

## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 11, 2018

The Council of the City of San José convened in Regular Session at 9:35 a.m. in the Council Chambers at City Hall.

**9:10 a.m.-** Closed Session, Call to Order in Council Chambers  
**Absent Councilmembers: Arenas.**

**11:04 p.m.-** Regular Session, Council Chambers, City Hall (special time)  
**Absent Councilmembers: Arenas.**

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:10 a.m. to a Closed Session in Room W133; (A) to discuss Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957: Department or Agency: Human Resources; Title: Director; (B) to Confer with Legal Counsel, Anticipated Litigation, pursuant to Section 54956.9(d)(4) of the Government Code: Number of matters to be discussed: 1; (C) to Confer with Legal Counsel, Anticipated Litigation: Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(3) of the Government Code: Number of matters to be discussed: 1; Facts: FLSA issue; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) San José Police Officers' Association (SJPOA); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San José and San José Police Association; (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from Closed Session at 10:15 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

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

Absent Councilmembers: Arenas. (Excused)

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.

## **INVOCATION (District 8)**

Himat Singh Bainiwal intoned a Sikh prayer for the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 3.5, 3.6 and 9.1 to be heard together, and with the Comprehensive Annual Debt Report 3.7 heard separately.  
(9-0-2. Absent: Arenas, Rocha.)

## **CLOSED SESSION REPORT**

None provided.

## **CEREMONIAL ITEMS**

- 1.1 Mayor Sam Liccardo and Councilmember Donald Rocha presented a commendation to Maria Maldonado for her leadership and dedication to “The fight for \$15”. (Rocha)
- 1.2 Mayor Sam Liccardo and Councilmember Donald Rocha presented a commendation to Ruth Silver Taube for her efforts in bringing awareness and an end to wage theft in San José and the surrounding areas. (Rocha)
- 1.3 Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco presented a commendation to members of the Assistance League San José. (Vice Mayor)

## **CONSENT CALENDAR**

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

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

None provided.

## 2.2 Final Adoption of Ordinances.

### 18-1678 Final Adoption of Ordinances.

(a) Ord No. 30188 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.72- Gross Acres, Situated at the Northwest Corner of the Intersection of Virginia Street and 7th Street (295 East Virginia Street) (APN: 472-25-092), from the A(PD) Planned Development Zoning District to The R-M Multiple Residence Zoning District

Action: Ordinance No. 30188 was adopted.  
(10-0-1. Absent: Arenas.)

(b) Ord No. 30189 - An Ordinance of the City of San José Adding Sections 23.02.094, 23.02.096, and 23.02.145 to Chapter 23.02, Amending Section 23.02.106 of Chapter 23.02, and Adding Section 23.04.036 to Chapter 23.04 of Title 23 of the San José Municipal Code Related to Business Center Signs.

Action: Ordinance No. 30189 was adopted.  
(10-0-1. Absent: Arenas.)

(c) Ord No. 30190 - An Ordinance of the City of San José Amending Section 4.88.100 Of Title 4 and Sections 20.30.100, 20.30.200, 20.40.100, 20.50.100, 20.55.300, 20.70.510, 20.90.130, 20.90.210, And 20.100.1300 of Title 20 and Adding Sections 20.50.125, 20.200.181 And 20.200.261 to Title 20 of the San José Municipal Code to Clarify that Secondary Units are a Permitted Use in the Residential Multiple Family Zoning District, Clarify Incidental Child Day Care as a Permitted Use in the PQP Zoning District, Add Certain 100% Affordable Housing as a Conditional or Special Use in a Mixed Use Development in an Urban Village in the Commercial Zoning District, Substitute Catering Facility for Caterer as a Permitted Use in the Commercial Zoning District, Clarify the Standards for Incidental Office Use as a Permitted Use in the Light Industrial and Heavy Industrial Zoning Districts, Add Stairwells and Elevator Shafts as Uses Eligible for Exception from General Zoning District Height Limits, Add New Definitions of Catering Facility and Construction/Corporation Yard and Make Other Technical, Formatting, Minor Modification, or Non-Substantive Changes within Title 20 of the San José Municipal Code.

Action: Ordinance No. 30190 was adopted.

## 2.3 Approval of Council Committee Minutes.

### (a) 18-1650 Approval of Council Committee Minutes.

- (a) Regular Rules and Open Government Committee Meeting Minutes of April 18, 2018.
  - (b) Regular Rules and Open Government Committee Meeting Minutes of April 25, 2018.
  - (c) Regular Rules and Open Government Committee Meeting Minutes of May 2, 2018.
  - (d) Regular Rules and Open Government Committee Meeting Minutes of May 9, 2018.
  - (e) Regular Rules and Open Government Committee Meeting Minutes of May 16, 2018.
  - (f) Regular Rules and Open Government Committee Meeting Minutes of May 23, 2018.
  - (g) Regular Rules and Open Government Committee Meeting Minutes of May 30, 2018.
  - (h) Regular Rules and Open Government Committee Meeting Minutes of June 6, 2018.
  - (i) Regular Rules and Open Government Committee Meeting Minutes of June 13, 2018.
  - (j) Regular Transportation and Environment Committee Meeting Minutes of May 7, 2018.
  - (k) Regular Transportation and Environment Committee Meeting Minutes of June 4, 2018.
  - (l) Regular Smart Cities and Service Improvements Committee Meeting Minutes of February 1, 2018.
  - (m) Regular Smart Cities and Service Improvements Committee Meeting Minutes of March 1, 2018.
  - (n) Regular Smart Cities and Service Improvements Committee Meeting Minutes of April 5, 2018.
  - (o) Regular Smart Cities and Service Improvements Committee Meeting Minutes of May 3, 2018.
  - (p) Regular Smart Cities and Service Improvements Committee Meeting Minutes of June 7, 2018.
  - (q) Regular Neighborhood Services and Education Committee Meeting Minutes of March 8, 2018.
  - (r) Regular Neighborhood Services and Education Committee Meeting Minutes of June 14, 2018.
  - (s) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of March 15, 2018.
  - (t) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of April 19, 2018.
  - (u) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of May 17, 2018.
- CEQA: Not a Project, File No. PP17-009, reports that involve no approvals of any City action.

## 2.3 (Cont'd.)

Documents Filed: (1) Rules and Open Government Committee Meeting Minutes: April 18, 25, 2018; May 2, 9, 16, 23, 30, 2018; June 6, 13, 2018. (2) Transportation and Environment Committee Meeting Minutes: May 7, June 4, 2018. (3) Neighborhood Services & Education Committee Meeting Minutes: March 8, June 14, 2018; (4) Smart Cities and Service Improvements Committee Meeting Minutes: February 1, March 1, April 5, May 3, June 7, 2018. (5) Public Safety, Finance and Strategic Support Committee Meeting Minutes: March 14, April 19, May 17, 2018.

Action: The Council Committee Meeting Minutes were approved. (10-0-1. Absent: Arenas.)

## 2.4 Mayor and Council Excused Absence Requests.

None provided.

## 2.5 City Council Travel Reports.

Councilmember Lan Diep reported on his trip to meet with New American Leaders in Washington, D.C..

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Lan Diep and carried unanimously, the City Council Travel Report was accepted. (10-0-1. Absent: Arenas.)

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

None provided.

## 2.7 18-1631 Boards and Commissions Appointments.

Approve the following Boards and Commissions appointments:

(a) Arts Commission:

(1) District 3 Seat: Appoint Stephanie Southwick for a term ending June 30, 2020;

(b) Clean Energy Community Advisory Commission

(1) Appoint Gerald Gottheil for a term ending December 31, 2021;

(c) Council Appointment Advisory Commission:

(1) District 2 Seat: Appoint ~~Denise Belisle~~ *Reza Sadeghian* for a term of January 1, 2019 to December 31, 2022;

(2) District 4 Seat: Appoint Quynh Ho for a term of January 1, 2019 to December 31, 2022;

(3) District 10 Seat: Appoint Ben Mazzone for a term of January 1, 2019 to December 31, 2022;

(d) Downtown Parking Board:

(1) Business Association within a Designated Meter District Outside of the Downtown Core Representative: Appoint Tamiko Rast for a term ending June 30, 2020;

(e) Housing and Community Development Commission:

(1) Mobilehome Resident Representative Seat: Appoint Martha O'Connell for a term of January 1, 2019 to December 31, 2022;

(2) Mobilehome Owner Representative Seat: Appoint Ryan Jasinsky for a term of January 1, 2019 to December 31, 2022;

## 2.7 (Cont'd.)

(f) Human Services Commission:

(1) District 2 Seat: Appoint Jessica Dickinson-Goodman for a term January 1, 2019 to December 31, 2022;

(f) (2) Disability Service Provider/Disable Representative Seat: Appoint Tiffany Maciel to a term of January 1, 2019 to December 31, 2022;

(g) Parks and Recreation Commission:

(1) District 6 Seat: Appoint John Callison for a term ending June 30, 2019; and

(h) Senior Citizens Commission:

(1). District 3 Seat: Appoint Paul Oller for a term ending June 30, 2021.

