



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 16, 2016

The Council of the City of San José convened in Regular Session at 9:30 a.m. in the Council Chamber at City Hall.

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

Absent: Council Members - Kalra. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:42 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code 54956.9 subsection (c) pertaining to initiation of litigation 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) Barraza, Jesus v. Pacific Gas & Electric Company, et al. Names of Parties Involved: Jesus Barraza, Pacific Gas & Electric Company, Comcast Cable Company, City of San José, County of Santa Clara, State of California; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 15CV 289017; Amount of Money or Other Relief Sought: Damages according to proof. (2) McMahon, Maeve v. Santa Clara Valley Transportation Authority, et al. Names of Parties Involved: Maeve McMahon, Santa Clara Valley Transportation Authority, County of Santa Clara, City of San José; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 16CV 291461; Amount of Money or Other Relief Sought: Damages according to proof. (3) 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. (4) IFPTE Local 21 v. City of San José; Names of

CLOSED SESSION (Cont'd.)

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. (5) 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. (6) 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. (7) 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. (8) 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. (9) 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. (10) 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. (11) 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. (12) 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,

CLOSED SESSION (Cont'd.)

H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) 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. (14) 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. (15) 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. (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 Contract or 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 MOA: Memorandum of Agreement between City of San José and MEF;

CLOSED SESSION (Cont'd.)

(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 (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.

(D) The Successor to the Redevelopment Agency of the City of San José to confer with Legal Counsel pursuant to Government Code 54956.9 subsection (c) pertaining to initiation of litigation in one (1) matter.

By unanimous consent, Council recessed from the Closed Session at 11:48 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

Akoma Arts Offered the Invocation. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Heard following the Ceremonial Items.

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, an adjournment in memory for Community Leader and Advocate Librado Chavez Jr. was added to the Agenda and Item 9.1 was deferred to August 23, 2016. (11-0.)

CEREMONIAL ITEMS

1.3 Presentation of a commendation to Victoria McDowell, a young local performer who will be touring in Italy with Pasquale Esposito in September 2016. (Mayor)

Mayor Sam Liccardo and Council Member Ash Kalra recognized and commended Victoria McDowell, a young local performer.

CONSENT CALENDAR

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

2.1 Approval of Council Minutes.

There were none.

2.2 Final Adoption of Ordinances.

There were none.

2.3 Approval of Council Committee Minutes.

- (a) Rules and Open Government Committee Minutes of June 22, 2016. (Mayor)**
- (b) Community and Economic Development Committee Minutes of June 27, 2016. (Khamis)**
- (c) Rules and Open Government Committee Minutes of July 27, 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 June 22, 2016 and June 27, 2016. (2) The Community and Economic Development Committee Minutes dated June 27, 2016.

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

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

No Report.

2.6 Report from the Council Liaison to the Retirement Boards.

No Report.

- 2.7 **Adopt a resolution authorizing the City Manager to apply for, execute, and accept upon receipt, grants from the Federal Aviation Administration (FAA) for the Perimeter Security Technology Infrastructure Upgrades project at the Norman Y. Mineta San José International Airport, increasing the total grant amount from \$6,400,000, as previously authorized under Resolution Nos. 77389 and 77641, to a total grant amount not to exceed \$15,400,000. CEQA: Resolution Nos. 67380 and 71451, File No. PP15-053 Perimeter Security Technology Infrastructure Upgrades. (Airport)**

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh, dated July 25, 2016, recommending adoption of a resolution.

Action: Resolution No. 77898, entitled: “A Resolution of the Council of the City of San José Authorizing Apply For, Execute and Accept Upon Receipt Grant Funds from the Federal Aviation Administration for the Perimeter Security Technology Infrastructure Updates Project at the Norman Y. Mineta San José International Airport, Increasing the Total Grant Amount From \$6,400,000, As Previously Authorized Under Resolutions 77389 and 77641 To A Total Grant Amount Not To Exceed \$15,400,000”, was adopted. (11-0.)

- 2.8 (a) **Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund:**
- (1) **Increase the Beginning Fund Balance by \$1,293,000.**
 - (2) **Increase the North First Street Bicycle Lane Improvements appropriation to the Transportation Department by \$834,000.**
 - (3) **Increase the Downing Avenue Pedestrian and Bicycle Improvements appropriation to the Transportation Department by \$459,000.**
- (b) **Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:**
- (1) **Increase the Beginning Fund Balance by \$1,290,000.**
 - (2) **Increase the Jackson Avenue Complete Streets (OBAG) appropriation to the Transportation Department by \$1,290,000.**
- (c) **Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the Water Utility Capital Fund:**
- (1) **Increase the Beginning Fund Balance by \$731,000.**
 - (2) **Increase the North San José Water Well Evaluation and Rehabilitation appropriation to the Environmental Services Department by \$731,000.**
- (d) **Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the Beginning Fund Balance by \$150,000.**
 - (2) **Increase the Plaza de Cesar Chavez Stage Canopy appropriation to the Parks, Recreation and Neighborhood Services Department by \$150,000.**
- (e) **Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the Major Facilities Fund:**

- 2.8 (e) (1) **Increase the Beginning Fund Balance by \$125,000.**
(2) **Increase the North San José Water Well Evaluation and Rehabilitation appropriation to the Environmental Services Department by \$125,000.**
CEQA: Not a Project, File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. (City Manager)

Documents Filed: Memorandum from Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated July 26, 2016, recommending adoption of appropriation ordinances amendments and funding sources resolutions.

