



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 20, 2016

The Council of the City of San José convened in Regular Session at 9:05 a.m. in the Council Chamber at City Hall.

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

Absent: Council Members - Khamis. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:11 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) Public Employment/Public Employee Evaluation Pursuant to Government Code Section 54957: Title: City Clerk. Name: Toni J. Taber. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (2) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (3) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof.

CLOSED SESSION (Cont'd.)

(4) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (5) ABMEI v. City, et al. Names of Parties Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No: UPC SF 1358 M; Amount of Money or Other Relief Sought: Damages according to proof. (6) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (7) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (8) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (12) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court. Names of Parties Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers'

CLOSED SESSION (Cont'd.)

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. (13) San José Retired Employees Association, et al V. City of San José, et al. Names of Parties Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-2680085; Amount of Money or Other Relief Sought: Change to City Medical Plan. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of 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; (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

CLOSED SESSION (Cont'd.)

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 11:02 a.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chamber.

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

Absent: Council Members - Khamis. (Excused)

INVOCATION

Rabbi Dana Magat, Temple Emanu-El offered the Invocation. (District 8)

PLEDGE OF ALLEGIANCE

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

ORDERS OF THE DAY

Heard after Ceremonial Items.

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Raul Peralez and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Item 11.1(b) was deferred to October 18, 2016. (10-0-1. Absent: Khamis.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the members of the City of San José El Niño Preparedness Team and the Sanitary Sewer Maintenance Team in recognition of their efforts to protect the people and the environment of the community. (City Manager)

Mayor Sam Liccardo and City Manager Norberto Dueñas recognized and commended the members of the City of San José El Niño Preparedness Team and the Sanitary Sewer Maintenance Team for their efforts.

1.5 Presentation of a commendation recognizing the District 8 Faith Leaders who have been involved with the District 8 Interfaith Leaders' Appreciation event. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended the District 8 Faith Leaders.

1.6 Presentation of a proclamation recognizing, September 23, 2016, as a Native American Day in the City of San José. (Herrera)

Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco, Council Member Ash Kalra and Council Member Raul Peralez recognized September 23, 2106 as "Native American Day" in San José.

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

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 August 31, 2016. (Mayor) CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: The Rules and Open Government Committee Minutes dated August 31, 2016.

Action: The Rules and Open Government Committee Minutes were approved. (10-0-1. Absent: Khamis.)

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 be effective December 1, 2016 to:

- (a) **Set forth the new Schedule of Parkland Fees charged pursuant to the San José Municipal Code Chapters 14.25 (Park Impact Ordinance) and 19.38 (Parkland Dedication Ordinance).**
- (b) **Authorize the City Manager to determine the applicable parkland fees for any residential units in the City of San José that are not included in the Schedule of Parkland Fees based on the nearest Multiple Listing Service districts.**

CEQA: Not a Project, File No. PP10-067(a), Non-Project Specific Funding Mechanism, Adjustments to fees, rates, and charges. (Economic Development/Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Deputy City Manager/Director of Economic Development Kim Wales, dated August 29, 2016, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Deputy City Manager/Director of Economic Development Kim Wales, dated September 14, 2016, transmitting the recommendations of the Parks and Recreation Commission.

Action: Resolution No. 77926, entitled: "A Resolution of the Council of the City of San José Setting Forth the Schedule of Parkland Fees Charged Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code to Reflect the 2012 Residential Land Value Study Trended to 2015 and the Updated 2010 Census Data and Authorizing the City Manager to Determine the Applicable Parkland Fees For Any Residential Units in the City of San José That Are Not Included in the Schedule of Parkland Fees Based on the Nearest Multiple Listing Service Districts", were adopted. (10-0-1. Absent: Khamis.)

2.8 Report on bids and award of contract for the 8228 - Edenvale Reservoir Rehabilitation Project to the low bidder, West Coast Industrial Coatings, Inc., in the amount of \$946,158 and approve a ten percent contingency in the amount of \$94,616. CEQA: Exempt, File No. PP16-049. Council District 2. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated August 29, 2016, recommending approval of the award of bids and award of the contract to the low bidder, with related contingency.