Documents Filed: (1) Memorandum from Councilmember Sergio Jimenez, dated December 10, 2018, requesting a change for the Council Appointment Advisory Commission Seat from Denise Belisle to Reza Sadeghian. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated November 30, 2018, recommending approval of Boards and Commissions appointments.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Donald Rocha and carried unanimously, the change to Council Appointment Advisory Commission Seat from Denise Belisle to Reza Sadeghian, was accepted per Councilmember Sergio Jimenez' memorandum dated December 10, 2018. (10-0-1. Absent: Arenas.)

## 2.8 18-1586 CALMS-Video Cameras and Signs Grant Agreement with SAFER San José, Inc.

Adopt a resolution authorizing the City Manager to negotiate and execute a Grant Agreement to provide security cameras with SAFER San José, Inc. from the date of execution through September 30, 2021 in the amount of \$595,000.

Documents Filed: Memorandum from Chief of Staff, Office of the City Manager, Lee Wilcox, dated November 27, 2018, recommending adoption of a resolution.

Action: Resolution No. 78885, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Grant Agreement to Provide Security Cameras with Safer San Jose, Inc., in the Amount of \$595,000 through September 30, 2021", was adopted. (10-0-1. Absent: Arenas.)

## 2.9 18-1632 Naming of the San José Public Library Bridge Branch Located at 3411 Rocky Mountain Drive. - DROP *Item Dropped.*

## 2.10 18-1633 Agreements with Advance Design Consultants, Inc., and Salas O'Brien Inc., for Professional Mechanical and Electrical Design Services.

Approve the Master Agreements with Advance Design Consultants, Inc., and Salas O'Brien Inc., for Professional Mechanical and Electrical design services from the date of execution through December 31, 2021, in an amount not to exceed \$1,000,000 for each agreement.

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

## 2.10 (Cont'd.)

Documents Filed: City Council Action Request from Director of Public Works, Matt Cano, dated November 29, 2018, recommending approval of Master Agreements.

Action: The Agreements with Advance Design Consultants, Inc., and Salas O'Brien Inc., were approved. (10-0-1. Absent: Arenas.)

## 2.11 18-1634 **Fiscal Year 18 Traffic Impact Fee Report.**

Accept the annual and five-year report prepared in accordance with the Mitigation Fee Act (Government Code section 66000 et seq.) on the status of the City's four traffic impact fee programs: North San José, Evergreen-East Hills, US-101/Oakland/Mabury, and Interstate 280/Winchester Boulevard.

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

Documents Filed: Memorandum from John Ristow, Deputy Director of Department of Transportation, dated November 26, 2018, recommending acceptance of the report.

Action: The Fiscal Year 18 Traffic Impact Fee Report was accepted. (10-0-1. Absent: Arenas.)

## 2.12 18-1651 **Declaration and Recording a Statement of the Results of the November 6, 2018 Run-off Municipal Election and Special Municipal Election.**

Adopt a resolution declaring and recording a statement of the results of the November 6, 2018 Run-off Municipal Election and Special Municipal Election per Elections Code Sections 10263, 10264, and 15400.

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

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated November 28, 2018, recommending adoption of a resolution. (2) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated December 7, 2018, providing final certified Results of the November 6, 2018 Run-off Municipal Election and Special Municipal Election.

Action: Resolution No. 78886, entitled: "A Resolution of the Council of the City of San José Reciting that a Regular Municipal Election and Special Municipal Election was Held in the City of San José on Tuesday, November 6, 2018; Stating the Offices to be Filled at the Election, and Confirming the Defeat of Measure V and the Passage of Measures S,T, and U; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Names of the Persons and Offices Voted For, the Measures Voted For, the Number of Votes Given at Each Precinct to Each Person and for and Against Each Measure; and Finding and Declaring Who Received the Highest Number of Votes of the Votes Cast and the Measures that Received a Majority of the Votes Cast", was adopted.

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

**2.13 18-1654 Settlement of Lawsuit Filed by Ronald Wood.**

Approve a settlement with Ronald Wood in the amount of \$500,000, and authorize the City Attorney to execute a Settlement Agreement. CEQA: Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 28, 2018, recommending approval of a settlement agreement.

Action: The settlement of the lawsuit filed by Ronald Wood was approved. (10-0-1. Absent: Arenas.)

**2.14 18-1638 Actions Related to the Request for Proposal for Permitting System for the Police Department.**

Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:

(a) Execute an agreement with TruePoint Solutions, LLC (Loomis, CA) for professional services required to design, configure, implement, and deploy a Permitting System for the Police Department, including training, custom report development, and integration, for an initial three-year term beginning on or about December 17, 2018 and ending December 31, 2021, with a maximum compensation not to exceed \$375,000 during the initial three-year term, subject to the appropriation of funds;

(b) Execute an agreement with Infor Public Sector, Inc. (Rancho Cordova, CA) for the purchase of a Permitting System for the Police Department, including software subscriptions and ongoing support and maintenance, for an initial three-year term beginning on or about December 17, 2018 and ending December 31, 2021, with a maximum compensation not to exceed \$161,775 during the initial three-year term, subject to the appropriation of funds;

(c) Negotiate and execute amendments and change orders to the agreements with TruePoint Solutions, LLC and Infor Public Sector, Inc., as may be required for any unanticipated changes, including the purchase of additional subscriptions, for a contingency amount not to exceed \$135,000 during the initial three-year term, subject to the appropriation of funds; and

(d) Exercise one additional three-year option to extend the term of the agreements through December 31, 2024 to provide ongoing software subscriptions (including purchases of additional subscriptions as required), support, maintenance, and related professional services, subject to the appropriation of funds.

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



## 2.14 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated November 26, 2018, recommending acceptance of actions related to the Request for Proposal for Permitting System for the Police Department.

Action: Resolution No. 78887, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with TruePoint Solutions, LLC in an Amount Not To Exceed \$375,000 and to Execute an Agreement with Infor Public Sector, Inc. in an Amount Not To Exceed \$161,775 for a Permitting System for the San Jose Police Department, for an Initial Three-Year Term Ending December 31, 2021; Negotiate and Execute Amendments and Change Orders as Required for a Contingency Amount Not To Exceed \$135,000 for the Initial Term; and Exercise One Additional Three-Year Option to Extend the Term of the Agreements, Subject to the Appropriation of Funds”, was adopted. (10-0-1. Absent: Arenas.)

## 2.15 18-1643 **Actions Related to the Housing for Homeless Veterans Housing Rehabilitation Pilot Program.**

(a) Approve the award of \$1,000,000 in Housing Authority Litigation Award funding currently designated for the City’s Housing for Homeless Veterans Housing Rehabilitation Pilot Program (a.k.a. Rebuilding for Heroes) to the County of Santa Clara for the Veterans Rapid Rehousing Program;

(b) Adopt a resolution authorizing the Director of Housing to negotiate and execute an agreement with the County of Santa Clara to provide rental subsidies to homeless veterans through the County’s Veterans’ Rapid Rehousing Program.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact to the environment. (Housing)

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated November 19, 2018, recommending approval of an Award and adoption of a resolution.

Action: Resolution No. 78888, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute an Agreement with the County of Santa Clara to Provide Rental Subsidies to Homeless Veterans Through the County’s Veterans’ Rapid Rehousing Program”, was adopted. (10-0-1. Absent: Arenas.)

