



## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, JUNE 26, 2018**

The Council of the City of San José convened in Regular Session at 9:04 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Arenas (9:35), Carrasco (9:30), Davis, Diep, Jimenez, Jones, Khamis, Nguyen, Peralez, Rocha; Liccardo.

Absent Councilmembers: All present.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:09 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(4); Number of matters to be discussed: Two (2); (B) To confer with Legal Counsel – Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(2) and (e) (1); Number of matters to be discussed: One (1) (C) To confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) Grijalva v. City, et al. Names Of Partie(s) Involved: Cosme Grijalva, City of San José, Joshua Bates, Ian Hawkey and Does 1-10-inclusive; Court: U.S. District Court, Northern District of California, San José Division; Case No. 5:18-cv-01853-EJD; In re: Claim of Williams; Amount of Money or Other Relief Sought: Administrative Appeal; (2) Case Name: Vasilevskis v. City of San José; Names Of Partie(s) Involved: Kristine Vasilevskis, Eduard Vasilevskis, City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 16-CV-297950; Case Name: 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; Case No: 14-CV-264132; Amount of Money or Other Relief Sought: Damages according to proof; (3) 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; (4) City of San José; and Black Alliance for Just Immigration v. Wilbur L. Ross, Jr., et al; Names Of Partie(s) Involved: City of San José; Black Alliance for Just Immigration; Wilbur L. Ross, Jr.; U.S. Department of Commerce; Ron Jarmin; U.S. Census Bureau; Court: U.S. District Court, Northern Division of California, San Francisco Division; Case No. 3:18-CV-02279-RS; Amount of Money or Other Relief Sought: Declaratory Relief; (5) City of San José v. Trump, et al; Names Of Partie(s) Involved: City of San José, Donald Trump, Elaine Duke, United States of America; Court: U.S.

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.)**

District Court, Northern District of California; Case No.: 3:18-CV-05329-WHA; Amount of Money or Other Relief Sought: Civil penalties and damages according to proof; (6) State of California ex rel. Christopher J. Schroen, et al. v. BP America Production Company, et al.; Names of Partie(s) Involved: State of California ex rel.; Christopher J. Schroen, et al.; BP American Production Company, et al; Court: Superior Court of California, County of San Francisco; Case No: CGS-12-522063; Amount of Money or Other Relief Sought: Civil Penalties and damages according to proof; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San José and San José Police Association; (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed

Absent Councilmembers: All present.

## **INVOCATION (District 6)**

Bryan Franzen the Pastor and Head of Staff from the Westminster Presbyterian Church, accompanied by his dog, Joy, provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis, and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Nguyen.)

## **CEREMONIAL ITEMS**

- 1.1** Mayor Sam Liccardo and Councilmember Sylvia Arenas presented a proclamation declaring July 2018 as Parks and Rec month in the City of San José. (Arenas)
- 1.2** Mayor Sam Liccardo presented a commendation to Vivace Youth Chorus for making music accessible and engaging youth in the community. (Mayor)
- 1.3** Mayor Sam Liccardo and Councilmember Sylvia Arenas presented a commendation recognizing Evergreen Valley College for their outstanding service to San José students. (Arenas)
- 1.4** The City Clerk administered the Oath of Office for newly appointed Youth Commissioners.

## **CONSENT CALENDAR**

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

### **2.1 18-918                      Approval of City Council Minutes.**

- a. Regular City Council Meeting Minutes of February 27, 2018.
- b. Regular City Council Meeting Minutes of March 6, 2018.
- c. Special City Council Meeting Minutes of March 8, 2018.
- d. Regular City Council Minutes of March 20, 2018.  
(City Clerk)

Documents Filed: (1) Regular City Council Meeting Minute, dated February 27, 2018; March 6, 2018, and March 20, 2018; (2) Special City Council Meeting Minutes, March 8, 2018.

Action: The City Council Minutes were approved. (10-0-1. Absent: Rocha.)

## 2.2 Final Adoption of Ordinances.

### 18-961 Final Adoption of Ordinances.

(a) ORD. NO. 30113 - An Ordinance of the City of San José to disestablish the Hotel Business Improvement District pursuant to Section 36550 of the California Parking and Business Improvement Area Law.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15061(b), Review for Exemption, File No. PP08-048.

Documents Filed: Proof of Publication of the Title of Ordinance No. 30113 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30113 was adopted. (10-0-1. Absent: Rocha.)

(b) ORD. NO. 30116 - An Ordinance of the City of San José amending Title 2 of the San José Municipal Code to amend Section 2.08.3630 of Chapter 2.08 to alter membership criteria for the Downtown Parking Board.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates, & Fares without changes to or expansion of services; and File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

Documents Filed: Proof of Publication of the Title of Ordinance No. 30116 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30116 was adopted. (10-0-1. Absent: Rocha.)

(c) ORD. NO. 30121 - An Ordinance of the City of San José adding a new Chapter 4.40 of Title 4 of the San José Municipal Code to establish procedures for securing credit facilities for San José Clean Energy.

Documents Filed: Proof of Publication of the Title of Ordinance No. 30121 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30121 was adopted. (10-0-1. Absent: Rocha.)

**2.2 (Cont'd.)**

(d) ORD. NO. 30127 - An Ordinance of the City of San José amending Sections 6.60.060 and 6.60.240 of Chapter 6.60 of Title 6 (Business Licenses and Regulations) of the San José Municipal Code to establish an alternate security ratio and ownership/management license requirements for outdoor public entertainment businesses that meet specified criteria.

Documents Filed: Proof of Publication of the Title of Ordinance No. 30127 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30127 was adopted. (10-0-1. Absent: Rocha.)

(e) ORD. NO. 30129 - An Ordinance of the City of San José rezoning certain real property of approximately 0.26- gross acre situated on the north side of Wabash Street, approximately 640 feet westerly of Archer Street (APN: 015-12-049), from the CN Commercial Neighborhood Zoning District to the R-1-8 Single-Family Residence Zoning District (Rene and Fahira Orellana, Owner).

Documents Filed: Proof of Publication of the Title of Ordinance No. 30129 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30129 was adopted. (10-0-1. Absent: Rocha.)

(f) ORD. NO. 30130 - An Ordinance of the City of San José rezoning certain real property of approximately 0.93- gross acre situated on the south side of Story Road, approximately 120 feet westerly of Beltrami Drive (14380 Story Road), from the a Agricultural Zoning District to the R-1-8 single family Residence Zoning District (Narinder and Sushama Pal Trustee, Owner).

Documents Filed: Proof of Publication of the Title of Ordinance No. 30130 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30130 was adopted. (10-0-1. Absent: Rocha.)

(g) ORD. NO. 30131 - An Ordinance of the City of San José rezoning certain real property of an approximately 1.74-gross acre site located at the southwest corner of Bird Avenue and Willow Street (820 Willow Street), from the A(PD) planned Development Zoning District to the CP Commercial Pedestrian Zoning District (Willow Glen Real Estate LLC, Owner).

Documents Filed: Proof of Publication of the Title of Ordinance No. 30131 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30131 was adopted. (10-0-1. Absent: Rocha.)

**2.2 (Cont'd.)**

(h) ORD. NO. 30132 - An Ordinance of the City of San José rezoning certain real property of an approximately 0.14-gross acre site situated approximately 50 feet from the southeast corner of the Alameda and Sunol Street (840 The Alameda; APN: 261-33-021 and 10 Sunol Street; APN: 261-33- 019), from the LI Light Industrial Zoning District to the CP Commercial Pedestrian Zoning District (Mary F. Mundy Trustee, Owner).

Documents Filed: Proof of Publication of the Title of Ordinance No. 30132 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30132 was adopted. (10-0-1. Absent: Rocha.)

(i) ORD. NO. 30133 - An Ordinance of the City of San José amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to amend Sections 20.30.150 and 20.30.440 of Chapter 20.30 to modify development standards and requirements for secondary dwelling units (also known as Accessory Dwelling Units), including lot size, unit area, unit type, setbacks and height; to amend Sections 20.90.120 and 20.90.220 of Chapter 20.90 to modify parking requirements and development standards for secondary dwelling units; to amend Sections 20.100.300 and 20.100.1040 of Chapter 20.100 to make minor modifications to single family permitting and recordation provisions; and to make other technical, non-substantive, or formatting changes within those Sections of Title 20.

Documents Filed: Proof of Publication of the Title of Ordinance No. 30133 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30133 was adopted. (10-0-1. Absent: Rocha.)

(j) ORD. NO. 30134 - An Ordinance of the City of San José rezoning certain real property of approximately 0.68 acre site generally situated at the northwest corner of Delmas Avenue and Auzerais Avenue (425 Auzerais Avenue; APN: 264-26-088 and 383 Delmas Avenue; APN: 264-26-013) from the LI Light Industrial/R-2 Two Family Residence Zoning Districts and the LI Light Industrial Zoning District, respectively, to the DC Downtown Primary Commercial Zoning District (Auzerais SJ LLC et al, Owner).

Documents Filed: Proof of Publication of the Title of Ordinance No. 30134 executed on June 15, 2018, submitted by the City Clerk.

Action: Ordinance No. 30134 was adopted. (10-0-1. Absent: Rocha.)

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

None provided.

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

#### **a. 18-991 Mayor and Council Excused Absence Requests.**

Request for a retroactive excused absence for Councilmember Sylvia Arenas from the Regular City Council Meeting on June 19, 2018 due to illness.

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

Documents Filed: Memorandum from Councilmember Sylvia Arenas, dated June 19, 2018, requesting an excused absence due to illness.

Action: The excused absence for Councilmember Sylvia Arenas, was approved retroactively. (10-0-1. Absent: Rocha.)

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

None provided.

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

None provided.

#### **2.7 18-950 Approval of the Terms of an Agreement with the Confidential Employees' Organization (CEO), AFSCME Local 101, for the Term of July 1, 2018 through June 30, 2021.**

Adopt a resolution approving the terms of a collective bargaining agreement between the City and the Confidential Employees' Organization, AFSCME Local 101 (CEO) for the term of July 1, 2018 through June 30, 2021, and authorizing the City Manager to execute an agreement with those terms.

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

Documents Filed: Joint memorandum from Director of Employee Relations, Jennifer Schembri and Budget Director Margaret McCahan, dated June 13, 2018, recommending adoption of a resolution.