Action: The report on bids and award of contract for the 8228 - Edenvale Reservoir Rehabilitation Project to the low bidder, West Coast Industrial Coatings, Inc., in the amount of \$946,158, with related contingency, were approved. (10-0-1. Absent: Khamis.)

- 2.9 Approve a Master Consultant Agreement with Williams, Adley & Company-CA, LLP to provide audit services for the Capital Improvement Program at the San José-Santa Clara Regional Wastewater Facility from the date of execution through December 31, 2021, in a total amount not to exceed \$1,000,000, subject to the appropriation of funds. CEQA: Exempt, File No. PP10-066(d), Agreements and Contracts, Consultant Services, CEQA Guidelines Section 15262 Feasibility and Planning Studies. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated August 29, 2016, recommending approval of a Master Consultant Agreement. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated September 14, 2016, expressing concurrence with the Staff recommendations.

Action: A Master Consultant Agreement with Williams, Adley & Company-CA, LLP to provide audit services for the Capital Improvement Program at the San José-Santa Clara Regional Wastewater Facility from the date of execution through December 31, 2021, in a total amount not to exceed \$1,000,000, subject to the appropriation of funds was approved. (10-0-1. Absent: Khamis.)

- 2.10 Approve a Contract Change Order for a credit to the City in the amount of \$718,100 and extend the construction completion date from January 11, 2017 to February 22, 2017 for the 7394 – Emergency Diesel Generator Package 2A Project. CEQA: Mitigated Negative Declaration, File No. PP13-049 and Addenda File No. PP14-076. (Environmental Services/Public Works)**

Documents Filed: (1) City Council Action Request from Assistant Director of Environmental Services Ashwini Kantak and Director of Public Works Barry Ng, dated August 29, 2016, recommending approval of a Contract Change Order. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated September 14, 2016, expressing concurrence with the Staff recommendations.

Action: A Contract Change Order for a credit to the City in the amount of \$718,100 and extend the construction completion date from January 11, 2017 to February 22, 2017 for the 7394 – Emergency Diesel Generator Package 2A Project, was approved. (10-0-1. Absent: Khamis.)

- 2.11 Adopt a resolution authorizing the City Manager to execute:**
- (a) A First Amendment to a Grant Agreement with the County of Santa Clara to increase funding by \$976,000, continue the term for an additional fiscal year, and amend the scope of services to support ongoing operations of the Care Coordination Program (CCP), including \$51,000 to provide UPLIFT Transit Passes, for a total grant award not to exceed \$2,016,000; and**
 - (b) A Grant Agreement with the County of Santa Clara to support operations of the Homeless Management Information System (HMIS) and to provide related training in an amount not to exceed \$120,000.**

CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts for services that involve no physical changes to the environment. (Housing)

2.11 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated September 20, 2016, recommending direction to the City Manager as described in “Action” below. (2) Memorandum from Director of Housing Jacky Morales-Ferrand, dated August 31, 2016, recommending adoption of a resolution.

Homelessness Response Manager Ray Bramson responded to questions from Mayor Sam Liccardo.

Motion: Vice Mayor Rose Herrera moved approval of Staff recommendations and the memorandum from Mayor Sam Liccardo, dated September 20, 2016, as described in “Action”. Council Member Donald Rocha seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Blair Beekman expressed comments related to the Care Coordination Program.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, dated September 20, 2016, was approved, accepting the Staff Report. The City Manager was directed to work with the County to: (1) Share appropriate HMIS data for the City of San José on the City’s Open Data Portal. (2) Under the First Amendment to the Grant Agreement with the County of Santa Clara for the Care Coordination Program, explore the expansion of the Central County Community Reintegration Project, otherwise known as “Opportunity Court” for chronically homeless individuals for implementation in January of 2017. Resolution No. 77927, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Two Grant Agreements with the County of Santa Clara to Support Case Management, Transportation and Information Services for Chronically Homeless Individuals in San José”, was adopted. (10-0-1. Absent: Khamis.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas announced that Valle Calle San José opened on Sunday, September 18, 2016 with more than 100,000 people participating in the event. City Manager Dueñas pointed out that it was an outstanding effort by City Staff to plan and manage.

Mayor Sam Liccardo concurred and thanked City Staff for their tremendous work.