Action: Ordinance No. 29773, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Building and Structure Construction Tax Fund for the North First Street Bicycle Lane Improvements and Downing Avenue Pedestrian and Bicycle Improvements; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 77899, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 To Adjust Revenues in the Building and Structure Construction Tax Fund”; Ordinance No. 29774, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Construction Excise Tax Fund for the Jackson Avenue Complete Streets (OBAG) ; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 77900, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 To Adjust Revenues in the Construction Excise Tax Fund”; Ordinance No. 29775, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Water Utility Tax Fund for the North San José Water Well Evaluation and Rehabilitation; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 77901, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 To Adjust Revenues in the Water Utility Capital Fund”; Ordinance No. 29776, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the General Fund for the Plaza de Cesar Chavez Stage Canopy; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 77902, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 To Adjust Revenues in the General Fund”; Ordinance No. 29777, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Major Facilities Fund for the North San José Water Well Evaluation and Rehabilitation; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 77903, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 To Adjust Revenues in the Major Facilities Fund”, were adopted. (11-0.)

- 2.9 (a) **Approve the Purchase and Sale Agreement with Louis and Guadalupe Nanez, in the amount of \$699,999 for the purchase of land located at 836 West Home Street, San José, CA, Assessor Parcel Number 264-11-025 for the future expansion of the Del Monte Park.**
- (b) **Adopt a resolution authorizing the City Manager to execute the Purchase Agreement and all other documents necessary to complete the transaction, and to settle any relocation claims stemming from the City's purchase of the property up to a maximum of \$54,000.**

CEQA: Exempt, File No. PP16-080, Section 15061(b)(3) – No potential for causing a significant effect on the environment. Council District 6. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development/Chief Strategist Kim Walesh and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated August 2, 2016, recommending approval of the agreement and adoption of a resolution.

Action: The Purchase and Sale Agreement with Louis and Guadalupe Nanez, in the amount of \$699,999 for the purchase of land located at 836 West Home Street, San José, California, Assessor Parcel Number 264-11-025 for the future expansion of the Del Monte Park was approved and Resolution No. 77904, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Purchase and Sale Agreement with Louis and Guadalupe Nanez for the Purchase of Land, Site Improvements and a Single-Family Residence Located at 836 West Home Street In The Amount of \$699,999; To Negotiate and Execute All Other Documents Necessary to Complete the Transaction and To Settle Any Relocation Claims and Closing Costs Stemming From the City's Purchase of the Property Up To A Maximum of \$54,000", was adopted. (11-0.)

- 2.10 **Adopt a resolution authorizing the City Manager to submit, negotiate and execute grant agreements with the Santa Clara Valley Open Space Authority for an amount up to \$750,000 for the following projects:**
- (a) **Guadalupe Oak Grove Park Vegetation Management Project for \$250,000.**
- (b) **Plant Science Program (various city-wide parks) for \$250,000.**
- (c) **Alum Rock Park Vegetation Management and Restoration Project for \$250,000.**

CEQA: Not a Project, File No. PP10-068(a), Grant Application where Council is not obligated to enter into an agreement at the time of application. Council Districts 5 and 10. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated July 25, 2016, recommending adoption of a resolution.

Action: Resolution No. 77905, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit, Negotiate and Execute Grant Agreements with the Santa Clara Valley Open Space Authority For An Amount Up To \$750,000 for the Guadalupe Oak Grove Park Vegetation Program (Alum Rock and Emma Prusch Park) and the Alum Rock Park Vegetation Management and Restoration Project", was adopted. (11-0.)

- 2.11 As recommended by the Rules and Open Government Committee on August 10, 2016:**
- (a) Retroactively approve the District 10 Faith Leader Luncheon on Monday, June 6, 2016, and the District 10 Leadership Coalition BBQ on Saturday, July 23, 2016, as City Council sponsored Special Events and approve the expenditure of funds.**
 - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Khamis)
[Rules Committee referral 8/10/16 – Item G.1.a.]**

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

Action: The District 10 Faith Leader Luncheon on Monday, June 6, 2016, and the District 10 Leadership Coalition BBQ on Saturday, July 23, 2016 as City Council sponsored Special Events and the expenditure of funds were retroactively approved and donations for various individuals, businesses or community groups to support the event were authorized. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas praised the San José Jazz Festival held August 12 through August 14, 2016 where residents and visitors had a wonderful time.

