

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 09, 2016

The Council of the City of San José convened in Regular Session at 9:34 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 Not Filed) of significant exposure in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) 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. Amount of Money or Other Relief Sought: Damages According to Proof. (2) 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. (3) 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

CLOSED SESSION (Cont'd.)

According to Proof. (4) 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. (5) 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. (6) 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. (7) 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. (8) 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. (9) 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. (10) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: 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. (11) 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. (12) San José Retired Employees Association, et al V. City of San José, et al. Names of

CLOSED SESSION (Cont'd.)

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. (C) 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 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 11:15 a.m. and reconvened to Regular Session at 1:31 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

Dàn tranh zither performance by Emmy Award winning composer-performer Van-Anh Vanessa Vo. (District 2)

PLEDGE OF ALLEGIANCE

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

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Anton Cao, student at Evergreen Valley High School, for earning a perfect score on the AP Calculus AB Exam. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended Anton Cao for his extraordinary achievements.

1.2 Presentation of a commendation to the Campbell Book Club for their contributions toward literacy, supporting children's development, and for giving the gift of reading to San José children. (M. Nguyen)

Mayor Sam Liccardo and Council Member Manh Nguyen recognized and commended the Campbell Book Club for their outstanding contributions.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Ash Kalra and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CONSENT CALENDAR

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

2.1 Approval of Minutes.

- (a) Regular Minutes of October 6, 2015.**
- (b) Study Session Minutes of October 19, 2015 on Disclosure Obligations of Municipal Bond Issuers and Procurement Process and Procedures.**
- (c) Regular Minutes of October 20, 2015.**
- (d) Regular Minutes of October 27, 2015.**

- 2.1 (e) **Regular Minutes of November 3, 2015.**
(f) **Study Session Minutes of November 9, 2015 on City Council Emergency Management Training.**
(g) **Regular Minutes of November 10, 2015.**
(h) **Regular Minutes of November 17, 2015.**
CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: (1) The Regular Minutes dated October 6, 2015, October 20, 2015, October 27, 2015, November 3, 2015, November 10, 2015 and November 17, 2015. (2) The Study Session Minutes dated October 19, 2015 on Disclosure Obligations of Municipal Bond Issuers and Procurement Process and Procedures. (3) The Study Session Minutes dated November 9, 2015 on City Council Emergency Management Training.

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

2.2 **Final adoption of ordinances.**

- (a) **ORD. NO. 29679 – An Ordinance of the City of San José adopting salaries and other compensation for the Mayor and Council Members recommend by the Salary Setting Commission pursuant to City Charter Section 407. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approvals of any city actions.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29679 executed on February 5, 2016, submitted by the City Clerk.

Action: Ordinance No. 29679 was adopted. (11-0.) (First Reading: 8-3. Noes: Kalra, M. Nguyen, Oliverio.)

- (b) **ORD. NO. 29681 – An Ordinance of the City of San José rezoning certain real property of approximately 0.43 gross acre situated on the southeast corner of East Julian Street and North 4th Street (2984 North 4th Street) from CG Commercial General to RM(PD) Planned Development Zoning District. CEQA: Fourth Street Residential Project Mitigated Negative Declaration, File No. PDC14-064.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29681 executed on January 29, 2016, submitted by the City Clerk.

Action: Ordinance No. 29681 was adopted. (11-0.)

- (c) **ORD. NO. 29682 – An Ordinance of the City of San José rezoning certain real property of approximately 1.17 gross acres situated on the east side of South Winchester Boulevard approximately 180 feet north of Magliocco Drive (780 South Winchester Boulevard) from CP Commercial Pedestrian and CG Commercial General Zoning Districts to the CP(PD) Planned Development Zoning District. CEQA: 780 Winchester Boulevard Mixed Use Project Mitigated Negative Declaration, File No. PDC14-056.**

2.2 (c) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29682 executed on January 29, 2016, submitted by the City Clerk.

Action: Ordinance No. 29682 was adopted. (11-0.)

- (d) **ORD. NO. 29683** – An Ordinance of the City of San José rezoning certain real property of approximately 0.29 gross acre situated on the west side of Ringwood Avenue, approximately 735 feet south of McKay Drive (1707 Ringwood Avenue), from the A Agriculture Zoning District to the A(PD) Planned Development Zoning District. CEQA: 1707 Ringwood Avenue Mitigated Negative Declaration, File No. PDC14-038.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29683 executed on January 29, 2016, submitted by the City Clerk.

