



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 23, 2016

The Council of the City of San José convened in Regular Session at 9:37 a.m. in the Council Chamber at City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:38 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (b) with respect to anticipated litigation (Claim Filed) In re: Claim of Quinonez. City Department: DOT. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (b) with respect to anticipated litigation (Claim Not Filed) of significant exposure in one (1) matter. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Souza. Amount of Money or Other Relief Sought: Administrative Appeal. (2) In re: Claim of Jones. Amount of Money or Other Relief Sought: Administrative Appeal. (3) In re: Claim of Engler. Amount of Money or Other Relief Sought: Administrative Appeal. (4) Canchola v. City of San José, et al. Names of Parties Involved: Ernesto Canchola, City of San José, Kerry Norman Smith and Does 1-20, inclusive; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-15-CV-278129; Amount of Money or Other Relief Sought: Damages according to proof. (5) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M.

CLOSED SESSION (Cont'd.)

Amount of Money or Other Relief Sought: Damages According to Proof. (6) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (7) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (8) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (9) ABMEI v. City, et al. Names of Parties Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No: UPC SF CE 1358 M; Amount of Money or Other Relief Sought: Damages according to proof. (10) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (11) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; ; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; ; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (14) AFSCME, et al. v. City of San José, et al; Names of Parties Involved:

CLOSED SESSION (Cont'd.)

American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (15) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (16) San José Retired Employees Association, et al V. City of San José, et al. Names of Parties Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-2680085; Amount of Money or Other Relief Sought: Change to City Medical Plan. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee 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

CLOSED SESSION (Cont'd.)

Agreement between City of San José and San José Police Officers' 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 the Closed Session at 10:55 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

INVOCATION

Oak Grove High School Jazz Band in San José offered the Invocation. (District 2)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo, accompanied by Rosemary Elementary School Third Grade Students, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 10.2 dropped, to be renoticed. (11-0.)

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0)

2.1 Approval of Minutes.

There were none.

2.2 Final Adoption of Ordinances.

There were none.

2.3 Approval of Council Committee Minutes.

- (a) Rules and Open Government Committee Minutes of January 13, 2016. (Mayor)
- (b) Community and Economic Development Committee Minutes of January 25, 2016. (Khamis)
- (c) Transportation and Environment Committee Minutes of February 1, 2016. (Kalra)

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: (1) The Rules and Open Government Committee Minutes dated January 13, 2016. (2) The Community and Economic Development Committee Minutes dated January 25, 2016. (3) The Transportation and Environment Committee Minutes dated February 1, 2016.

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

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 As recommended by the Public Safety, Finance, and Strategic Support Committee on November 19, 2015, accept the audit report on the Personnel Investigation Structure. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approval of City Actions. (City Auditor)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 18 2015, transmitting the recommendations of the Transportation and Environment Committee.

Director of Employee Relations Jennifer Schembri responded to questions from Council Member Pierluigi Oliverio.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the audit report on the Personnel Investigation Structure was accepted. (11-0.)

- 2.8 Report on bids and award a construction contract for the 6970 – Fiber Optic Connection Project to the low bidder, All Phase Excavating and Construction, Inc., in the amount of \$240,000 and approval of a fifteen percent contingency in the amount of \$36,000. CEQA: Addendum to the San José/Santa Clara Water Pollution Control Plant Master Plan Final EIR, File No. PP15-040. (Environmental Services/Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng and Director of Environmental Services Kerrie Romanow, dated February 3, 2016, recommending approval of the report on bids and award of the contract to the low bidder, with related contingency. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Vice Chair, dated January 20, 2016, expressing concurrence with the Staff recommendations. (3) Letter from David Wall, dated February 11, 2016, regarding the Treatment Plant Advisory Committee Agenda.

Action: The award a construction contract for the 6970 – Fiber Optic Connection Project to the low bidder, All Phase Excavating and Construction, Inc., in the amount of \$240,000, with related contingency, was approved. (11-0.)

- 2.9 Adopt a resolution authorizing the City Manager to:**

- (a) **Execute the First Amendment to the Airport Automated Access Control System Services Agreement with Stanley Convergent Security Solutions, Inc. (San Diego, CA) to upgrade the system to the latest version and provide for unscheduled work as may be required, and to increase the maximum compensation by \$426,634 from \$720,270 to \$1,266,904 for the initial five-year term of July 1, 2013 to June 30, 2018.**
- (b) **Execute change orders to cover unanticipated changes in requirements or for future enhancements for a not-to-exceed contingency amount of \$120,000 for the initial five-year term, subject to the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for professional services with no changes in the physical environment. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated February 4, 2016, recommending adoption of a resolution.

Action: Resolution No. 77665, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute a First Amendment to the Agreement for Airport Automated Access Control System Services with Stanley Convergent Security Solutions, Inc. to Update the System to the Latest Version and Provide for Unscheduled Work as May Be Required and To Increase the Maximum Compensation By \$426,634 from \$720,270 to \$1,266,905 For the Initial Five Year Term of July 1, 2013 to June 30, 2018 and (2) Execute Change Orders to Cover Unanticipated Changes in Requirements or for Future Enhancements for a Not To Exceed Contingency Amount of \$120,000 For the Initial Five Year Term, Subject to the Appropriation of Funds”, was adopted. (11-0.)

- 2.10 Adopt a resolution authorizing the Director of Housing to execute a partial reconveyance of the Deed of Trust recorded by the Center for Employment and Training (CET) from a 1.55 acre portion of the CET property located at 701 Vine Street in San José to accommodate the sale of such property to Rocketship Charter School, provided that such Deed of Trust will remain as security against the 4.64 acre portion of the property owned and occupied by CET. CEQA: Exempt, Section 15061(b) (3), No potential for causing a significant effect on the environment, File No. PP16-013. Council District 3. (Housing)**

Documents Filed: City Council Action Request from Director of Housing Jacky Morales-Ferrand, dated February 1, 2016, recommending adoption of a resolution.

Action: Resolution No. 77666, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Execute a Partial Reconveyance of a City Deed of Trust", was adopted. (11-0.)