Mayor Sam Liccardo added that it was a very safe and successful event.

COMMUNITY & ECONOMIC DEVELOPMENT

Item 4.1 was heard in the Evening Following the Public Hearings Consent Calendar and Item 11.2.

- 4.1**
- (a) Conduct a Public Hearing.**
 - (b) Accept the report and analysis of potential uses for the 5.93 acre City-owned property located on the east side of Evans Lane, north of Curtner Avenue between Almaden Expressway and Highway 87, (APNs 455-31-053 and 455-31-055), (the “Property”).**
 - (c) Adopt a resolution:**
 - (1) Approving the Property as the site for an affordable interim housing community to house formerly homeless residents (“Project”) subject to approval of necessary entitlements.**

- 4.1 (c) (2) **Accepting the summary of costs and findings prepared pursuant to the California Health and Safety Code Section 33433 for the groundleasing and development of the Property for an affordable interim housing community for the formerly homeless under the terms and conditions of the proposed ground lease.**
- (3) **Finding that the consideration that the City will receive for the Property is not less than the fair reuse value for the proposed use, given the deep affordability of the restriction on the Property, the short term of the ground lease, and the return of the Property to the City upon expiration of the ground lease.**
- (4) **Approving groundleasing of the Property consistent with material terms of the proposed ground lease between the City of San José and Abode Services, Inc., a nonprofit corporation or its affiliate (“Abode”), authorizing the Director of Housing to set final business terms, negotiate and execute the ground lease, and any other related documents and amendments.**
- (5) **Approving the selection of Abode as the developer (“Developer”) for the Project and Allied Housing, Inc., an affiliate of Abode, as the operator/service provider for onsite supportive services and management of the Project.**
- (6) **Approving a conditional grant commitment (“Grant”) for predevelopment funding of up to \$400,000 to Abode from the Low and Moderate Income Housing Asset Fund and authorizing the Director of Housing, or her designee, to set the specific business terms and to negotiate and execute any and all documents and amendments needed in connection with the Grant and funding of predevelopment activities for the Project.**
- (d) **Adopt the following FY 2016-2017 Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:**
- (1) **Increase the appropriation to the Housing Department for Housing Loans and Grants in the amount of \$400,000.**
- (2) **Decrease the Housing Project Reserve appropriation in the amount of \$400,000.**

CEQA: File No. GP16-001, Evans Lane Transitional Housing Project Initial Study and Mitigated Negative Declaration (Resolution No. 77876 adopted on 6/28/2016). Council District 6. (Housing/City Manager)

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated July 25, 2016, recommending conducting a public hearing, acceptance of the report and analysis, adoption of a resolution and appropriation ordinances amendments. (2) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated August 15, 2016, providing additional information to present on the permanent housing alternative set forth in the July 25, 2016 Staff Report. (3) Staff presentation dated August 18, 2016 summarizing the Actions Related to the Proposed Evans Lane Interim Housing Community. (4) Proof of Publication of Notice of Public Hearing executed on August 1, 2016 and

4.1 (Cont'd.)

Documents Filed: (Cont'd.) August 8, 2016 submitted by the City Clerk. (5) Presentation dated February-August 2016 submitted by the Evans Lane and Canoas Garden Neighborhood summarizing the State of the Evans Lane and Canoas Garden Neighborhood. (6) Five emails/correspondence all dated August 16, 2016 regarding Evans Lane Interim Community Housing Project.

Director of Housing Jacky Morales-Ferrand and Senior Development Officer Patrick Heisinger presented the Staff Report on the Actions Related to the Proposed Evans Lane Interim Housing Community.