3.3 Accept the Status of Open Audit Recommendations as of June 2016. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments, and Annual Reports that involve no approvals of any City Actions. (City Auditor)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated September 19, 2016, recommending acceptance of the Status of Open Audit Recommendations as of June 2016, with direction to Staff as described in “Action” below. (2) The Status of Open Audit Recommendations as of June 2016 from the Office of the City Auditor dated September 2016.

City Auditor Sharon W. Erickson presented the report.

Mayor Sam Liccardo amended his memorandum dated September 19, 2016, to incorporate direction to the City Manager to work in collaboration with the City Auditor.

Motion: Vice Mayor Rose Herrera moved approval of the amended memorandum from Mayor Sam Liccardo, dated September 19, 2016, described in “Action”. Council Member Chappie Jones seconded the motion.

Brief discussion ensued.

Action: On a call for the question, the motion carried unanimously, the amended memorandum from Mayor Sam Liccardo, dated September 19, 2016, was approved: (1) Accept the Status of Open Auditor Recommendations by the City Auditor as of June 2016. (2) Direct the City Auditor to return to City Council by November 15, 2016, with an analysis and update of the City Clerk’s Work Plan to implement recommendations outlined in the “Office of the City Clerk: Streamlining Processes and Clarifying Roles Can Better Ensure Compliance with Statutory Responsibilities” Audit. That update should review the September 14, 2016 supplemental memorandum from the City Clerk as part of that report. (3) Direct the City Manager *to work in collaboration with the City Auditor* and to return to City Council before the end of the calendar year with recommendations to: (a) Drop and/or close specific recommendations no larger active or relevant, given the passage of time. (b) Identify a category of pending recommendations which remain outstanding due to the need to resolve through meet and confer procedures with City Labor Representatives or due to regulatory or legal obstacles beyond the immediate control of City Staff. (c) Develop a list of twenty five (25) highest priority recommendations that do not have target dates in FY 2016-2017 upon which City Staff should focus during the remainder of the Fiscal Year 2016-2017, focusing on recommendations that: (1) Provide the largest impact on improving services to residents and businesses. (2) Provide the greatest cost savings, particularly to the General Fund. (3) Reduce work load or otherwise provide operational efficiencies in the provision of services. (4) Constitute a critical path toward implementation of other recommendations, e.g. filling Staff vacancies (Audit of Employee Hiring 2015). (5) Increasing employee morale. (6) Reducing risk to the City. (10-0-1. Absent: Khamis.)

- 3.4 Adopt a resolution authorizing the Director of Finance to:**
- (a) Select and purchase certain City property and liability insurance policies for the period October 1, 2016 to October 1, 2017, at a total cost not to exceed \$1,750,000, with the following insurance carriers:**
 - (1) American Home Assurance Company for Property & Casualty Insurance, including Boiler & Machinery.**
 - (2) Old Republic Aerospace, Phoenix Aviation Managers, for Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (Primary and Excess) and Police Aircraft Hull & Liability including War Risks & Extended Perils.**
 - (3) The Travelers Indemnity Company of CT for Automobile Liability, or other insurance carriers that the City is currently in negotiations with, (Airport fleet vehicles including Shuttle Buses, Regional Wastewater Facility fleet vehicles, and Airport Shuttle Bus physical damage).**
 - (4) QBE Specialty Insurance Company for Secondary Employment Law Enforcement Professional Liability.**
 - (5) National Union Fire Insurance Company of Pittsburg, PA for Life/Accidental Death and Dismemberment Policy for the Police Air Support Unit.**
 - (b) Select and purchase Government Fidelity/Crime Coverage for the period December 18, 2016 to December 18, 2017, at a cost not to exceed \$26,000.**

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Purchase of Insurance. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Julia Cooper, dated August 29, 2016, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated September 14, 2016, expressing concurrence with the Staff recommendations.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Donald Rocha and carried unanimously, Resolution No. 77928, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Select and Purchase Property and Liability Insurance Policies for the Period October 1, 2016 to October 1, 2017 At A Cost Not To Exceed \$1,750,000 and To Select and Purchase Government Fidelity/ Crime Coverage for the Period December 18, 2016 to December 18, 2017 At A Cost Not To Exceed \$26,000", was adopted. (10-0-1. Absent: Khamis.)