- 2.11 (a) Adopt a resolution:**
- (1) Approving an Amended and Restated Disposition and Development Agreement for the 868 Delmas Avenue development with Habitat for Humanity East Bay/Silicon Valley ("Habitat" or "Developer"), the resulting entity from a merger of Habitat for Humanity Silicon Valley and Habitat for Humanity East Bay.**
 - (2) Approving a funding commitment for a conditional grant of up to \$258,000 of Low and Moderate Income Housing Asset Funds to Habitat for the 868 Delmas Avenue development.**
- (b) Adopt the following 2015-2016 Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:**
- (1) Increase the Housing Loans and Grants appropriation to the Housing Department in the amount of \$258,000.**
 - (2) Decrease the Housing Project Reserve appropriation in the amount of \$258,000.**

CEQA: Exempt, Section 15303(a) New Construction or Conversion of Small Structures, File No. PP06-144. Council District 3. (Housing/City Manager)

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated February 1, 2016, recommending adoption of a resolution and appropriation ordinance amendments.

Director of Housing Jacky Morales-Ferrand responded to questions and concerns from Mayor Sam Liccardo.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Ben Grubb expressed support to the Staff recommendations.

2.11 (Cont'd.)

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Raul Peralez and carried unanimously, Resolution No. 77667, entitled: "A Resolution of the Council of the City of San José Approving an Amended and Restated Disposition and Development Agreement and a Funding Commitment to Habitat for Humanity" and Ordinance No. 29689, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Low and Moderate Income Housing Asset Fund for Housing Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

- 2.12 Adopt a resolution authorizing the City Manager or designee to accept grant funding from the Metropolitan Transportation Commission and the Valley Transportation Authority for urban village planning for the North First Street and Berryessa/BART Urban Villages, and negotiate and execute all documents required to accept the grant funds, including the authority to negotiate and execute any local matching funds, subject to the appropriation of such funds. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041. Council Districts 3 and 4. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated February 8, 2016, recommending adoption of a resolution.

Action: Resolution No. 77668, entitled: "A Resolution of Local Support Authorizing the Filing of an Application for Funding Assigned to the Metropolitan Transportation Commission and Committing Any Necessary Matching Funds and Stating Assurance to Complete the Project", was adopted. (11-0.)

- 2.13 Report on bids and award of contract for the 5512 – 30 Inch Old Bayshore Sanitary Sewer Supplement project to the low bidder, K.J. Woods Construction Inc., in the amount of \$2,888,486, and approve a fifteen percent contingency in the amount of \$433,273. CEQA: Exempt, Section 15301 Existing Facilities, File No. PP12-027; Addendum to the Envision San José 2040 General Plan Final EIR and addenda thereto, File No. PP12-076; and Determination of Consistency with the Envision San José 2040 General Plan Final EIR and addenda thereto, File No. PP15-045. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated February 1, 2016, recommending award of the contract to the low bidder with related contingency.

Action: The report on bids and award of contract for the 5512 – 30 Inch Old Bayshore Sanitary Sewer Supplement project to the low bidder, K.J. Woods Construction Inc., in the amount of \$2,888,486, with related contingency, was approved. (11-0.)

- 2.14 Adopt a resolution authorizing the City Manager to authorize “Free Use” for events and activities held at City Hall on Saturday, February 27, 2016 for the Citywide Career Fair and Saturday, April 9, 2016 for the Coyote Howl Conference. CEQA: Not a Project, File No. PP15-077, Temporary Special Events resulting in no changes to the physical environment. Council District 3. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated February 1, 2016, recommending adoption of a resolution.

Action: Resolution No. 77669, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Authorize “Free Use” for Specific Events and Activities Held at City Hall”, was adopted. (11-0.)

- 2.15 Accept the Annual Status Report on the Citywide Capital Improvement Program. CEQA: Not a Project, File No PP10-069(a), Annual Reports that involve no approvals of any City Actions. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated February 11, 2016, recommending acceptance of the report.

Action: The Annual Status Report on the Citywide Capital Improvement Program was accepted. (11-0.)

- 2.16 (a) Adopt a resolution authorizing the Director of Public Works to:**
- (1) Determine the lowest responsive and responsible bidder, decide any bid protests, and award the construction contract for the Airport Federal Inspection Services (FIS) Curbside Improvements, FIS Baggage Handling System Improvements, Ground Transportation Island and Roadway Improvements Project in an amount not to exceed \$9,600,000 and an additional fifteen percent of construction contingency; and**
 - (2) Issue any single and/or multiple change orders up to the amount of the Project contingency.**

Action: Staff was directed to return to Council for final authorization on March 8, 2016.

- (b) Adopt a resolution making findings that specifying specific companies and product by brand or trade name in the bid specifications for this project is necessary for the following specific elements of this project to match other products in use at the Airport: (i) Fire Alarm and Sprinkler Controls; (ii) Door Security Access Controls; (iii) Information Technology; (iv) Intercom/Public Address/Paging; (v) Security Cameras; (vi) Low Voltage/Data Cabling; and (vii) Building Management System.**

CEQA: Determination of Consistency with the City of San José International Airport Master Plan Final EIR and Addenda thereto (Resolution Nos. 67380 and 71451), File Nos. PP15-053, PP15-122, and PP16-005. (Public Works/Airport)

2.16 (b) Cont'd.)

Documents Filed: Memorandum from Director of Public Works Barry Ng and Director of Aviation Services Kimberly J. Becker, dated February 4, 2016, recommending adoption of resolutions.

Director of Public Works Barry Ng responded to questions and concerns from Council Member Chappie Jones.

Motion: Council Member Chappie Jones moved approval of the Staff recommendations, with Staff directed to return to Council March 8, 2016 for the final authorization of Item 2.16(a). Vice Mayor Rose Herrera seconded the motion.

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77670, entitled: "A Resolution of the Council of the City of San José Making Findings that Specifying Specific Companies and Product By Brand or Trade Name is Necessary in the Bid Specifications for the Airport Federal Inspection Services (FIS) Curbside Improvements, FIS Baggage Handling System Improvements, Ground Transportation Island and Roadway Improvements Project", was adopted. (11-0.)