**2.16 18-1644 Actions Related to the 2019-2020 Hazardous Vegetation Commencement Report.**

Adopt a resolution:

- (a) Accepting the 2019-2020 Hazardous Vegetation Commencement Report compiled by the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation; and
- (b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the Report are a public nuisance; and
- (c) Directing the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation to mail notices of a Public Hearing on January 29, 2019, at 1:30 p.m. before the City Council on the Report to property owners of affected real properties pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301(h) Existing Facilities, PP18-094. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Rosalynn Hughey, Director, Planning, Building and Code Enforcement, dated November 26, 2018, recommending adoption of a resolution.

Action: Resolution No. 78889, entitled: “A Resolution of the Council of the City of San José Accepting and Confirming the 2019-2020 Hazardous Vegetation Commencement Report Compiled by the Office of the Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation, Declaring that those Certain Noxious or Dangerous Seasonal and Recurrent Weeds, Growing or Likely to be Growing, and Refuse to Be a Public Nuisance, and Directing Notices of January 29, 2019 Public Hearing at 1:30 P.M. be Sent to Affected Property Owners”, was adopted. (10-0-1. Absent: Arenas.)

**2.17 18-1660 Settlement of City of San José v. J.U.M. Global, L.L.C. and State Energy Resources Conservation and Development Commission v. City of San José, et al.**

Approve a settlement in the amount of \$150,000, and authorize the City Attorney to execute a Settlement Agreement to settle the cases of San José v. J.U.M. Global, L.L.C. and State Energy Resources Conservation and Development Commission v. City of San José, et al. v. City of San José.

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

## 2.17 (Cont'd.)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 30, 2018, recommending approval of a settlement agreement.

Action: The Settlement Agreement to settle the cases of San José v. J.U.M. Global, L.L.C. and State Energy Resources Conservation and Development Commission v. City of San José, et al. v. City of San José, was approved. (10-0-1. Absent: Arenas.)

## 2.18 18-1669 **Retroactive Approval of Nieman Community Pick 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 November 28, 2018:

- (a) Retroactively approve of the Nieman Community Clean Up scheduled on November 17, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Arenas)  
[Rules Committee referral 11/28/18 - Item G.1.a]

Documents Filed: Memorandum from Councilmember Sylvia Arenas, dated November 15, 2018, requesting retroactive approval for a City Council Sponsored Special Event.

Action: Retroactive approval for the City Council Sponsored Special Event was approved. (10-0-1. Absent: Arenas.)

## 2.19 18-1738 **Ordinance Dedicating Public Right-of-Way and Public Parking Easement and Major Encroachment Located at 200 Edenvale Avenue.**

(a) Approve an ordinance dedicating as public right-of-way approximately 26,610 square feet of a City-owned drive aisle located on the south boundary of Edenvale Gardens Regional Park west of Edenvale Avenue, and accepting the newly dedicated right-of-way into the City's street system as Edenvale Court, and dedicating a public parking easement approximately 2.658 acres of an existing City-owned surface parking lot located at the southeastern corner of the Park.

(b) Adopt a resolution authorizing a Major Encroachment Permit pursuant to San José Municipal Code Chapter 13.37 for private improvements to be located adjacent to 200 Edenvale Avenue.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301 Existing Facilities and 15305 Minor Alterations in Land Use Limitations, File No. PP18-098. Council District 2. (Public Works)

***Renumbered from Item 4.5 (18-1656)***

## 2.19 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works, Matt Cano, dated November 29, 2018, recommending approval of an ordinance and adoption of a resolution.

Action: Ordinance No. 30193, entitled “An Ordinance of the City of San José Dedicating as public Right-of-Way Approximately 26,610 Square Feet of City-Owned Property Located Along the Southern Property Line of Edenvale Gardens Park and Dedicating as a Public Parking Easement Approximately 2.658 Acres of City-Owned Property at the Southeast Corner of Edenvale Gardens Park”, was passed for publication; and Resolution No. 78890, entitled: “A Resolution of the Council of the City of San José Authorizing a Permit Pursuant to San José Municipal Code Chapter 13.37 for a Major Encroachment to be Located at 200 Edenvale Avenue”, was adopted. (10-0-1. Absent: Arenas.)

## STRATEGIC SUPPORT

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

City Manager, David Sykes reported on the Giving Campaign effort and thanked all involved for their participation.

### 3.3 18-1636 Appeals Hearing Board Appointments.

(a) Interview applicant for appointment to the Public Member Seats on the Appeals Hearing Board;

(b) Appoint up to one (1) applicant to the Appeals Hearing Board for a term of January 1, 2019 through December 31, 2022; and

(c) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 30, 2018, recommending applicants for appointment to the Appeals Hearing Board.

Members of the Council interviewed Karen Parsons, and the nomination was accepted.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, Karen Parsons was appointed to the Appeals Hearing Board for a term of January 1, 2019 through December 31, 2022. (10-0-1. Absent: Arenas.)

**3.4 18-1637 Planning Commission Appointment.**

- (a) Interview applicants for appointment to the Planning Commission;
- (b) Appoint one (1) applicant to the Planning Commission for a term ending June 30, 2022; and
- (c) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.

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

**Item deferred to 1/8/19 Per the Rules & Open Government Committee.**

**3.5 18-1639 Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2018.**

Accept the Fiscal Year 2017-2018 Comprehensive Annual Financial Report for the City of San José.

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

***Note: Heard Concurrently with Item 3.6 and 9.1 (18-1649)***

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated November 26, 2018, recommending acceptance of the report.

Director of Finance Julia H. Cooper, Assistant Director of Finance, Lisa Taitano and David Bullock, CPA for MGO Certified Public Accountants, offered a presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the Fiscal Year 2017-2018 Comprehensive Annual Financial Report for the City of San José was accepted. (9-0-2. Absent: Arenas, Nguyen.)

**3.6 18-1640 External Auditor's Report: Report to Those Charged with Governance for the Year Ended June 30, 2018.**

Accept the Report to Those Charged with Governance for the year ended June 30, 2018 as issued by Macias Gini & O'Connell LLP, the City's external auditor.

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

***Note: Heard Concurrently with Item 3.5 and 9.1 (18-1649)***

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated December 4, 2018, recommending acceptance of the report.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the External Auditor's Report was accepted. (9-0-2. Absent: Arenas, Nguyen.)

**3.7 18-1641 Comprehensive Annual Debt Report for Fiscal Year Ended June 30, 2018.**

Accept the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2017-2018.

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated November 26, 2018, recommending acceptance of the report.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Johnny Khamis, and carried unanimously, the Comprehensive Annual Debt Report for the City of San José was accepted. (9-0-2. Absent: Arenas, Nguyen.)

**Council adjourned at 12:36 p.m. and was reconvened at 1:32 p.m.**

**All Councilmembers were present, with the exception of Councilmember Sylvia Arenas and Councilmember Tam Nguyen. Councilmember Tam Nguyen returned at 3:10 p.m.**

**COMMUNITY & ECONOMIC DEVELOPMENT**

**4.1 18-1642 Team San José Performance 2017-18.**

As recommended by the Community and Economic Development Committee on November 26, 2018, accept the audit of Team San José Performance 2017-2018, and approve the theater occupancy target for fiscal year 2018-19.

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

[Community and Economic Development Committee referral 11/26/18 - Item (d)5.]

Documents Filed: Supplemental memorandum from City Auditor Sharon Erickson dated November 30, 2018, providing a performance audit for CVB services.

City Auditor Sharon Erickson provided an introduction, and Gitanjali Mandrekar of the City Auditor's Office provided the presentation. Director of Cultural Affairs/Deputy Director Economic Development, Kerry Adams Hapner continued the presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the audit of Team San José Performance 2017-2018 was approved. (8-0-3. Absent: Arenas, Carrasco, Nguyen.)

**Actions Related to the Tenant Protection Ordinance: Inclusion of Duplexes, Amendments to Criminal Activity, Domestic Violence, and Noticing Requirements.**

(a) Council to accept one of the two following options:

(1) Approve an ordinance amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to include duplexes with an exemption for owner-occupied apartments.

**NO ACTION**

(2) Accept staff recommendation to not include duplexes under the Tenant Protection Ordinance.