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

- (a) Negotiate and execute an Agreement with Alliant Risk Insurance Services, Inc. to provide broker, claims, and administrative services to establish and maintain a multiline, rolling Owner Controlled Insurance Program for capital improvements at the San José-Santa Clara Regional Wastewater Facility for the term September 20, 2016 through September 19, 2021, with a maximum compensation amount of \$1,025,000 for the initial five year term, not to exceed \$245,000 per year.**

- 3.5 (b) Exercise up to two five-year options to extend the term of the Agreement after the initial term through September 2031, subject to the appropriation of funds, with maximum compensation not to exceed \$245,000 per year. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance/ Environmental Services)**

Documents Filed: (1) Memorandum from Director of Finance Julia Cooper and Director of Environmental Services Kerrie Romanow, dated August 29, 2016, recommending acceptance of the report on the Request for Proposal and adoption of a resolution. (2) Staff presentation dated September 20, 2016 summarizing the Recommendations for Broker, Claims and Administrative Services for an Owner Controlled Insurance Program. (3) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated September 14, 2016, expressing concurrence with the Staff recommendations.

Director of Finance Julia Cooper provided introductory comments. Risk Manager Stephanie Williams presented the report. Deputy Director of Finance Mark Giovanetti was present.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Mike Davidson, Alliant Insurance; Janice Lottini and Matt Davis, Aon Insurance.

Mayor Sam Liccardo expressed concerns about the bidding process being fair and was inclined to reject all bids as there were two bidders and one did not prevail because of local preference.

Council Member Chappie Jones voiced objection to the Staff recommendations and noted that San José is open to support local preference.

Motion: Council Member Chappie Jones moved approval to reject all bids. Vice Mayor Rose Herrera seconded the motion.

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the Council Rejected All Bids and Staff was Authorized to Re-Bid the Project. (10-0-1. Absent: Khamis.)

- 3.6 Approve an ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to amend Section 12.06.810 and to add a new Part 11 related to the Legal Defense Fund. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making Municipal Code or Policy. (City Attorney)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated September 19, 2016, recommending (1) defer action to September 27, 2016, allowing this item to be heard in tandem with recommendation (2) as described below in "Action".

3.6 (Cont'd.)

City Attorney Richard Doyle provided background information on the actions related to the Legal Defense Fund and responded to Council questions and concerns.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum from Mayor Sam Liccardo, dated September 19, 2016, as described in "Action" below. Council Member Donald Rocha seconded the motion.

Council Member Raul Peralez requested to amend the motion to direct the City Attorney to make contributions of \$1,100 equal to all. The amendment was accepted by Vice Mayor Rose Herrera and Council Member Donald Rocha.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, dated September 19, 2016, was approved: (1) Defer action to September 27, 2016, allowing this item to be heard in tandem with Recommendation #2 below. (2) Direct the City Attorney to draft an ordinance amending the San José Municipal Code to allow Council Members or candidates to raise funds and pay expenses solely for legal or administrative costs relating to the outcome of an election – initiating litigation, defending against litigation, funding a recount and paying for election observers. The funds must not be used for traditional campaign expenses but solely, post-election day activities relating directly to election disputes. The City Attorney was further directed to make contributions of \$1,100 equal to all. (10-0-1. Absent: Khamis.)

3.7 Adopt a resolution authorizing the City Manager to:

- (a) **Execute an agreement with SmartWAVE Technologies LLC (Suwanee, GA) for the purchase and installation of a WiFi Network Deployment for one East Side Union High School District attendance area, including hardware/materials/equipment, software, related professional services, maintenance and support, and applicable sales taxes, for an initial five-year term commencing on or about September 20, 2016, and ending on or about December 31, 2021, with an estimated maximum compensation not-to-exceed \$1,535,600;**
- (b) **Approve a contingency of \$120,000 for any unanticipated expenses incurred during system development and deployment; and**
- (c) **Execute five additional one-year options to extend the term of the Agreement after the initial five-year term, to provide ongoing maintenance and support, subject to the appropriation of funds.**

CEQA: Exempt, Section 15303 New Construction or Conversion of Small Structure, File No. PP16-085. (Finance/City Manager)

Documents Filed: (1) Memorandum from Director of Finance Julia Cooper and Deputy City Manager Julie Edmonds-Mares, dated September 13, 2016, recommending adoption of a resolution. (2) Staff presentation dated September 20, 2016 summarizing the City of San José and East Side Union High School District WiFi Partnership.