Action: Ordinance No. 29683 was adopted. (11-0.)

- (e) **ORD. NO. 29686** – An Ordinance of the City of San José rezoning certain real property of approximately 2.6 acres on the easterly side of Senter Road approximately 560 feet southerly of Tully Road (2500 Senter Road) from the A(PD) Planned Development Zoning District to the PQP Public/Quasi-Public Zoning District. CEQA: Addendum to the 2500 Senter Road Residential Project Mitigated Negative Declaration (File No. PDC09-033, Ordinance No. 28815), File No. C15-060.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29686 executed on January 29, 2016, submitted by the City Clerk.

Action: Ordinance No. 29686 was adopted. (11-0.)

- (f) **ORD. NO. 29687** – An Ordinance of the City of San José amending Sections 2.08.2820 and 2.08.2850 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise the composition of the Housing and Community Development Commission to include an owner or manager and a tenant of residential rent stabilized rental property. CEQA: Not a Project, File No. PP10-068(b), Municipal Code of Policy (new or revised) limited to Title 2, Title 12, and Title 16 that involves no changes in the physical environment.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29687 executed on January 29, 2016, submitted by the City Clerk.

Action: Ordinance No. 29687 was adopted. (11-0.)

- 2.3 Approval of Council Committee Minutes.**
(a) Rules and Open Government Committee Minutes of January 6, 2016.
(Mayor)
CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: The Rules and Open Government Committee Report and Minutes dated January 6, 2016.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall presented comments pertaining to the Rules and Open Government Committee January 6, 2016 Agenda.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Ash Kalra and carried unanimously, the Rules and Open Government Committee Report and Minutes were approved. (11-0.)

- 2.4 Mayor and Council Excused Absence Requests.**

No Report.

- 2.5 City Council Travel Reports.**

No Report.

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

No Report.

- 2.7 Approve the following Board and Commission Appointment:**

- (a) Parks and Recreation Commission:**

- (1) District 8 Seat: Appoint Chet Mandair to a term expiring 6/30/17.**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approval of City actions with a potential change in the environment. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated January 29, 2016, recommending appointing Chet Mandair to a term expiring on June 30, 2017. (2) Memorandum from City Attorney Richard Doyle, dated February 2, 2016, providing a Conflicts Review of the Parks and Recreation Commission Applicant.

Action: Chet Mandair was appointed to a term expiring on June 30, 2017. (11-0.)

- 2.8 Adopt a resolution to authorize the City Manager to:**
- (a) Amend Open Purchase Order 51720 with Environmental Logistics Inc. (Hayward, CA), for Hazardous Waste Pickup/Disposal and Related Services/Supplies, to increase compensation by \$330,000 for a revised total amount not to exceed \$600,000 for the current term ending June 30, 2016.**
 - (b) Approve a contingency of \$100,000 in the event that usage exceeds estimates for the remainder of the current term ending on June 30, 2016, subject to the appropriation of funds.**
 - (c) Exercise options to extend the term for up to four additional one-year periods, subject to the annual appropriation of funds.**

CEQA: Exempt, Guidelines Section 15330(a) Minor actions to prevent, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous waste or hazardous substances, File No. PP16-011. (Finance)

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated January 28, 2016, recommending adoption of a resolution.

Action: Resolution No. 77658, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Amend Open Purchase Order 51720 With Environmental Logistics, Inc. for Hazardous Waste Pickup/Disposal and Related Services/Supplies to Increase Compensation by \$330,000 for a Revised Total Amount Not o Exceed \$600,000 for the Current Term Ending June 30, 2016. (2) Approve a Contingency of \$100,000 in the Event that Usage Exceeds Estimates for the Remainder of the Current Term Ending June 30, 2016, Subject to the Annual Appropriation of Funds and (3) Exercise Options To Extend the Term for Up To Four Additional One Year Periods, Subject to the Annual Appropriation of Funds", was adopted. (11-0.)

- 2.9 Adopt a resolution to amend the City of San José Pay Plan effective February 9, 2016, to create the classification Mechanical Parts Supervisor (1534). CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Joseph Angelo, dated January 28, 2016, recommending adoption of a resolution.