**ACCEPTED.**

(b) Approve an Ordinance amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to:

(1) Add a provision to require the posting of a notice summarizing the requirements of the Tenant Protection Ordinance including prohibiting retaliation, harassment, and intimidation against tenants based upon their immigration status;

(2) Add a provision to the criminal activity cause for eviction stating if the tenant is acquitted of the criminal charges which caused termination of tenancy are dismissed or reduced, the tenant is permitted to return to the apartment if the tenant household still resides in the apartment and consents to the return;

(3) Add a provision that states that nothing in the Ordinance will abrogate the protections afforded to survivors of violence consistent the Civil Code Section 1161.3, as amended, and the violence against Violence Against Women Act, Public Law 103-322 as amended, and require a posting to include these rights; and

(b)(4) Add a provision to require a statement in the Notice of Termination that it is served in good faith and include a reference to the Rent Stabilization Program for referral information (including homeless prevention).

**Ordinance No. 30194 passed for publication.**

(c) If an amendment is approved to include duplexes, then adopt a resolution amending the 2018-2019 Schedule of Fees and Charges (Resolution No. 72737, as amended) to extend the Non-Rent Controlled Apartment Unit Fee to Duplexes effective January 18, 2019, in the amount of \$2.65, prorated from the annual Non-Rent Controlled Apartment Unit Fee in the amount of \$6.20.

**NO ACTION**

*(Item Continued on the Next Page)*

## 4.2 (Cont'd.)

(d) If an amendment is approved to include duplexes, then adopt the following Fiscal Year 2018-2019 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund:

(1) Increase the Fees, Rates and Charges estimate by \$25,313; and

(2) Increase the Non-Personal/Equipment appropriation to the Housing Department by \$25,313. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Housing)

***Heard After Item 4.6 (18-1659)***

**NO ACTION**

Documents Filed: (1) Joint memorandum from Councilmembers Lan Diep, Dev Davis, Tam Nguyen and Johnny Khamis, dated December 5, 2018, recommending staff's recommendations, adopting option a(2). (2) Memorandum from Councilmember Donald Rocha, dated December 10, 2018, urging acceptance of recommendation a(1). (3) Memorandum from Councilmember Sergio Jimenez, dated December 10, 2018, recommending actions related to the Tenant Protection Ordinance. (4) Joint memorandum from Director of Housing Jacky Morales-Ferrand and Budget Director Margaret McCahan, dated November 30, 2018, recommending actions related to the Tenant Protection Ordinance. (5) Memorandum from City Attorney Richard Doyle, dated December 7, 2018, addressing issue of domestic violence survivors' rights to assume a lease. (6) Six letters/email correspondence from the public, including from the Coalition for Justice and Accountability, dated December 7, 2018 and Public Defender Molly O'Neal, dated December 11, 2018, expressing opposition to the criminal activity provision of the ordinance.

Director of Housing Jacky Morales-Ferrand provided a presentation.

**Council adjourned at 5:36 p.m. and reconvened at 6:13 p.m.**

**All Councilmembers were present with the exception of Councilmember Sylvia Arenas.**

Public Comments: Fifty-six members of the public spoke to the Actions Related to the Tenant Protection Ordinance: Inclusion of Duplexes, Amendments to Criminal Activity, Domestic Violence, and Noticing Requirements.

Motion: Councilmember Lan Diep moved the memorandum he cosigned with Councilmembers Dev Davis, Tam Nguyen and Johnny Khamis, dated December 5, 2018, supporting the staff recommendation to adopt option a(2) to not extend the Tenant Protection Ordinance to duplexes. Councilmember Dev Davis seconded the motion.

Substitute Motion: Councilmember Raul Peralez moved the memorandum he cosigned with Councilmember Donald Rocha, dated December 10, 2018. Councilmember Donald Rocha seconded the motion.

On a call for the question, the substitute motion failed. (3-7-1. Noes: Jones, Jimenez, Diep, Davis, Nguyen, Khamis. Absent: Arenas.)

*(Item Continued on the Next Page)*



## 4.2 (Cont'd.)

Action: On a call for the question, the underlying motion carried, and Ordinance No. 30194, entitled “An Ordinance of the City of San José Amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to Require Posting a Notice at the Premises Advising Tenants of the Tenant Protection Ordinance, to Provide for a Tenant’s Right to Return to the Rental Unit if Acquitted or Dismissed from the Criminal Action, to Require Specific Language in the Notice of Termination that the Notice is Served in Good Faith and Refers Tenants to the Rent Stabilization Program for Information on Homeless Prevention, and to Include a Provision Stating that Nothing in the Ordinance Shall Abrogate the Protections Under California and Federal Law to Survivors of Violence”, was passed for publication, including the joint memorandum from Councilmembers Lan Diep, Dev Davis, Tam Nguyen and Johnny Khamis, dated December 5, 2018, recommending staff’s recommendations, adopting option a(2). (7-3-1. Noes: Carrasco, Peralez, Rocha. Absent: Arenas.)

*Councilmember Tam Nguyen arrived for the meeting at 3:10 p.m.*

### 4.3 18-1597 **Direction on the Creation of a Source of Income Ordinance and Rental Subsidy Program Improvements.**

(a) Accept the staff report.

(b) Direct the City Attorney’s Office to develop a source of income ordinance including, but not limited to, staff’s recommended provisions on the definition of source of income, prohibited activities, applicability, and enforcement.

(c) Direct the Housing Department to implement an education and outreach plan in coordination with Santa Clara County Housing Authority and other rental subsidy partners that considers process improvements and incentives to increase the use of rental subsidy programs.

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

Documents Filed: (1) Memorandum from Councilmember Lan Diep, dated December 7, 2018, recommending approval of staff recommendations with additional direction. (2) Memorandum from Director of Housing Jacky Morales-Ferrand, dated November 19, 2018, recommending acceptance of the staff report with direction. (3) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated December 6, 2018, providing additional information on the Housing Choice Voucher Program. (4) Letter from Project Sentinel Fair Housing Center, dated December 18, 2018, offering support to the Housing Choice Voucher System.

Director of Housing Jacky Morales-Ferrand provided a presentation.

Public Comments: Thirty-seven members of the public offered comments on the City’s direction on the creation of a Source of Income Ordinance and Rental Subsidy Program Improvements

Director of Housing Jacky Morales-Ferrand and Housing Policy & Program Administrator Rachel VanderVeen responded to questions from the Council.

### 4.3 (Cont'd.)

Motion: Councilmember Sergio Jimenez moved the memorandum from Councilmember Lan Diep, dated December 7, 2018, excluding item #4 from his memorandum regarding an incentive program for landlords, and the joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco, dated December 7, 2018. Councilmember Donald Rocha seconded the motion.

Action: On a call for the question, the motion carried, including the joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco, Councilmember Chappie Jones and Councilmember Donald Rocha, dated 12/7/18:

(1) Accepting Staffs' recommendations, and (2) Directing the Housing Department to convene apartment owners and representative organizations, including the California Apartment Association; staff from Santa Clara County Housing Authority and the County of Santa Clara; and voucher holders and tenant representatives, to identify a workplan for continued improvements in streamlining lease-up, payment, reducing paperwork, and mitigating landlord risk in the voucher program.

And Councilmember Lan Diep's memorandum, *items 1-3*, dated 12/7/18, to:  
Accept Staff recommendation with the additional direction to explore the following specific areas of possible administrative improvements and landlord incentives to increase the acceptance of housing vouchers:

1. Speeding up the process of unit inspection required for landlords to be eligible to accept Housing Choice Vouchers (HCV);
2. Speeding up the time a landlord will get the first rent check from the voucher program;
3. Simplifying paperwork, processes, or regulations that burden landlords who want to accept HCVs;

(9-1-1. Noes: Nguyen. Absent: Arenas.)

### 4.4 18-1645 **Actions Related to the 7802- Bollinger Rd- Blaney Ave Sanitary Sewer Improvement Project.**

(a) Report on bids and award of contract for the 7802- Bollinger Rd- Blaney Ave Sanitary Sewer Improvement to the low bidder, Pacific Underground Construction, Inc., for the base bid and Add Alternate No. 1, in the amount of \$7,995,801 and approve a contingency in the amount of \$799,580.