Deputy City Manager Julie Edmonds-Mares presented the report on the City of San José and East Side Union High School District WiFi Partnership.

3.7 (Cont'd.)

Deputy City Manager Julie Edmonds-Mares and Randy Phelps, East Side Union High School District responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Chris Stanton expressed opposition to the Staff recommendations.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Magdalena Carrasco and carried unanimously, Resolution No. 77929, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Smartwave Technologies LLC for the Purchase and Installation of a WiFi Network Deployment for One East Side Union High School District Attendance Area For An Initial Five Year Term Commencing On or About September 20, 2016 and Ending On or About December 31, 2021 With An Estimated Maximum Compensation Not To Exceed \$1,535,600; Approve a Contingency of \$120,000 For Any Unanticipated Expenses Incurred During System Development and Execute Five Additional One Year Options to Extend the Term of Agreement After the Initial Five Year Term, To Provide Ongoing Maintenance and Support, Subject to the Appropriation of Funds", was adopted. (10-0-1. Absent: Khamis.)

NEIGHBORHOOD SERVICES

5.1 **Approve the Master Plan for Phase 1 development of a new park located on South 31st Street. CEQA: Exempt, File No. PP16-073. Council District 5. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated August 22, 2016, recommending approval of the Master Plan.

Action: Item 5.1 was dropped.

- 5.2 (a) **Adopt a resolution approving the Mitigated Negative Declaration for the Del Monte Phase II Master Plan (File No. PP16-023) for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation and Monitoring and Reporting Program.**
- (b) **Approve the Del Monte Park Phase II Master Plan regarding a 3.99-acre expansion project to Del Monte Park on Auzerais Avenue, adjacent to Los Gatos Creek (APN 264-11-107 & 108).**

CEQA: Mitigated Negative Declaration (MND) entitled, "Del Monte Park – Phase II", File No. PP16-023. Council District 6. (Parks, Recreation and Neighborhood Service/Planning, Building and Code Enforcement)

5.2 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Director of Planning, Building and Code Enforcement Harry Freitas, dated August 29, 2016, recommending adoption of a resolution and approval of the Master Plan. (2) Staff presentation dated September 20, 2016 summarizing Del Monte Park Phase II.

Assistant Director of Parks, Recreation and Neighborhood Services Matt Cano presented the Staff Report on Del Monte Park Phase II and responded to Council questions and concerns.

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

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to the Staff recommendations were Colin McCartney, Almaden Valley Youth Soccer League; Jason Perez, PAL Soccer San José; Michael Achkar and Chris Stanton.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77930, entitled: “A Resolution of the Council of the City of San José Adopting the Del Monte Park – Phase II 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 the Del Monte Park Phase II Master Plan regarding a 3.99-acre expansion project to Del Monte Park on Auzerais Avenue, adjacent to Los Gatos Creek was approved. (10-0-1. Absent: Khamis.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Approve a Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. to provide engineering services for the 7760 - Facility Wide Water Systems Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2023, in a total amount not to exceed \$2,100,000, subject to the appropriation of funds. CEQA: Exempt, File No. PP10-066(d), Section 15262, Feasibility and Planning Studies with respect to the alternatives analysis and design work under the master agreement. (Environmental Services/Public Works)**

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow and Assistant Director of Public Works Jon Cicirelli, dated August 29, 2016, recommending approval of the master agreement. (2) Letter from the Treatment Plant Advisory Committee, Sam Liccardo, Chair, dated September 14, 2016, expressing concurrence with the Staff recommendations.

7.1 (Cont'd.)

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Donald Rocha and carried unanimously, the Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. to provide engineering services for the 7760 - Facility Wide Water Systems Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2023, in a total amount not to exceed \$2,100,000, subject to the appropriation of funds, was approved. (10-0-1. Absent: Khamis.)

OPEN FORUM

- (1) James McDonald expressed his own points about societal issues.
- (2) Christopher Stanton, California Native Garden Foundation, expressed his support for the Santana Row West Development Project.

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon session at 4:20 p.m.

