order to offer rent- and income-restricted apartments for 70 extremely low-income and low-income households ("Project"), and authorizing the Director of Housing to negotiate and execute loan documents and all other documents regarding City financing for the Project;

(2) Approving a loan-to-value ratio of greater than 100% for this loan; and

(3) Approving a change in the affordability mix of the Project to allow more flexibility without compromising the intent of providing affordable and supportive housing: 47 units will be income-restricted at 30% of Area Median Income ("AMI"); 23 units will be income-restricted to 60% of AMI; and one unit will be an unrestricted manager's unit. All units shall be at 60% AMI for new tenants after the 55th anniversary of the filing of the Notice of Completion or the expiration of the initial term of the restriction.

(b) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance Amendments in the Low and Moderate Income Housing Asset Fund:

(1) Decrease the Housing Project Reserve appropriation by the amount of \$8,984,212; and

(2) Establish the Committed Projects Reserve in the amount of \$8,984,212.

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. Council District 5.

(Housing/City Manager

**Heard jointly with Item 4.3**

Documents Filed: Memorandum from Housing Department Director, Jacky Morales-Ferrand, and Budget Director Margaret Mccahan, dated December 11, 2017, recommending approval of a loan commitment to resources for community development.

Housing Department Director, Jacky Morales Ferrand, Housing Department's Patrick Heisinger, and Transportation Department Deputy Director, Kevin O'Connor gave a presentation and responded to questions.

Public Comments: Offering comments on Actions Related to the Quetzal Gardens Affordable Apartments were: Sarah Erickson, (RCD); Tamara Alvarado, (School of Arts & Culture); Camille Llanes-Fontanilla, (Executive Director of Somos Mayfair in District 5). Gabriel Hernandez, (Somos Mayfair) and David Vieira, (Little Portugal).

Action: Upon motion by Councilmember Magdalena Carrasco, seconded by Councilmember Raul Peralez and carried unanimously, staff recommendations were accepted, and Resolution No. 78480, entitled, "A Resolution of the Council of the City of San Jose: (a) approving up to a total commitment of \$9,984,212 in low and moderate income housing asset funds for a construction-permanent loan to resources for

*(Item Continued on the Next Page)*

**4.2 17-521**

**Actions Related to the Quetzal Gardens Affordable Apartment (Cont'd.)**

community development, or an affiliated development entity, for the Quetzal Gardens apartments, a new affordable development to be located at 1695 Alum Rock Avenue; (b) authorizing the Director of Housing to negotiate and execute loan documents and all other documents regarding City financing for the project; (c) approving a loan-to-value ratio of greater than 100% for this loan; and (d) approving a change in the affordability mix of the project to allow more flexibility without compromising the intent of providing affordable and supportive housing” was adopted; and Ordinance No. 30060, entitled, “An Ordinance of the City of San Jose Amending Ordinance No. 29962 to appropriate moneys in the low and moderate income housing asset fund for the committed projects reserve; and providing that this ordinance shall become effective immediately upon adoption” was adopted.

(11-0)

**4.3 17-522**

**Actions Related to the Affordable Housing and Sustainable Communities (AHSC) Grant for the Quetzal Gardens Project.**

Adopt a resolution:

(a) Authorizing the City Manager or his designee to submit a joint application, with Resources for Community Development (“RCD” or “Developer”), to the California Strategic Growth Council and/or California Department of Housing and Community Development in an amount not to exceed \$12,551,400 under Round 3 of the Affordable Housing and Sustainable Communities (“AHSC”) program to fund new affordable housing, infrastructure, and programs that help reduce greenhouse gas emissions in San José;

(b) Authorizing the City Manager or his designee to enter into, execute, and deliver a State of California Standard Agreement in a total amount not to exceed \$12,551,400 (\$8,000,000 for the AHSC Loan and \$4,551,400 for the AHSC Grant), and any and all other documents required or deemed necessary or appropriate to secure the AHSC Program funds;

(c) Authorizing the City Manager or his designee to execute in the name of the City the AHSC Program Application Package and the AHSC Program Documents as required by the HCD for participation in the AHSC Program;

(d) Authorizing the City Manager or his designee to negotiate and execute an agreement with RCD to allocate responsibilities and liabilities between the City and the RCD in the event the grant and loan are awarded to the City and RCD as co-applicants; and

(e) Authorizing the City Manager or his designee to negotiate and execute an agreement with the Valley Transportation Authority as a non-applicant for the purpose of operating enhanced transit services using an electric bus and installing and maintaining transportation amenities.

CEQA: Exempt per CEQA Guidelines Section 15332 for Infill Development Projects (File No. CP17-009); CEQA Guidelines Section 15301, Existing Facilities, and 15304, Minor Alteration to Land (File No. PP17-006). Council District 5.

(Housing/Parks, Recreation, and Neighborhood Services/Transportation)

**Heard jointly with Item 4.2**

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**4.3 17-522 Actions Related to the Affordable Housing and Sustainable Communities (Cont'd)**

Documents Filed: Memorandum from Housing Director, Jacky Morales-Ferrand; Transportation Director, Jim Orthal; and Parks, Recreation, and Neighborhood Services Director, Angel Rios, Jr., dated December 19, 2017, recommending the adoption of a resolution.