(b) Adopt the following 2018-2019 Appropriation Ordinance amendments in the Sewer Service and Use Charge Capital Improvement Fund:

(1) Decrease the Unrestricted Ending Funding Balance in the amount of \$1,200,000;

(2) Increase the Bollinger Road - Moorpark Avenue - Williams Road Sanitary Sewer Improvements appropriation to the Public Works Department in the amount of \$1,200,000.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto; and does not involve new significant impacts beyond those analyzed in the above EIRs. File No. PP12-076; PP13-070. Council District 1.

#### 4.4 (Cont'd.)

Documents Filed: Joint memorandum from Director of Public Works, Matt Cano and Budget Director Margaret McCahan, dated November 29, 2018, recommending acceptance of a report and adoption of appropriation ordinance amendments.

Councilmember Chappie Jones offered appreciation for staffs' accomplishments on this project.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Sergio Jimenez and carried unanimously, Ordinance No. 30196, entitled "An Ordinance of the City of San José Amending Ordinance No. 30124 to Appropriate Moneys in the Sewer Service and Use Charge Capital Improvement Fund for the Bollinger Road – Moorpark Avenue – Williams Road Sanitary Sewer Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (9-0-2. Absent: Arenas, Nguyen.)

#### 4.5 18-1656 **Ordinance Dedicating Public Right-of-Way and Public Parking Easement and Major Encroachment Located at 200 Edenvale Avenue.**

(a) Approve an ordinance dedicating as public right-of-way approximately 26,610 square feet of a City-owned drive aisle located on the south boundary of Edenvale Gardens Regional Park west of Edenvale Avenue, and accepting the newly dedicated right-of-way into the City's street system as Edenvale Court, and dedicating a public parking easement approximately 2.658 acres of an existing City-owned surface parking lot located at the southeastern corner of the Park.

(b) Adopt a resolution authorizing a Major Encroachment Permit pursuant to San José Municipal Code Chapter 13.37 for private improvements to be located adjacent to 200 Edenvale Avenue.

CEQA: CEQA: Categorically Exempt, CEQA Guidelines Section 15301 Existing Facilities and 15305 Minor Alterations in Land Use Limitations, File No. PP18-098. Council District 2. (Public Works)

***Renumbered to Item 2.19 (18-1738)***

#### 4.6 18-1659 **Commercial Linkage Fee.**

Discuss and take action on a Regional Commercial Linkage Fee as a legislative priority of the City, as previously discussed by the City Council.

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

Documents Filed: (1) Joint memorandum from Vice Mayor Magdalena Carrasco and Councilmembers Sergio Jimenez, Raul Peralez and Don Rocha, dated December 7, 2018, recommending approval of the September 10, 2018 memorandum from Mayor Sam Liccardo. (2) Joint memorandum from Councilmember Chappie Jones and Councilmember Lan Diep, dated December 6, 2018, recommending direction to staff regarding the Commercial Linkage Fee. (3) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, Chief of Staff, Office of the City Manager, Lee Wilcox, and Director of Housing Jacky Morales-Ferrand, dated December 7, 2018, setting out administration's recommended "next steps" should study of a linkage fee be pursued.

#### 4.6 (Cont'd.)

Motion: Councilmember Sergio Jimenez moved to defer this item, per a recommendation by Councilmember Sylvia Arenas. The motion was seconded by Councilmember Raul Peralez.

On a call for the question, the motion failed. (5-4-2. Noes: Jones, Diep, Davis, Khamis. Absent: Arenas, Nguyen.)

Motion: Councilmember Johnny Khamis moved denial of the Commercial Linkage Fee. Councilmember Dev Davis seconded the motion.

Substitute Motion: Councilmember Raul Peralez moved approval of the September 10, 2018 memorandum from Mayor Liccardo, with modification to item (1) as noted in the December 7, 2018 joint memorandum from Vice Mayor Magdalena Carrasco and Councilmembers Peralez, Jimenez and Rocha, as noted below in "Action". Vice Mayor Magdalena Carrasco seconded the motion.

Public Comments: Fourteen members of the public spoke to the need for affordable housing and comments were made both supporting and conflicting with recommendations presented.

Action: On a call for the question, the substitute motion carried, and the September 10, 2018 memorandum from Mayor Liccardo, was accepted, with modification to item (1) as noted in the December 7, 2018 joint memorandum from Vice Mayor Magdalena Carrasco and Councilmembers Peralez, Jimenez and Rocha, as follows:

Accept the recommendation of Councilmembers Peralez, Rocha, Jimenez and Carrasco, and return to Council with a Staff recommendation on September 18 regarding the approach to a citywide nexus study, including the following elements:

1. Inclusion of a feasibility study to be pursued in tandem with the nexus study, to assess market impacts of development with variations of fee levels, geographic location, land use, and building type *such as high tech office, retail, industrial, and office.*
2. Exploration of a separate study for a Downtown Core Commercial (office and R & D) development impact fee, which would address affordable housing and infrastructure needs (i.e. transit and parks).
3. Report back to the City Council in November with the following:
  - a. Scope of work for a nexus study and feasibility study, including consultant selection, a funding strategy, and timeline for completion of the studies.
  - b. Include a Regional Commercial Linkage Fee as a legislative priority of the City, as previously discussed by the City Council.

(6-4-1. Noes: Diep, Jones, Khamis, Nguyen. Absent: Arenas.)

**4.7 18-1658 Temporary Use of Properties for Homeless Emergency Assistance Program. - DROP**

- (a) Direct the Housing Department and the Office of Economic Development to approach Google about allowing the temporary use of one or more of their recently purchased properties for the purposes of creating additional shelter beds within San José.
- (b) Recommend the following parameters to guide the negotiations with Google:
- (1) Temporary use should be for no less than two years;
  - (2) Shelter should be year-round;
  - (3) Leasing of property from Google should be negotiated at the least possible cost to the City;
  - (4) Google's agreement to lease property to the City will not count towards their anticipated community benefit contributions;
  - (5) There should be a definitive end date for use of property, and the City should lead the closure.
- CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Jimenez)  
*Item Dropped.*

## NEIGHBORHOOD SERVICES

**5.1 18-1646 Active Transportation Program Grant Application for the Five Wounds Trail Project.**

- Adopt a resolution to:
- (a) Retroactively approve staff's submission of a grant application in the amount of \$33,610,000 to the State of California via the Active Transportation Program; and
- (b) Identify the City Manager or his designee as the authorized representative to negotiate and execute an Active Transportation Program grant agreement for the Five Wounds Trail project.
- CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. Council Districts 3 & 7. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, John Cicirelli, dated November 26, 2018, recommending adoption of a resolution.

Chief of Staff, Office of the City Manager, Lee Wilcox and Deputy Director of Parks, Recreation and Neighborhood Services, Nicolle Burnham and Economic Development Assistant Director, Nanci Klein offered a presentation and responded to questions.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 78891, entitled: "A Resolution of the Council of the City of San José Retroactively Approving the Submission of a Grant Application in the Amount of \$33,610,000 to the State of California Via the Active Transportation Program and Authorizing the City Manager or His Designee to Negotiate and Execute an Active Transportation Program Grant Agreement for the Five Wounds Trail Project", was adopted. (9-0-2. Absent: Arenas, Nguyen.)

**5.2 18-1647 Actions Related to the Landmark Site Selection for the San José Light Tower.**

(a) Accept Guadalupe River Park at Arena Green as the highest-ranking location from the site selection analysis completed for the San José Light Tower Corporation in coordination with the Department of Parks, Recreation and Neighborhood Services, Public Works, and Office of Economic Development/Office of Cultural Affairs.