RECESS/RECONVENE

The City Council recessed at 4:20 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Khamis. (Excused)

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 Tam Nguyen and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Khamis)

CEREMONIAL ITEMS

1.2 Presentation of a proclamation declaring the month of September 2016 as “Hispanic Heritage Month” in the City of San José. (Carrasco)

Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco, Council Member Ash Kalra, Council Member Chappie Jones, Council Member Tam Nguyen and Council Member Manh Nguyen recognized the month of September as “Hispanic Heritage Month” in San José.

1.3 Presentation of a commendation to Jeremy Jones, past president of the Tuscany Hills Home Owners Association, for his leadership and dedication to improving the District 7 community in San José. (T. Nguyen)

Mayor Sam Liccardo and Council Member Tam Nguyen recognized and commended Jeremy Jones for his leadership and dedication.

1.4 Presentation of a commendation to David, Taylor, and Mackenzie Thomas, and Andreas Zimmermann for their artistic restoration of the Hester School tunnel. (Oliverio)

Mayor Sam Liccardo and Council Member Pierluigi Oliverio recognized and commended David, Taylor, and Mackenzie Thomas, and Andreas Zimmermann for their restoration of the Hester School Tunnel.

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) **Consideration of an ordinance rezoning an approximately 5.0-gross acre site, located on the northeast side of San Felipe Road at the northeastern terminus of Silver Creek Road (7010 San Felipe Road) from the A Agricultural District to the R-1-1 Single-Family Residence Zoning District (Villa Developers & Investments, LLC, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report (Resolution No. 77617). Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)**
C16-023 – Council District 8

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C16-023 dated August 29, 2016. (2) Proof of Publication of Notice of Public Hearing executed on August 26, 2016 submitted by the City Clerk. (3) Four letters from the public all dated September 20, 2016 expressing comments pertaining to the project located on the northeast side of San Felipe Road.

Public Comments: Mayor Sam Liccardo opened the Public Hearing.

Henry Cord, Cord Associates, representing the Owner, responded to questions and concerns from Vice Mayor Rose Herrera.

Mayor Sam Liccardo closed the Public Hearing.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Donald Rocha and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29788, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 5 Acres, Situated on the Northeast Side of San Felipe Road at the Northeastern Terminus of Silver Creek Road (7010 San Felipe Road) From the A Agricultural Zoning District to the R-1-1 Single Family Residence Zoning District”, was passed for publication. (10-0-1. Absent: Khamis.)

- (b) **Consideration of an ordinance to approve the First Amendment to the Development Agreement between Jackson Taylor Partners, LLC, et al. and the City of San José to vest previously approved Planned Development Zoning (File No. PDC15-018) and Planned Development Permit (File No. PD15-055) for the subject property located at 696 North 6th Street (City of San José, Owner). The First Amendment to the Development Agreement would vest the Zoning District designation of R-M(PD) Planned Development and the development standards set forth in the rezoning and also authorize the construction of 520 residential units and 19,191 square feet of commercial**

- 11.1 (b) space as further set forth in the Planned Development Permit. CEQA: Determination of Consistency with the Japantown Corporation Yard Redevelopment Project Environmental Impact Report, adopted by City Council Resolution No. 74384, and addendum thereto. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement) DA16-001 – Council District 3

Renumbered from Item 11.4.

Action: Deferred to October 18, 2016 per Orders of the Day.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR.

- 11.2 (a) Adopt a resolution certifying the Santana West Development Project and I-280 Winchester Boulevard Transportation Development Policy Environmental Impact Report, making certain findings concerning significant impacts, mitigation measures, and alternatives, and adopting a statement of overriding consideration and mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act of 1970.
- (b) Interstate 280/Winchester Boulevard Transportation Policy:
- (1) Adopt a resolution approving the Interstate 280/Winchester Boulevard Transportation Development Policy and accepting the related Nexus Study for the Interstate 280/Winchester Boulevard Transportation Development Policy to create a traffic impact fee program to assist in funding future modifications to the I-280/Winchester Boulevard interchange.
 - (2) Consideration of an ordinance to approve a new Traffic Impact Fee associated with implementation of the Interstate 280/Winchester Boulevard Transportation Development Policy.
- (c) Consideration of an ordinance rezoning the real property located northwesterly corner of Olsen Drive and Winchester Boulevard (3161, 3162, 6164 Olsen Drive and 449 South Winchester Boulevard) from the CG Commercial General Zoning District to the CP(PD) Planned Development Zoning District to allow up to approximately 1 million square feet of office and commercial/retail, including mini-storage, outdoor theater, and television/radio station uses on an approximately 12.99 gross acre site (Winchester Investment LLC, Owner).

