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## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, MAY 24, 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 9:43 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Bygdnes; Amount of Money or Other Relief Sought: Administrative Appeal. (2) In re: Claim of Cuevas; Amount of Money or Other Relief Sought: Administrative Appeal. (3) San Francisco Baykeeper v. City, et al. Names of Parties Involved: San Francisco Baykeeper, City of San José, San José Department of Transportation, San José Public Works Department, San José Environmental Services Department; Court: Superior Court of California, County of Santa Clara; Court: U.S. District Court, Northern District, San José Division; Case: 15-CV-00642-BLF; Amount of Money or Other Relief Sought: Declaratory Relief, Injunctive Relief. (4) 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. (5) 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

## CLOSED SESSION (Cont'd.)

proof. (6) 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. (7) 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. (8) 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 1358 M; Amount of Money or Other Relief Sought: Damages according to proof. (9) 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. (10) 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. (11) 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. (12) 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. (13) 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. (14) 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

**CLOSED SESSION (Cont'd.)**

County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (15) (15) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court. Names of Parties Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, A California Non-Profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, The People of the State of California ex rel, San José Police Officers' Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or in the alternative, supersedes or other appropriate relief. (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. (B) 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

## **CLOSED SESSION (Cont'd.)**

(SJPOA); 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. (SJPOA); 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 11:34 a.m. and reconvened to Regular Session at 1:30 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**

Alum Rock Union School District Concert Band offered the Invocation. (District 5)

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo, accompanied by Easterbrook Discovery School Students, led the Pledge of Allegiance.

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a commendation to Caltrans, District 4, Southwest Region for addressing service requests in the City of San José. (Jones)**

Mayor Sam Liccardo and Council Member Chappie Jones recognized and commended Caltrans, District 4, Southwest Region for their extraordinary efforts.

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 6.1 deferred to June 14, 2016. (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.

- (a) **ORD. NO. 29729** – An ordinance of the City of San José rezoning certain real property of approximately 120 gross acres situated on both sides of Berryessa Road, east of the Coyote Creek, west of the former Union Pacific railroad tracks and north of Mabury Road (the San José Flea Market), from the A(PD) Planned Development Zoning District. CEQA: Determination of Consistency with the Flea Market General Plan Amendment and Planned Development Rezoning Project Final EIR and Addenda thereto (Resolution No. 73956). (Planning, Building and Code Enforcement)  
**PDC16-001** – Council District 4

Documents Filed: Proof of Publication of the Title of Ordinance No. 29729 executed on May 13, 2016, submitted by the City Clerk.

Action: Ordinance No. 29729 was adopted. (11-0.)

- (b) **ORD. NO. 29727** – An ordinance of the City of San José extending an interim ordinance of the City of San José establishing a temporary moratorium on the conversion or closure of mobilehome parks pending the review and possible amendment or adoption of land use regulations applicable to such conversions and closures and setting forth findings to support such temporary moratorium and the effectiveness and applicability of the provisions of this ordinance. CEQA: The provisions of this Ordinance have been found to be not a project under the California Environmental Quality Act of 1970 (“CEQA”), together with regulations and guidelines promulgated thereunder (including without limitation Section 15378 of the CEQA Guidelines), and this Ordinance is also exempt from CEQA pursuant to Section 15061(b)(3) because it has no potential for causing a significant effect on the environment, and Section 15308 as a regulatory action under the City’s police power to assure maintenance and protection of the environment pending evaluation and adoption of potential local legislation and regulation. (Planning, Building and Code Enforcement)  
**PP15-084** – Citywide

Documents Filed: Proof of Publication of the Title of Ordinance No. 29727 executed on May 19, 2016, submitted by the City Clerk.

Action: Ordinance No. 29727 was adopted. (11-0.)

- 2.2 (c) **ORD. NO. 29738** – An ordinance of the City of San José rezoning certain real property of approximately 8.93-gross acres situated on the southwest and southeast corner of East Santa Clara and Delmas Avenue (374 West Santa Clara Street, et al.), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. CEQA: Addendum to the San José Water Land Company Planned Development Rezoning Final EIR (Resolution No. 71952), the Downtown Strategy 2000 Final Program EIR (Resolution No. 72767), and the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)  
**PDC15-051 & PD15-061** – Council District 3

Documents Filed: Proof of Publication of the Title of Ordinance No. 29738 executed on May 20, 2016, submitted by the City Clerk.

Action: Ordinance No. 29738 was adopted. (11-0.)

2.3 **Approval of Council Committee Minutes.**

- (a) **Rules and Open Government Committee Minutes of April 27, 2016. (Mayor)**  
(b) **Transportation and Environment Committee Minutes of May 2, 2016. (Kalra)**  
(c) **Rules and Open Government Committee Minutes of May 4, 2016. (Mayor)**  
CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: (1) The Rules and Open Government Committee Minutes dated April 27, 2016 and May 4, 2016. (2) The Transportation and Environment Committee Minutes dated May 2, 2016.

Action: The Council Committee 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 **Adopt a resolution to approve the terms of a tentative Agreement between the City of San José and San José Fire Fighters, Local 230 (IAFF) to implement a “48-96” Work Schedule Pilot Program regarding the work schedule for employees in classifications represented by IAFF assigned to a 56 hour work schedule. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

2.7 (Cont'd.)