## 2.7 (Cont'd.)

Action: Resolution No. 78684, entitled: “A Resolution of the Council of the City of San José Approving the Terms of an Agreement between the City of San Jose and the Confidential Employees’ Organization, AFSCME, Local 101 (CEO), with a Term of July 1, 2018 – June 30, 2021, and Authorizing the City Manager to Execute an Agreement with CEO”, was adopted. (10-0-1. Absent: Rocha.)

## 2.8 18-943 Neighborhoods Commission 2018 Caucus Appointments.

Appointment of the following persons to fill Council District vacancies on the Neighborhoods Commission to a term ending June 30, 2022:

- a. Council District 1: Gary Cunningham and Franklin Nguyen;
- b. Council District 3: Richard Wong and LaToya Fernandez;
- c. Council District 5: Mimi Hernandez and Jewell Buchanan;
- d. Council District 7: Jonathan Velazquez and Juan Quiñones; and
- e. Council District 9: Terry Martin and Michael Young.

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 Chief of Staff, Office of the City Manager, Lee Wilcox, dated June 13, 2018, providing appointment recommendations.

Action: The Neighborhoods Commission 2018 Caucus Appointments were accepted. (10-0-1. Absent: Rocha.)

## 2.9 18-799 Amendment to the Agreement with FUSE Corps for Placement Services.

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute a Third Amendment to the Agreement for Placement Services between the City of San José and FUSE Corps to:

- a. Extend the term of the agreement from November 30, 2018 to November 30, 2019;
- b. Modify the scope of services to add two FUSE Fellows and one FUSE Executive Advisor for 2018-2019; and
- c. Increase the amount of total compensation by \$456,000, from \$490,000 to \$946,000.

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

Documents Filed: Memorandum from Chief of Staff, Office of the City Manager, Lee Wilcox, dated June 13, 2018, recommending adoption of a resolution.



## 2.9 (Cont'd.)

Action: Resolution No. 78685, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Agreement for Placement Services between the City of San José and FUSE Corps to: (1) Extend the Term of the Agreement from November 30, 2018 to November 30, 2019; (2) Modify the Scope of Services to Add Two Fuse Fellows and One Fuse Executive Advisor for 2018-2019; and (3) Increase the Amount of Total Compensation by \$456,000 from \$490,000 to \$946,000”, was adopted. (10-0-1. Absent: Rocha.) (10-0-1. Absent: Rocha.)

### 2.10 18-923 **Actions Related to the Purchase of Real Property Located at S. 31st Street and Shortridge Avenue.**

Adopt a resolution authorizing the City Manager or his designee to negotiate and execute the Purchase and Sale Agreement and all other documents necessary to complete the purchase of a parcel of land located at South 31st Street and Shortridge Avenue (APN 481-14-130), north of the existing park expansion of the S. 31st Street and Alum Rock Avenue Park, for the price of \$2,500, allowing for the additional expansion of said park.

CEQA: Addendum to the Mitigated Negative Declaration for S. 31st Street & Alum Rock Avenue Park, File No. PP18-042. Council District 5. (Economic Development/PRNS)

Documents Filed: City Council Action Request from Deputy City Manager/Director of Economic Development Kim Welsh and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated June 14, 2018, recommending adoption of a resolution.

Action: Resolution No. 78686, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement and all Other Documents Necessary to Complete the Purchase of a Parcel of Land Located at South 31st Street and Shortridge Avenue (APN 481-14-130) for the Price of \$2,500 for the Expansion of the South 31st Street and Alum Rock Avenue Park”, was adopted. (10-0-1. Absent: Rocha.)

### 2.11 18-935 **Amendment to the Agreement with the San Jose Downtown Association for Marketing Services.**

Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Agreement for Consultant Services between the City of San José and the San Jose Downtown Association to include additional marketing, promotional, placemaking and concession services and increase compensation to an amount not to exceed \$560,350 subject to appropriation of funds by City Council. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3. (Economic Development)

## 2.11 (Cont'd.)

Documents Filed: City Council Action Request from Deputy City Manager/Director of Economic Development Kim Welsh, dated June 12, 2018, recommending adoption of a resolution.

Action: Resolution No. 78687, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Agreement for Consultant Services between the City of San José and the San José Downtown Association to Include Additional Marketing, Promotional, Placemaking And Concession Services To The Scope Of Services And Increase Compensation To An Amount Not To Exceed \$560,350, Subject To The Appropriation Of Funds By The City Council. (10-0-1. Absent: Rocha.)

## 2.12 18-927 **Actions Related to the Purchase Order with ZAP Manufacturing, Inc. for Street Regulatory Signs and Refurbishing/Recycling Services.**

Adopt a resolution authorizing the City Manager to:

- a. Execute a Purchase Order with ZAP Manufacturing, Inc. (Grass Valley, CA) for traffic and street signs and refurbishing/recycling services for the Department of Transportation for an initial twelve-month period, starting on or about July 1, 2018 and ending on or about June 30, 2019, for an amount not-to-exceed \$750,000, subject to the annual appropriation of funds; and
- b. Exercise up to four one-year options to extend the term of the Purchase Order with the last option year ending on or about June 30, 2023, subject to the annual appropriation of funds.

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

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, Jr., dated June 14, 2018, recommending adoption of a resolution.

Councilmember Sergio Jimenez pulled Item 2.12 to pose questions to staff. Director of Transportation Jim Ortbal responded to questions.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78688, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Purchase Order with ZAP Manufacturing, Inc. for Traffic and Street Signs and Refurbishing/Recycling Services for an Initial Twelve-Month Term in an Amount Not to Exceed \$750,000, and to Exercise up to Four One-Year Options to Extend the Term, Subject to the Appropriation of Funds”, was adopted. (10-0-1. Absent: Rocha.)

**2.13 18-929 Amendment to the City Pay Plan for Various Classifications.**

Adopt a resolution amending the City of San José Pay Plan effective June 26, 2018, to:

- a. Create the classification of Radio Communications Supervisor (8528) with a salary range of \$97,344.00- \$118,601.60 annually; and
- b. Delete the classification of Radio Communications Manager (8523).

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

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated June 4, 2018, recommending adoption of a resolution.

Action: Resolution No. 78689, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan”, was adopted. (10-0-1. Absent: Rocha.)

**2.14 18-854 Agreement with San José Public Library Foundation for Library Programs.**

Adopt a resolution authorizing the City Manager to execute an agreement between the City of San José and the San José Public Library Foundation in the amount not to exceed \$1,350,000 for the fiscal administration of San José Learns and Summer Learning funds (\$1,250,000) and for fundraising activities to support Library programs (\$100,000). (Library)

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

Documents Filed: Memorandum from Library Director Jill Bourne, dated June 4, 2018, recommending adoption of a resolution.

Action: Resolution No. 78690, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement between the City of San José and the San José Public Library Foundation in the Amount Not to Exceed \$1,350,000 for the Fiscal Administration of San José Learns and Summer Learning Funds and for Fundraising Activities to Support Library Programs”, was adopted. (10-0-1. Absent: Rocha.)

**2.15 18-934 Agreement with Santa Clara Valley Water District for the Lower Silver Creek Retaining Wall/Dobern Avenue Bridge Project.**

Adopt a resolution authorizing the City Manager to negotiate and execute a cost-sharing agreement between the City of San José and the Santa Clara Valley Water District in the amount of \$372,980 for improvements to enhance recreational access at the Lower Silver Creek Trail/Dobern Avenue Bridge site.

CEQA: Categorically Exempt, CEQA Guidelines Section 15302(c), Replacement or Reconstruction, File No. PP14-027. Council District 5. (Parks, Recreation and Neighborhood Services)

Documents Filed: Council Action Request from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated June 12, 2018, recommending adoption of a resolution.

## 2.15 (Cont'd.)

Action: Resolution No. 78691, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement Between the City of San José and the Santa Clara Valley Water District in the Amount of \$372,980 for Improvements to Enhance Recreational Access at the Lower Silver Creek Trail/Dobern Avenue Bridge Site”, was adopted. (10-0-1. Absent: Rocha.)

## 2.16 18-868 **Annual Status Report on the Public Safety Bond Projects Program Audit Report for Fiscal Year 2016-2017.**

Accept the status and audit report for the Fiscal Year 2016-2017 Public Safety Bond Projects Program Fund.

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

Documents Filed: Memorandum from Director of Public Works, Matt Cano, dated June 4, 2018, recommending acceptance of a report.

Action: The status and audit report for the Public Safety Bond Projects Program Audit Report for Fiscal Year 2016-2017 was accepted. (10-0-1. Absent: Rocha.)

## 2.17 18-891 **Agreement with City of Milpitas for Animal Care and Control Services.**

Adopt a resolution authorizing the City Manager to execute an agreement between the City of Milpitas and the City of San José for animal care and control services for a term beginning July 1, 2018, through June 30, 2021, for a total compensation of \$1,212,158.

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

Documents Filed: City Council Action Request from Director of Public Works, Matt Cano, dated June 14, 2018, recommending approval of an agreement.

Action: Resolution No. 78692 adopted. (10-0-1. Absent: Rocha.)

## 2.18 18-953 **Memorandum of Understanding Between the City of San José and Union Pacific.**

As recommended by the Joint Meeting for the Rules and Open Government Committee and Committee of the Whole on May 9, 2018, direct the City Manager and City Attorney to work with Union Pacific to implement the objectives of the initiatives articulated in the attached letter to Union Pacific Railroad Corporation.

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

## 2.18 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmembers Jimenez, Peralez and Nguyen, dated April 30, 2018, addressing the MOU between the city and Union Pacific. (2) Email from Jill Rodby, Sims Metal Management, dated May 7, 2018; and letters from Beth Seibert, Off-Site Records Management, dated May 7, 2018; Silver Leaf Neighborhood Association, dated May 7, 2018; and Stephanie Demos, HomeFirst, dated May 7, 2018, all offering support to the proposed MOU.

Councilmember Raul Peralez pulled Item 2.18. Mayor Sam Liccardo and Councilmember Raul Peralez expressed appreciation for the collaboration between the City and Union Pacific.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, the Memorandum of Understanding between the City of San José and Union Pacific was accepted, including the memorandum jointly signed by Mayor Sam Liccardo and Councilmembers Jimenez, Peralez and Nguyen, dated April 30, 2018. (10-0-1. Absent: Rocha.)

## 2.19 18-930 **Actions Related to the Disposition and Development Agreement with Insight King Wah, LLC for the Assignment of Developer Interest in the Museum Place Project.**

Consent to an assignment by Insight King Wah, LLC of its interest as the Developer in the Disposition and Development Agreement dated August 18, 2017 for the Museum Place project to Museum Place Owner LLC.