CEQA: Environmental Impact Report for the Santana West Development Project and I-280-Winchester Transportation Development Policy. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement/Transportation)

PDC14-068 – District 1

11.2 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Pierluigi Oliverio and Council Member Magdalena Carrasco, dated September 16, 2016, recommending approval of the Staff recommendations with modifications. (2) Memorandum from Council Member Donald Rocha, dated September 20, 2016, recommending approval of the Staff recommendations with clarifications and amendments. (3) Memorandum from Director of Transportation James Ortbal and Director of Planning, Building and Code Enforcement Harry Freitas, dated September 9, 2016, recommending adoption of a resolution and approval of an ordinance. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated September 15, 2016, providing an update on the Planning Commission Public Hearing held on September 14, 2016. (5) Proof of Publication of Notice of Public Hearing executed on June 10, 2016 submitted by the City Clerk. (6) Staff presentation dated September 20, 2016 describing various land uses around the United States and other countries. (6) Letter from Jackson Tidus, A Law Corporation, expressing comments pertaining to the Santa West Development Project's Environmental Impact Report. (7) Letter from Jill Buchannan, dated September 19, 2016, concerning the Santana West Project and the Century 21 Theatre.

Director of Planning, Building and Code Enforcement Harry Freitas, Division Manager Michael Liw and Director of Transportation James Ortbal presented the Staff Report.

Mayor Sam Liccardo opened the Public Hearing.

Seth Bland, Vice President of Development, Federal Realty, representing the Applicant, described the merits of the project.

Public Comments: The following speakers expressed comments in support or against the project, expressed concerns about the Environmental Impact Report, the 40 foot setback, noise, visual impacts, increased traffic and height of the buildings casting shadows; concerns about Century 21 Theatre and the Flames Restaurant; requests for a park or playground and other suggestions and comments. Kent Greathouse, Amy Higuera, Thomas Law Group; Jesse Skeen, Matthew Sutton, Save the Domes; Daphna Woolfe, Linda Scanlan, Charlotte Monte, Diane Rubino, Bryan Lee, Linda Montgomery, Stan Soles, Winchester Orchard Neighborhood Action; Brian Grayson, Sharon McCauley and Gayle Frank, Preservation Action Council; Judith Hage, Chris Giangreco, Mark Berthiaum, Lisa Berthiaum and Julie Engelbrecht.

Mayor Sam Liccardo closed the Public Hearing.

Extensive Council discussion ensued.

Motion: Council Member Chappie Jones moved approval of the memorandum he cosigned with Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Pierluigi Oliverio and Council Member Magdalena Carrasco, dated September 16, 2016 and Item (3) from the memorandum from Council Member Donald Rocha, dated September 20, 2016. Vice Mayor Rose Herrera seconded the motion.

11.2 (Cont'd.)

Mayor Sam Liccardo read the Statement of Overriding Conditions into the record and the motion. The amendment was accepted by Council Member Chappie Jones and Vice Mayor Rose Herrera.

Mayor Sam Liccardo requested to amend the motion, per the request by Mr. Seth Bland, Federal Realty, to provide the flexibility as adjusted in Item (4) indicated below in "Action". The amendment was accepted by Council Member Chappie Jones and Vice Mayor Rose Herrera.