Motion: Council Member Pierluigi Oliverio moved approval to move forward with permanent low income housing, Option 2, the Alternate Plan and to make a change at the General Plan. Council Member Johnny Khamis seconded the motion.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Expressing comments for, against and various suggestions and comments were Bruce Roberts, Henry Nguyen, Willow Glen Estates; Louis Chicoine, Vivian Wan, Abode Services; Andy Madeira, Eden Housing; Janis Gemignani, Women's Gathering Place; Lori Collins, Life Moves; Case Swenson, Swenson Builders; Daniel Ordaz, University Preparatory Academy; Jonathan Fleming, Dave Cheng, Sue Park, Steve Pinkston, Maranatha Christian Center; Phil Olmstead, Hall Weyer, Bill Black, Tim Gildersleeve, Shaunn Cartwright, Jamie Foberg, Kurt Foreman, Cathedral of Faith; Rick Odesio, Colleen Haley, Destination: Home; Eileen Hunter, Michael Rey, Lucille Rey, Damen Williams, Scott Cody, Megan Colvar, PATH; Larry D., Audra Urton, HomeFirst Services; Jim Gallagher, Reaching Out Emergency Food Pantry; Marilyn Hills, Agents for Change; Geri Nave, Carol Leimroth, Robert Aguirre, Ron Johnson, Anthony T. King, Sacred Heart Community Service; Gabriela Gabrian, CHAM Ministry; Sandy Perry, Affordable Housing Network; Kate Weber, Moria Merriweather, Phil Mastrocola, Helen Chapman, Lynn Lazo, Daniel Herrera, Cedric Tsang, Shelley Wilson, Robert Mize, Dr. J. Wayne Mancak, Ray Menchaca, Ben Jaime, Cathedral of Faith; Lorraine Stephenson, Housing for All Alliance; Dev Davis, Geoffrey Morgan, Barb Medina, Kristin Patterson, Melissa Johnson, Brian Darby, Thomas Bowen, Jerry Wilburn, Cesar Chavez Community Center; Renee Manual, Aima Rosas, Carlos Basulto, Susan Dias, Aurelia Sanchez, Richard Zappelli, Willow Glen Neighborhood Association; Patricia Ramos Anderson, Communities Working Together; Colin Gray, Ky Le, County of Santa Clara; Renita Fleming, April Gee, Nicole Montojo, Silicon Valley at Home; Tina Tung, Hazlit Krog, River Glen Community; Jessabella Mancilla, Yolanda Gutterez, Martha O'Connell, Tavys Ashcroft, Lisa Folix, Ryan Jasinsky, Joan Woodworth, Jeff Smoker, Mike Angels, Lynn Lazo, Kori Shih, Karon Shrum, Charlie Nave and Yin Shih.

Mayor Sam Liccardo closed the Public Hearing.

Extensive Council discussion ensued.

4.1 (Cont'd.)

Substitute Motion: Council Member Raul Peralez moved approval of the Staff recommendations with direction to Staff to include concurrent work to initiate planning for a permanent supportive project by Program Year 10 (2027), with the goal of developing a permanent supportive project at the site by Program Year 15 (2032). Vice Mayor Rose Herrera seconded the motion.

Mayor Sam Liccardo requested to amend the motion to direct Staff to explore the feasibility of developing a permanent housing project at the site in a shorter timeframe and report back to Council with those findings. The amendment was accepted by Council Member Raul Peralez and Vice Mayor Rose Herrera.

Council Member Chappie Jones suggested using the current District 6 Program Crime Prevention and Project Hope to improve the quality of life.

Vice Mayor Rose Herrera moved approval to call the question. The motion was seconded by Council Member Tam Nguyen. (9-2. Noes: M. Nguyen, Rocha.)

Action: On a call for the question, the substitution motion carried, the report and analysis of potential uses for the 5.93 acre City-owned property located on the east side of Evans Lane, north of Curtner Avenue between Almaden Expressway and Highway 87, (APNs 455-31-053 and 455-31-055) was accepted; Resolution No. 77909, entitled: "A Resolution of the Council of the City of San José Regarding Leasing Property to Abode Services and Predevelopment Funding for the Evans Lane Interim Community Housing Project" and Ordinance No. 29784, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Low and Moderate Income Housing Asset Fund for Housing Loans and Grants; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. The Staff recommendations were accepted, with Staff directed to: (1) Include concurrent work to initiate planning for a permanent supportive project by Program Year 10 (2027), with the goal of developing a permanent supportive project at the site by Program Year 15 (2032). (2) Explore the feasibility of developing a permanent housing project at the site in a shorter timeframe and report back to Council with those findings. (8-3. Noes: Khamis, M. Nguyen, Oliverio.)

NEIGHBORHOOD SERVICES

- 5.1 (a) **Report on bids and award of a construction contract for 7855 – Bramhall Restroom-Concession-Storage Building Project to the sole bidder, Tucker Construction, Inc., for the base bid in the amount of \$1,116,524 and approval of a contingency in the amount of \$111,652.**
- (b) **Adopt a resolution authorizing the Director of Public Works to negotiate and execute any single and/or multiple change orders up to the amount of the contingency.**

- 5.1 (c) **Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:**
- (1) **Decrease the Bramhall Park Lawn Bowling Green Renovation project to the Parks, Recreation and Neighborhood Services Department Project by \$144,000.**
 - (2) **Increase the Bramhall Park Restroom and Concession Building project to the Parks, Recreation and Neighborhood Services Department by \$144,000.**

**CEQA: Exempt, File No. PP15-065. Council District 6. (Public Works/Parks, Recreation and Neighborhood Services / City Manager)
(Deferred from 8/9/16 – Item 5.1)**

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng, Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated July 18, 2016, recommending approval of the award of bids and award to the low bidder, with related contingency, adoption of a resolution and appropriation ordinances amendments. (2) Letter from Stakeholders for a Safe Green Village, dated August 4, 2016, expressing support to the Staff recommendations. (3) Letter from the Willow Glen Neighborhood Association, dated August 11, 2016, expressing support to the Staff recommendations.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support, expressed concern that there was not enough public notification, meetings or outreach to the neighborhood, concern about noise, traffic and other suggestions were Jay Kreshel, Jeff Silvas, Josh Baird, Phillip Rola, Christian Duarte, Terence Fox, Willow Glen Little League; Jan Nicolosi, Dev Davis, Richard Zappelli, Willow Glen Neighborhood Association; David Zappelli, Stakeholders for a Safe Green Village; Kate Keene, Willow Glen Little League and Ed Rast.