Documents Filed: Memorandum from Director of Employee Relations Jennifer Schembri, dated May 13, 2016, recommending adoption of a resolution.

City Manager Norberto Dueñas and Director of Employee Relations Jennifer Schembri responded to Council questions and concerns.

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

Council Member Pierluigi Oliverio expressed concerns pertaining to the report and questioned the equity to the entire employee base and the work schedule.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Sean Kaldor, the International Association of Firefighters (IAFF) Local 230, expressed support to the Staff recommendations.

Action: On a call for the question, the motion carried, Resolution No. 77749, entitled: “A Resolution of the Council of the City of San José Approving the Terms of a Side Letter Agreement Between the City of San José and the International Association of Firefighters, Local 230 (IAFF) Related to a “48-96” Work Schedule Pilot Program”, was adopted. (10-1. Noes: Oliverio.)

2.8 **Approve Master Consultant Agreements with Brown and Caldwell, AECOM Technical Services, Inc., and Black and Veatch Corporation to provide general engineering services at the San José-Santa Clara Regional Wastewater Facility from the date of execution to June 30, 2021 in a total amount not to exceed \$5,000,000 each, subject to the appropriation of funds. CEQA: Not a Project, File No. PP10-066(d), Consultant Services to determine the feasibility of a project with no commitment to future action. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated May 12, 2016, recommending approval of the Mater Consultant Agreement. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated May 20, 2016, expressing concurrence with the Staff recommendations.

City Manager Norberto Dueñas and Assistant City Manager David Sykes responded to Council questions.

Action: Upon motion by Council Member Donald Rocha, seconded by Vice Mayor Rose Herrera and carried unanimously, the Master Consultant Agreements with Brown and Caldwell, AECOM Technical Services, Inc., and Black and Veatch Corporation to provide general engineering services at the San José-Santa Clara Regional Wastewater Facility from the date of execution to June 30, 2021 in a total amount not to exceed \$5,000,000 each, subject to the appropriation of funds were approved. (11-0.)

- 2.9 Approve the First Amendment to the Master Agreement with HydroScience Engineers, Inc. for engineering services to allow for future adjustment to rates and charges, and to increase the rates for HydroScience Engineers, Inc. and subconsultants. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Environmental Services)**

Documents Filed: (1) City Council Action Request from Director of Environmental Services Kerrie Romanow, dated May 12, 2016, recommending approval of the first amendment to the master agreement. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated May 20, 2016, expressing concurrence with the Staff recommendations.

Action: The First Amendment to the Master Agreement with HydroScience Engineers, Inc. for engineering services to allow for future adjustment to rates and charges, and to increase the rates for HydroScience Engineers, Inc. and subconsultants was approved. (11-0.)

- 2.10 Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement between the City of San José and the Santa Clara Valley Habitat Agency to manage the 201-acre burrowing owl habitat on the buffer lands of the San José-Santa Clara Regional Wastewater Facility for a term of five years. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. Council District 4. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated May 11, 2016, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated May 20, 2016, expressing concurrence with the Staff recommendations.

Action: Resolution No. 77750, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Santa Clara Valley Habitat Agency to Manage the 201 Acre Burrowing Owl Habitat on the Buffer Lands of the San José-Santa Clara Regional Wastewater Facility for a Term of Five Years", was adopted. (11-0.)

- 2.11 Report on bids and award a construction contract for the 6970 – Fiber Optic Connection Project to the second low bidder, Aegis ITS, Inc., in the amount of \$271,692 and approval of a 15 percent contingency in the amount of \$40,754. 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 Environmental Services Kerrie Romanow and Director of Public Works Barry Ng, dated May 5, 2016, recommending award of the contract to the low bidder with related contingency. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated May 20, 2016, expressing concurrence with the Staff recommendations.

**2.11 (Cont'd.)**

Action: The report on bids and award a construction contract for the 6970 – Fiber Optic Connection Project to the second low bidder, Aegis ITS, Inc., in the amount of \$271,692, with related contingency, was approved. (11-0.)

**2.12 Report on bids and award of contract for the 8085 – Reservoir Staircase & Railing Installation project to the lowest responsive bidder, Spiess Construction Company, Inc., in the amount of \$238,150, and approval of a contingency in the amount of \$23,815. CEQA: Exempt, Section 15301 Existing Facilities and Section 15302 Replacement or Reconstruction, File No. PP15-132. Council District 8. (Environmental Services/Public Works)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow and Director of Public Works Barry Ng, dated May 10, 2016, recommending award of the contract to the low bidder with related contingency.

Action: The report on bids and award of contract for the 8085 – Reservoir Staircase & Railing Installation project to the lowest responsive bidder, Spiess Construction Company, Inc., in the amount of \$238,150, with related contingency, was approved. (11-0.)