CEQA: Supplemental Environmental Impact Report to the Downtown Strategy 2000 Final Environmental Impact Report (EIR) (Resolution No. 72767) and Addenda thereto; Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041); and Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617) and Addenda thereto, for the Museum Place Mixed-Use Project. (Economic Development)

*RENUMBERED FROM ITEM 4.4 (18-989)*

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated June 26, 2018, providing additional direction and inclusive of the memorandum he cosigned with Councilmember Raul Peralez on June 22, 2018. (2) Joint memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez, dated June 22, 2018. (3) Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated June 4, 2018, recommending consent to an assignment by Insight King Wah, LLC.

Public Comments: Mark Sample, Hyatt Place Hotel, addressed concerns regarding the easement. Peter Larko, JP DiNapoli and Enrique Fernandez, Unite Here, Local 19, offered comments and support.

Motion: Councilmember Raul Peralez moved the supplemental memorandum he cosigned with Mayor Sam Liccardo, dated June 26, 2018, with direction as outlined below in “Action”. Councilmember Johnny Khamis seconded the motion.

Economic Development Assistant Director, Nanci Klein responded to questions.

## 2.19 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and staffs' recommendations were accepted, including the memorandum from Mayor Sam Liccardo dated June 26, 2018, pursuant to the memo he co-signed with Peralez, dated June 22, 2018 to approve the recommendation to consent to an assignment of interest for the Museum Place project as outlined in the staff report dated June 4, 2018, with direction that the City Manager work with all adjacent property owners and stakeholders to ensure the proper operation of existing and proposed future developments. And to approve further direction that the City Manager negotiate agreements with adjacent property owners to ensure: (1) Fair share contributions to Public Rights-of-Way improvements; and (2) Uninterrupted access to public right-of-way, so long as all participants get access to the same Right-of-Way improvements, with full consideration of the needs of Team San Jose for access to the Civic Auditorium loading areas. (10-0-1. Absent: Rocha.)

## 2.20 18-990 **Reduction of Inclusionary Housing Rental In-Lieu Fee for Downtown High-Rise Rental Projects.**

a. Adopt a resolution authorizing a reduction in the Inclusionary In-Lieu Fee to \$0 (per In-Lieu unit) for High-Rise rental developments in the Downtown Core (as described in Resolution Number 73587 adopted January 9, 2007) that are ten (10) or more floors or stories in height not including any nonresidential uses where the highest occupied floor has a floor level elevation that is at least 150 feet above street level, if they obtain issuance of all Certificates of Occupancy on or prior to June 30, 2021.

b. Adopt a resolution amending the 2018-2019 Schedule of Fees and Charges (Resolution No. 72737, as amended) to reduce the Inclusionary In-Lieu fee under San Jose Municipal Code Chapter 5.08 to \$0 for qualifying Downtown High Rise Rental Developments completed by June 30, 2021.

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

**Note: RENUMBERED FROM ITEM 4.6 (18-932)**

Documents Filed: (1) Memorandum from Councilmember Raul Peralez, dated June 22, 2018, providing addition to staffs' recommendations. (2) Joint memorandum from Director of Housing Jacky Morales-Ferrand and Budget Director Margaret McCahan, dated June 12, 2018, recommending adoption of resolutions. (3) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated June 26, 2018, providing an updated listed of projects eligible for the AHIF In-Lieu Fee Waiver.

Public Comments: Josh Burroughs, SJDA, clarified market data. Offering support and additional comments were Louise Auerhahn (Working Partnerships), Will Smith (IBEW 332) and Blair Beekman.

Extensive discussion ensued, and staff responded to questions. Deputy City Manager/Director of Economic Development Kim Welsh offered to further feasibility analysis at the behest of Councilmembers Davis and Khamis.

## 2.20 (Cont'd.)

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez and carried, the memorandum from Councilmember Raul Peralez, dated June 22, 2018, accepting staff recommendation with the addition that: “In the event that the City Council opts to amend, modify, reconsider or extend the IHO In-Lieu Fee Program in the future, any development eligible for the program will be subjected to the requirements of the Private Development Workforce Standards approved by City Council on April 3, 2018”; and including Resolution No. 78693, entitled: “A Resolution of the Council of the City of San José Authorizing Reducing the In-Lieu Inclusionary Fee Under Chapter 5.08 to Zero for Qualifying Downtown High-Rise Rental Developments Completed by June 30, 2021”; and Resolution 78694, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72737, as Previously Amended by Resolutions Nos. 73019, 73056, 73242, 73637, 73831, 73879, 73881, 74035, 74047, 74452, 74839, 74841, 74981, 75135, 75334, 75338, 75442, 75502, 75509, 75600, 75610, 75639, 75641, 75684, 75725, 75783, 75863, 75913, 76085, 76230, 76282, 76397, 76476, 76611, 76663, 76953, 77018, 77102, 77110, 77137, 77253, 77382, 77558, 77784, 78032, 78163, 78210, 78415, 78472 And 78627, to Reduce the Rental Inclusionary In-Lieu Fee Under San José Municipal Code Chapter 5.08 to \$0 For Qualifying Downtown High Rise Rental Developments Completed by June 30, 2021, to be Effective June 26, 2018”, were adopted, including the memorandum from Councilmember Raul Peralez, dated June 22, 2018, accepting the staff recommendation with the addition that in the event the City Council opts to amend, modify, reconsider or extend the Inclusionary Housing Ordinance (IHO) In-Lieu Fee program in the future, any development eligible for the program will be subjected to the requirements of the Private Development Workforce Standards approved by the City Council on April 3, 2018. (8-2-1: Noes: Davis, Khamis; Absent: Arenas)

## RECESS/RECONVENE

The City Council recessed at 12:36 from the afternoon Council Session and reconvened at 1:31 p.m.

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

Absent Councilmembers: Arenas (left meeting at 1:30 p.m.) (Excused)

## 2.21 18-992 **Retroactive Approval of the Viva Parks 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 June 20, 2018:

1. Retroactively approve the Viva Parks scheduled on June 13th, 18th, and 21st as a City Council sponsored Special Event and approve the expenditure of funds; and
2. Approve the Viva Parks scheduled on July 2nd, 9th, 23rd, 25th and 30th, and August 13th, 20th, 22nd and 29th as City Council sponsored Special Events and approve the expenditure of funds.
3. Approve and accept donations from various individuals, businesses, or community groups to support the event.
4. Approve advertising expenditures for the promotion of the Special Event not to exceed \$2,000.

## 2.21 (Cont'd.)

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Arenas)  
[Rules Committee referral 06/20/18 - Adds]

Documents Filed: Memorandum from Councilmember Sylvia Arenas, dated June 20, 2018, requesting retroactive approval for a Council sponsored special event.

Action: Retroactive approval of the City Council sponsored special event was accepted. (10-0-1. Absent: Arenas.)

## 2.22 18-993 **Approval of the Terms of an Agreement with the Association of Building, Mechanical and Electrical Inspectors (ABMEI), for the Term of July 1, 2018 through June 30, 2023.**

Adopt a resolution approving the terms of a collective bargaining agreement between the City and the Association of Building, Mechanical and Electrical Inspectors (ABMEI) for the term of July 1, 2018, through June 30, 2023, and authorizing the City Manager to execute an agreement with those terms.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager) [Rules Committee referral 06/20/2018 - Adds]

Documents Filed: Joint memorandum from Director of Employee Relations, Jennifer Schembri and Budget Director Margaret McCahan, dated June 21, 2018, recommending approval of the terms of an agreement.

Action: Resolution No. 78695, entitled: “A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and the Association of Building, Mechanical and Electrical Inspectors (ABMEI), with a Term of July 1, 2018 – June 30, 2023 and Authorizing the City Manager to Execute an Agreement with ABMEI”, was adopted. (9-0-2. Absent: Arenas, Rocha.)

## 2.23 18-994 **Settlement of Grijalva v. City of San José.**

Approve a settlement in the amount of \$59,900.00, inclusive of attorney fees, and authorize the City Attorney to execute a Settlement Agreement to settle the case of Grijalva v. City of San José.  
CEQA: Not a Project; File No. 17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 21, 2018, providing recommendation to a settlement.

Action: The Settlement of Grijalva v. City of San José in the amount of \$59,900.00 was approved. (10-0-1. Absent: Rocha.)



**2.24 18-995 Retroactive Approval of Buena Vista Dumpster Day Sponsored By Council District 6 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 June 20, 2018:

1. Retroactively approve the Buena Vista Dumpster Day scheduled on June 9, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and
  2. Retroactively 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. (Davis)  
[Rules Committee referral 06/20/18 - Item G.1.a]

**2.25 18-997 Retroactive Approval of Cory Dumpster Day Sponsored by Council District 6 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 June 20, 2018:

1. Retroactively approve the Cory Dumpster Day scheduled on June 23, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.
  2. Retroactively 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. (Davis)  
[Rules Committee referral 06/20/18 - Item G.1.b]

**2.26 18-998 Retroactive Approval of Willow Creek Dumpster Day Sponsored by Council District 6 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 June 20, 2018:

1. Retroactively approve the Willow Creek Dumpster Day scheduled on April 14, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and
  2. Retroactively 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. (Davis)  
[Rules Committee referral 06/20/18 - Item G.1.c]

**2.27 18-999 Retroactive Approval of Shasta Hanchett Park Neighborhood Association Dumpster Day Sponsored By Council District 6 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 June 20, 2018:

1. Retroactively approve the Shasta Hanchett Park Neighborhood Association Dumpster Day scheduled on June 23, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.;
  2. Retroactively 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. (Davis)  
[Rules Committee referral 06/20/18 - Item G.1.d]

**2.28 18-1000 Approval of Puppies and Ice Cream with Councilmember Peralez Sponsored by Council District 3 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 June 20, 2018:

1. Approve the Puppies and Ice Cream with Councilmember Peralez scheduled on August 16, 2018 as a City Council sponsored Special Event 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. (Peralez)  
[Rules Committee referral 06/20/18 - Item G.1.e]

**2.29 18-1001 Retroactive Approval of Canada Day Flag Raising and Reception Sponsored by Council District 3 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 June 20, 2018:

1. Retroactively approve the Canada Day Flag Raising and Reception scheduled on June 22, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.; and
  2. Retroactively 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. (Peralez)

**2.30 18-1002 Retroactive Approval of Picnic with Peralez Sponsored by Council District Sponsored by Council District 3 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 June 20, 2018:

1. Retroactively approve the Picnic with Peralez scheduled on June 10, 2018 as a City Council sponsored Special Event 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. (Peralez)  
[Rules Committee referral 06/20/18 - Item G.1.g]

**Approved.**

**2.31 18-1003 Retroactive Approval of Metzger Ranch Clean Up 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 June 20, 2018:

1. Retroactively approve the Metzger Ranch Clean Up scheduled on June 9, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and
2. Retroactively 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 06/20/18 - Item G.1.h]

**2.32 18-1004 Retroactive Approval of Coffee Hours 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 June 20, 2018:

1. Retroactively approve the Coffee Hours scheduled on June 21, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.; and
2. Retroactively 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 06/20/18 - Item G.1.i]

**2.33 18-1005 Approval of Summertime in the Square Music Series 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 June 20, 2018:

1. Approve the Summertime in the Square Music Series scheduled on June 29, 2018, July 20, 2018, and August 3, 2018 as a City Council sponsored Special Event 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. (Arenas)  
[Rules Committee referral 06/20/18 - Item G.1.j]

**2.34 18-1006 Approval of South Bay Cannabis Roundtable Sponsored by Council District 2 as a Council 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 June 20, 2018:

1. Approve the South Bay Cannabis Roundtable scheduled on July 11, 2018 as a City Council sponsored Special Event 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. (Jimenez)  
[Rules Committee referral 06/20/18 - Item G.1.k]

**2.35 18-1007 Approval of National Night Out Sponsored 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 June 20, 2018:

1. Approve the National Night Out scheduled on August 7, 2018 as a City Council sponsored Special Event 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. (City Clerk)  
[Rules Committee referral 06/20/18 - Item G.1.l]

**2.36 18-1008 AB 1912 (Rodriguez): Joint Powers Agreements - Public Employee Retirement Liability.**

As recommended by the Rules and Open Government Committee on June 20, 2018 and pursuant to the City's streamlined bill process for responding quickly to legislative proposals, re-affirm an oppose position for AB 1912 (Rodriguez).

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

[Rules Committee referral 06/20/18 - Item G.2]

Action: Oppose position reaffirmed.

**2.37 18-1009 AB 1884 (Calderon and Bloom) Food Facilities: Single-Use Plastic Straws.**

As recommended by the Rules and Open Government Committee on June 20, 2018, adopt a position of support for AB 1884 (Calderon and Bloom).

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

[Rules Committee referral 06/20/18 - Item G.3]

Action: Position of support adopted.

**2.38 18-1010 AB 3232 (Friedman) Zero-Emissions Buildings and Sources of Heat Energy/SB 1477 (Stern) Low-Emissions Buildings and Sources of Heat Energy.**

As recommended by the Rules and Open Government Committee on June 20, 2018, adopt a position of support for AB 3232 (Friedman) and SB 1477 (Stern).

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

[Rules Committee referral 06/20/18 - Item G.4]

Action: Position of support adopted.

**2.39 18-1011 SB 831 (Wieckowski): Land Use: Accessory Dwelling Units.**

**Recommendation:** As recommended by the Rules and Open Government Committee on June 20, 2018, adopt support if amended position for SB 831 (Wieckowski).

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Parks, Recreation and Neighborhood Services)  
[Rules Committee referral 06/20/18 - Item G.5]

Action: Position of support adopted.

**2.40 18-1012 Private Activity Bond Exempt Facilities Federal Policy Change Request.**

**Recommendation:** As recommended by the Rules and Open Government Committee on June 20, 2018:

1. Approve a support position for requesting a change to the federal policy on Private Activity Bonds to include “community serving recreation facilities” on the list of Exempt Facilities.
2. Direct staff to add this issue to the Legislative Guiding Principles.
3. Direct Staff to reach out to Congresswoman Anna Eshoo’s office, the rest of our Congressional Delegation, and our Federal lobbyist, to address this issue.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Khamis)  
[Rules Committee referral 06/20/18 - Item G.6]

Action: Position of support adopted.

## STRATEGIC SUPPORT

### 3.1 Report of the City Manager, David Sykes (Verbal Report)

City Manager, David Sykes noted the Council break for the month of July and indicated that during this time the broadcast camera system in the chambers will be upgraded along with new digital wireless microphones for the committee rooms, and thanked Public Works and the Office of Communication for scheduling this work.

### 3.3 18-920 **Actions Related to the Amendment to the Agreement with Mobilitie, LLC, for Permitting of Small Cells on City Owned Assets in the Public Right of Way.**

a. Adopt a resolution authorizing the City Manager to execute the following:

1. Amendment to the Master Non-Exclusive Installation and Property Use Agreement between the City and Mobilitie, LLC, to amend the terms of the Form Site License Agreement; and

2. Funding and Reimbursement Agreement between the City and Mobilitie, LLC, to cover the Permitting and Process Improvement costs related to the Permitting of Small Cells.

b. Adopt the following 2018-2019 Funding Sources Resolution and Appropriation Ordinance amendments in the General Fund:

1. Increase the revenue estimate for Other Revenue by \$250,000;

2. Increase the revenue estimate for Fees, Rates, and Charges by \$850,000;

3. Increase the appropriation to the City Manager's Office for Broadband and Digital Inclusion Strategy by \$250,000; and

4. Increase the appropriation to the Public Works Department for the Public Works Development Fee Program - Small Cell Permitting Reserve by \$850,000.

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

***Note: Items 3.3 – 3.6 were heard together.***

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated June 25, 2018, recommending acceptance of staff recommendations with additional expectations. (2) Statement and Declaration of Conflict of Interest Form from Councilmember Johnny Khamis, dated July 3, 2018, disclosing a conflict of interest. (3) Joint memorandum from Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness, Deputy City Manager/Director of Economic Development Kim Welsh and Budget Director Margaret McCahan, dated June 15, 2018, recommending adoption of a resolution and funding resources resolution amendments.

### 3.3 (Cont'd.)

Public Comments: Eleven members of the public discussed such matters as accountability, impact on their neighborhoods and the need to use union labor.

Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness and Smart City Lead, Dolan Beckel offered a presentation.

Motion: Vice Mayor Magdalena Carrasco moved approval of staffs' recommendations, including the memorandum from Mayor Sam Liccardo, dated June 25, 2018, regarding funding and on-going personnel costs. Councilmember Dev Davis seconded the motion.

Council agreed to bifurcate the motion to allow Councilmember Johnny Khamis to vote separately on the portion of this item related to agreements between the City and AT&T dba New Cingular Wireless PCS, LLC, due to a conflict of interest.

Action: On a call for the question, the motion carried unanimously, Resolution No. 78696, Resolution No. 78697, and Ordinance No. 30135 were adopted, including the memorandum from Mayor Sam Liccardo, dated June 25, 2018, directing the City Manager to return to Council with an expenditure plan prior to allocating the \$550,000 in the City manager's Office to any on-going expenditures, such as personnel. (9-0-1-1. Absent: Arenas. Abstain: Khamis.)

### 3.4 18-921 **Actions Related to the Amendment to the Agreement with AT&T Agreement for Permitting of Small Cells.**

Adopt a resolution authorizing the City Manager to negotiate and execute the First Amendment to the Funding and Reimbursement Agreement and related agreements between the City and AT&T DBA New Cingular Wireless PCS, LLC, related to the licensing of small cells and cover the permitting and process improvement costs related to the permitting of small cells.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

*Note: Items 3.3 – 3.6 were heard together.*

Documents Filed: Joint memorandum from Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness and Deputy City Manager/Director of Economic Development Kim Welsh, dated June 14, 2018, recommending adoption of a resolution.

Action: See Item 3.3 for action taken. Including Resolution No. 78698 adopted. (10-0-1. Absent: Arenas.)



3.5 18-922

**Actions Related to the Agreement with Verizon Wireless for Permitting of Small Cells.**

a. Adopt a resolution authorizing the City Manager to negotiate and execute the following:

1. A Master Agreement and related agreements between the City and Cellco Partnership DBA Verizon Wireless; and
2. A Funding and Reimbursement Agreement between the City and Verizon Business Network Services, Inc., and GTE Mobilnet of California Limited Partnership, DBA Verizon Wireless, by Cellco Partnership, its general partner, to cover the Permitting costs related to the licensing of small cells, wireline deployment and funding and reimbursement of permitting costs.

b. Adopt the following 2018-2019 Funding Sources Resolution and Appropriation Ordinance amendments in the General Fund:

1. Increase the revenue estimate for Other Revenue by \$300,000;
2. Increase the revenue estimate for Fees, Rates, and Charges by \$850,000;
3. Establish an appropriation to the City Manager's Office for the Digital Inclusion Program in the amount of \$300,000; and
4. Increase the appropriation to the Public Works Department for the Public Works Development Fee Program - Small Cell Permitting Reserve by \$850,000.

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

Documents Filed: (1) Memorandum from Councilmember Donald Rocha, dated June 25 2018, requesting staff address questions during the Council meeting as noted. (2) Joint memorandum from Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness, Deputy City Manager/Director of Economic Development Kim Walesh and Budget Director Margaret McCahan, dated June 15, 2018, recommending adoption of a resolution and funding resources resolution and appropriation ordinance amendments. (3) Email correspondence from Greg Burge and Pat O'Mahony, dated June 20 and June 21, 2018, expressing concerns.

Action: See Item 3.3 for action taken. Including

**Resolution No. 78698 adopted.**  
**Resolution No. 78700 adopted.**  
**Ordinance No. 30136 adopted.**  
**(9-0-1-1. Absent: Arenas. Abstain: Khamis.)**

**3.6 18-944 Actions Related to the Potential General Obligation Bond on the November 2018 Citywide Ballot.**

- a. Review survey results and a potential project list for a citywide general obligation bond for upgrading 9-1-1 communications/police/fire/paramedic facilities; repairing roads, bridges, and stormdrains to prevent flooding and waterway pollution; and address urgent infrastructure needs;
  - b. Direct the City Manager and City Attorney to draft ballot language and return to City Council no later than August 7, 2018 for consideration of placing on the November 6, 2018 ballot a measure authorizing the City to issue general obligation bonds to upgrade 9-1-1 communications/police/fire/paramedic facilities to improve public safety and emergency/disaster response; repair deteriorating bridges; fix potholes/repave streets in the worst condition; repair stormdrains to prevent flooding/waterway pollution; and address urgent infrastructure needs; and
  - c. Direct the City Manager to conduct additional polling to refine the ballot language and finalize the bond amount; and
  - d. Direct the City Manager to develop a general obligation project category list, which will guide development of potential bond projects, outreach, and education, and return to Council on August 7, 2018.
- CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated June 22, 2018, recommending approval of staff's recommendation. (2) Joint memorandum from Chief of Staff, Office of the City Manager, Lee Wilcox, Director of Finance, Julia Cooper and Director of Public Works, Matt Cano, dated June 14, 2018, recommending General Obligation Bond Options for November 2018.