Motion: Council Member Pierluigi Oliverio moved approval of the Staff recommendations. Council Member Magdalena Carrasco seconded the motion.

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the report on bids and award of a construction contract for 7855 – Bramhall Restroom-Concession-Storage Building Project to the sole bidder, Tucker Construction, Inc., for the base bid in the amount of \$1,116,524 and approval of a contingency in the amount of \$111,652 were approved; Resolution No. 77906, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute Any Single and/or Multiple Change Orders for the 7855 – Bramhall Restroom, Concession, Storage Building Project Up to the Contingency Amount of \$111,652” and Ordinance No. 29778, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Subdivision Park Trust Fund for the Bramhall Park Restroom and Concession Building; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Report on bids and award of the contract for the 7015 – Park Avenue Multimodal Streetscape Improvements Project – REBID (between Hedding Street and Montgomery Street), Federal Project No. RPSTPLE-5005(130) to Redgwick Construction Company, the low bidder, in the amount of \$3,095,872.
- (b) Approve a 10% contingency in the amount of \$309,587.
- (c) Adopt the following 2016-2017 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:
- (1) Increase the appropriation to the Transportation Department for the Park Avenue Multimodal Improvements project (7015) in the amount of \$350,000.
- (2) Decrease the Transportation Grants Reserve by \$350,000.

CEQA: Exempt, File No. PP11-094, Park Avenue. Council District 6. (Public Works/Transportation/City Manager)

Documents Filed: Memorandum from Director of Public Works Barry Ng, Director of Transportation James Ortbal and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated July, 25, 2016, recommending approval of the report on bids, award of the contract to the low bidder, with related contingency and adoption of appropriation ordinances amendments.

Director of Transportation James Ortbal responded to questions from Mayor Sam Liccardo.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the Report on bids and award of the contract for the 7015 – Park Avenue Multimodal Streetscape Improvements Project – REBID (between Hedding Street and Montgomery Street), Federal Project No. RPSTPLE-5005(130) to Redgwick Construction Company, the low bidder, in the amount of \$3,095,872, with related contingency, was approved and Ordinance No. 29779, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Building and Structure Construction Tax Fund for the Park Avenue Multimodal Improvements; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 Successor Agency Board approve the Purchase and Sale Agreement and Escrow Instructions between the Successor Agency to the Redevelopment Agency of the City of San José, as seller, and the County of Santa Clara, as buyer, to allow the sale of 300 South Almaden Boulevard to the County for the appraised value of \$96,000. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Successor Agency)

Action: Deferred to August 23, 2016 per Orders of the Day.

OPEN FORUM

- (1) Tim Gildersleeve expressed his views about local societal issues.
- (2) Ray Perez commented that sports are good for children and deter them from using drugs.

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon Council Session at 2:39 p.m.

RECESS/RECONVENE

The City Council recessed at 2:39 p.m. from the afternoon Council Session and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - All Present.

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

CEREMONIAL ITEMS

1.1 Presentation of commendation to Blanca Carbajal, East San José community leader, educator and a neighborhood advocate for parents and their students striving to positively impact their community. (Carrasco)

Mayor Sam Liccardo and Council Member Magdalena Carrasco recognized and commended Blanca Carbajal.

1.2 City of San José Youth Commission Ceremony. (City Clerk)

Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Raul Peralez, Council Member Ash Kalra, Council Member Chappie Jones and Council Member Manh Nguyen recognized the Youth Commissioners. City Clerk Toni J. Taber administered the Oath of Office to the Youth Commissioners.

1.4 Presentation of a proclamation for “Muslim American Appreciation Month” in the City of San José. (Kalra)

Mayor Sam Liccardo and Council Member Ash Kalra recognized “Muslim American Appreciation Month” in the City of San José.

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance rezoning a 2.88 gross acre site located on the southerly side of Phelan Avenue, approximately 650 feet westerly of Senter Road (500-506 Phelan Avenue) from the LI Light Industrial Zoning District to the HI Heavy Industrial Zoning District. (Phelan Partners LLC, Owner). Director of Planning, Building and Code Enforcement recommends approval. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)
C16-025 – District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C16-025 dated July 26, 2016. (2) Proof of Publication of Notice of Public Hearing executed on August 1, 2016 and July 27, 2016 submitted by the City Clerk.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Pierluigi Oliverio and carried unanimously, Ordinance No. 29780, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 2.88 Acres Situated on the Southerly Side of Phelan Avenue, Approximately 650 Feet Westerly of Senter Road (500-506 Phelan Avenue) from the LI Light Industrial Zoning District to the HI Heavy Industrial Zoning District”, was passed for publication. (11-0.)