2.17 Adopt a resolution:

- (a) Approving the report of the Director of Public Works and the Director of Parks, Recreation and Neighborhood Services setting forth the facts justifying the summary vacation of the existing Pedestrian Access Easement with the reservation of a Public Trail Easement for the existing Communications Hill Grand Staircase located between Casselino Drive and Mullinix Way.**
- (b) Vacating the Pedestrian Access Easement with the reservation of a Public Trail Easement to protect the public safety and to serve the public interest and convenience.**
- (c) Directing the City Clerk, to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.**

CEQA: Exempt, Section 15301 Existing Facilities, File No. PP16-008. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated February 1, 2016, recommending adoption of a resolution. (2) Statement and Declaration of Conflict of Interest Form from Council Member Johnny Khamis, dated February 23, 2016, disclosing he owns real property in Communications Hill.

Council Member Tam Nguyen thanked Staff for their hard work on this project.

2.17 (Cont'd.)

Action: Upon motion by Council Member Tam Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77671, entitled: "A Resolution of the Council of the City of San José Summarily Vacating a Pedestrian Access Easement Located Between Casselino Drive and Mullinix Way and Reserving and Excepting from the Vacation an Easement for Public Trail Purposes", was adopted. (10-0-0-1. Abstain: Khamis.)

- 2.18 Adopt a resolution to repeal Resolution No. 77286 and set forth the Master Parking Rate Schedule to implement a permanent Car Share Parking Program, including rates for the use of public parking spaces for car share vehicles. CEQA: Not a Project, File No. PP10-067(a), Adjustments in Fees, Rates, and Fares without changes or expansion to the existing use. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Ortbal, dated February 1, 2016, recommending adoption of a resolution.

Action: Resolution No. 77672, entitled: "A Resolution of the Council of the City of San José Settling Forth the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities to Make Permanent the Temporary Designation of Certain On-Street and Off-Street Parking Spaces for Exclusive Parking Privilege of Motor Vehicles Participating in the Care Share Parking Program in Accordance with California Vehicle Code Section 22507.1 and To Repeal Resolution No. 77286", was adopted. (11-0.)

- 2.19 As recommended by the Rules and Open Government Committee on February 10, 2016:**

- (a) **Retroactively approve the Lunar New Year celebration scheduled on February 12, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) **Approve the Asian Pacific Islander Heritage Month Festival scheduled on May 21, 2016 at Seven Trees Library and Community Center as a City Council sponsored Special Event and approve the expenditure of funds.**
- (c) **Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (T. Nguyen)
[Rules Committee referral 2/10/16 – Item G(1)(a)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated February 11, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Lunar New Year celebration scheduled on February 12, 2016 as a City Council sponsored Special Event was retroactively approved and the Asian Pacific Islander Heritage Month Festival scheduled on May 21, 2016 at Seven Trees Library and Community Center the expenditure of funds was approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized for both events. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

Item 4.2 was heard immediately following the Consent Calendar.

- 4.2 (a) Adopt an ordinance amending Chapter 20.100 of the Municipal Code to: make technical, formatting or other non-substantive changes; make the City Council the initial decision-making body for consideration of all proposed mobilehome park conversions to another use after the Planning Commission considers these proposals for recommendations to Council; add provisions for making findings of consistency with the Envision San José 2040 General Plan for Conditional Use Permits.

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- (b) Adopt a resolution approving a new City Council Policy providing guidance for consideration of mobilehome park conversions to other uses. The proposed Council Policy is intended to facilitate implementation of the requirements in the San José Municipal Code Chapter 20.180 regarding mobilehome park conversions to another use including but not limited to:
- (1) Clarifying that the intent of Council direction is to encourage the preservation of mobilehomes.
 - (2) Providing guidelines for good faith negotiations between mobilehome park residents (including mobilehome owners and mobilehome tenants) and mobilehome park owners.
 - (3) Providing guidelines regarding a satisfactory program of relocation and purchase assistance, including but not limited to compensation to residents, purchase price for the existing mobilehomes, relocation impact reports, and relocation benefits.
 - (4) Providing guidelines and clarification regarding the implementation and interpretation of the existing mobilehome park conversion ordinance in the Zoning Code.

CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making that involves no changes in the physical environment. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval (5-1-0-1) (Abelita opposed, Yob abstain). (Planning, Building and Code Enforcement/Housing)

(Deferred from 2/9/16 – Item 4.2)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Chappie Jones and Council Member Tam Nguyen, dated February 19, 2016, recommending accepting the Staff recommendations with modifications and further direction. (2) Memorandum from Council Member Donald Rocha, dated February 23, 2016, recommending additional direction to Staff. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated January 28, 2016, transmitting the Planning Commission recommendation. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas and Director of Housing Jacky Morales-Ferrand, dated February 16, 2016, summarizing public testimony and the Housing and Community Development Commission (HCDC)

4.2 (Cont'd.)

Documents Filed: (Cont'd.) discussion during the HCDC Meeting held on January 14, 2016. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas and Director of Housing Jacky Morales-Ferrand, dated February 17, 2016, summarizing the public outreach process undertaken by the Housing Department and Planning, Building and Code Enforcement. (5) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated February 23, 2016, transmitting the incorporated requests received through February 19, 2016 into the revised Draft Zoning Code amendment and the Council Policy documents. (6) Staff presentation dated February 23, 2016 summarizing the Mobilehome Park Preservation/Conversion Policy and Ordinance Changes. (7) Seventeen letters of correspondence all dated February 23, 2016 regarding the Mobilehome Park Preservation/Conversion Policy and Ordinance Changes.

Mayor Sam Liccardo announced that Items 4.2 and 4.3 will be heard together but Council will vote on them separately.