Staff offered a presentation and responded to questions from Council.

Public Comments: Tim Beaubien, Santa Clara County Association of Realtors, offered comments.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Lan Diep and carried unanimously, the actions related to the Potential General Obligation Bond on the November 2018 Citywide Ballot, as recommended by staff, were accepted. (10-0-1. Absent: Arenas.)

**3.7 18-945 Actions Related to the Potential Update of the City's Cardroom Tax on the November 2018 Citywide Ballot.**

- a. Discussion of a potential Cardroom Business Tax Revenue Ballot Measure.
- b. Direct the City Manager to analyze and develop extending the 15 percent Cardroom Business Tax to the Third-Party Proposition Player Services Businesses, engage with the City's two cardrooms on possible alternative approaches, and return to the Council on August 7, 2018 with a recommended ballot measure. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making 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 Police Chief Edgardo Garcia, dated June 14, 2018, recommending discussion and action taken regarding a potential cardroom revenue measure.

Public Comments: Michelle Fernandez (Blackstone Gaming, LLC) and Robert Lindo (Casino M8trix) discussed benefits of the cardrooms.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, the City Manager was directed to analyze and develop extending the 15 percent Cardroom Business Tax to the Third-Party Proposition Player Services Businesses, engage with the City's two cardrooms on possible alternative approaches, and return to the Council on August 7, 2018 with a recommended ballot measure. (10-0-1. Absent: Arenas.)

**3.8 18-946 Actions Related to a Potential Modernization of the City Charter on the November 2018 Citywide Ballot.**

- a. Review the results of a survey regarding a potential ballot measure to modernize the City Charter.
- b. Direct the City Manager and City Attorney to draft ballot language and return to City Council no later than August 7, 2018 for consideration of placing on the November 6, 2018 ballot a measure modernizing the City Charter with respect to removing the ability of the City Council to set their own salaries and limiting City Council increases to annual adjustments accounting only for inflation; streamlining construction contract procurement and updating the bidding process; and aligning the City Charter with state law regarding competing measures in Municipal Elections. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)

### 3.8 (Cont'd.)

Documents Filed: (1) Joint memorandum from Chief of Staff, Office of the City Manager, Lee Wilcox and Director of Public Works, Matt Cano, dated June 14, 2018, recommending draft of ballot language and review of survey results. (2) Letter from Matthew Mahood, provided by Eddie Truong, Silicon Valley Organization, dated June 26, 2018, expressing concerns regarding the citywide general obligation bond and proposed charter amendment.

Staff provided additional information and responded to questions.

Councilmember Johnny Khamis indicated that he could not support adding the best value contracting language, and feels this item should be voted on as separate issues.

This item was bifurcated into two actions as indicated.

Motion: #1: Councilmember Lan Diep moved acceptance of drafting a ballot measure for streamlining construction contract procurement and updating the bidding process. Councilmember Dev Davis seconded the motion.

Action: On a call for the question, the motion carried, and the staff recommendation was accepted to draft a ballot measure for streamlining construction contract procurement and updating the bidding process. (8-1-2. Noes: Khamis. Absent: Arenas, Rocha.)

Motion #2: Councilmember Lan Diep moved approval of staff recommendations, with this item to return to the Salary Setting Commission. Councilmember Dev Davis seconded the motion, asking to include direction to staff to poll for amendment language and including a ten-year review. Councilmember Lan Diep agreed to the amendment.

Action: On a call for the question, the motion carried unanimously, to draft ballot measure language to modernize the City Charter with respect to removing the ability of the City Council to set their own salaries and limiting City Council increases to annual adjustments accounting only for inflation, with direction to staff to conduct polling to include an every-ten-year-review of the Council Salaries conducted by a Salary Setting Commission. (9-0-2. Absent: Arenas, Rocha.)

### 3.9 18-936 **Amendment to the City Pay Plan for Director of Retirement Services & Chief Executive Officer Classification.**

- a. Accept the Director of Retirement Services & Chief Executive Officer Compensation study results.
- b. Adopt a resolution amending the City of San José Pay Plan effective July 1, 2018 to adjust the salary range for the classification of Director of Retirement Services & Chief Executive Officer with a new pay range of \$192,000-\$272,000 annually.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.  
(Retirement Services)

*Note: Item heard immediately following Consent Calendar.*

### 3.9 (Cont'd.)

Documents Filed: (1) Joint memorandum from Vince Sunzeri, Chair, Police & Fire Department Retirement Board, and Matt Loesch, Chair, Federated Employee Retirement Board, dated June 7, 2018, recommending adoption of a resolution. (2) Memorandum from Director of Employee Relations, Jennifer Schembri, dated June 25, 2018, providing additional information on the consideration of salary adjustments.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Johnny Khamis, and carried unanimously, Resolution No. 78701, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan", was adopted. (10-0-1. Absent: Arenas.)

### RECESS/RECONVENE

The City Council recessed at 6:06 p.m. from the afternoon Council Session and reconvened at 6:30 p.m.

Present: Council Members - Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, Peralez, Rocha; Liccardo.

Absent: Council Members - Arenas.

### COMMUNITY & ECONOMIC DEVELOPMENT

#### 4.1 18-952 **Actions Related to the Purchase and Sale Agreement with Grizzly Hanchett, LLC, for Real Property Located at 1343 The Alameda.**

a. Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Purchase and Sale Agreement with Grizzly Hanchett, LLC, a California limited liability company in the amount not-to-exceed \$561,000 for the purchase of a parking lot located at 1343 The Alameda, San José, CA identified as APN 261-23-064 for the future construction of a public plaza or pocket park and to negotiate and execute all other documents necessary to complete the transaction.

b. Adopt the following 2018-2019 Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):

1. Establish the Council District 6 Land Trust Acquisition Project to the Parks, Recreation, and Neighborhood Services Department in the amount of \$561,000; and

2. Decrease the Future PDO/PIO Projects Reserve appropriation by \$561,000.

CEQA: Statutorily Exempt, File No. PP18-052, CEQA Guidelines Section 15061(b)(3), Review for Exemption. Council District 6.  
(Economic Development/PRNS/City Manager)

Documents Filed: Joint memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., and Budget Director Margaret McCahan, dated June 11, 2018, recommending adoption of a resolution and appropriation ordinance amendments.

#### 4.1 (Cont'd.)

Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr. responded to questions from Council.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Chappie Jones, and carried unanimously, Resolution No. 78702, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to 1) Execute a Purchase and Sale Agreement with Grizzly Hanchett, LLC, in the Amount Not-To-Exceed \$561,000 for the Purchase of a Parking Lot Located at 1343 The Alameda, San Jose, CA Identified as Assessor Parcel Number (APN) 261-23-064 for the Future Construction of a Public Plaza or Pocket Park at 1343 The Alameda and 2) Negotiate and Execute all Other Documents Necessary to Complete the Transaction”; and Ordinance No. 30137, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 30124 to Appropriate Moneys in the Subdivision Park Trust Fund for the Council District 6 Land Trust Acquisition Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (9-0-2. Absent: Arenas, Rocha.)

#### 4.2 18-454 **Actions Related to the Property Acquisition for Park Purposes Located Between Claitor Way and Boulder Drive.**

Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Purchase and Sale Agreement between Steve H. Eachus and M. Anne Eachus, Trustees of the Eachus Family Revocable Trust date of transfer, May 2, 2000, and the City of San José for approximately .29 acres of real property located between Claitor Way and Boulder Drive, San José (APN 595-20-001), adjacent to existing open space parkland, at no cost to the City.  
CEQA: Statutorily Exempt, CEQA Guidelines Section 15061(b)(3), Review for Exemption, File No. PP16-128. Council District 6.  
(Economic Development/Parks, Recreation and Neighborhood Services)

Documents Filed: Joint memorandum from Deputy City Manager/Director of Economic Development Kim Welsh and Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., dated June 11, 2018, recommending adoption of a resolution.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 78703, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement between Steve H. Eachus and M. Anne Eachus, Trustees of the Eachus Family Revocable Trust D/O/T May 2, 2000 and the City of San José for Approximately .29 Acres of Real Property Located Between Claitor Way and Boulder Drive, San Jose, Assessor Parcel Number (APN) 595-20-001, which is Adjacent to Existing Open Space Parkland, for the Purchase Price Of \$0 With Closing Costs Not To Exceed \$3,000”, was adopted. (9-0-2. Absent: Arenas, Rocha.)

**4.3 18-925 Actions Related to the Bid Award and Agreement for the Edenvale Park Parking Garage (Underground Portion) Located at 200 Edenvale Avenue.**

- a. Award a bid to JMA Ventures for the lease of the underground portion of the City-owned Edenvale Park Parking Garage for a period of 50 years.
- b. Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Lease Agreement with JMA Ventures for the underground portion of the Edenvale Park Parking Garage for a period of 50 years, based upon the terms and conditions outlined in the memorandum to Council.  
CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP16-016. (Economic Development)

*Note: Heard Jointly with SJFA Item 2 (18-924)*

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated June 4, 2018, recommending award of a bid and adoption of a resolution.

Assistant Director, Office of Economic Development, Nanci Klein offered a presentation on the sale of Hayes Mansion, and Kevin Morgan, JMA Ventures, discussed his company's interest in the property.

Public Comment: Sarah McDermott, Unite Here, Local 19, expressed support.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Donald Rocha and carried unanimously, an award of a bid to JMA Ventures was approved, and Resolution No. 78704, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Negotiate and Execute a Lease Agreement with JMA Ventures for the Underground Portion of the Edenvale Park Parking Garage for a Period of Fifty Years", was adopted. (10-0-1. Absent: Arenas.)