Action: Resolution No. 77659, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan" was adopted. (11-0.)

- 2.10 Adopt a resolution summarily vacating the Public Service Easement at the northwesterly corner of South De Anza Boulevard and Highway 85, recorded December 21, 2007 as part of Tract No. 9943, in Book 822 of Maps at Pages 30 through 35 of Official Records, Office of the Recorder, County of Santa Clara (APN 359-36-057). CEQA: 1191-1195 De Anza Boulevard Retail Mitigated Negative Declaration, File Nos. C15-006 and H15-006. Council District 1. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated January 27, 2016, recommending adoption of a resolution.

2.10 (Cont'd.)

Action: Resolution No. 77660, entitled: "A Resolution of the Council of the City of San José Summarily Vacating the Public Service Easement at the Northwesterly Corner of South De Anza Boulevard and Highway 85", was adopted. (11-0.)

**2.11 As recommended by the Transportation and Environment Committee on February 1, 2016, accept status report on the City's Deferred Maintenance and Infrastructure Backlog. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Public Works)
[Transportation and Environment Committee referral 2/1/16 – Item (d)(3)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated February 9, 2016, transmitting the recommendations of Transportation and Environment Committee.

Council Member Johnny Khamis expressed concern about the City's Deferred Maintenance and Infrastructure Backlog.

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

Director of Public Works Barry Ng, Senior Deputy City Manager/Budget Director Jennifer A. Maguire and Director of Transportation James Ortbal responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall presented comments concerning the Deferred Maintenance and Infrastructure Backlog

Action: On a call for the question, the motion carried unanimously, the status report on the City's Deferred Maintenance and Infrastructure Backlog was accepted. (11-0.)

2.12 Adopt a resolution to authorize the City Manager to negotiate and execute an Agreement with Robert (Bob) Gary Schmelzer, an individual, for the lease of real property located at 108 Paseo de San Antonio for a term of three years, for a three year total of approximately \$75,895 for the purpose of operating a retail store and potential future cafe. CEQA: Not a Project, File No. PP10-066(f), Agreements and Contracts for lease of existing space for the same use. Council District 3. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated February 4, 2016, recommending adoption of a resolution.

2.12 (Cont'd.)

Action: Resolution No. 77661, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Robert Gary Schmelzer, an Individual, for the Lease of Real Property Located at 108 Paseo de San Antonio, For Purposes of Operating a Retail Store and Potential Future Café, For An Initial Term of Three Years with Two Three-Year Option Periods, For Total Lease Revenue to the City of San José In The Amount of \$75,895 for the Initial Term", was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas thanked and congratulated the entire team of City Staff, including the Police and Fire Departments, Office of Emergency Services, Office of Economic Development, Office of Cultural Affairs and Community partners for a very successful Super Bowl Week.

Mayor Sam Liccardo and Vice Mayor Rose Herrera expressed their congratulations and thanks to the entire City Team.

- 3.3 **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)**
[Public Safety, Finance, and Strategic Support Committee referral 11/19/15 – Item (d)(3)]
(Deferred from 1/12/16 – Item 3.5)

Action: Deferred to February 23, 2016 Per Administration.

- 3.4 (a) **Approve the 2015-2016 Mid-Year Budget Review Report. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (City Manager)**
- (b) **Adopt related Appropriation Ordinance and Funding Sources Resolution Amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2015-2016 Mid-Year Budget Review Report. CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager)**
- (c) **Approve 1.0 Senior Deputy City Attorney III position in the City Attorney Office. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

3.4 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated February 9, 2016, recommending direction to Staff as indicated below in "Action". (2) The 2015-2016 Mid-Year Budget Review Report from the Office of the City Manager dated January 2016. (3) Supplemental memorandum from Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated February 3, 2016, provided a replacement page to correct inaccurate information regarding the Airport Capitol Program. (4) Staff presentation dated February 9, 2016 summarizing the 2015-2016 Mid-Year Budget Review. (5) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated January 20, 2016, expressing concurrence with the Staff recommendations.