Director of Planning, Building and Code Enforcement Harry Freitas presented the Report on Mobilehome Park Preservation/Conversion Policy and Ordinance Changes.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Speaking in support to the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Chappie Jones and Council Member Tam Nguyen, dated February 19, 2016, providing comments and suggestions and opposition were: Former Vice Mayor Madison Nguyen, Gail Osmer, Jerome Altomare, Erik M. Sorensen, Davlyn Jones, Terry Olsen, Baruch M. Vargas, Ruth Greathouse, Rose McDonald, Karen Carpenter, Lee Ariota, Winchester Ranch; Warren Gannon, Senior Citizens Commission; Mike Connolly, Saul Srour, Marge Lundberg, Diana Robba, Theresa Hauchis, Eliana Pavlick, Mountain Springs Home Owners Association; Rudy Macias, Mana Menoz, Sonia Rivera, Janet Rominski, Michael Shoifner, Mobilehome Manor; Robert Aguirre, Mansol Bricero, Gonzalo Reyes, Gary Smith, Douglas Rasmusen, Michael McWalters, Summerset Homeowners Association; Mike Graves, Joni Hansen, Reverend C. Lynn Bailey, Gregory L. Horn, Town and Country Mobile Estates; Sam M. Saiu, Cheryl Clauson, Don Nick, Colonial Manor Mobile Park; Jerianne Dunleavy, Daniel Finn, Oakcrest Estates; Ed Lodi, Matthew Warren and Diana Castillo, Law Foundation of Silicon Valley; Bill Baron, Eric Brandenburg, Brandenburg, Staedler and Moore; Debi Cosentino, Alan Hinman, Jr., Oakcrest Estates; Patricia Heath, Jane Silver, Riverglen Mobilehome Park; Chris Erlinger, Jill Borders, Julie Quinn, Housing Trust of Silicon Valley; Lan Diep, Sayed Ahmed, Rene Ahmed, Magic Sand Community; Marilyn Hills, Matthew Sullivan, Maryanne Sullivan, Moria Merriweather, Matt Sullivan, Roseanne Johnson, Kathi Peterson, Robin Roberts, Ben Roberts, Rafael Lopez, Martha O'Connell, Susan Osorio, Shelley Leiser, Barbara Arata, Shaunn Cartwright, Shirley LeDeit, Mike Ray, Lamplighter; Eva Ramirez, Paul W. Pelley, Greg Miller, Alliance for Retired Americans; Brian Darby, Margaret Nanda, Phylliss Tripp, Mark Nicholson, Michael Dalton, Quail Hollow; Melissa Morris, Law Foundation of Silicon Valley and Abbas Zaidi.

4.2 (Cont'd.)

Motion: Council Member Chappie Jones moved approval of the memorandum he cosigned with Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Tam Nguyen, dated February 29, 2016, as described in "Action" on Page 14. Vice Mayor Rose Herrera seconded the motion.

Substitute Motion: Council Member Pierluigi Oliverio moved approval of the memorandum from Council Member Donald Rocha, dated February 23, 2016, with direction to Staff.

Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Ash Kalra, Council Member Chappie Jones and Council Member Raul Peralez expressed opposition to the Substitute Motion on the floor.

Council Member Pierluigi Oliverio explained the reasoning for the direction to Staff and deferring action on this issue.

Extensive Council discussion ensued.

On a call for the question, the substitute motion failed. (3-7-1. Noes: Carrasco, Jones, Kalra, M. Nguyen, T. Nguyen, Peralez; Liccardo. Absent: Herrera.)

Action: On a call for the question, the original motion carried unanimously, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Chappie Jones and Council Member Tam Nguyen, dated February 19, 2016, was approved: (1) Adopt the Staff recommendations with the following modifications: (a) In Section 2.h of the Council Policy amend language so that the first sentence incorporated the underline word to read: A program of relocation and purchase assistance should provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a greater housing burden. (2) Direct Staff to return with proposed revisions that address the following: (a) Define what "sufficient information" means in Section 1.d. to ensure that Designated Resident Organizations (DRO) can make a well informed assessment of the mobilehome park's value and/or what procedures can be established for a DRO to get access to that information. (b) Provide clarifying language on Section 1.e. (c) Provide other scenarios for selecting appraisers and consultants under Section 2a and 2c. (3) Staff was further directed to return to Council with an extension of a temporary six month moratorium on closure or a conversion of Mobilehome Parks. Ordinance No. 29690, entitled: "An Ordinance of the City of San José Amending Title 20 (Zoning) of the San José Municipal Code to Amend Sections 20.100.220, 20.100.720 and 20.100.940 of Chapter 20.100", was passed for publication and Resolution No. 77673, entitled: "A Resolution of the Council of the City of San José Approving a City Council Land Use Policy on the Conversion of Mobilehome Parks to Other Uses", was adopted, as amended. (11-0.)

- 4.3 As recommended by the Community and Economic Development Committee on January 25, 2016, accept the report on the Opt-In/Stay in Business concept for mobilehome parks and provide input as to whether the Housing Department should continue to work with stakeholders to further refine and analyze this concept or if the Department should cease work on this item. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Housing)

Item 4.3 was heard immediately following the Consent Calendar and Item 4.2.

Documents Filed: (1) Memorandum from Vice Mayor Rose Herrera, dated February 22, 2016, recommending acceptance of the report and direction to Staff. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated January 29, 2016, transmitting the recommendations of the Community and Economic Development Committee. (3) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated February 22, 2016, transmitting copies of the original frame and the revised framework for easy reference. (4) Staff presentation dated February 23, 2016 summarizing the Mobilehome Park Preservation/Conversion Policy and Ordinance Changes.

Motion: Council Member Raul Peralez moved approval to direct the Housing Staff to cease work on this item. Council Member Tam Nguyen seconded the motion.

Substitute Motion: Council Member Johnny Khamis moved approval of the memorandum from Vice Mayor Rose Herrera, dated February 22, 2016, as described in "Action" on Page 15. Vice Mayor Rose Herrera seconded the motion.

Mayor Sam Liccardo requested to amend the motion to include: (1) Capital improvements to be passed through to a CPI utilizing an IRS definition. (2) Vacancy decontrol should be the way to compensate the mobilehome owner for the loss in equity. (3) For those whose mortgages extend beyond the twenty year commitment timeframe, recommend mobilehome park owners buy those mortgages out. (4) Explore elements of a consent buy-in for the mobilehome residents. The amendments were accepted by Council Member Johnny Khamis and Vice Mayor Rose Herrera.