**4.4 18-989 Actions Related to the Disposition and Development Agreement with Insight King Wah, LLC for the Assignment of Developer Interest in the Museum Place Project.**

*Note: Renumbered to Consent Calendar item number 2.19 (18-930)  
See Item 2.19 for action taken.*

**4.5 18-912 Award of a Grant from California Department of Social Services to Catholic Charities to Support Families Displaced from the 2017 Coyote Creek Flood.**

- a. Accept the Staff report on the use of the State Flood Grant Funds.
- b. Adopt a resolution authorizing the Director of Housing to negotiate and execute an Agreement with Catholic Charities without conducting a competitive procurement, to continue providing housing assistance payments to the remaining 2017 Coyote Creek flood survivors that remain in temporary housing, and to provide financial assistance to the low-income families that were displaced from the flood, retroactive to April 1, 2018 to June 30, 2019, at a cost of \$2,718,000, with the option to extend the agreement for two successive six month terms, at the discretion of the City.

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

Documents Filed: Memorandum from Director of Housing, Jacky Morales-Ferrand, dated June 12, 2018, recommending acceptance of the staff report and adoption of a resolution.

Public Comment: Gregory Kepferle, Catholic Charities, offered support to the agreement.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Johnny Khamis and carried unanimously, the staff report was accepted, and Resolution No. 78705, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute an Agreement with Catholic Charities without Conducting a Competitive Procurement, to Continue providing housing Assistance payments to the Remaining 2017 Coyote Creek Flood Survivors that Remain in Temporary Housing, and to Provide Financial Assistance to the Low-Income Families that were Displaced from the Flood, Retroactive to April 1, 2018 to June 30, 2019, at a Cost of \$2,718,000, with the Option to Extend the Agreement for Two Successive Six Month Terms, at the Discretion of the City”, was adopted. (9-0-2. Absent: Arenas, Rocha.)

**4.6 18-932 Reduction of Inclusionary Housing Rental In-Lieu Fee for Downtown High-Rise Rental Projects.**

*Note: Renumbered to Consent Calendar item number 2.20. (18-990)  
See Item 2.20 for action taken.*

**4.7 18-955 Actions Related to the Development of a Multifamily Soft Story Seismic Retrofit Program.**

- a. Accept the staff report on potential ways to incentivize the seismic retrofit of multifamily “soft story” buildings and direct the City Manager or designee to return to the City Council with recommendations on options or amendments of Property Assessed Clean Energy (PACE) charters for seismic retrofits of multifamily soft story buildings.



#### 4.7 (Cont'd.)

b. Direct the City Manager or his designee to return to the City Council with:

1. A policy framework for a mandatory multifamily soft story seismic mitigation ordinance; and
2. Potential strategies that incentivize the redevelopment of multifamily soft story buildings into quality, affordable housing while minimizing displacement.

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

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated June 25, 2018, providing recommendations. (2) Joint memorandum from Director of Housing, Jacky Morales-Ferrand and Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness, dated June 14, 2018, recommending acceptance of the report with direction to the City Manager. (3) Letter from Anil Babbar, Vice President of Public Affairs, California Apartment Association, dated June 25, 2018.

Director of Housing, Jacky Morales-Ferrand provided a presentation.

Public Comments: Anil Babbar, California Apartment Association, expressed concerns regarding inflated costs, and Blair Beekman offered comments.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Chappie Jones, and carried unanimously, Mayor Sam Liccardo's memorandum dated June 25, 2018 was approved, to: (1) Accept the staff report, and the recommendations outlined on pages 13-14 of the staff report. (2) Consider an inspection fee waiver program stretching over multiple years, such that General Fund costs could be absorbed over time, to whatever extent grant sources such as CalOES cannot fund those fee waivers.

(3) Consider a framework through a City-initiated General Plan amendment process to align the General Plan with the zoning to accommodate additional units on soft-story sites for affordable and market-rate units. (4) Direct the City Manager to engage in outreach with key stakeholders that explore the range of options that could accompany a mandatory compliance program, including incentivizing redevelopment of seismically unsafe buildings in such a way that could substantially expand our affordable housing supply by: (a) Providing expedited plan review; (b) Supplanting rent-controlled units with rent-restricted/inclusionary units at a fixed ratio sufficiently reasonable to facilitate redevelopment, but otherwise avoid subjecting any new additional units to rent control;

(c) Advocating at the state level for legislation that would enable property owners to freeze the pre-existing basis for a redeveloped soft-story property for property tax assessment purposes. (d) These incentives should be considered in combination with Ellis Act requirements, such as those providing relocation assistance for tenants and right-of-first refusal to existing tenants to move into rent-restricted units. (5) Consider including a requirement that landlords notify tenants in multiple languages— with city assistance, such as through pre-printed cards or letters for existing tenants, and with boilerplate language for inclusion in all new leases—when an apartment building has been identified as seismically vulnerable.

(10-0-1. Absent: Arenas.)

**4.8 18-855 Agreement with CH2M Hill, Inc. for Engineering Design Services for Various City Trail Projects.**

Approve the Master Agreement with CH2M Hill, Inc. for engineering design services for various City Trail Projects from the date of execution through June 30, 2023, in an amount not to exceed \$5,000,000.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works, Matt Cano, dated June 14, 2018, recommending approval of the Master Agreement. (2) Supplemental memorandum from Director of Public Works, Matt Cano, dated June 19, 2018, providing additional information.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the Master Agreement with CH2M Hill, Inc. for engineering design services for various City Trail Projects from the date of execution through June 30, 2023, in an amount not to exceed \$5,000,000. (9-0-2. Absent: Arenas, Rocha.)

## **TRANSPORTATION & AVIATION SERVICES**

**6.1 18-896 Actions Related to the Award Design-Build Contract for the Interim Facility - Four Gates at the Mineta San José International Airport.**

- a. Adopt a resolution approving an Addendum to the Final Environmental Impact Report for the Norman Y. Mineta San Jose International Airport Master Plan Update, as supplemented and added, all in accordance with the California Environmental Quality Act, as amended.
- b. Adopt a resolution:
  1. Approving the final ranking of the Design-Build (D-B) Entities that responded to the RFP for the Project.
  2. Authorizing the Director of Public Works to negotiate a D-B Contract in an amount not to exceed \$50,000,000 for the Project as follows:
    - a. Begin negotiating with the highest ranked D-B Entity;
    - b. Begin negotiating with the next highest D-B Entity, if after having negotiated with highest ranked D-B Entity, the Director determines that the City's interests are best served by beginning negotiations with the next highest ranked D-B Entity; and
    - c. Begin negotiating with each of the other D-B Entities in order of their ranking as the Director determines is appropriate.
  3. Authorizing the Director of Public Works to award and execute the D-B Contract for the Project to the highest ranked D-B Entity that successfully completes D-B Contract negotiations with the City.
  4. Authorizing the Director of Public Works to negotiate and execute Task Orders up to the Contract not to exceed amount as necessary to meet project completion.

## 6.1 (Cont'd.)

5. Approving a D-B contingency in the amount of fifteen percent of the negotiated D-B Contract for City-approved changes to the design scope and construction services and authorizing the Director of Public Works to execute Contract Change Orders up to the contingency amount.

c. Adopt a resolution declaring the City's official intent to reimburse expenditures for the Project from the proceeds of the City of San José, Norman Y. Mineta San José International Airport, Subordinate Commercial Paper Notes.

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

Documents Filed: Joint memorandum from Director of Aviation, John Aitken, Director of Public Works, Matt Cano and Director of Finance, Julia Cooper, dated June 4, 2018, recommending adoption of resolutions. (2) Supplemental memorandum from Director of Aviation, John Aitken and Director of Public Works, Matt Cano, dated June 20, 2018, providing additional information obtained from proposals and bids.

Director of Public Works, Matt Cano responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78706, entitled: "A Resolution of the Council of the City of San José Adopting an Addendum to the Final Environmental Impact Report for the San José International Airport Master Plan Update, as Supplemented and Addended, all in Accordance with the California Environmental Quality Act"; Resolution No. 78707, entitled: "A Resolution of the Council of the City of San José (1) Finding that the Award of the Proposed Design-Build Contract for the Interim Facility - Four Gates Project ("Project") at The Norman Y. Mineta San Jose International Airport Will Result in Lower Costs and Faster Completion Time than if the City Used the Traditional Design-Bid-Build Method of Project Delivery; (2) Approving the Final Ranking of the Design-Build Entities that Responded to the RPF for the Project; (3) Authorizing the Director of Public Works to Negotiate a Design-Build Contract for the Project; (4) Authorizing the Director of Public Works to Award and Execute the Design-Build Contract for the Project to the Highest Ranked Design-Build Entity; (5) Authorizing the Director of Public Works to Negotiate and Execute Task Orders up to the Contract Not-To-Exceed Amount; and (6) Approving a Design-Build Contingency in the Amount Of Fifteen Percent of the Negotiated Design-Build Contract for City-Approved Changes to the Design Scope and Construction Services and Authorizing the Director of Public Works to Execute Contract Change Orders up to the Contingency Amount"; and Resolution No. 78708, entitled: "A Resolution of the Council of the City of San José Declaring the Official Intent of the City to Reimburse Certain Expenditures for the Interim Facility – Four Gates Project from the Proceeds of the City of San José, Norman Y. Mineta San José International Airport, Subordinate Commercial Paper Notes", were adopted. (9-0-2. Absent: Arenas, Rocha.)

**6.2 18-926 Actions Related to the Agreement with New Cingular Wireless PCS, LLC for the Neutral Host Distributed Antenna System at the Mineta San José International Airport.**

Adopt a resolution:

a. Authorizing the City Manager to negotiate and execute a concession agreement with New Cingular Wireless PCS, LLC for the right to design, install, operate, and manage a neutral host distributed antenna system (DAS) at the Mineta San José International Airport for a term of ten years from the date of execution by the City, with two 5-year options to extend at the City's sole discretion, and an annual concession fee payable to the City of \$265,500 with an annual 3% inflation adjustment for the first three carriers and an additional annual fee of \$88,500, also subject to an annual 3% inflation adjustment, for each additional carrier.

b. Authorizing the Director of Aviation to negotiate and execute an agreement with New Cingular Wireless PCS, LLC for the rental of space on Airport property to house any necessary equipment related to the DAS for a term of ten years from the date of execution by the City, with two 5-year options to extend at the City's sole discretion, and subject to current guidelines in the resolution on fees, rates, and charges.

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

Documents Filed: Memorandum from Director of Aviation, John Aitken, dated June 4, 2018, recommending adoption of a resolution.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 78709, entitled: "A Resolution of the Council of the City of San José Authorizing (1) The City Manager to Negotiate and Execute a Concession Agreement with New Cingular Wireless PCS, LLC for the Right to Design, Install, Operate and Manage a Neutral Host Distributed Antenna System (DAS) at the Norman Y. Mineta San José International Airport(Airport), Subject to Certain Conditions; and (2) The Director of Aviation to Negotiate and Execute an Agreement with New Cingular Wireless PCS, LLC for the Rental of Space on Airport Property to House any Necessary Equipment Related to the DAS, Subject to Certain Conditions", was adopted.  
(9-0-2. Absent: Arenas, Rocha.)