Senior Deputy City Manager/Budget Director Manager Jennifer A. Maguire offered the 2015-2016 Mid-Year Budget Review Report and responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed criticism to the Staff recommendations.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum from Mayor Sam Liccardo, dated February 9, 2016, with direction to Staff as described in "Action" below and the 2015-2016 Mid-Year Budget Review Report. Council Member Magdalena Carrasco seconded the motion.

Action: On a call for the question, the motion carried unanimously, the 2015-2016 Mid-Year Budget Review Report was approved. The memorandum from Mayor Sam Liccardo, dated February 9, 2016, was approved, including the following: (1) Direct the City Clerk to: (a) Reduce future year allocations contained in the City Manager's Proposed Budgets for the Ethics Commissions to address the excessive spending over the last six months to ensure the existing four year agreement amount of \$250,000 for independent and neutral evaluation services is not exceeded. (b) Inform the Council via memorandum regarding when the City can entertain bids on a new evaluator and of the requirements of that Request for Proposal (RFP) process. (2) Direct the City Clerk to ensure that Ethics Commission meetings regularly include a review of the budget allocated for their operations. (3) Direct the City Attorney to determine whether the private law firm tasked with investigating wrongdoing by candidates for the Elections Commission has an untenable conflict of interest when determining whether to expand the scope of an investigation. The City Attorney shall make a recommendation as to whether a better structure might exist for ensuring an "independent and neutral" evaluation of Ethics Commission matters, per Municipal Code Section 12.04.080. (4) Direct the City Manager to include -- as part of the comprehensive staffing and deployment review of the San José Police Department -- possible changes in the duration of shift rotations for (a) patrol officers and (b) investigations assignments that require extensive gathering of specialized knowledge, such as for gang or SAIU/ICAC investigations. The 1.0 Senior Deputy City Attorney III position in the City Attorney

3.4 (Cont'd.)

Office was approved. Ordinance No. 29688, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund and Various Special and Capital Funds; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 77662, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the General Fund and Various Special and Capital Funds", were adopted. (11-0.)

- 3.5 (a) Council discussion of community survey results for potential revenue measures for the June 7, 2016, ballot including consideration of a general purpose one-quarter percent or one-half 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:
- (b) 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.

- 3.5 (c) **ALTERNATE RECOMMENDATION:** Adopt a resolution of the City Council calling and giving notice, on its own motion, 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:

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 ½ percent sales tax for 9 years , providing about \$80 million annually, requiring Independent Citizens Oversight with public review of spending, and all revenues controlled locally?	YES	
	NO	

- (c) **San José Local City Services (Cont'd.)**
- (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; and
 - (4) Direct the City Clerk to take all actions necessary to place this measure for a June 7, 2016, Special Municipal Election, if needed.
- (d) Approve 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% / 0.50%] 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, 2015.
- (e) Adopt an updated Spending Priorities Plan (Attachment C) to provide high-level guidance for future Council and community budget discussions regarding the use of potential new revenues that might result from voter approval of a City revenue ballot measure.

CEQA: Not a Project, CEQA Guidelines Section 15378(b)(4). (City Manager)

Action: Deferred to February 23, 2016 Per Administration.

3.6 Adopt a Statement of Policy and City Council Questions related to the selection of a permanent Police Chief as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions that involve no impact to the physical environment. (City Manager)

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated February 3, 2016, recommending adoption of a Statement of Policy and City Council Questions related to the selection of a permanent Police Chief as described in the memorandum to Council.

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

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed support to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, a Statement of Policy and City Council Questions related to the selection of a permanent Police Chief as described in the memorandum to Council, in compliance with City Charter Section 411.1, was adopted. (11-0.)

4.1 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) [Community and Economic Development Committee referral 1/25/16 – Item (d)(6)]

Action: Deferred to February 23, 2016 Per Administration.

4.2 (a) Adopt an ordinance amending Chapter 20.100 and Chapter 20.180 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; and add a new subsection to Chapter 20.180 with provisions so that the City Council may adopt such additional rules and regulations as are needed to implement the intent of that Chapter. CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making that involves no changes in the physical environment. (Planning, Building and Code Enforcement/Housing)

PP15-130; District – Citywide

- 4.2 (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. Planning Commission recommends approval (5-1-0-1) (Abelite opposed, Yob abstained). (Planning, Building and Code Enforcement/Housing)

Action: Deferred to February 23, 2016 Per Administration.