Action: On a call for the question, the substitute motion carried, the amended memorandum from Vice Mayor Rose Herrera, dated February 22, 2016, was approved: (1) Accept the report on the Opt-In/Stay In Business concept for mobilehome parks. (2) Direct the Housing Department to continue to work with ~~a small number of representatives from~~ the stakeholders, including mobilehome owners and mobilehome park owners, to identify and seek compromise on resolving economic issues that will further the Council direction to further the protection of mobilehome parks in the City of San José. (3) If needed, bring in an outside mediator paid for by the mobilehome park owners. Mayor Sam Liccardo's direction was included: (1) Capital improvements to be passed through to a CPI utilizing an IRS definition. (2) Vacancy decontrol should be the way to compensate the mobilehome owner for the loss in equity. (3) For those whose mortgages extend beyond the twenty year commitment timeframe, recommend mobilehome park owners buy those mortgages out. (4) Explore elements of a consent buy-in for the mobilehome residents. (7-4. Noes: Kalra, T. Nguyen, Peralez, Rocha.)

STRATEGIC SUPPORT SERVICES

- 3.3 (a) Council discussion of community survey results for a potential revenue measure for the June 7, 2016, ballot including consideration of a general purpose one-quarter percent retail transactions and use (“sales tax”) measure.
- (b) Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on June 7, 2016, to submit to the electors of the City of San José the following measure:

San José Local City Services

To fund city services such as: improving police response to violent crimes, burglaries, and other safety needs; improving 911/emergency medical/fire response times; repairing potholes and streets; maintaining parks; expanding gang prevention; and creating jobs through economic development, shall the City of San José enact a ¼ percent sales tax for 9 years , providing about \$40 million annually, requiring Independent Citizens Oversight with public review of spending, and all revenues controlled locally?	YES	
	NO	

- (1) Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the June 7, 2016, Voter’s Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election.
- (2) Council discussion and consideration of whether to permit rebuttal arguments in the June 7, 2016, Voter’s Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election.
- (3) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the June 7, 2016, Voter’s Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election.
- (4) Direct the City Clerk to take all actions necessary to place this measure for a June 7, 2016, Special Municipal Election, if needed.
- (c) Adopt an ordinance amending Title 4 of the San José Municipal Code to add Chapter 4.60 to enact a transactions and use tax at the rate of 0.25% administered by the California Board of Equalization, subject to approval of a majority of the electors voting at the Special Municipal Election to be held on June 7, 2016.

CEQA: Not a Project, CEQA Guidelines Section 15378(b)(4). (City Manager)
(Deferred from 2/9/16 – Item 3.5)

Action: Deferred to March 08, 2016 Per Administration.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Adopt a resolution formally endorsing the October 9, 2015 resolution of the Santa Clara County Housing Task Force pertaining to the crisis of homelessness in Santa Clara County.**
- (b) **Accept the staff report on actions that the City has taken or will take to implement the various recommended actions in the Santa Clara County Housing Task Force’s resolution.**

CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making that involves no changes in the physical environment; and Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Housing)

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated February 11, 2016, recommending adoption of a resolution and acceptance of the Staff report.

Motion: Vice Mayor Rose Herrera moved approval of the Staff recommendations. Council Member Johnny Khamis seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to the Staff recommendations were Arturo Enriquez, Randolph Sanchez, Phil Mastrocola, Stuart Haydel, Housing for All Alliance; Pilar Campo, Brian Rodriguez, Andrea Rodriguez and Robert Aguirre.

Director of Housing Jacky Morales-Ferrand responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77674, entitled: “A Resolution of the Council of the City of San José Formally Endorsing the Resolution of the Santa Clara County Housing Task Force Pertaining to the Homelessness Crisis in Santa Clara County”, was adopted. The Staff Report on actions that the City has taken or will take to implement the various recommended actions in the Santa Clara County Housing Task Force’s Resolution, was accepted. (10-0-1. Absent: Kalra.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10353	NW Corner Pedro Street and Post Street	San 3	Post Street Tower, LLC	1/202	MFA

GENERAL PLAN PUBLIC HEARINGS

- 10.2 Adopt a resolution approving various General Plan Text Amendments relating to protection of existing mobilehome parks to: 1) strengthen goals and policies to protect existing mobilehome parks in the City of San José as a component of housing choice, and a source of existing affordably-priced housing in established neighborhoods and to improve protection from conversion to other uses; and 2) add General Plan goals, policies, and actions to preserve mobilehome parks and other housing in each Urban Village until the preservation of affordable housing can be comprehensively addressed by adoption of an Urban Village Plan specific to that Urban Village. CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making that involves no changes in the physical environment. Planning Commission recommends approval (6-0-0-1) (Yob abstain). (Planning, Building and Code Enforcement/Housing)
GPT15-006; District – Citywide
(Deferred from 2/9/16 – Item 10.2)**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on December 11, 2015, submitted by the City Clerk.

Action: Dropped to be renoticed, per Orders of the Day.

OPEN FORUM

- (1) Brian Darby reminded Council that on February 12, 2016 bicyclist Toedoro Arrendando-Diaz on his way home from work when he was killed at South Winchester Boulevard and Loma Verde Drive by a hit and run driver.
- (2) Blair Beekman commented that the State Democratic Convention will be in San José and urged the Council to speak on its National Security Technology plans, e.g. openness and transparency.

ADJOURNMENT

Mayor Sam Liccardo adjourned the Afternoon Council Session at 7:01 p.m.

RECESS/RECONVENE

The City Council recessed at 7:01 p.m. from the afternoon Council Session and reconvened at 7:26 p.m. in the Council Chamber, City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

City Clerk Toni J. Taber, CMC read the requests for continuance of the applications. Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Chappie Jones and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (11-0)

Mayor Sam Liccardo opened the Public Hearings on the Consent Calendar.

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

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the east side of Almaden Avenue, approximately 80 feet north of Oak Street (890 Almaden Avenue) from the CN Commercial Neighborhood Zoning District to the R-2 Two-Family Residence Zoning District (Lin Connie, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), and Supplemental EIR (Resolution No. 77617). Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval (5-0-1-1) (Bit-Badal absent, Yesney abstain). (Planning, Building and Code Enforcement)**
C15-005 – Council District 3

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated February 2, 2016, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C15-005 dated January 19, 2016. (3) Proof of Publication of Notice of Public Hearing, executed on January 8, 2016, submitted by the City Clerk.