(b) Endorse the San José Light Tower Corporation's plan to proceed with an International Ideas Competition to solicit concepts for a world-class iconic landmark at Guadalupe River Park Arena Green. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. Council District 3. (Parks, Recreation and Neighborhood Services)

**Deferred to 1/29/19 per Administration.**

## **ENVIRONMENTAL & UTILITY SERVICES**

**7.1 18-1648 Amendment to Title 17 of the San José Municipal Code for the Energy and Water Building Performance Ordinance.**

(a) Approve an ordinance amending the San José Municipal Code to add Chapter 17.85, the Energy and Water Building Performance Ordinance for existing commercial and multifamily buildings and amending section 1.08.020 to make technical and clerical corrections and add violations of Chapter 17.85 to the list of infractions;

(b) Adopt a resolution amending the Administrative Citation Schedule of Fines to add fines for certain violations of the San José Municipal Code related to the regulation of the Energy and Water Building Performance Ordinance and repealing Resolution No. 78478.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15061(b) (3), Review for Exemption and Section 15300.1 Relation to Ministerial Projects, File No. PP18-088. (Environmental Services)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmembers Sergio Jimenez, Raul Peralez and Lan Diep, dated December 7, 2018, offering acceptance of staffs' recommendations with additional direction. (2) Memorandum from Councilmember Johnny Khamis, dated December 10, 2018, recommending approval with a modification. (3) Memorandum from Councilmember Dev Davis, dated December 11, 2018, recommending approval of the Mayor's memorandum with additional direction. (4) Memorandum from Director, Environmental Services, Kerrie Romanow, dated November 13, 2018, providing staffs' recommendations. (5) Memorandum from Director, Environmental Services, Kerrie Romanow, dated November 26, 2018, providing staffs' recommendations regarding a proposed Energy and Water Building Performance Ordinance. (6) Supplemental memorandum from Director, Environmental Services, Kerrie Romanow, dated December 6, 2018, providing additional information regarding impact of proposed Energy and Water Building Performance Ordinance on multi-family buildings.

Director, Environmental Services, Kerrie Romanow, and staff offered a presentation and responded to questions.

## 7.1 (Cont'd.)

Public Comments: Kimi Narita (NRDC) and Anil Babbar offered support to the proposed ordinance.

Councilmember Johnny Khamis opined that this action may infringe on citizens' freedoms, adding that the proposal is not in the City's purview.

Motion: Councilmember Johnny Khamis moved his memorandum dated December 10, 2018, Councilmember Dev Davis' memorandum from December 11, 2018 and items 1-3 from the Mayor's memorandum of December 7, 2018. The motion failed for lack of a second.

Motion: Councilmember Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo and Councilmembers Sergio Jimenez and Lan Diep, dated December 7, 2018, and Councilmember Dev Davis' memorandum from December 11, 2018. Councilmember Dev Davis seconded the motion.

Councilmember Dev Davis requested a friendly amendment, requesting inclusion of an amendment in the annual report on building age. The friendly amendment was accepted.

Action: On a call for the question, the motion carried, and Ordinance No. 30197, entitled "An Ordinance of the City of San José Adding a New Chapter 17.85 to Title 17 of the San José Municipal Code for the San Joe Energy and Water Building Performance Ordinance, and Amending Section 1.08.020 of Chapter 1.08 of Title 1 to Make Technical and Clerical Corrections and to Add Violations of Chapter 17.85 to the List of Infractions", was passed for publication, and Resolution No. 78892, entitled: "A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Establish Administrative Fines for Violations of Various Sections of Chapter 17.85 of the San José Municipal Code Related to the City of San José Energy and Water Building Performance Ordinance; and Repealing Resolution No. 78478", was adopted, including the joint memorandum from Mayor Sam Liccardo and Councilmembers Jimenez, Peralez and Diep, dated December 7, 2018, with direction to:

1. Develop a robust outreach and engagement plan to commercial building managers to ensure compliance with the benchmarking and transparency ordinance;
2. Defer consideration on the funding strategy and/or fee structure required to staff the energy benchmarking and transparency program to the 2019-2020 budget process;
3. Identify funding opportunities and partners to develop an online visualization tool and/or map to track benchmarking progress and ensure transparency throughout the City;
4. For multi-family buildings that fall between the 20,000 sq. ft. - 49,999 sq. ft. threshold, require benchmarking and reporting for both energy and water, but exclude improvements required for water if the building is not individually sub metered.

Including a request from Councilmember Dev Davis to include an amendment to add a report during the annual report on building age.

(8-1-2. Noes: Khamis. Absent: Arenas, Nguyen.)

**7.2 18-1679 Actions Related to Negotiations of Recycle Plus Residential Solid Waste Agreements.**

- (a) Accept the staff report with the term sheets from Garden City Sanitation, GreenTeam of San José, and GreenWaste Recovery for future residential solid waste services;
- (b) Direct staff to develop agreements with Garden City Sanitation, GreenTeam of San José, and GreenWaste Recovery in accordance with the term sheets and return to Council in April 2019 with Recycle Plus agreements for residential solid waste services to begin July 1, 2019 and continue through June 30, 2036;
- (c) Direct staff to end negotiations with California Waste Solutions and issue a Request for Proposals to provide Recycle Plus services for single-family recyclables collection & processing in Service Districts A & C, with the same framework as future services in Service District B, for a contract term to begin July 1, 2021 through June 30, 2036;
- (d) Direct staff to exclude Junk Pickup services from future residential solid waste services and return to Council with an approach for delivering this service in the future; and
- (e) Direct staff to continue negotiations with GreenWaste Recovery for residential street sweeping services and return to Council with a recommendation.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Environmental Services) [Deferred from 12/4/18 Item 7.1 (18-1607)]

*Deferred to 12/18/18 per the Rules & Open Government Committee.*

**7.3 18-1680 Actions Related to Recycle Plus Residential Solid Waste Agreements and China's Policy On Importing Recyclable Material.**

Adopt a resolution authorizing the City Manager to waive all or a portion of the contractor disincentives for not meeting the required diversion rates for calendar year 2018 if by March 1, 2019 the City Manager determines that the Recycle Plus contractors are unable to meet their required diversion rates because of China's "National Sword" policy on the import of recyclable materials.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Environmental Services) [Deferred from 12/4/18 Item 7.2 (18-1599)]

*Deferred to 12/18/18 per the Rules & Open Government Committee.*



**7.4 18-1681 Actions Related to Implementing Living Wage Requirements for Recycle Plus Residential Garbage and Recycling Contracts**

(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; and

(2) The updated labor peace plans from Recycle Plus contractors.

(b) Direct staff to negotiate the inclusion of a Modified Living Wage requirement, as approved by Council, in future residential garbage and recycling agreements for the Recycle Plus program.

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

[Deferred from 12/4/18 Item 7.3 (18-1600)]

*Deferred to 12/18/18 per the Rules & Open Government Committee.*

**REDEVELOPMENT – SUCCESSOR AGENCY**

**9.1 18-1649 Successor Agency to the Redevelopment Agency of the City of San José - Fiscal Year 2017-2018 Audited Financial Statements.**

Accept the Fiscal Year 2017-2018 Independent Auditor's Reports and Basic Financial Statements for the Successor Agency to the Redevelopment Agency of the City of San José.

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

*Heard Concurrently with Item 3.5 (18-1639)*

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated November 26, 2018, recommending acceptance of the Fiscal Year 2017-2018 Independent Auditor's Reports and Basic Financial Statements for the Successor Agency.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the Fiscal Year 2017-2018 Independent Auditor's Reports and Basic Financial Statements for the Successor Agency was accepted. (9-0-2. Absent: Arenas, Nguyen.)

## LAND USE

### 10.1 Land Use on Consent Calendar

(a) **18-1719**      **C16-017 - Conforming Rezoning for Real Property Located at Camden Avenue.**

(a) Adopt a resolution approving an Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto, in accordance to the California Environmental Quality Act, as amended.

(b) Consideration of an ordinance rezoning certain real property of an approximately 1.01-gross acre vacant site (APN: 567-26-014) located on the east side of Camden Avenue, between Malpas Drive and Canna Lane from the A Agricultural Zoning District to the R-2 Two-Family Residence Zoning District. (Kelsey Matt A et al, owner)  
CEQA: Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto; and does not involve new significant impacts beyond those analyzed in the above EIRs. Planning Commission recommends approval (5-0-2; Ballard and Griswold absent). (Planning, Building and Code Enforcement)  
C16-017 - Council District 10

Documents Filed: Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 13, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated October 29, 2018.

Councilmember Johnny Khamis pulled Item 10.1(a) regarding the number of units involved. Rosalynn Hughey, Director, Planning, Building and Code Enforcement responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78893, entitled: “A Resolution of the Council of the City of San José Adopting the Camden Avenue Rezoning Project Addendum to the Envision San Jose 2040 General Plan Final Program Environmental Impact Report, Supplemental Environmental Impact Report, and Addenda Thereto, All in Accordance with the California Environmental Quality Act, as Amended”, was adopted; and Ordinance No. 30198, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.01-Gross Acres Situated on the East Side of Camden Avenue Between Malpas Drive and Canna Lane (0 Camden Avenue) (APN 567-26-014), From the A Agricultural Zoning District to the R-2 Two-Family Residence Zoning District”, was passed for publication. (10-0-1. Absent: Arenas.)