**2.13 (a) Consider the Addendum to the Plant Master Plan Final EIR.  
(b) Approve an ordinance designating approximately 27,000 square feet along the west side of Zanker Road, located over a portion of the San José/Santa Clara Regional Wastewater Facility, as public right-of-way and accept the newly-dedicated right-of-way into the City’s street system as part of Zanker Road to allow for construction-related traffic improvements on Zanker Road.**

**CEQA: Addendum to the San José/Santa Clara Water Pollution Control Plant Master Plan Final EIR, File No. PP15-120. (Environmental Services/Public Works)**

Action: Deferred to June 7, 2016 Per Administration.

**2.14 Adopt a resolution to amend the City of San José Pay Plan effective May 24, 2016, to create the Aviation Security and Permit Specialist (3543) classification. 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 May 12, 2016, recommending adoption of a resolution.

Action: Resolution No. 77751, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications”, was adopted. (11-0.)

- 2.15 Approve an ordinance amending Title 17 of the San José Municipal Code to implement Assembly Bill 1236 by creating an expedited, streamlined permitting process for electric vehicle charging stations. CEQA: Exempt, Section 15268 Ministerial Projects, File No. PP16-038. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated May 12, 2016, recommending approval of an ordinance.

Mayor Sam Liccardo commended Staff for their hard work and dedication for implementing an online lower-cost permit process.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, Ordinance No. 29740, entitled: “An Ordinance of the City of San José Amending Title 17 of the San José Municipal Code by Adding Chapter 17.88 to Specify Requirements for Electric Vehicle Charging Stations and To Provide an Expedited, Streamlined Permitting Process for Electric Vehicle Charging Stations”, was passed for publication. (11-0.)

- 2.16 Adopt a resolution of intention to vacate a portion of Julian Street, west of Terraine Street with the reservation of a public service easement over the entire area being vacated, and set a Public Hearing on June 14, 2016 at 1:30 p.m. CEQA: Brandenburg Mixed-Use Project/North San Pedro Housing Sites EIR (Resolution No. 72170), File No. GP03-03-01. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated May 10, 2016, recommending adoption of a resolution.

Action: Resolution No. 77752, entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Julian Street, West of Terraine Street and Reserving a Public Service Easement”, was adopted. (11-0.)

- 2.17 Adopt a resolution:**

- (a) **Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a portion of the Public Service Easement (“PSE”) along Disk Drive and a portion of the PSE and Sidewalk Easement at the northwesterly corner of Nortech Parkway and Disk Drive.**
- (b) **Summarily vacating the subject easements which are no longer necessary for public purposes.**
- (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: Addendum to the Cisco Systems, Inc. Site 6 Final EIR (Resolution No. 69636), File No. PDC99-054. Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated May 10, 2016, recommending adoption of a resolution.

**2.17 (Cont'd.)**

Action: Resolution No. 77753, entitled: "A Resolution of the Council of the City of San José Summarily Vacating a Portion of a Public Service Easement Along the West Side of Disk Drive and a Portion of a Public Service Easement and a Sidewalk Easement at the Northwesterly Corner of Nortech Parkway and Disk Drive", was adopted. (11-0.)

**2.18 Review of the Fiscal Year 2014 – 2015 Annual Development In-Lieu Fee Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated May 10, 2016, recommending review of the report.

Action: The Fiscal Year 2014 – 2015 Annual Development In-Lieu Fee Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements was approved. (11-0.)

**2.19 As recommended by the Rules and Open Government Committee on May 11, 2016:**  
**(a) Approve the Canada Day Flag Raising scheduled on June 28, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the events.**  
**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Kalra)**  
**[Rules Committee referral 5/11/16 – Item G.1.a.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 12, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Canada Day Flag Raising scheduled on June 28, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

**2.20 As recommended by the Rules and Open Government Committee on May 11, 2016:**  
**(a) Approve the Eritrean Flag Raising scheduled on Tuesday, May 24, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the events.**  
**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Mayor)**  
**[Rules Committee referral 5/11/16 – Item G.1.b.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 12, 2016, transmitting the recommendations of the Rules and Open Government Committee.

**2.20 (Cont'd.)**

Action: The Eritrean Flag Raising scheduled on Tuesday, May 24, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

**2.21 As recommended by the Rules and Open Government Committee on May 11, 2016:**

**(a) Approve the Walk n'Roll Citywide Celebration scheduled on Saturday, May 21, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**

**(b) Approve and accept donations from various individuals, businesses or community groups to support the events.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Mayor/Herrera)**

**[Rules Committee referral 5/11/16 – Item G.1.c.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 12, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Walk n'Roll Citywide Celebration scheduled on Saturday, May 21, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

**2.22 Adopt a resolution authorizing Parks, Recreation and Neighborhood Services to suspend parking fees at Alum Rock Park as a temporary pilot program. CEQA: Not a Project, File No. PP10-067(d), CEQA Guidelines Section 15273, Rates, Tolls, Fares and Charges. Council District 5. (Parks, Recreation and Neighborhood Services) (Deferred from 5/17/16 – Item 5.2)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated May 11, 2016, recommending adoption of a resolution.

Action: Resolution No. 77754, entitled: "A Resolution of the Council of the City of San José Authorizing the Department of Parks, Recreation and Neighborhood Services to Suspend Parking Fees at Alum Rock Park as a Temporary Pilot Program", was adopted. (11-0.)