11.1 (a) (Cont'd.)

Action: Ordinance No. 29691, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.16 Acre, Located on the East Side of Alamden Avenue, Approximately 80 Feet North of Oak Street (890 Alamden Avenue) From the CN Commercial Neighborhood Zoning District to the R-2 Two Family Residence Zoning District", was passed for publication. (11-0.)

- (b) **Consideration of an ordinance rezoning the real property located on the easterly side of S. Capitol Avenue, approximately 400 feet southerly of Alum Rock Avenue, at 56 S. Capitol Avenue from the CP Commercial Pedestrian Zoning District to the R-1-8 Single Family Residence Zoning District on a 0.17 gross acre site (Gurgot Pawar, Owner). CEQA: Determination of Consistency with Envision San José 2040 General Plan EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)**
C15-050 – Council District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C15-050 dated February 2, 2016. (2) Proof of Publication of Notice of Public Hearing, executed on February 5, 2016, submitted by the City Clerk.

Action: Ordinance No. 29692, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.17 Acre, Located on the East Side of South Capital Avenue, Approximately 400 Feet South of Alum Rock Avenue (56 South Capital Avenue) From the CN Commercial Neighborhood Zoning District to the R-1-8 Single Family Residence Zoning District", was passed for publication. (11-0.)

- (c) **Consideration of an ordinance rezoning the real property located on the west side of North 4th Street between East St. John and East Santa Clara Streets at 49 North 4th Street from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District on a 0.72 gross acre site (First Presbyterian Church of San José, Owner). CEQA: Addendum to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041). Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval 5-0-1-1 (Bit-Badal, Yesney abstain). (Planning, Building and Code Enforcement)**
C15-052 – Council District 3

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated February 1, 2016, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C15-052 dated January 13, 2016. (3) Proof of Publication of Notice of Public Hearing, executed on January 8, 2016, submitted by the City Clerk.

11.1 (c) (Cont'd.)

Action: Ordinance No. 29693, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.72 Acre Situated Approximately 230 Feet North of East Santa Clara Street on the West Side of North 4th Street (49 North 4th Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District", was passed for publication. (11-0.)

- (d) **Consideration of an ordinance rezoning the real property located at 80 Great Oaks Boulevard from the A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District on a 5.4 gross acre site (VA Venture, San José, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final EIR, (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)**
C15-061 – Council District 2

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C15-061 dated February 1, 2016. (2) Proof of Publication of Notice of Public Hearing, executed on February 5, 2016, submitted by the City Clerk.

Action: Ordinance No. 29694, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 5.4 Acres Situated on the Southeast Corner of San Ignacio Avenue and Great Oaks Boulevard (80 Great Oaks Boulevard) from the A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District", was passed for publication. (11-0.)

- (e) (1) **Consider the Addendum to the Diridon Station Area Plan Final EIR and adopt a related Mitigated Monitoring and Reporting Program.**
(2) **Consideration of an ordinance to rezone an approximately 1.30 gross acre site from CIC Combined Industrial/Commercial and CP Commercial Pedestrian Zoning Districts to RM(PD) Planned Development Zoning District to allow an approximately 7-story mixed use development with up to 110 multi-family residential units and approximately 2,990 square feet of commercial space, located on the east side of Sunol Street, approximately 120 feet north of West San Carlos Street (270 Sunol Street also known as 777 West San Carlos Street). (Marcus James R. Trustee, Owner).**

CEQA: Addendum to the Diridon Station Area Plan EIR (Resolution No. 77096). Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval (5-0-1-1) (Bit-Badal absent, Yesney abstain). (Planning, Building and Code Enforcement).

PDC14-033 – Council District 6

11.1 (e) (Cont'd.)

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated February 2, 2016, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC15-033 dated January 19, 2016. (3) Proof of Publication of Notice of Public Hearing, executed on January 8, 2016, submitted by the City Clerk.

Action: The Addendum to the Diridon Station Area Plan Final EIR was approved and a related Mitigated Monitoring and Reporting Program was adopted. Ordinance No. 29695, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.30 Acres Situated on the East Side of Sunol Street, Approximately 120 Feet North of West San Carlos Street (777 West San Carlos Street) from the CP Commercial Pedestrian and CIC Combined Industrial/Commercial Zoning District to the RM(PD) Planned Development Zoning District", was passed for publication. (11-0.)

- (f) **Consideration of an ordinance rezoning the real property located on the west side of Great Oaks Boulevard approximately 1,000 feet northwesterly of Highway 85 from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to include data center as a permitted use, increase the allowable square footage for data centers from 260,000 square feet to 400,000 square feet, reduce the required parking for data center use, and remove the setback requirements for Area 2 on a 78.4-gross acre site. CEQA: Addendum to the Great Oaks Mixed Use Project Final Environmental Impact Report (Resolution No. 77219), the Envision San José 2040 General Plan Final Program EIR (Resolution No. 7641), and the Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617). Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)**
PDC15-059 – Council District 2

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C15-059 dated February 1, 2016. (2) Proof of Publication of Notice of Public Hearing, executed on February 5, 2016, submitted by the City Clerk.

Action: Ordinance No. 29696, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 78.4 Acres on the East Side of Perimeter Road Between Great Oaks Boulevard and Miyuki Drive From the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District", was passed for publication. (11-0.)

END OF CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of a Conditional Use Permit and Determination of a Public Convenience or Necessity to allow the off-sale of alcohol of a full range of alcoholic beverages at a 30,455 square foot full service grocery store (Smart & Final) on a 2.78 gross acre site located on the southwest corner of west San Carlos and Royal Avenue (720 West San Carlos Street) (National Retail Properties LP, Owner). CEQA: Exempt per Section 15301 (a) for Existing Facilities. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval (6-0-1) (Bit-Badal absent). (Planning, Building and Code Enforcement)
CP15-050/ABC15-015 – Council District 6**

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated February 1, 2016, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File NoCP15-050/ABC15-015 dated January 19, 2016. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated February 23, 2016, providing the most up to date version of the resolution. (4) Proof of Publication of Notice of Public Hearing, executed on January 8, 2016, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Harry Freitas presented a brief report.