## 10.1 (Cont'd.)

(b) 18-1720 **GP18-008 & C18-019 - General Plan Amendment: Land Use Designation and Conforming Rezoning for Real Property Located at 1131 Park Avenue and 15 and 17 Tillman Avenue. - DROP**

(a) Adopt a resolution approving the General Plan Amendment to change the Land Use Designation from Neighborhood/Community Commercial to Residential Neighborhood for 1131 Park Avenue; and Residential Neighborhood to Neighborhood/Community Commercial for 15 and 17 Tillman Avenue on a 0.25 gross-acre site.

(b) Consideration of an ordinance of the City of San José rezoning an approximately 0.10 gross-acre portion of the 0.25 gross-acre site from CO Commercial Office Zoning District to R-1-8 Zoning District.

(Delisle Frank R and Rite C Trustee, owner)

CEQA: Categorically Exempt, CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)

GP18-008 & C18-019 - Citywide

***Dropped – to be Renoticed.***

Documents Filed: Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 9, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated October 17, 2018.

Action: Dropped. To be Renoticed. No action taken.

(c) 18-1721 **GPT18-003 - General Plan Text Amendment: Minor Revisions.**

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

(b) Adopt a resolution modifying the Envision San José 2040 General Plan, including revisions to the Industrial Park land use designation to allow additional flexibility for commercial service uses within the Edenvale Development Policy area, clarifications related to design guidelines for Urban Villages, revisions to Policy IP-5.12 to update the parameters for qualifying affordable housing projects, updates to Appendix 5, and other minor grammatical and clarifying revisions.

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

GPT18-003 – Citywide

## 10.1 (c) (Cont'd.)

Documents Filed: Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 9, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated October 16, 2018.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78894, entitled: “A Resolution of the Council of the City of San José Amending the Envision San Jose 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Make Minor Modifications and Clarifying Revisions”, was adopted. (10-0-1. Absent: Arenas.)

(d) **18-1722**      **GPT18-004 - General Plan Text Amendment: Housing Preservation and Rehabilitation.**

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

(b) Adopt a resolution amending the Envision San José 2040 General Plan related to the protection of housing preservation and rehabilitation. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto; and does not involve new significant impacts beyond those analyzed in the above EIRs. Planning Commission recommends approval (6-1; Griswold opposed) (Planning, Building and Code Enforcement) GPT18-004 – Citywide

Documents Filed: Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 9, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated October 16, 2018.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78895, entitled: “A Resolution of the Council of the City of San José Amending the Envision San Jose 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Make Minor Revisions Related to Housing Preservation and Rehabilitation”, was adopted. (10-0-1. Absent: Arenas.)

(e) **18-1723 GPT16-010 - General Plan Text Amendment: Amendment to the Roosevelt Park, Little Portugal, Five Wounds and 24th and William Urban Village Plans, including revised Implementation Chapters and minor text modifications to each Urban Village Plan.**

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

(b) Adopt a resolution approving the City-initiated General Plan Text Amendment to the Roosevelt Park Urban Village Plan.

(c) Adopt a resolution approving the City-initiated General Plan Text Amendment to the Little Portugal Urban Village Plan.

(d) Adopt a resolution approving the City-initiated General Plan Text Amendment to the Five Wounds Urban Village Plan.

(e) Adopt a resolution approving the City-initiated General Plan Text Amendment to the 24th Street and William Street Urban Village Plan.

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

GPT16-010 – Citywide

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez, dated November 30, 2018, recommending approval of staff recommendations with additional direction. (2) Memorandum from Vice Mayor Magdalena Carrasco, dated December 3, 2018, recommending approval of staff recommendations with additional direction. (3) Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 13, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated October 16, 2018. (4) Supplemental memorandum from Rosalynn Hughey, Director, Planning, Building and Code Enforcement, dated December 3, 2018, summarizing changes made to documentation after the Planning Commission public hearing.

Rosalynn Hughey, Director, Planning, Building and Code Enforcement responded to questions, and Council discussion ensued regarding capacity levels and the need for more community outreach.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Erik Schoennauer, representing Burch Investments, spoke to the merits of the project.

Mayor Sam Liccardo closed the public hearing.

Council discussion ensued.

## 10.1 (e) (Cont'd.)

Motion: Councilmember Raul Peralez moved approval of the memorandum from Vice Mayor Magdalena Carrasco, dated December 3, 2018 and the joint memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez, dated November 30, 2018. Vice Mayor Magdalena Carrasco seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Item 10.1(e) was approved, including the memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez, dated November 30, 2018, to: (1) Approve the staff recommended changes to the Roosevelt Park, Little Portugal, Five Wounds, and 24th and William Urban Village Plans. (2) Conduct community outreach in 2019 to explore additional changes to the Five Wounds Urban Village Plan to allow certain key properties to develop as mixed-use projects in advance of the BART station.

Also including the memorandum from Vice Mayor Magdalena Carrasco, to (1) Accept the staff recommended changes to the Roosevelt Park, Little Portugal, Five Wounds, and 24th and William Urban Village Plans. (2) Add to the Little Portugal Urban Village priorities deed restricted commercial space for "non-formula" employment uses such as small businesses; and (3) Conduct community outreach in 2019 to explore additional changes to the Little Portugal Urban Village Plan to explore increasing the housing and commercial allocation. And including adoption of Resolution No. 78896, entitled: "A Resolution of the Council of the City of San José Amending the Roosevelt Park Urban Village Plan"; Resolution No. 78897, entitled: "A Resolution of the Council of the City of San José Amending the Little Portugal Urban Village Plan"; Resolution No. 78898, entitled: "A Resolution of the Council of the City of San José Amending the Five Wounds Urban Village Plan"; and Resolution No. 78899, entitled: "A Resolution of the Council of the City of San José Amending the 24<sup>th</sup> & William Streets Urban Village Plan". (10-0-1. Absent: Arenas.)

(f) **18-1724**      **HL18-001 & MA18-001 - Historic Landmark Nomination and Historical Property Contract for Edwin and Mary Wilcox House Located at 1300 Pine Ave.**

(a) Adopt a resolution designating the "Edwin and Mary Wilcox House" located at 1300 Pine Avenue as a City Landmark of special historic, architectural, aesthetic or engineering interest, or value of a historic nature; and

(b) Adopt a resolution approving the Historical Property Contract (California Mills Act Contract) between the City of San José and property owners, Penelope and Stephen Thompson, for the "Edwin and Mary Wilcox House, located at 1300 Pine Avenue. (APN: 439-52-106), on the subject 0.81-gross acre site.

CEQA: Categorically Exempt pursuant to CEQA Guidelines Section 15331 for Historical Resource Restoration/Rehabilitation. Historic Landmarks Commission recommends approval. (Planning, Building and Code Enforcement)

HL18-001 & MA18-001 - Council District 6

Documents Filed: Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 13, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated October 16, 2018.

## 10.1 (f) (Cont'd.)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78900, entitled: “A Resolution of the Council of the City of San José Approving a Historical Property Contract with Penelope and Stephen Thompson for Edwin and Mary Wilcox House Located at 1300 Pine Avenue (APN: 439-52-106)”; and Resolution No. 78901, entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Edwin and Mary Wilcox House, Located at 1300 Pine Avenue as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature”, were adopted. (10-0-1. Absent: Arenas.)

## 10.2 18-1727 **GP18-001 - General Plan Amendment: Land Use Designation for Real Property Located at 4349 San Felipe Road.**

(a) Adopt a resolution adopting the 4349 San Felipe Road General Plan Amendment Negative Declaration, for which an Initial Study was prepared, all in accordance to the California Environmental Quality Act, as amended.

(b) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Rural Residential to Neighborhood Community Commercial, Rural Residential, and Open Space, Parklands and Habitat on a 1.0-gross acre site located on the west side of San Felipe Road, approximately 1,010 feet south of Delta Road (4349 San Felipe Road). (Vierra Douglas W and Nancy, owner)

CEQA: Initial Study/Negative Declaration for 4349 San Felipe Road General Plan Amendment. Planning Commission recommends approval (4-3; Ballard, Marquez and Leyba opposed). (Planning, Building and Code Enforcement)

GP18-001 - Council District 8

Documents Filed: Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 9, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated October 16, 2018.