- (b) Consideration of an ordinance rezoning a 10.53 gross acre site located on the northerly side of Story Road, approximately 1,250 feet easterly of South White Road (14271 Story Road) from the A(PD) Planned Development Zoning District to the PQP Public/Quasi-Public Zoning District on. (Foundation for Hispanic Education, Owner). Director of Planning, Building and Code Enforcement recommends approval. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)
C16-026 – District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C16-026 dated July 26, 2016. (2) Proof of Publication of Notice of Public Hearing executed on August 1, 2016 and July 27, 2016 submitted by the City Clerk.

11.1 (b) (Cont'd.)

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Pierluigi Oliverio and carried unanimously, Ordinance No. 29781, entitled: "An Ordinance of the City of San José Rezoning Real Property of Approximately 10.53 Acres Situated on the Northerly Side of Story Road, Approximately 1,250 Feet Easterly of South White Road (14271 Story Road) From the A(PD) Planned Development Zoning District to the PQP Public Quasi Public Zoning District", was passed for publication. (11-0.)

- (c) (1) **Adopt a resolution approving the Our Lady of La Vang Church and Multi-Purpose Building Mitigated Negative Declaration, for which an initial Study was prepared, all in accordance with the California Environmental Quality, as amended, and adopting a related Mitigation Monitoring and Reporting Program.**
- (2) **Consideration of an ordinance rezoning a 2.8-gross acre site located at 389 East Santa Clara Street from the R-M Multiple Residence and CG Commercial General Zoning Districts to PQP Public/Quasi-Public Zoning District to allow church, school, and incidental day care uses (Roman Catholic Bishop of San José, Owner). Director of Planning, Building and Code Enforcement recommends approval.**

CEQA: Our Lady La Vang Church and Multi-Purpose Building Mitigated Negative Declaration (C14-061). (Planning, Building and Code Enforcement) C14-061 – District 3

Documents Filed: (1) Memorandum from Mayor Sam Liccardo and Council Member Raul Peralez, dated August 12, 2016, recommending approval of the resolution and the Staff recommendations. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-061 dated July 25, 2016. (3) Letter submitted by Sal Licursi, dated August 16, 2016, expressing concerns about the project.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Expressing support, objections, concerns pertaining to noise, traffic, buildings too tall, affecting the quality of life and other comments and suggestions were Father Loi Huynh, Our Lady La Vang Church; Sue Pavlik, Jack Licursi, Sr., Trong Vu, Tien Pham, Laura Phan and Sal Licursi.

Mayor Sam Liccardo closed the Public Hearing.

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

Council discussion ensued.

11.1 (c) (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 77907, entitled: "A Resolution of the Council of the City of San José Adopting the Our Lady La Vang Church and Multi-Purpose Building 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", was adopted and Ordinance No. 29782, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 2.8 Gross Acres Situated on the Northeast Corner of North Ninth Street and East Santa Clara Street (389 East Santa Clara Street) From the RM Multiple Residence and CG Commercial General Zoning Districts to the PQP Public Quasi Public Zoning District", was passed for publication. (11-0.)

- (d) (1) **Adopt a resolution approving the Notre Dame High School Planned Development Rezoning Addendum to the Downtown Strategy 2000 Final Program Environmental Impact Report (Resolution No. 77267), and the Envision San Jose 2040 General Plan Final Environmental Impact Report (Resolution No. 77617) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 72767), all in accordance with the California Environmental Quality Act, as amended, and adopting a Revised Mitigation Monitoring and Reporting program.**
- (2) **Consideration of an ordinance rezoning a 3.5-gross acre site, at 596 South Second Street from the CG Commercial General Zoning District and R-M Multiple Residence Zoning District to the DC(PD) Planned Development Zoning District to allow the redevelopment and expansion of an existing private school (Notre Dame High School) with up to four new buildings and other site improvements to accommodate a total of 635 students (Sisters of Notre Dame De Namur California Province, Owner). Planning Commission recommends approval (5-0-0).**

CEQA: Addendum to the Final Program Environmental Impact Report for The Downtown Strategy 2000 (Resolution No. 77267), and The Final Program Environmental Impact Report for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San José 2040 Final Supplemental Environmental Impact Report (Resolution No. 77617).

PDC15-032 – District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC15-032 dated July 15, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated July 25, 2016, transmitting the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing executed on July 1, 2016 submitted by the City Clerk.

11.1 (d) (Cont'd.)

Mayor Sam Liccardo opened the Public Hearing.