Motion: Council Member Pierluigi Oliverio moved approval of the Staff recommendations. Vice Mayor Rose Herrera seconded the motion.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Expressing opposition to allow the off-sale of alcohol of a full range of alcoholic beverages to Smart & Final were Stan Martinez, John Miranda, Bactash Amini, Hector Moreno and Glenda Villalta.

Mayor Sam Liccardo closed the Public Hearing.

Council Member Pierluigi Oliverio pointed out that Smart & Final is a full service grocery store and he supports allowing the off-sale of alcohol.

Mayor Sam Liccardo remarked that there is a desire in the neighborhood for a full service grocery store with a full range of alcoholic beverages.

11.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 77675, entitled: "A Resolution Of The Council Of The City Of San Jose Approving, Subject To Conditions, A Conditional Use Permit And Granting A Determination Of Public Convenience Or Necessity To Allow The Off-Sale Of Alcohol Of A Full Range Of Alcoholic Beverages At A 31,352-Square Foot Full-Service Grocery Store (Smart & Final) On A 2.78-Gross Acre Site, Located At The Southwest Corner Of West San Carlos Street And Royal Avenue (720 West San Carlos Street)", was adopted. (11-0.)

- 11.3 Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol at a small retail establishment of approximately 2,100 square feet, on a 0.15 gross acre site, located at 1093 Minnesota Avenue (Jasvir Kaur, Owner). CEQA: Exempt, Section 15301, Existing Facilities. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval (5-0-2) (Yob and Pham absent). (Planning, Building and Code Enforcement)**
CP15-007/ABC15-002 – District 6
(Deferred from 12/8/15 – Item 11.2)

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated February 4, 2016, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-007/ABC15-002 dated October 8, 2015. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated February 17, 2016, transmitting the application for a Conditional Use Permit and Determination of Public Convenience or Necessity. (4) Proof of Publication of Notice of Public Hearing, executed on February 5, 2016, submitted by the City Clerk.

Action: Item 11.3 was withdrawn by the Applicant.

- 11.4 (a) Certify the Environmental Impact Report for The Reserve Apartments Mixed Use Project and adopt a resolution making certain findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation monitoring and reporting program, and adopting a statement of overriding considerations, all in accordance with the California Environmental Quality Act (CEQA).**
- (b) Consideration of an ordinance rezoning the real property located at the northwest corner of South Winchester Boulevard and Williams Road (881 South Winchester Boulevard) from R-M Residential Zoning District to the R-M (PD) Planned Development Zoning District to allow for the demolition of the existing 216 unit apartment complex and the development of up to 641 multi-family residential units and 8,000 square feet of commercial space on a 7.68 gross acre site (Reserve Reit, Owner).**

**11.4 CEQA: Reserve Residential Project EIR, File No. PDC14-040 to be considered for certification by City Council. Director Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
PDC14-040 – Council District 1
(Deferred from 1/26/16 – Item 11.5)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo and Council Member Chappie Jones, dated February 19, 2016, recommending approval of the Staff recommendations with further direction as described in “Action.” (2) Memorandum from Planning Commission Secretary Harry Freitas, dated January 8, 2016, transmitting the Planning Commission recommendation. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File PDC14-040 dated November 24, 2015. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated February 18, 2016, providing additional analysis as to the proposed rezoning’s conformance with Envision San José 2040 General Plan Policy CD-7.9 and the allowed uses within the Urban Village Boundary Land Use Designation. (5) Proof of Publication of Notice of Public Hearing, executed on January 8, 2016, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Harry Freitas presented introductory remarks and Senior Planner Lesley Xavier presented the report.

Erik Schoennauer, representing Greystar, the Applicant, presented the vision of the Urban Plaza, the ground floor retail along Winchester Boulevard and addressed the concerns that the neighboring community has about the height of the buildings.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: The following speakers provided comment, suggestions, concerns, support and opposition: Ken Kelly, Winchester Business Association; Ron Canario, Andrea Chelemangos, Doris Livezey, Gerald Giles, Susan Giles, Sally Duprey, Beth Coleman, Amanda Montez, Silicon Valley Leadership Group; Ken Coleman, Patrick Hall, Clark Leakins, Brian Darby, Shaunn Cartwright, Vicha Lecha III, Katie Martin and Ken Pyle.

Mayor Sam Liccardo closed the Public Hearing.

Erik Schoennauer responded to the neighborhood’s concerns.

Motion: Council Member Chappie Jones moved approval of the memorandum he consigned with Mayor Sam Liccardo. Council Member Raul Peralez seconded the motion.

Council discussion ensued.

11.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo and Council Member Chappie Jones, dated February 19, 2016, was approved, recommending: (1) Certify the Environmental Impact Report and adopt a Mitigation Monitoring and Reporting Program in accordance with California Environmental Quality Act (CEQA) and approve the proposed Planned Development Rezoning as recommended by Staff with the following modifications: (a) Any structure within 72 feet of the westerly property line cannot exceed 40 feet (3 stories). (b) At the Planned Development Stage of this project that the Applicant work with City Staff and the neighbors to screen residents from the new development with further enhancements such as a taller fence and trees of appropriate species and size to be planted in the rear setback. (2) Accept the voluntary contributions from the Applicant: (a) \$2.24 Million contribution toward potential transportation projects identified in the Transportation Development Policy being developed for the Winchester and Santana Row/Valley Fair Urban Villages. (b) \$50,000 contribution towards a parking permit program for the area adjacent to the proposed project as a part of the residential parking permit pilot program underway in District 1. Resolution No. 77676, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Impacts, Mitigation Measures and Alternatives and Adopting a Mitigation Monitoring and Reporting Program, All in Accordance with the California Environmental Quality Act, as Amended, for the Reserve Apartments Mixed Use Project (SCH# 2014102049) For Which an Environmental Impact Report Has Been Prepared", was adopted, as amended. Ordinance No. 29697, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 7.68 Gross Acres Situated on the Northwest Corner of South Winchester Boulevard and Williams Road (881 South Winchester Boulevard) From the R-M Multifamily Zoning District to R-M(PD) Planned Development Zoning District", was passed for publication. (10-0-1. Absent: Carrasco.)