- 4.3 (a) **Allow an exception to the City's Policy for the Issuance of Multifamily Housing Revenue Bonds to permit the California Statewide Communities Development Authority ("CSCDA") to issue private-activity bonds for the acquisition and rehabilitation of the Courtyard Plaza Apartments ("Apartments"), an 81-apartment complex owned by an affiliate of WNC & Associates, located at 2950 Story Road in San José.**
- (b) **Hold a Tax Equity and Fiscal Responsibility Act ("TEFRA") public hearing for the issuance of up to \$18,000,000 in tax-exempt private-activity bonds ("Bonds") by CSCDA for the Apartments.**
- (c) **Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CSCDA in a principal amount of up to \$18,000,000 to be used to finance the Apartments and to pay certain expenses incurred in connection with the issuance of the Bonds.**

CEQA: Exempt, Section 15301(d) Existing Facilities, File No. PP16-015. Council District 5. (Housing/Finance)

Documents Filed: (1) Memorandum from Director of Finance Julia H. Cooper and Director of Housing Jacky Morales-Ferrand, dated January 28, 2016, providing recommendations as described in Item 4.3(a)-(c) above. (2) Proof of Publication of Notice of Public Hearing, executed on January 25, 2016, submitted by the City Clerk.

Mayor Sam Liccardo opened the Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing.

4.3 (Cont'd.)

Public Comments: David Wall expressed opposition to the Staff recommendations.

Mayor Sam Liccardo closed the TEFRA Public Hearing.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, an exception to the City's Policy for the Issuance of Multifamily Housing Revenue Bonds to permit the California Statewide Communities Development Authority to issue private-activity bonds for the acquisition and rehabilitation of the Courtyard Plaza Apartments, an 81-apartment complex owned by an affiliate of WNC & Associates, located at 2950 Story Road in San José, was approved and Resolution No. 77663, entitled: "A Resolution of the Council of the City of San José Approving the Issuance by the California Statewide Communities Development Authority of Multifamily Housing Revenue Bonds for the Courtyard Plaza Apartments", was adopted. (11-0.)

NEIGHBORHOOD SERVICES

- 5.1 (a) Report on bids and award of contract for the 7882 – Coleman Soccer Field Complex to the low bidder, Robert A. Bothman, for the base bid of \$13,910,300 and approval of a ten percent contingency in the amount of \$1,391,030.
- (b) Adopt the following 2015-2016 Appropriation Ordinance Amendments in the Parks and Recreation Bond Fund:
- (1) Increase the Coleman Soccer Fields appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$5,818,000.
 - (2) Decrease the Parks and Recreation Bond Projects Contingency Reserve by \$5,818,000.

CEQA: Coleman Soccer Fields Mitigated Negative Declaration, File No. PP10-155. (Public Works/Parks, Recreation and Neighborhood Services/City Manager) (Deferred from 1/12/16 – Item 5.1)

Action: Deferred to March 01, 2016 Per Administration.

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Conduct a Public Hearing pursuant to California Government Code Section 53083 regarding economic development subsidies to be provided to Air Canada pursuant to the City's Air Service Support Program.
- (b) Adopt a resolution authorizing the City Manager or his designee to provide the following economic development subsidies pursuant to the City's Air Service Support Program:
- Air Canada:**

- 6.1 (b) (1) Waive landing fees for 18 months after the initial operation at an approximate value of \$174,680.
- (2) Waive ticket counter fee for 18 months after the initial operation at an approximate value of \$864,864.
- (3) Waive gate fees for 18 months after the initial operation at an approximate value of \$602,784.
- (4) City will provide marketing funds of up to \$150,000.

CEQA: Determination of Consistency with the San José International Airport Master Plan Update Final EIR (Resolution No. 67380) and Final Supplemental EIR (Resolution No 71451), File No. PP09-192. (Airport)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated January 27, 2016, recommending conducting a public hearing and adoption of a resolution.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: David Wall criticized the Staff recommendations.

Mayor Sam Liccardo closed the Public Hearing.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77664, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Provide Economic Development Subsidies to Air Canada, Pursuant to the New Air Service Support Program at the Norman Y. Mineta San José International Airport", was adopted. (11-0.)

Note: Per the discretion of the Mayor and Council Members, Agenda Items may be heard out of order.