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

Action: Upon motion by Council Member Raul Peralez, seconded by Council Member Pierluigi Oliverio and carried unanimously, Resolution No. 77908, entitled: "A Resolution of the Council of the City of San José Adopting the Notre Dame High School Planned Development Rezoning Addendum to the Downtown Strategy 2000 Final Program Environmental Impact Report and the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental and Environmental Impact Report, All in Accordance with California Environmental Quality Act, As Amended, and adopting a Revised Mitigation Monitoring and Reporting Program", was adopted and Ordinance No. 29783, entitled: "An Ordinance of the City of San José Rezoning Real Property of Approximately 3.5 Gross Acres Bounded by South Second Street, East William Street, South Third Street and East Reed Street (596 South Second Street) From the CG Commercial General and RM Multiple Residence Zoning Districts to the DC(PD) Planned Development Zoning District", was passed for publication. (11-0.)

END OF CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 (a) **Consideration of the Determination of Consistency with the Envision 2040 Final Environmental Impact Report, adopted by City Council Resolution 76041 on November 1, 2011; and, the Envision San José 2040 Final Supplemental Environmental Impact Report adopted by City Council Resolution No. 77617 on December 15, 2015.**
- (b) **Conduct an Administrative Hearing on and consider an Appeal of the Planning Commission's approval of Conditional Use Permit File No. CP15-085 to construct a 50-foot tall wireless communication facility (monopole), associated equipment enclosure, and emergency generator in the CN Commercial Neighborhood Zoning District, located at the southeast corner of Bollinger Road and Miller Avenue (6164 Bollinger Road) (Marchese Christopher Trustee & Et Al, Owner).**
- (c) **Adopt a resolution denying an appeal and approving a Conditional Use Permit to construct a 50-foot tall wireless communication facility (monopole), associated equipment enclosure, and emergency generator in the CN Commercial Neighborhood Zoning District, located at the southeast corner of Bollinger Road and Miller Avenue (6164 Bollinger Road) (Marchese Christopher Trustee & Et Al, Owner).**

**11.2 CEQA: Determination of Consistency with the Envision San José 2040 Final Environmental Impact Report, adopted by City Council Resolution No. 76041 on November 1, 2011; and, the Envision San José 2040 Final Supplemental Environmental Impact Report adopted by City Council Resolution No. 77617 on December 15, 2015. (Planning, Building and Code Enforcement)
CP15-085 – District 1
(Deferred from 6/28/16 – Item 11.2)**

Mayor Sam Liccardo stated that there has been a request for a continuance on this item.

Council Member Chappie Jones noted that the community prefers another location for the monopole.

Motion: Council Member Chappie Jones moved approval for Staff to explore other sites with Verizon and return to Council in 30 days. Vice Mayor Rose Herrera seconded the motion.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Expressing concerns about the location of the Cell Tower because of health effects, noise and other issues were Al Milgram, Conrad Minshall, Rebecca Fernandez and Dalia Milgram. Due to the length of the Council Meeting, the following speakers were not present to provide comments: Natalie Eydelnaut, Suresj Velayudhan, Howard Tsal, Sue Doi, Roopa Balasubramanian, Eugene Kiernan, Kai Jing, Paul Riley, Len Giford, Ramesh Calamur, Teresa Wu, Karl Kupa, Rosemary Kupa, Tracy Chen, Venna Bishop, Lidan Jiang, Claire Merritt, Chen Huang, Betsy Tanner, Frank Grusso, Daniel Rader, Tova Taller, Alyona Pakhner, Marina Velednitsky, Alex Paknev, Alex Jen and Rachel Pan.

Chris Duran, Verizon Wireless requested a 60 day extension.

Mayor Sam Liccardo closed the Public Hearing.

Council Member Chappie Jones requested to amend his motion to extend the continuance for 60 days. Vice Mayor Rose Herrera accepted the amendment to the motion.

Action: On a call for the question, the motion carried unanimously, Item 11.2 was continued for sixty days. Staff was requested to work with Verizon to explore other sites and alternatives. (11-0.)

- 11.3 (a) Conduct an Administrative Hearing on and consider an Appeal of the Director of Planning, Building, and Code Enforcement's reliance on the Determination of Consistency with the Santana Row Expansion Project Final Environmental Impact Report (FEIR) adopted by City Council Resolution No. 77532 on September 22, 2015, as the environmental clearance for the Director's approval of Planned Development Permit File No. PD15-066, and consider an appeal of the Director's approval of Planned Development Permit File No. PD15-066 for the construction of a 5½ -story, 258 unit multi-family attached residential building, including above and below-grade parking, and the removal of seven (7) ordinance sized trees on a 2.94 gross acre site located at the northeast corner of Hatton Street and Olsen Drive (Santana Row Lot 12 - 358 Hatton Street).
- (b) Adopt a resolution denying the environmental appeal and upholding the Planning Director's reliance on the Determination of Consistency and finding that:
- (1) The City Council has read and considered the Determination of Consistency with the Santana Row Expansion Project Final Environmental Impact Report.
 - (2) The Determination of Consistency, together with the FEIR, have been prepared and completed in compliance with the California Environmental Quality Act of 1970, together with state and local implementation guidelines.
 - (3) That the Determination of Consistency, together with the FEIR, reflect the independent judgment and analysis of the City of San José.
 - (4) Preparation of a subsequent or supplemental EIR is not required because no new environmental impacts have been identified and no new mitigation measures are required.
 - (5) The Director of Planning shall transmit copies of the FEIR and Determination of Consistency to any other decision-making body of the City of San José for the project.
- (c) Adopt a resolution denying the permit appeal and approving Planned Development Permit File No. PD15-066 for the construction of a 5½ -story, 258 unit multi-family attached residential building, including above and below-grade parking, and the removal of seven (7) ordinance sized trees on a 2.94 gross acre site located at the northeast corner of Hatton Street and Olsen Drive (Santana Row Lot 12 - 358 Hatton Street).