Rosalynn Hughey, Director, Planning, Building and Code Enforcement noted the letter from Councilmember Sylvia Arenas and responded to questions.

Mayor Sam Liccardo opened the public hearing.

Public Comment: Speaking on behalf of the applicant, Reyad Katwan and Douglas Vierra offered support to the project, and Aneel Choppa and Jatin Billimoria provided additional comments.

Mayor Sam Liccardo closed the public hearing.

Motion: Councilmember Dev Davis moved approval of the recommendations, including memorandum from Councilmember Sylvia Arenas, dated December 13, 2018.

## 10.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78902, entitled: “A Resolution of the Council of the City of San José Adopting the 4347 San Felipe Road General Plan Amendment Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended”; and Resolution No. 78903, entitled: “A Resolution of the Council of the City of San José Amending the Envision San Jose 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Modify the Land Use/Transportation Diagram to Neighborhood/Community Commercial, Rural, Residential and Open Space, Parklands and Habitat at 4349 San Felipe Road”, were adopted, and including the memorandum from Councilmember Sylvia Arenas, dated December 13, 2018, to (1) Accept the staff report; and (2) Encourage staff to work with applicant and community to achieve a compatible residential development that respects the unique circumstances of the location. Encourage staff to consider PD zoning and permitting as a potential option for addressing community and applicant interests at this site, if such zoning is proposed by the applicant; and (3) Staff to properly notice the neighboring homeowner’s association, the residential neighbors on Mousa Court, and the community of all future land use permit applications and that community feedback is considered.

(9-0-2. Absent: Arenas, Rocha.)

## 10.3 18-1728 **GP18-002 - General Plan Amendment: Land Use/Transportation Diagram for 550/570 Meridian Avenue and 460 Meridian Avenue.**

(a) Adopt a resolution adopting the Meridian Avenue General Plan Amendment Negative Declaration, for which an Initial Study was prepared, all in accordance to the California Environmental Quality Act, as amended.

(b) Adopt a resolution amending the Envision San José 2040 General Plan/Transportation Diagram Land Use Designation for an approximately 11.56-gross acre site (550 and 570 Meridian Avenue) from Industrial Park to Combined Industrial/Commercial and adding 1.12 acres directly north located at the northeast corner of Meridian Avenue and Parkmoor Avenue (460 Meridian Avenue) from Industrial Park to Combined Industrial/Commercial, for a total of 12.68-gross acre site. (Green Valley Corporation, owner)

CEQA: Initial Study/Negative Declaration for 550 Meridian Avenue General Plan Amendment. Planning Commission recommends approval (6-1; Commissioner Marquez opposed). (Planning, Building and Code Enforcement) GP18-002 - Council District 6

Documents Filed: Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 13, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated October 16, 2018.

Mayor Sam Liccardo opened the public hearing.

Public Comment: Developer/Applicant Mike Black with Barry Swenson Builders thanked the City for its recommendations and asked for continued support.

Mayor Sam Liccardo closed the public hearing.



### 10.3 (Cont'd.)

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Lan Diep and carried unanimously, Resolution No. 78904, entitled: “A Resolution of the Council of the City of San José Adopting the Meridian Avenue General Plan Amendment Negative Declaration, for which an Initial Study was Prepared, All in Accordance with the California Environmental Quality Act, as Amended; and Resolution No. 78905, entitled: “A Resolution of the Council of the City of San José Amending the Envision San Jose 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Modify the Land Use/Transportation Diagram to Combined Industrial/Commercial at 550, 570 and 460 Meridian Avenue”, were adopted. (8-0-3. Absent: Carrasco, Arenas, Rocha.)

### 10.4 18-1729 **GP17-017 - General Plan Amendment: Land Use/Transportation Diagram for Property Located at 214, 214D, 205 Dupont Street; 226 and 275 McEvoy Street.**

(a) Adopt a resolution approving an Addendum to the Diridon Station Area Plan Final Program Environmental Impact Report (Resolution No. 77096), in accordance to the California Environmental Quality Act, as amended.

(b) Adopt a resolution amending the Land Use/Transportation Diagram land use designation from Mixed Use Commercial to Transit Residential on a 4.25-gross acre site located at 214, 214D, and 205 Dupont Street, and 226 and 275 McEvoy Street. (Autumn LLC, owner)

CEQA: Addendum to the Diridon Station Area Plan Final Program Environmental Impact Report (Resolution No. 77096) and the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report (Resolution No. 77617) and Addenda thereto; and does not involve new significant impacts beyond those analyzed in the above EIRs. (Planning, Building and Code Enforcement)

GP17-017 - Council District 3

***DEFERRED TO 12/18/18 PER ADMINISTRATION***

### 10.5 18-1730 **GP18-004 - General Plan Amendment: Land Use/Transportation Diagram for Property Located at 3235 Union Avenue and 2223 Camden Avenue.**

(a) Adopt a resolution adopting the Campbell Union High School District General Plan Amendment Negative Declaration, for which an Initial Study was prepared, all in accordance to the California Environmental Quality Act, as amended.

(b) Adopt a resolution amending the Land Use/Transportation Diagram land use designation from Public/Quasi-Public to Residential Neighborhood, Combined/Industrial Commercial, and Public/Quasi-Public on a 12.12-gross acre site located at 3235 Union Avenue and 2223 Camden Avenue (Campbell Unified School District, owner);

OR

*(Item Continued on the Next Page)*

## 10.5 (Cont'd.)

Adopt a resolution amending the Land Use/Transportation Diagram land use designation from Public/Quasi-Public to Combined/Industrial Commercial and Public/Quasi-Public on a 12.12-gross acre site located at 3235 Union Avenue and 2223 Camden Avenue. (Campbell Unified School District, owner)

CEQA: Initial Study Negative Declaration for Campbell Union High School District General Plan Amendment. Planning Commission recommends approval (4-1-2; Marquez opposed, Ballard and Griswold absent). (Planning, Building and Code Enforcement)  
GP18-004 - Council District 9

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmembers Rocha, Khamis, Davis and Jimenez, dated November 30, 2018, recommending approval of the General Plan amendments. (2) Memorandum from Planning Commission Secretary, Rosalynn Hughey, dated November 9, 2018 transmitting the Planning Commission recommendations, including the Planning Commission Staff Report, dated November 7, 2018.

Public Comments: Applicant Stacy Brown spoke to the merits of the project. Also offering support were Dr. Robert Bravo, Todd Trekell, Robert Gillis, Bob Burre, Cole Cameron, Mark Robson, Chuck Toeniskoetter and Linda Goytin.

Motion: Councilmember Donald Rocha moved the memorandum that he co-signed with Mayor Sam Liccardo and Councilmembers, Khamis, Davis and Jimenez, dated November 30, 2018. Councilmember Sergio Jimenez seconded the motion.

Action: On a call for the question, the motion carried unanimously, with Resolution No. 78906, entitled: “A Resolution of the Council of the City of San José Adopting the Campbell Union High School District General Plan Amendment Negative Declaration, for which an Initial Study was Prepared, All in Accordance with California Environmental Quality Act, as Amended”; and Resolution No. 78907, entitled: “A Resolution of the Council of the City of San José Amending the Envision San Jose 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Modify the Land Use/Transportation Diagram to Combined Industrial/Commercial, Residential Neighborhood and Public/Quasi-Public at 3235 Union Avenue and 2223 Camden Avenue”, adopted, and including the joint memorandum from Mayor Sam Liccardo and Councilmembers Rocha, Khamis, Davis and Jimenez, dated November 30, 2018, approving the General Plan Amendments as proposed by the applicant, and as recommended for approval by the Planning Commission, amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Public/Quasi Public to Residential Neighborhood, and including additional direction from the Mayor to return during the four-year update next year.

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

## • Open Forum

Blair Beekman addressed several Consent Calendar items.

- Adjournment

The Council Meeting of the City of San José was adjourned at 8:46 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

*draft*

Toni J. Taber, CMC  
City Clerk

rmk/12-11-18 MIN