- 2.23 Adopt a resolution approving the Planned Development Permit to allow the construction of a mixed use development with up to 1.04 million square feet for office/commercial space and up to 325 multi-family attached residences on an 8.93 gross acre site located at the southeast and southwest corner of West Santa Clara Street and Delmas Avenue (374 & 402 West Santa Clara Street; 415 West San Fernando Street; 15, 35, 45, 55, 63, & 99 Delmas Avenue). CEQA: Addendum to the San José Water Land Company Planned Development Rezoning Final EIR (Resolution No. 71952), the Downtown Strategy 2000 Final Program EIR (Resolution No. 72767), and the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement) PDC15-051 & PD15-061 – Council District 3 [Continued from 5/17/16 – Item 11.2(d)]**

Action: Resolution No. 77746, entitled: “A Resolution of the Council of the City of San José Approving a Planned Development Permit, Subject to Conditions, To Allow Construction of Up to 1.04 Million Square Feet of Office/Commercial Space and Up to 325 Multifamily Attached Residences, Located on the Southwest Corner of West Santa Clara Street and Delmas Avenue (374 West Santa Clara Street, et al.)”, was adopted. (11-0.)

- 2.24 Approve travel for Mayor’s Staff, Khanh Russo, Director of Strategic Partnerships, to New York, NY, from June 5, 2016 to June 8, 2016 to attend the Cities of Service Annual Convening, of which San José is a member. Source of Funds: Cities of Service. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated May 16, 2016, requesting approval of travel for Mayor’s Staff, Khanh Russo

Action: Travel for Mayor’s Staff, Khanh Russo, Director of Strategic Partnerships, to New York, NY, from June 5, 2016 to June 8, 2016 to attend the Cities of Service Annual Convening. (11-0.)

- 2.25 As recommended by the Rules and Open Government Committee on May 18, 2016:**
- (a) Approve Vice Mayor Rose Herrera’s Public Safety Fair/Forum Summer Kick-Off scheduled on June 1, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the events.**
- CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Herrera)  
[Rules Committee referral 5/18/16 – Item G.1.a.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 20, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: Vice Mayor Rose Herrera’s Public Safety Fair/Forum Summer Kick-Off scheduled on June 1, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

- 2.26 As recommended by the Rules and Open Government Committee on May 18, 2016:**
- (a) Approve the Rainbow Flag and Transgender Pride Flag Raising Ceremony scheduled on Tuesday, June 7, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the events.**
- CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Oliverio)  
[Rules Committee referral 5/18/16 – Item G.1.b.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 20, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Rainbow Flag and Transgender Pride Flag Raising Ceremony scheduled on Tuesday, June 7, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

- 2.27 As recommended by the Rules and Open Government Committee on May 18, 2016:**
- (a) Approve the Puerto Rican Flag Raising scheduled on June 3, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the events.**
- CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Peralez)  
[Rules Committee referral 5/18/16 – Item G.1.c.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 20, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Puerto Rican Flag Raising scheduled on June 3, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

- 2.28 As recommended by the Rules and Open Government Committee on May 18, 2016, adopt a position of support for SB 879 (Beall). CEQA: Not a Project, File No. PP10-069(d), Legislative Positions. (Housing)  
[Rules Committee referral 5/18/16 – Item G.2.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 20, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: A Position of Support for SB 879 was adopted. (11-0.)

- 2.29 As recommended by the Rules and Open Government Committee on May 11, 2016, approve the appointments of Council Member Ash Kalra to the Local Agency Formation Commission of Santa Clara County (LAFCO) and Council Member Raul Peralez as the alternate. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)  
[Rules Committee referral 5/11/16 – Item F.1.a.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated May 20, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The appointments of Council Member Ash Kalra to the Local Agency Formation Commission of Santa Clara County (LAFCO) and Council Member Raul Peralez as the alternate were approved. (11-0.)

## END OF CONSENT CALENDAR

### STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas highlighted two events at City Hall: The Housing 2.0 Conference held last week which focused on solutions and challenges for affordable housing; and the Building Permits and Safety Open House, May 25, 2016, 6:00 p.m. – 8:00 p.m. in the Rotunda, aimed to make the permitting process more accessible for residents and home improvement projects.

- 3.3 Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Director of Information Technology as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069 City Organizational & Administrative Activities. (City Manager)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated May 20, 2016, recommending acceptance of the City Manager’s proposed questions with eight additional questions. (2) Memorandum from City Manager Norberto Dueñas, dated May 13, 2016, recommending adoption of a Statement of Policy and City Council Questions.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Pierluigi Oliverio and carried unanimously, the memorandum from Mayor Sam Liccardo, dated May 20, 2016, was approved, accepting the City Manager’s proposed questions in the Statement of Policy for recruitment of the Information Technology Director, including the following: (1) What is your experience in leading integration and updating of large enterprise software and cloud computing projects? What is your approach to these complex projects? Do you see any opportunities to utilize open source software in the City? (2) What is your experience in leading a transformation/change management program of a large department? (3) What would be your approach to addressing staffing vacancies given

### 3.3 (Cont'd.)

the limited City budget? (4) What is your approach to working with and ensuring business needs of individual departments are balanced with standardizing Information Technology (IT) systems across departments? (5) How do you plan to install a user-centric culture in the department and make systems more user-friendly for Staff and for residents? (6) What is your experience developing and executing on a Master ICT Plan and IT/digital strategy for a large organization? (7) How would you utilize and manage an Information Planning Board and steering committees to oversee large projects and the overall IT/digital strategy? (8) The City recently adopted a Smart City Vision and an Open Data Policy, what are the most critical elements to “get right” in IT to implement these policies?