**6.3 18-928 Public Hearing on the Air Service Support Program at the Mineta San José International Airport.**

a. Conduct a Public Hearing pursuant to California Government Code Section 53083 regarding application of the City's Air Service Support Program, as authorized by the Federal Aviation Administration to Alaska Airlines.

b. Adopt a resolution authorizing the Director of Aviation or the Director's designee to provide the City's Air Service Support Program to new air carrier service as outlined in the below:  
Alaska Airlines Routes:

### 6.3 (Cont'd.)

1. Market: New York; Airport: JFK; Frequency: 1 Daily; Support Period: 18 Months; Landing Fee Waivers: (-\$195,070); Marketing Funds: (-\$50,000).
2. Market: Everett, WA; Airport: PAE; Frequency: 1 Daily; Support Period: 12 Months; Landing Fee Waivers: (-\$66,994); Marketing Funds: (-\$25,000). For each route, landing fees are waived under the program for the qualifying periods and/or marketing funds are provided to promote the new services. CEQA: Not a project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport)

Documents Filed: Memorandum from Director of Aviation, John Aitken, dated June 4, 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 Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78710, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Aviation or Director’s Designee to Provide Fee Waivers and/or Marketing Support to Alaska Airlines, Pursuant to the Air Service Support Program at the Norman Y. Mineta San José International Airport”, was adopted. (9-0-2. Absent: Arenas, Rocha.)

## ENVIRONMENTAL & UTILITY SERVICES

### 7.1 18-937 **San José Clean Energy Integrated Resource Plan.**

Adopt a resolution approving the criteria for an Integrated Resource Plan which details procurement plans to ensure San José Clean Energy meets the program goals and has a reliable and cost-effective electricity supply and delegating to the City Manager authority to file such plan that is consistent with the criteria in Attachment 1 of the memorandum to Council and that complies with all California Public Utilities Commission requirements by August 1, 2018; and require San José Clean Energy to present an updated Integrated Resource Plan every two years to City Council for review and approval by March of all even years.

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

Documents Filed: Memorandum from Director, Community Energy Department, Lori Mitchell, dated June 11, 2018, recommending adoption of a resolution.

Director, Community Energy Department, Lori Mitchell provided a presentation.

## 7.1 (Cont'd.)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, Resolution No. 78711, entitled: “A Resolution of the Council of the City of San José: (A) Approving the Criteria for an Integrated Resource Plan (“IRP”) which Details Procurement Plans to Ensure San José Clean Energy (SJCE”) Meets the Program Goals and has a Reliable and Cost-Effective Electricity Supply and (B) Authorizing the City Manager to File Such Plan that is Consistent with the Criteria in Attachment 1 and that Complies with all California Public Utilities Commission (“CPUC”) Requirements by August 1, 2018; and Requires SJCE to Present an Updated IRP Every Two Years to City Council for Review and Approval by March of All Even Years”, was adopted. (8-0-3. Absent: Arenas, Carrasco, Rocha.)

## 7.2 18-939 **Actions Related to the Negotiations of the Recycle Plus Residential Solid Waste Agreements and China’s Policy on Importing Recyclable Material.** **-RECOMMEND DEFERRAL**

- a. Accept staff’s report discussing the negotiations with the current Recycle Plus haulers and providing information on staff’s evaluation that the negotiations were unsuccessful;
- b. Direct staff to end negotiations with the current Recycle Plus haulers;
- c. Adopt a resolution authorizing the City Manager to waive the contractor disincentives for not meeting the required diversion rates for calendar year 2018, if by December 31, 2018 the City Manager determines that the Recycle Plus haulers are unable to meet their required diversion rates because of China’s “National Sword” policy on the import of recyclable materials;
- d. Direct staff to return with recommendations on future waivers as part of the budget process for 2019-2020 if necessary because of the continuing impacts of China’s “National Sword” policy.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment, and Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.

(Environmental Services) Deferred from 6/5/18 item 7.4 (18-771) to 6/26/18 per Administration

Action: Deferred to 8/21/18 per Administration.

7.3 18-940

**Actions Related to the Parameters for Request for Proposals for Residential Solid Waste Services.--RECOMMEND DEFERRAL**

Direct staff to:

- a. Initiate development of a Request for Proposals (RFP) to solicit and award agreements for residential solid waste services that would begin July 1, 2021; services will include collection and processing of solid waste, recyclables, and organic materials for each of the two service districts for single-family residences and a citywide district for multi-family residences, and City Facilities;
- b. Establish term of 15 years for the new agreements;
- c. Include the following in the Request for Proposals:
  1. Living wage and employee retention requirements consistent with Council's Living Wage Policy;
  2. Solicit ideas for the new system to be flexible to address evolving recycling markets; while continuing to meet zero waste goals;
  3. Solicit ideas for the new system to support Climate Smart San José and reduce greenhouse gas emissions;
    4. Include optional services for emergency response support;
    5. Solicit ideas for providing larger garbage carts to single-family residents and exploring updated customer rate structures;
    6. Performance standards that would address leveraging technology and providing ease of use for enhanced customer service, material recovery and marketing, service delivery, environmental compliance, and vehicle standards;
- d. Complete waste characterization studies to inform the RFP;
- e. Explore using City staff for Junk Pick-Up services and customer outreach; and
- f. Procure residential street sweeping and Public Litter Cans services separately from residential waste services.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Environmental Services)  
*Deferred From 6/5/18 Item 7.5 (18-774) To 6/26/18 Per Administration*

Action: Deferred to 8/21/18 per Administration.

**7.4 18-941 Actions Related to the Living Wage Requirements for Recycle Plus Residential Garbage and Recycling Contracts.-  
RECOMMEND DEFERRAL**

a. Accept the staff report on:

1. The proposed methodology to implement a Modified Living Wage for Recycle Plus Customer Service Representatives, Mechanics, and Materials Recovery Facility workers (“Facility Workers”); and

2. Updated labor peace plans from the Recycle Plus contractors.

b. Adopt a resolution authorizing the City Manager to negotiate and execute contract amendments with GreenTeam of San Jose and GreenWaste Recovery Inc. to implement a Modified Living Wage Requirement for Recycle Plus Facility Workers effective September 1, 2018.

c. Direct staff to include a Living Wage requirement for the Recycle Plus program in future residential garbage and recycling agreements. CEQA: Not a Project, File PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Environmental Services/Public Works)

*Deferred From 6/5/18 Item 7.6 (18-773) To 6/26/18 Per Administration*

Action: Deferred to 8/21/18 per Administration.

**PUBLIC SAFETY**

**8.1 18-949 2017 Independent Police Auditor Year End Report.**

Accept the 2017 Independent Police Auditor Year End Report.

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

*Deferred from 5/22/18 Item 8.1*

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated May 21, 2018, withdrawing his memorandum of May 18, 2018. (2) 2017 IPA Year End Report, dated May 22, 2018. (3) Presentation: 2017 IPA Year End Report. (3) Letters and correspondence from the following providing their input on the Independent Police Auditor: Black Leadership Kitchen Cabinet (6/26/18); Silicon Valley De-Bug (6/26/18); San José Police Officers’ Association (6/18/18 and 6/26/18); Paul Kelly, SJPOA President (6/26/18); Pastor Jethroe Moore, NAACP (6/25/18); Akemi Flynn (6/26/18); Richard Konda, Asian Law Alliance (6/26/18); Raj Jayadev, Silicon Valley De-Bug (6/25/18); William Armaline, Human Rights Institute (6/26/18).

Independent Police Auditor, Aaron Zisser, provided an introduction, and Police Chief Edgardo Garcia provided comments.



## 8.1 (Cont'd.)

Public Comments: Christine Clifford (PACT/De-Bug) and Blair Beekman offered their support for the Police Auditor.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Donald Rocha and carried unanimously, the 2017 Independent Police Auditor Year End Report was accepted. (10-0-1. Absent: Arenas.)

## 10. LAND USE

### 10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

### 10 Land Use - Regular Agenda

#### 10.2 18-942 C16-041 & H16-032 - Conforming Rezoning and Site Development Permit for Real Property Located at 1090 South De Anza Boulevard.-DROP

- a. Adopt a resolution approving the 1090 South De Anza Boulevard Hotel Project Mitigated Negative Declaration, for which an Initial Study was prepared, in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Plan.
- b. Consideration of an ordinance of the City of San José rezoning a 0.61 gross acre site, located on the northeasterly corner of Via Vico and South De Anza Boulevard (1090 South De Anza Boulevard), from a CP(PD) Planned Development Zoning District to the CP Commercial Pedestrian Zoning District (Cupertino De Anza Hospitality, Owner).
- c. Adopt a resolution approving a Site Development Permit, subject to conditions, to allow the demolition of a gas station and accessory structures and the removal of six ordinance-size trees, and to allow the construction of a four-story, 90-room hotel with one level of underground parking and utilization of Transportation Demand Management measures to reduce the parking requirements by 50 percent.

CEQA: Mitigated Negative Declaration for the 1090 South De Anza Boulevard Hotel Project, File Nos. C16-041 & H16-032. Planning, Building and Code Enforcement Director recommends approval.

(Planning, Building and Code Enforcement)

C16-041 & H16-032 - Council District 1

Deferred from 6/19/18 Item 10.1(a) (18-865) to 6/26/18 per Rules and Open Government Committee

Documents Filed: Supplemental memorandum from Director, Planning, Building and Code Enforcement, Rosalynn Hughey, dated June 22, 2018.

Action: Item dropped.

## **OPEN FORUM**

1. Blair Beekman discussed public land trust issues and offered comments regarding police accountability.
2. Robin Roemer commented on the Charcot extension, opined that DOT is not transparent with traffic study results and the potential safety risks to children.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 7:49 p.m. in memory of Diane Lindberg, who was a long time resident of San Jose and was an exemplary employee in the Department of Parks, Recreation and Neighborhood Services for over 37 years. She began her long career of community service as a part time Volunteer Junior Recreation Leader at Alum Rock Park and other city facilities, including San Tomas Center at San Tomas Park and Starbird Community Center at Starbird Park.