- 6.3 As recommended by the Transportation and Environment Committee on February 1, 2016, accept the status report on San José's current pavement conditions, maintenance funding needs, and updated funding strategy to improve citywide pavement conditions. **CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Transportation)**
[Transportation and Environment Committee referral 2/1/16 – Item (d)(2)]

Item 6.3 was heard before Item 6.2.

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated February 9, 2016, transmitting the recommendations of the Transportation and Environment Committee.

Director of Transportation James Ortbal and Assistant Director of Transportation Kevin O'Connor presented the status report on the City of San José's current pavement conditions, maintenance funding needs and updated funding strategy to improve citywide pavement conditions and responded to Council questions and concerns.

6.3 (Cont'd.)

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed opposition to the Staff recommendations.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Manh Nguyen and carried unanimously, the status report on San José's current pavement conditions, maintenance funding needs, and updated funding strategy to improve citywide pavement conditions was accepted. (11-0.)

6.2 Approve the following City of San José transportation priorities for advocacy by the City's Valley Transportation Authority (VTA) representatives for a potential 30-year, \$6,000,000,000 countywide transportation sales tax measure under development by VTA for November 2016:

- (a) Prioritize:
- (1) Local (city) streets and roads funding of \$1,800,000,000 countywide for all VTA member agencies resulting in an approximate \$29,000,000 annual funding allocation to San José to address one-third of City's \$87,000,000 annual pavement maintenance shortfall, with flexibility to use funds for street safety and traffic related improvements.
 - (2) \$1,500,000,000 in funding to help complete the BART to Silicon Valley project connecting to Caltrain and ultimately the California High Speed Rail system, closing the final gap in the Bay Area's commuter rail network.
- (b) Pursue \$650,000,000 in funding countywide, with a \$320,000,000 allocation to build new and upgrade existing highway interchanges in San José, to improve access, relieve congestion, and facilitate private development in key job producing areas of North San José, West San José, and Edenvale at the following priority locations: 101/Mabury, 280/Winchester, 101/Zanker/Skyport, 101/ Blossom Hill, 101/Trimble, and 880/Charcot.
- (c) Pursue \$400,000,000 countywide and prioritize \$200,000,000 for the City of San José to address major gaps and barriers in the pedestrian, bicycle, and trail network and to improve crossings of major arterials and expressways, rehabilitate or construct new bridges over highways and waterways, and close gaps in the regional trail network.

CEQA: Not a Project, File No. PP10-068(d) Preliminary direction to Staff when eventual action requires Council approval. (Transportation/Economic Development/ Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated February 8, 2016, recommending approval of the Staff recommendations with modifications as described in "Action" on Page 20. (2) Memorandum from Council Member Donald Rocha, dated February 9, 2016, recommending approving the memorandum from Mayor Sam Liccardo, with additional direction to Staff as described in Action on Page 20.

6.2 (Cont'd.)

Documents Filed: (Cont'd.) (3) Memorandum from Director of Transportation James Ortbal, Deputy City Manager/Director of Economic Development Kim Walesh and Director of Planning, Building and Code Enforcement Harry Freitas, dated February 1, 2016, providing recommendations on the City Transportation Priorities Potential Santa Clara Valley Transportation Authority Sales Tax Measure. (4) Staff presentation dated February 9, 2016 on the City Transportation Priorities and Potential Santa Clara Valley Transportation Authority Sales Tax Measure. (5) Seven emails/letters from the public all dated February 9, 2016, pertaining to the Santa Clara Valley Transportation Authority Tax Measure.

Director of Transportation James presented the Report on City Transportation Priorities and Potential Santa Clara Valley Transportation Authority Sales Tax Measure.

Carl Guardino, President/CEO, Silicon Valley Leadership Group, provided a short presentation on Potential 2016 Transportation Funding Measures.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Presenting support to the memorandum from Mayor Sam Liccardo, various comments and suggestions were, Robert E. Van Cleef, Mark Ramoser, Rocio Molina, Maria Gonzalez, Margarita Carillo, Ray Perez, Mathew Reed, Easy Cornejo, Glenice Magee, Angie Norquist, Diana Salazar, Eunice Hernandez, Sacred Heart Community Service; Omar Vasquez, Latinos United for a New America; David Wall, Bob Brownstein, Joel Ramos, Ariana Vasquez, Donna Faruta, Harriet Wolf, People Acting in Community Together; Adina Levin, Friends of Caltrain; Lucy, Camille Fontanilla, Somus Mayfair; Dianna Zamora Marroquin, South Bay Labor Council; Charisse Ma Lebron, Working Partnerships and Brian Darby.