- 3.4 (a) **Accept the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters regarding an Initiative Ordinance Amending Title 4 of the San José Municipal Code to Require Employers to Offer Additional Work Hours to Existing Qualified Part-Time Employees Before Hiring New Staff.**
- (b) **Approve one of the actions as outlined in California Elections Code §9215**
- (1) **Order a report on the effects of the proposed ordinance consistent with Elections Code §9212 to be presented to the Council no later than 30 days from this meeting (Thursday, June 23, 2016).**

**CEQA: Not a Project, File No. PP10-068(c), Code or Policy that involves no changes in the physical environment. (City Clerk)**

Documents Filed: (1) Memorandum from Council Member Raul Peralez, dated May 24, 2016, recommending acceptance of the Staff recommendations Option A with further direction. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated May 20, 2016, recommending acceptance of the Certificate of Sufficiency and approval of one of three actions as indicated.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to actions related to the Opportunity to Work Ballot Measure, Certificate of Sufficiency Initiative Amending Title 4 were Sam Saiu, Forum; Bill Wallace, Ann Rosenzweig, Working Partnerships; Tomas Margain, Father Jon Pedigo, Diocese of San José and Our Lady of Guadalupe Parrish; Harry Adams, Santa Clara County Human Relations Commission; Salvador Bustamante, LUNA; Bob Brownstein, Diana Zamora-Marroquin, South Bay Labor Council; Angelica Ramos, National Women’s Political Caucus; Mathew Reed, Ruth Silver Taube, Yazmin Fernandez, Dilsa Gonzalez, Fight for \$15; Yasmeen San Juan, Pedro Enriques, WPUSA; David Anthony Taylor III, Silicon Valley Rising; Sergio Kieri, Steffon Simms, Eric Truong, Francie Lena, Shaun Cartwright, Yolanda Franco-Clausen and Annetha Braxton.

Deputy City Manager/Director of Economic Development Kim Walesh responded to Council question and concerns.

Extensive Council discussion ensued. See “Action” on Page 17.

### 3.4 (Cont'd.)

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Raul Peralez and carried unanimously, The memorandum from Council Member Raul Peralez, dated May 24, 2016, was approved, accepting Staff recommendation to approve Option "A", which requests Staff to report back on the effects of the proposed Opportunity to Work Ballot Initiative no later than June 23, 2016 (Staff to return to the June 21, 2016 Council Meeting). It is important for the Staff Report to include a comprehensive and balanced analysis that addresses the following questions: (1) The number of people engaged in part-time work. (2) Growth in the availability of part-time work versus full-time work in San José. (3) The number of part-time workers who would be eligible for greater benefits (health or other). (4) The cost of putting the initiative on the ballot versus passing it legislatively. Additional direction to Staff: (1) Identify categories of employment or industries that are potentially justifiable hardship, including: Analysis consideration of targeted employee categories that could be negatively and unintentionally impacted such as event based businesses, gyms, athletic and fitness clubs, after school programs and seasonal restaurants. (2) Having conversations with the business community to fully understand the impacts and get an understanding of businesses that would fall outside of the normal range of hours. (3) Pertaining to woman, minorities and age within demographics, who are the majority of this work force and the most affected? (4) Impact on employees who are having those part-time hours taken from them. (5) Staff was directed to return to Council on June 21, 2016. (11-0.)

- (b) (2) **Adopt the proposed ordinance as submitted no later than Friday, June 3, 2016 (or within 10 days after the Elections Code §9212 Report is heard by the City Council if such a report is ordered), or**
- (3) **Adopt a resolution calling an election to submit the initiative to the voters at the next General Election on Tuesday, November 8, 2016.**

**CEQA: Not a Project, File No. PP10-068(c), Code or Policy that involves no changes in the physical environment. (City Clerk)**

Action: Item 3.4(b)(2) and (3) were not approved.

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Adopt a resolution approving new Council Policy 0-44 entitled "Wage Theft Prevention Policy."**
- (b) **Approve an ordinance amending Title 6 of the San José Municipal Code to specifically authorize the denial, suspension or revocation of a permit or license issued under Title 6 based upon a final judgment by a court or by final administrative action of an investigatory government agency that a violation of wage and hour laws occurred and has not been satisfied.**

**CEQA: Not a Project, File No. PP10-068(c), Code or Policy change that involve no changes in the physical environment. (Public Works)  
(Deferred from 5/3/16 – Item 4.3)**

#### 4.1 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Ash Kalra, Council Member Raul Peralez, Council Member Magdalena Carrasco and Council Member Donald Rocha, dated May 20, 2016, recommending acceptance of the Staff recommendations with further direction. (2) Memorandum from Director of Public Works Barry Ng, dated May 12, 2016, recommending adoption of a resolution and approval of an ordinance. (3) Staff presentation dated May 24, 2016 summarizing the Report on Wage Theft Prevention.