Action: Upon motion by Councilmember Magdalena Carrasco, seconded by Councilmember Raul Peralez and carried unanimously, staff recommendations were accepted, and Resolution No. 78481, entitled, "A Resolution of the Council of the City of San Jose authorizing the City Manager or his designee to submit a joint application with Resources for Community Development to the California Strategic Growth Council and/or California Department of Housing and Community Development in an amount not to exceed \$12,551,400 for the Affordable Housing and Sustainable Communities program; and related actions", was adopted.  
(11-0)

**4.4 18-028 Actions Related to the Airport Agreement with United States Soccer Federation, Inc., United Bid Committee 2026.**

Adopt a resolution to authorize the City Manager to:

- (a) Negotiate and execute the Airport Agreement between the City of San José and the United States Soccer Federation, Inc., United Bid Committee 2026, or other appropriate entity, regarding participation in hosting and staging the 2026 FIFA World Cup; and
  - (b) Cooperate in the negotiation and execution of documents necessary for the City of San José's participation in the United 2026 Bid for the 2026 FIFA World Cup
- CEQA: Exempt, File No. PP17-001, Feasibility, and Planning Studies with no commitment to future actions, and Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Economic Development)

Documents Filed: Memorandum from Economic Development Director Kim Walesh, dated January 4, 2018, recommending the adoption of a resolution.

Downtown Manager, Blage Zelalich gave a presentation and responded to questions.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Raul Peralez and carried unanimously, staff recommendations were accepted, and Resolution No. 78482, entitled, "A Resolution of the Council of the City of San Jose authorizing the City Manager to negotiate and execute the airport agreement between the City of San Jose and the United States Soccer Federation, Inc., United Bid Committee 2026, or other appropriate entity, regarding participation in hosting and staging the 2026 FIFA World Cup and cooperate in the negotiation and execution of documents necessary for the City of San José's participation in The United 2026 Bid for the 2026 FIFA World Cup", was adopted.  
(11-0)

## **5. NEIGHBORHOOD SERVICES**

### **5.1 17-512 Actions Related to the Vietnamese American Cultural Center at the Shirakawa Community Center.**

- (a) Approve a First Amendment to the Funding Agreement between the City of San Jose
  - (a) Accept the report of the feasibility study for the future Vietnamese American Cultural Center ("VACC");
  - (b) Authorize the Parks, Recreation, and Neighborhood Services Department to utilize the entire Shirakawa Community Center for the Interim VACC after the Work2Future program moves out on or before June 30, 2018; and
  - (c) Authorize Parks, Recreation, and Neighborhood Services Department to move forward with the design and improvements of the Interim VACC at the Shirakawa Community Center as described in Option Shirakawa S-1.
- CEQA: Exempt, File No. PP17-001, CEQA Guidelines Section 15262, Feasibility, and Planning Studies. Council District 7. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Parks, Recreation, and Neighborhood Services Director, Angel Rios, Jr., dated, December 11, 2017, recommending acceptance of the report of the feasibility study for the future Vietnamese American Cultural Center, (VACC).

Parks, Recreation, and Neighborhood Services Director, Angel Rios, Jr., Community Recreation Services Director Neil Ruffino, and Social Landscape Designer, Nguyen Hwan gave a presentation and responded to questions.

Councilmember Donald Rocha left the meeting at 5:18 p.m.

Action: On a call for the question, the motion carried unanimously, and staff recommendations were accepted, including acceptance of the report of the feasibility study for the future Vietnamese American Cultural Center ("VACC"). Authorization for the Parks, Recreation, and Neighborhood Services Department to utilize the entire Shirakawa Community Center for the Interim VACC after the Work2Future program moves out on or before June 30, 2018 was approved; and authorization for Parks, Recreation and Neighborhood Services Department to move forward with the design and improvements of the Interim VACC at the Shirakawa Community Center as described in Option Shirakawa S-1, was approved.  
(10-0-1. Absent: Rocha)

### **5.2 18-006 Los Lagos Golf Course Update.**

As recommended by the Neighborhood Services and Education Committee on December 14, 2017, accept the status report and provide feedback on the guiding principles and results of the Los Lagos Golf Course community engagement process. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, Information Memos that involve no approvals of any City action. (Parks, Recreation, and Neighborhood Services)  
[Neighborhood Services and Education Committee referral 12/14/17 –(d)3]  
**Deferred to 2/6/18 per Administration**

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

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

## **8. PUBLIC SAFETY**

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

## **10. LAND USE**

### **• OPEN FORUM**

There were no cards.

### **• ADJOURNMENT**

Mayor Liccardo adjourned the Council Meeting at 5:38 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

A handwritten signature in black ink, appearing to read 'Toni J. Taber', with a large, stylized circular flourish at the end.

Toni J. Taber, CMC  
City Clerk

lo/1-9-18 MIN