CEQA: Determination of Consistency with the Santana Row Expansion Project Final EIR, adopted by City Council Resolution 77532 on September 22, 2015. (Planning, Building and Code Enforcement)

PD15-066 – District 6

(Deferred from 6/28/16 – Item 11.3)

11.3 (Cont'd.)

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated July 25, 2016, transmitting the recommendation of the Planning Commission and the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD15-066 dated May 18, 2016. (2) Proof of Publication of Notice of Public Hearing executed on June 10, 2016 submitted by the City Clerk. (3) Letter from Nicholas T. Niiro, Rogers Joseph O'Donnell, dated August 16, 2-016, regarding the Appeals of Planning Director's Approval of the Project. (4) Letter from Brian Darby, dated August 14, 2016, expressing concerns about the Environmental Impact Report.

Director of Planning, Building and Code Enforcement Harry Freitas presented introductory remarks. Division Manager Jason Rogers provided a brief Staff Report. Public Works Division Manager Michael Liw was present.

Allan Berger, Villas at Santana Row Homeowners Association, Appellant, spoke to the permit issues.

Seth Bland, Federal Realty and Chris Haglan, VAR Architects provided information about the project, plan and changes.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Expressing comments in support, concerns and suggestions were Kathy Cheng, Tony Clark, Nicholas Niiro, Villas at Santa Park Homeowners Association; Brian Darby, Marius Frohlichman, William Zahrt, Tim Toal, Justin Brownder, Marcie Soderquist, Shaunn Cartwright, Louis Helmonds, James Yuan and Craig Bradley.

Mayor Sam Liccardo closed the Public Hearing.

City Attorney Richard Doyle, Director of Planning, Building and Code Enforcement Harry Freitas, Division Manager Jason Rogers and Division Manager of Public Works Michael Liw responded to Council questions and concerns.

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

Mayor Sam Liccardo requested to amend the motion to direct Staff to explore with the Architect and the Developer to find ways of improving aesthetic treatment of the streetscape/pedestrian experience on Hatton Street. The amendment to the motion was accepted by Council Member Pierluigi Oliverio and Vice Mayor Rose Herrera.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77910, entitled: "A Resolution of the Council of the City of San José Denying an Environmental Appeal Upholding the Director of Planning, Building and Code Enforcement's Reliance On The Determination of Consistency With the Previously Certified Santana Row Expansion Project Final Environmental Impact Report as the Environmental Clearance for

11.3 (Cont'd.)

Approval of Planned Development Permit No. PD15-066” and Resolution No. 77911, entitled: “A Resolution of the Council of the City of San José Denying a Permit Appeal and Approving a Planned Development Permit To Allow the Construction of Five and Half Story, 258 Unit Multi-Family Attached Residential Building, Including Above Grade and Below Grade Parking and the Removal of Seven (7) Ordinance Size Trees On An Approximately 2.94 Gross Acre Site, Located On The Northeast Corner of Hatton Street and Olsen Drive (358 Hatton Street)”, were adopted. Staff was requested to explore with the Architect and the Developer to find ways of improving aesthetic treatment of the streetscape/pedestrian experience on Hatton Street. (11-0.)

OPEN FORUM

- (1) Brian Darby pointed out that if mobilehome parks are eliminated he will not have a home.
- (2) Blair Beekman reiterated his views about openness and transparency.
- (3) Jonathan Fleming expressed opposition for the overconcentration of homeless housing in District 7.
- (4) Patricia Ramos Anderson, Communities Working Together, requested that Council address the overconcentration of low income and homeless housing within the City of San José.

ADJOURNMENT

The Council of the City of San José was adjourned at 1:04 a.m. in memory of Community Leader and Advocate Librado “Lenny” Chavez, Jr., activist for workers’ civil rights.

Services will be held on Tuesday, August 23, 2016, 10:00 a.m. at Our Lady of Guadalupe Church, 2020 E. San Antonio Street, San José; Followed by a procession to Oak Hill Memorial Park, 300 Curtner Avenue, San José.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/08-16-16 MIN

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