Director of Public Works Barry Ng presented the report.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to the Wage Theft Prevention Policy were Chandra Brooks, SEIU/USWW; Samanu Usman, Council on American Islamic Relations; Ann Rosenzweig, Joan Goddard, Richard Schramm, Josue Garcia, Building Trades Council; Ruth Silver Taube, Maria Noel Fernandez, WPUSA; Father John Pedigo, Diocese of San José and Our Lady of Guadalupe Parrish and Angelica Ramos.

City Attorney Richard Doyle, Director of Public Works Barry Ng and Public Works Division Manager Nina Grayson responded to Council questions and concerns.

Extensive Council discussion ensued.

Motion: Council Member Ash Kalra moved approval of the memorandum he cosigned with Council Member Donald Rocha, Council Member Raul Peralez and Council Member Magdalena Carrasco, dated May 20, 2016; including during the solicitation process if someone has more than one unsatisfied judgment within the past 5 years they will not qualify. Council Member Donald Rocha seconded the motion.

Council Member Johnny Khamis requested the City Attorney, at his discretion, to add to the ordinance the following elements: (1) Section 6.02.130, Section B, Denial, Suspension or Revocation: the licensee or permittee fails to timely comply with the final and enforceable court order or administrative action of an investigatory government agency finding. (2) Add to the end of Section B: for purpose of this subsection a final and enforceable court order and administrative action is one as to which there is either no pending appeal or the time for filing an appeal has passed and no appeal was filed. The amendment was accepted by Council Member Ash Kalra and Council Member Donald Rocha.

#### 4.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Ash Kalra, Council Member Raul Peralez, Council Member Magdalena Carrasco and Council Member Donald Rocha, dated May 20, 2016, was approved: (1) Accept Staff recommendations to adopt a resolution approving new Council Policy 0-44 entitled “Wage Theft Prevention Policy” to prevent wage theft on City contracts and to amend Title 6 to deny, suspend or revoke certain City permits and licenses to businesses with unpaid wage theft judgments. (2) Staff directed to return with an update on their discussions regarding a partnership with County of Santa Clara on addressing wage theft in Retail/Sales and Restaurant/Food industries. (3) During the solicitation process if someone has more than one unsatisfied judgment within the past 5 years they will not qualify. Resolution No. 77755, entitled: “A Resolution of the Council of the City of San José Approving a New Council Policy No. 0-44 Entitled Wage Theft Prevention Policy”, was adopted, as amended. The City Attorney, at his discretion, was directed to add to the ordinance the following elements: (1) Section 6.02.130, Section B, Denial, Suspension or Revocation: the licensee or permittee fails to timely comply with the final and enforceable court order or administrative action of an investigatory government agency finding. (2) Add to the end of Section B: for purpose of this subsection a final and enforceable court order and administrative action is one as to which there is either no pending appeal or the time for filing an appeal has passed and no appeal was filed. Ordinance No. 29741, entitled: “An Ordinance of the City of San José Amending Section 6.02.130 of Chapter 6.02 of Title 6 of Transportation and Environment Committee San José Municipal Code to Specifically Authorize the Denial, Suspension or Revocation of a Permit or License Based Upon Violation of Wage and Hour Laws”, was passed for publication, as amended. (11-0.)

#### 4.2 **Report on bids and award of contract for the 6008 – Fourth Major Interceptor Rehabilitation Phase IIB – Re-Bid Project to the low bidder, SAK Construction, LLC, in the amount of \$3,791,341 and approve a contingency in the amount of \$379,134. CEQA: Exempt, Section 15282(h) Other Statutory Exemptions and Public Resources Code 21080.21(a) (b), File No. PP13-076. Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated May 10, 2016, recommending award of the contract to the low bidder, with related contingency.

Action: The report on bids and award of contract for the 6008 – Fourth Major Interceptor Rehabilitation Phase IIB – Re-Bid Project to the low bidder, SAK Construction, LLC, in the amount of \$3,791,341 with related contingency, was approved. (11-0.)

- 4.3 (a) **Accept staff report on the status of the Google Fiber Project.**  
(b) **Approve Google Fiber, Inc.'s (Google Fiber) Construction Impact Mitigation Plan to allow their community-wide installation of a residential high-speed fiber network service with a comprehensive community outreach plan and construction strategy, and measures to alleviate potential construction impacts.**

**CEQA: Determination of Consistency with the Google Fiber Project Mitigated Negative Declaration (Resolution No. 77591), File No. PP16-044. (Public Works)**

*Item 4.3 was heard jointly with Item 4.5.*

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng, dated May 11, 2016, recommending acceptance of the Staff Report and approval of Google Fiber, Inc.'s Construction Impact Mitigation Plan. (2) Supplemental memorandum from Director of Communications David Vossbrink and Deputy City Manager/Director of Economic Development Kim Welsh, dated May 20, 2016, summarizing digital inclusion needs and opportunities. (3) Staff Presentation dated May 24, 2016 summarizing the Google Fiber Construction Impact Mitigation Plan.