Motion: Council Member Chappie Jones moved approval of the memorandum from Mayor Sam Liccardo, dated February 8, 2016 and Paragraph 2 from the memorandum from Council Member Donald Rocha, dated February 9, 2016. Vice Mayor Rose Herrera seconded the motion.

Council discussion ensued.

Council Member Raul Peralez requested to amend the motion to change the word "refine" to "discuss" in paragraph 1 of the memorandum from Council Member Donald Rocha. Mayor Sam Liccardo pointed out that Paragraph 1 was an information item and that Paragraph 2 should include *jobs and affordable housing*. The amendments were accepted by Council Member Chappie Jones and Vice Mayor Rose Herrera.

6.2 (Cont'd.)

Action: On a call for the question, the motion carried, the memorandum from Mayor Sam Liccardo, dated February 8, 2016, was approved, approving the Staff recommendations regarding the City of San José's position on a regional special tax measure for transportation, with the following modifications: (1) Recommend that the remainder of the revenues generated by the measure or approximately \$1.65 Billion be prioritized for transit services and transit-dependent residents, including low-income commuters, seniors, youth and residents with disabilities. (2) Acknowledge that the City of San José's position will necessarily be modified as we engage in dialogue with other cities, recognizing that competing demands for scarce public transportation dollars will need to be resolved through regional collaboration and negotiation. The amended memorandum from Council Member Donald Rocha, dated February 9, 2016, was approved, recommending approval of the memorandum from Mayor Sam Liccardo, dated February 8, 2016, including the following additional direction: (1) In recognition that additional information will be released by Santa Clara Valley Transportation Authority (VTA) and additional regional discussions will take place over the next few months, direct City Staff to return to City Council with an update on the status of discussions on the VTA tax, thus providing the Council an opportunity to *discuss* its position. The timing of the update could be either before or after the April 22, 2016 VTA Study Session on the tax measure -- Staff should return at such time when there is additional information available that would give the Council the best opportunity to have meaningful input prior to a final decision on the measure. (2) In addition to the other recommended priorities, establish that the co-location of *jobs and* affordable housing, and transit facilities is a key principle that helps guide San José's approach to transit investments and expresses San José's interest in pursuing any opportunity that may be presented by the VTA tax measure to facilitate the construction of affordable housing. (10-1. Noes: Rocha.)

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 abstained). (Planning, Building and Code Enforcement/Housing)
GPT15-006; District – Citywide**

Action: Deferred to February 23, 2016 Per Administration.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10319	5550 Entrada Cedros	10	Sycamore Creek Partners, Inc.	9 Lots / 8 Units	SFD, SFA	Approval

OPEN FORUM

- (1) Expressing comments and urging action on unjust evictions occurring in the Santee Community were Sandy Perry, Affordable Housing Network; Omar Vasquez, Amelida Castillo, Shaunn Cartwright, Jill Borders, Teresa Gutierrez, Jose Alvarado, Lourdes Cortes, Marla Magana, Katie Martin and Victor Lecha III, South Bay Tenants Union.

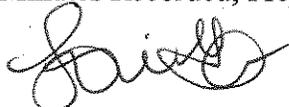
Mayor Sam Liccardo asked the speakers to remain after the meeting to speak with him and City Manager Norberto Dueñas.

- (2) Brian Darby expressed concerns and suggestions for Senior citizens pertaining to the Amendments of the Title 20 Mobilehome Park Protection to be heard on February 23, 2016.
- (3) David Wall opined that the tributary agencies were not given more than two minutes to speak at the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program Study Session on February 9, 2016.
- (4) Carol Guardino, Silicon Valley Leadership Group, asked everyone to join the Third Annual Lam Research "Heart & Soles 5K" at Lake Cunningham Park on Saturday, March 12, 2016 and explained that this is a family friendly race to raise funds for salad bars in public schools in order to keep Silicon Valley's children healthy and ready to learn.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:52 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/02-09-16 MIN

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