- 11.5 (a) **Consider the Addendum to the Downtown Strategy 2000 and Diridon Station Area Plan Final EIR and Envision San José General Plan Supplemental EIR for the Stockton Avenue Mixed Use Development Project and adopt a related Mitigated Monitoring and Reporting Program.**
- (b) **Consideration of an ordinance rezoning the real property located on the northeast side of Stockton Avenue, approximately 300 feet north of West Santa Clara Street (120 and 138 Stockton Avenue) from CG Commercial General Zoning District to A(PD) Planned Development Zoning District to allow the demolition of two existing on-site buildings designated as Structures of merit on the City's Historic Resources Inventory and the development of a 7-story building with up to 164 multi-family residential units and a minimum of 37,500 square feet of commercial space on a 1.72 gross acre site (Daniel Hudson Et Al, Owner).**

11.5 CEQA: Addendum to the Downtown Strategy 2000 Final EIR (Resolution No. 72767) and Diridon Station Area Plan Final EIR (Resolution No. 77096). Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval (5-0-1-1) (Bit-Badal absent, Yesney abstain). (Planning, Building and Code Enforcement)

PDC15-010 – Council District 3

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Council Member Raul Peralez and Council Member Pierluigi Oliverio, dated February 19, 2016, recommending approval of the Staff recommendations with direction. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated February 1, 2016, transmitting the Planning Commission recommendation. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC15-010 dated January 19, 2016. (3) Proof of Publication of Notice of Public Hearing, executed on January 8, 2016, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Harry Freitas and Staff presented the report.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Erik Schoennauer, representing Daniel Hudson, the Applicant, spoke to the merits of the project.

Mayor Sam Liccardo closed the Public Hearing.

Motion: Council Member Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo and Council Member Pierluigi Oliverio. Council Member Pierluigi Oliverio seconded the motion.

Action: On a call for the question, the motion carried unanimously, the Addendum to the Downtown Strategy 2000 and Diridon Station Area Plan Final EIR and Envision San José General Plan Supplemental EIR for the Stockton Avenue Mixed Use Development Project was approved and a related Mitigated Monitoring and Reporting Program was adopted. The memorandum from Mayor Sam Liccardo, Council Member Raul Peralez and Council Member Pierluigi Oliverio, dated February 19, 2016, was approved, accepting the proposed Planned Development Rezoning on Stockton Avenue as recommended by the Planning Commission and Staff, with the following modification: (1) Direct the Administration to work with the Applicant to establish curbside loading and unloading zones for both the commercial and residential elements of the project. Ordinance No. 29698, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.72 Acres Situated at the Northeast Side of Stockton Avenue, Approximately 300 Feet North of West Santa Clara Street (106-120 and 138 Stockton Avenue) from the CG Commercial General Zoning District to the A(PD) Planned Development Zoning District", was passed for publication. (10-0-1. Absent: Carrasco.)

- 11.6 (a) Adopt a resolution approving the 368 and 388 South Buena Vista Avenue Mitigation Negative Declaration and related Mitigation Monitoring and Reporting Program.
- (b) Consideration of an ordinance rezoning the real property located at 368 and 388 South Buena Vista Avenue from the R-M(PD) Planned Development Zoning District to the R-M(PD) Planned Development Zoning District to allow the demolition of 3 single-story multi-family buildings and 2 accessory structures, totaling 8,500 square feet; the construction of 18 attached residences; and removal of 9 ordinance sized trees and 10 non-ordinance sized trees on a 0.91 gross acre site (B. Vista Properties Group, LLC, Owner).

CEQA: 368 and 388 South Buena Vista Avenue Mitigated Negative Declaration to be considered for adoption by Council. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval (5-1-1. Noes: O'Halloran. Absent: Bit-Badal.) (Planning, Building and Code Enforcement)

PDC15-041 – Council District 6

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated February 1, 2016, transmitting the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC15-041 dated January 14, 2016. (3) Proof of Publication of Notice of Public Hearing, executed on January 8, 2016, submitted by the City Clerk.

Planning, Building and Code Enforcement Division Manager Sylvia Do provide a brief report, including clarifications to the vote at the January 27, 2016 Planning Commission Meeting: *Planning Commission recommends approval (5-1-1. Noes: O'Halloran. Absent: Bit-Badal.)*.

Jon Moniz, Owner/Applicant, spoke to the merits of the project.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Citing opposition to the project because three stories were too high, that it does not fit the neighborhood and other comments and suggestions were Loui Tucker, Buena Vista Neighborhood Association; Rick Infantino, James Rincon and John Leyba.

Mayor Sam Liccardo closed the Public Hearing.

Jon Moniz responded to the concerns of the neighborhood community.

Motion: Council Member Pierluigi Oliverio moved approval of the Staff recommendations. Vice Mayor Rose Herrera seconded the motion.

11.6 (Cont'd.)

Director of Planning, Building and Code Enforcement Harry Freitas and Planning, Building and Code Enforcement Division Manager Sylvia Do responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77677, entitled: "A Resolution of the Council of the City of San José Adopting the Buena Vista Townhomes Rezoning Project Mitigated Negative Declaration, For Which an Initial Study Was Prepared, All in Accordance With the California Environmental Quality Act, As Amended, and Adopting a Related Mitigation Monitoring or Reporting Program", was adopted and Ordinance No. 29699, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.86 Gross Acre Situated on the East Side of South Buena Vista Avenue, Approximately 500 Feet South of West San Carlos Street (368 and 388 South Buena Vista Avenue) From the R-M Multiple Residence Zoning District to R-M(PD) Planned Development Zoning District", was passed for publication. (10-0-1. Absent: Carrasco.)

ADJOURNMENT

The Council of the City of San José was at 9:43 p.m. in memory of San José resident and two-time National Baseball Association (NBA) All-Star John "J.J." Johnson.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/02-23-16 MIN