Motion: Council Member Johnny Khamis moved approval of Item 4.3 and Item 4.5. Vice Mayor Rose Herrera seconded the motion.

Deputy City Manager/Director of Economic Development Kim Welsh presented introductory remarks and an overview of the Digital Inclusion Strategy Development.

Director of Public Works Barry Ng provided the report on the Google Fiber Construction Impact Mitigation Plan. Jenna Wandres, Google Fiber, offered a presentation.

Council discussion ensued.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Blair Beekman voiced his point of view on the Google Fiber Project.

Action: On a call for the question, the motion carried unanimously, the Staff Report on the status of the Google Fiber Project was approved and Google Fiber, Inc.'s (Google Fiber) Construction Impact Mitigation Plan to allow their community-wide installation of a residential high-speed fiber network service with a comprehensive community outreach plan and construction strategy, and measures to alleviate potential construction impacts was approved. (11-0.)

- 4.4 (a) **Adopt a resolution authorizing the City Manager to negotiate and execute a Parking Improvement Agreement with San José Arena Management, LLC for the construction and operation of two parking lots.**  
(b) **Direct staff to continue efforts to provide both short term and long term parking solutions near the SAP Center and the Greater Downtown.**

- 4.4 (c) **Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Purpose Parking Fund:**
- (1) **Establish the Arena Area Parking Development appropriation in the amount of \$750,000.**
  - (2) **Decrease the Unrestricted Ending Fund Balance by \$750,000**
- CEQA: Exempt, CEQA Guidelines Section 15301 Existing Facilities, File No. PP16-054. (Economic Development/City Manager)**

Action: Deferred to June 7, 20176 per Administration.

- 4.5 (a) **Consideration of Determination of Consistency to the Google Fiber Mitigated Negative Declaration (MND) adopted December 1, 2015, Resolution No. 77591; File No. PP16-058 DC.**
- (b) **Adopt a resolution authorizing the City Manager to:**
- (1) **Negotiate and execute Network Hut License Agreements and all other documents necessary to complete the transaction with Google Fiber for five City-owned sites located on the following Assessor Parcel Numbers (APN): Hellyer Road (APN 678-08-047), Los Lagos Golf Course (APN 497-46-001), Blossom Hill (APN 567-28-007), the West Yard (APN 381-19-025), and Guadalupe Parkway (APN 259-06-065).**
  - (2) **Negotiate and execute all necessary ingress, egress, and utility connection easements for the Network Hut sites located at Hellyer Road (APN 678-08-047), Los Lagos Golf Course (APN 497-46-001), Blossom Hill (APN 567-28-007), the West Yard (APN 381-19-025), and Guadalupe Parkway (APN 259-06-065).**

**CEQA: Determination of Consistency with the Google Fiber Project Mitigated Negative Declaration (Resolution No. 77591), File No. PP16-058. (Economic Development/City Manager)**

*Item 4.5 was heard jointly with Item 4.3.*

Documents Filed: Memorandum from Director of Communications David Vossbrink and Deputy City Manager/Director of Economic Development Kim Walesh, dated May 18, 2016, recommending consideration of Determination of Consistency and adoption of a resolution.

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Determination of Consistency to the Google Fiber Mitigated Negative Declaration (MND) adopted December 1, 2015 was approved and Resolution No. 77756, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Network Hut License Agreements and All Other Documents Necessary to Complete the Transaction With Google Fiber for Five City Owned Sites and Negotiate and Execute All Necessary Ingress, Egress and Utility Connection Easements for the Network Hut Sites", was adopted. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

### 6.1 Adopt a resolution:

- (a) Approving a proposed overall Disadvantaged Business Enterprise (DBE) participation race-neutral goal of 6.30% for Federal Aviation Administration (FAA) Airport Improvement Program grant funded Airport development projects at the Norman Y. Mineta San José International Airport for Federal Fiscal Years 2017-2019.
  - (b) Authorizing the City Manager to submit the three-year DBE participation plan to the FAA, which is due by August 1, 2016.
  - (c) Authorizing the City Manager to make revisions as requested by the FAA.
- CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Airport)**

Documents Filed: Memorandum from Council Member Chappie Jones, dated May 23, 2016, recommending deferring this item until June 14, 2016.

Action: Deferred to June 14, 2016 per Orders of the Day.

- ### 6.2
- (a) Approve a Master Agreement with Kimley-Horn and Associates, Inc. for Pavement Condition Update Services at Norman Y. Mineta San José International Airport (SJC and Airport), for a period of three years from execution, with up to two additional one-year option periods, in a total amount not to exceed \$400,000 over the five-year term of the agreement, including the option periods.
  - (b) Adopt a resolution authorizing the City Manager to: (i) exercise up to two one-year options to extend the term of the Master Agreement at no increase in total compensation, and (ii) negotiate and execute amendments to the Master Agreement to adjust the Consultant's rates and charges in an amount not to exceed three percent annually, beginning January 2017, with no increase in total compensation.