She graduated with a B.S. in Psychology from San Jose State University and shortly after was promoted to the position of Gerontology Specialist and subsequently to Gerontology Supervisor, where she found her passion of working for older adults. Diane spent the majority of her career working for senior programs at Alma Senior Center, San Jose Office on Aging, and at Southside Senior & Community Center. She focused heavily on providing memorable recreation programs, crucial social services, and a valuable weekday nutrition program to San Jose's older adult community. She was promoted to Community Services Supervisor and oversaw the entire San Jose Office on Aging's operations, which had once been comprised of 10 large senior centers in each council district, and included the large Retired Senior Volunteer Program. While serving thousands of senior adults throughout the city, she also worked closely with the County of Santa Clara to provide a valuable Senior Nutrition Program that provided high quality, cost efficient, nutritious meals to seniors and promoted the role of nutrition in preventative health and long term care. Diane completed her accomplished career with the City of San José in January 2010 and retired in San Jose and spent time with those near and dear to her: her family and friends, especially her wife, Janice; and limitless in her vision and boundless in her capacity to excel in life, Diane Lindberg shall in memory ever endure as a beacon of hope for all people who believe strongly in their obligation to improve the quality of life for future generations.

## **ADJOURNMENT**

The Council Meeting of the City of San José adjourned at 7:49 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

***draft***

Toni J. Taber, CMC  
City Clerk

rmk/06-26-18 MIN

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

**18-1013 Notice of City Engineer's Pending Decision on Final Maps.**

**Recommendation:** 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:

Tract: 10419

Location: Area bounded by W. Julian Street, N. San Pedro Street, Terraine Street and W. St. James Street

Council District: 3

Developer: Successor Agency to the Redevelopment Agency of the City of San Jose, the City of San Jose, City Heights Development, LLC

Lot/Units: 15/0

Type: Financing Map

Proposed Decision: Approve

Tract: 10444

Location: 3770 Quimby Rd, 300' NE of Murillo Ave.

Council District: 8

Developer: Quimby Road Holdings LLC

Lot/Units: 8/7

Type: SFD

Proposed Decision: Approve

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: 10458

Location: S. Bascom Ave., 690' S/O Curtner Ave.

Council District: 9

Developer: IDA 1, Inc.

Lot/Units: 5/4

Type: SFA

This notice is to be posted with the City Council's regular agenda for 6/26/18.

**JOINT CITY OF SAN JOSE CITY COUNCIL/FINANCING AUTHORITY  
MINUTES**

**June 26, 2018**

The Joint Meeting of the City of San José Council and Financing Authority was called to order

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

Absent Councilmembers: Arenas. (Excused)

**SJFA 1 18-938**

**Actions Related to the Agreements Related to the Interim Financing  
Program for Capital Improvements at the Regional Wastewater Facility.**

- a. Adopt a resolution of the City Council approving and authorizing the execution and delivery of a First Amendment to the Credit Agreement and an Amended and Restated Fee Letter Agreement with Wells Fargo Bank, National Association, related to the issuance by the City of San José Financing Authority of its Subordinate Wastewater Revenue Notes (“Notes”) in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time for the purpose of financing or refinancing Wastewater System and Treatment Plant Projects to revise the calculation of interest and fees for the tax exempt Notes and authorizing other related actions in connection therewith.
  - b. Adopt a resolution of the City of San José Financing Authority Board approving and authorizing the execution and delivery of a First Amendment to the Credit Agreement and an Amended and Restated Fee Letter Agreement with Wells Fargo Bank, National Association related to the issuance by the City of San José Financing Authority of its Subordinate Wastewater Revenue Notes (“Notes”) in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time for the purpose of financing or refinancing Wastewater System and Treatment Plant Projects to revise the calculation of interest and fees for the tax exempt Notes and authorizing other related actions in connection therewith.
- CEQA: San José-Santa Clara Regional Wastewater Facility Master Plan EIR, (Resolution No. 76858), File No. PP11-043. (Finance)

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated June 11, 2018, recommending adoption of resolutions.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78712, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution and Delivery of a First Amendment to Credit Agreement and an Amended and Restated Fee Letter Agreement with Wells Fargo Bank, National Association Related to the Issuance by the City of San José Financing Authority of its Subordinate Wastewater Revenue Notes in an Aggregate Principal Amount Not to Exceed \$300,000,000 Outstanding at any One Time for the Purpose of Financing or Refinancing Wastewater System and Treatment Plant Project to Revise the Calculation of Interest and Fees for Tax Exempt Notes and Authorizing Other

## **SJFA 1 (Cont'd.)**

Related Actions in Connection Therewith”; and SJFA Resolution No. 143, entitled: “A Resolution of the City of San José Financing Authority Approving and Authorizing the Execution and Delivery of a First Amendment to Credit Agreement and an Amended and Restated Fee Letter Agreement with Wells Fargo Bank, National Association Related to the Issuance by the City of San José Financing Authority of its Subordinate Wastewater Revenue Notes in an Aggregate Principal Amount Not to Exceed \$300,000,000 Outstanding at any One Time for the Purpose of Financing or Refinancing Wastewater System and Treatment Plant Project to Revise the Calculation of Interest and Fees for Tax Exempt Notes and Authorizing Other Related Actions in Connection Therewith” were adopted. (10-0-1. Absent: Arenas.)

## **SJFA 2 18-924      Actions Related to the Purchase and Sale Agreement with JMA Ventures, LLC for the Hayes Mansion Located at 200 Edenvale Avenue.**

*Note: Item heard Jointly with City Council Item 4.3*

- a. Adopt a resolution of the City Council:
  1. Approving a Purchase and Sale Agreement with JMA Ventures, LLC for the sale of the Hayes Mansion hotel and conference center, including all furniture, fixtures, equipment, and vehicles, located at 200 Edenvale Avenue. in San José, for the amount of \$30,000,000;
  2. Authorizing the City Manager to negotiate a in the Purchase and Sale Agreement to address potential financial implications related to the collective bargaining agreement between Dolce Hayes Mansion and UNITE HERE, Local 19;
  3. Authorizing the City Manager to negotiate and execute an Assignment of the Hotel Management Agreement to the Purchaser;
  4. Authorizing the City Manager to execute the deed and all other documents needed to complete the transaction; and
  5. Accepting the transfer of the Grant Deed for the Hayes Mansion property as of the closing date of the sale of the property to JMA Ventures, LLC in exchange for funds sufficient (in combination with proceeds on hand in associated Debt Service Reserve Funds) to retire all bonds issued by the City of San José Financing Authority that are secured by the Hayes Mansion property;
  6. Directing staff to apply the sale proceeds and other related proceeds and savings to the retirement of debt and payment of obligations related to the Hayes Mansion as set forth herein; and
  7. Directing staff to return to the City Council with recommendations to allocate any remaining proceeds in accordance with City Council Policy 1-18.
- b. Adopt a resolution of the City of San José Financing Authority Board directing the Executive Director or the Treasurer of the Authority or their authorized designees to take the necessary actions to effectuate the transfer of the Hayes Mansion property to the City in conjunction with the sale of the property to JMA Ventures, LLC and apply the sale proceeds, Debt Services Reserve Funds and other funds on hand related to the City of San José Financing Authority

Lease Revenue Bonds, Series 2008C and Series 2008D (Hayes Mansion Refunding Project) to retire these outstanding bonds and repealing Resolution No. 129.  
CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP16-016. (Economic Development)

Documents Filed: (1) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Welsh and Director of Finance, Julia Cooper, dated June 8, 2018, recommending adoption of resolutions. (2) Joint supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Welsh and Director of Finance, Julia Cooper, dated June 21, 2018, adding an action to the recommending resolution. (3) Letter from Ginny Stafford, Hayes Collaboration, regarding intent to purchase the subject project.

Action: See Item 4.3 of the City Council Meeting for motion, public comments and any additional action taken. Resolution No. 78713, entitled: “A Resolution of the Council of the City of San José (1) Approving a Purchase and Sale Agreement with JMA Ventures, LLC for the Sale of the Hayes Mansion Hotel and Conference Center, Including all Furniture, Fixtures, Equipment, and Vehicles, Located at 200 Edenvale Avenue, in San Jose, for the Amount Of \$30,000,000; 2) Authorizing the City Manager to Negotiate a Provision in the Purchase and Sale Agreement to Address Potential Financial Implications Related to the Collective Bargaining Agreement Between Dolce Hayes Mansion and Unite Here Local 19, (2) Authorizing the City Manager to Negotiate and Execute an Assignment of the Management Agreement with Dolce International to the Purchaser; (3) Authorizing the City Manager to Execute the Purchase and Sale Agreement, The Deed and All Other Documents Needed to Complete the Transaction with JMA Ventures, LLC; (4) Accepting the Transfer of the Grant Deed for the Hayes Mansion Property From The City Of San Jose Financing Authority As of the Closing Date of the Sale of the Property To JMA Ventures, LLC in Exchange for Funds Sufficient (in Combination with the Debt Service Reserve Funds and Other Funds On Hand) to Retire the City of San Jose Financing Authority Lease Revenue Bonds Series 2008c And Series 2008d (Hayes Mansion Refunding Project) and Other Obligations Related to the Hayes Mansion Property as Set Forth Herein; (5) Direction to Staff to Apply the Sale Proceeds, Debt Services Reserve Funds and Other Funds On Hand to the Retirement of the Series 2008c And Series 2008d Bonds and Payment of Obligations Related to the Hayes Mansion as Set Forth in the Staff Report; and (6) Direct Staff to Return to the City Council with Recommendations to Allocate Any Remaining Proceeds in Accordance with City Council Policy 1-18; and SJFA Resolution No. 144, entitled: “A Resolution of the City of San José Financing Authority Directing the Executive Director or the Treasurer of the Authority or Their Authorized Designees to Take the Necessary Actions to Effectuate the Transfer of the Hayes Mansion Property to the City of San José in Conjunction with the Sale of the Property to JMA Ventures, LLC and to Apply the Sale Proceeds and Debt Service Funds and Other Funds on Hand Related to the City of San José Financing Authority Lease Revenue Bonds Series 2008C and Series 2008D (Hayes Mansion Refunding Project) to Retire These Outstanding Bonds and Repealing Resolution No. 129”, were adopted. (10-0-1. Absent: Arenas.)

The Joint Meeting of the City Council and the Financing Authority was adjourned, and the Meeting of the City Council was reconvened.

Minutes Recorded, Prepared and Respectfully Submitted by,

**DRAFT**

Toni J. Taber, CMC

City Clerk

rmk/6-26-18 SJFA