**CEQA: Not a Project, File No. PP10-066(d), Consultant services for design/study/research/inspection to determine the feasibility of a project with no commitment to future action. (Airport)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated May 12, 2016, recommending approval of a master agreement and adoption of a resolution.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, a Master Agreement with Kimley-Horn and Associates, Inc. for Pavement Condition Update Services at Norman Y. Mineta San José International Airport (SJC and Airport), for a period of three years from execution, with up to two additional one-year option periods, in a total amount not to exceed \$400,000 over the five-year term of the agreement, including the option periods, was approved and Resolution No. 77757, entitled: "A Resolution of the Council of the City of San José Authorizing the City

6.2 (Cont'd.)

Manager to Exercise up to Two One Year Options to Extend the Term of the Master Agreement with Kimley-Horn and Associates, Inc. with No Increase in Total Compensation and To Negotiate and Execute Amendments to the Master Agreement to Adjust the Consultant's Rates and Charges In An Amount Not To Exceed Three Percent Annually With No Increase in Compensation", was adopted. (11-0.)

**ENVIRONMENTAL & UTILITY SERVICES**

- 7.1 (a) **Adopt a resolution approving the Digester and Thickener Facilities Upgrade Project Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program (File No. PP15-055).**
- (b) **Report on bids and award of construction contract for the 7382 - Digester and Thickener Facilities Upgrade project to the low bidder, Walsh Construction Company II, LLC, to include the base bid less Revocable Item No. 5, in the amount of \$107,925,000, and approve a 12.5 percent construction contingency in the amount of \$13,490,625.**
- (c) **Adopt a resolution authorizing the Director of Public Works to execute one or more change orders in excess of \$100,000 for the duration of the Digester and Thickener Facilities Upgrade project, not to exceed the total contingency amount approved for the project.**
- (d) **Adopt the following 2015-2016 Appropriation Ordinance Amendments in the San José- Santa Clara Treatment Plant Capital Fund:**
- (1) **Decrease the Energy Generation Improvements appropriation to the Environmental Services Department by \$6,000,000.**
  - (2) **Decrease the SBWR System Reliability and Infrastructure Replacement appropriation to the Environmental Services Department by \$4,692,000.**
  - (3) **Decrease the Tunnel Rehabilitation appropriation to the Environmental Services Department by \$600,000.**
  - (4) **Decrease the Ending Fund Balance – Unrestricted appropriation by \$17,253,000.**
  - (5) **Increase the Digester and Thickener Facilities Upgrade appropriation to the Environmental Services Department by \$28,545,000.**

**CEQA: Digester and Thickener Facilities Upgrade Project Mitigated Negative Declaration, File No. PP15-055. (Environmental Services/Public Works/City Manager)**

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, Director of Public Works Barry Ng and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated May 11, 2016, recommending adoption of a resolutions, approval of the construction contract to the low bidder with related contingency and appropriation ordinance amendments. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated May 20, 2016, expressing concurrence with the Staff recommendations. (3) Staff presentation dated May 24, 2016 summarizing the Construction Contract Award for Digester and Thickener Facilities Update Project.

7.1 (Cont'd.)

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

Assistant Director of Environmental Services Ashwini Kantak presented the report on the Construction Contract Award for Digester and Thickener Facilities Update Project.

Council discussion ensued.

Council Member Johnny Khamis expressed his objections.

Action: On a call for the question, the motion carried, the report on bids and award of construction contract for the 7382 - Digester and Thickener Facilities Upgrade project to the low bidder, Walsh Construction Company II, LLC, to include the base bid less Revocable Item No. 5, in the amount of \$107,925,000, and approve a 12.5 percent construction contingency in the amount of \$13,490,625 was approved; Resolution No. 77758, entitled: "A Resolution of the Council of the City of San José Adopting the Wastewater Digester and Thickener Facilities Upgrade 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 and Reporting Program"; Resolution No. 77759, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Issue any Single and/or Multiple Change Orders for the 7382 – Digester and Thickener Facilities Upgrade Project Up to the Contingency Amount of \$13,490,625" and Ordinance No. 29742, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the San Jose-Santa Clara Treatment Plant Capital Fund For The Digester And Thickener Facilities Upgrade; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-1. Noes: Khamis.)

**PUBLIC SAFETY SERVICES**

- 8.1 (a) **Adopt the San José Fire Department Strategic Plan, which includes a roadmap to provide ongoing quality services to the community and establish the San José Fire Department as a national leader in all-risk emergency response and fire**
- (b) **Review and discuss the report on the Fire Department Organizational Review conducted by Citygate Associates, LLC, including an evaluation of Fire Department service delivery, response time performance, technological improvements, and operations efficiencies.**

**CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approval of any City Actions. (Fire)**

**[Public Safety, Finance and Strategic Support referral 3/17/16 – Item (d)(1)]  
(Deferred from 4/5/16 – Item 8.1 and 4/26/16 – Item 8.1)**

Action: Deferred to June 7, 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>
10329	955 Branham Ln	9	D R Horton	28/24	SFA	Approve

**OPEN FORUM**

Blair Beekman opined about transparency and openness, red light cameras and the Stationary Camera Program.

**ADJOURNMENT**

The Council of the City of San José was adjourned at 5:45 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

smd/05-24-16 MIN