Action: On a call for the question, the motion carried, the amended memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Pierluigi Oliverio and Council Member Magdalena Carrasco, dated September 16, 2016, was approved, approving the recommendations outlined in the Staff Report including certifying the Santa West Development Project and I280 Winchester Boulevard Development Policy Environmental Impact Report, approving the I-280 Winchester Boulevard Transportation Policy and an Ordinance rezoning the property at 3161 Olsen Drive, with the following modifications to: (1) Accept a contribution of \$1.0 Million from the developer to the VTA Voluntary Contribution Program for regional transportation improvements for impacts to 21 freeway segments, in addition to requiring the developer to other conditions of approval including: (a) Constructing off-setting improvements in conformance with Council Policy 5-3, Protected Intersections at an estimated cost of \$1.7 Million. (b) Conforming to the Transportation Development Policy for PM peak hour trips added to the new off-ramp as a result of the proposed project, estimated at \$1.0 Million. (c) Constructing traffic control devices along Spar, Maplewood and Olin Avenues to address project traffic generated within neighborhood streets, at a value estimated at \$500,000. (d) Modifying the traffic signals at both Olin Avenue and Olsen Drive along Winchester Boulevard to accommodate projected traffic to include construction of additional left turn storage and traffic signal modifications at a cost estimated at \$500,000. (e) Contributing a fair share toward cumulative impacts along San Tomas Expressway estimated at \$400,000 during the Planned Development Permit stage of the entitlement process. (2) Require a Transportation Demand Management (TDM) Program to implement measures such as commuter shuttle service, bike lockers, bike share, car share/van share parking areas, subsidized Eco passes, a dedicated transit center, etc. In addition, a vehicle trip reduction target and third party monitoring of the TDM Program are highly encouraged. (3) Seek a voluntary Development Agreement that will allow developer contributions under the Transportation Development Policy to be reallocated to other congestion relief projects within a very clearly defined geographic area within the same Winchester-Stevens Creek Corridors through a public vote of the Council. (4) Maintain road access and points of connection as currently provided by Olsen Drive between Winchester Boulevard and Winchester Ranch Mobile Home Park Community *with allowance for potential adjustments* to the actual roadway geometry, provided that the adjustments to not reduce the current vehicle capacity. (5) Pursue in collaboration with the residents of the Winchester Orchard Neighborhood Association, any available opportunities to reduce speeding and to divert cut through traffic through development

11.2 (Action Cont'd.)

funded traffic controls and other measures along Maplewood, Hanson and Spar Avenues and Olin Drive. (6) Include a development standard requiring a 40 foot setback from the single family residences to the west, with a maximum height at the setback line of 40 feet. In addition, building facades adjacent to the western property line, if parking, shall be solid, so as to mitigate potential visual and acoustic effects of vehicles and in all instances incorporate living walls and/or green screens to the extent reasonably possible. Furthermore, the trees along the western property must be maintained where possible and new trees installed, where appropriate, to provide additional screening for neighbors. (7) Require the developer to implement best management practices to mitigate possible harmful impacts to nearby neighborhoods during construction. (8) Ensure that loading docks and mechanical equipment associated with the project are designed and eventually located a reasonable distance away from existing neighborhoods and that the City Standard of 55 dBA DNL is achieved for noise levels associated with the project. (9) Return to Council with analysis of the potential adaptive reuse of the Century 21 landmark for a community-enhancing amenity beyond mere mini-storage use, such as a public plaza, open air amphitheater, park or other recreational use. *Direct the administration when the applicant has a viable project for Century 21, return to Council for approval of proposed use and obtain Historic Permit, Planned Development Permit or Planned Development Amendment, whichever is applicable at the time. Direct Staff to work with the developer to accommodate mitigations along the western line bordering on Maplewood and incorporate that in the first Planned Development Permit Process.* (10) *Adopt overriding statement of adoptive reuse for Century 21 as follows: The Statement of Overriding Considerations was read into the record by Mayor Sam Liccardo: "That the City Council would find that any of several overriding considerations constitute a separate and independent ground for finding benefits of the project outweigh significant adverse environmental impacts in as an overriding consideration warranting approval of the project, including, an opportunity to provide open space to the community, to provide a recreational community gathering amenity, the opportunity to provide an economic benefit to the City and to the community and opportunity to attract a financially viable adaptive reuse that serves the broader community."* Item (3) from the memorandum from Council Member Donald Rocha, dated September 20, 2016, was approved: Given that there could potentially be an overlap between the Transportation Impact Policy that is before Council today and the Urban Village Financing Plans that are currently under development for the same area, Staff was directed to agendize an item for the Transportation and Environment Committee for the purpose of updating the Committee on Staff's efforts to fund transportation improvements through Urban Village Financing Plans and on the status of the Urban Village Planning process in general. Resolution No. 77931 and Resolution No. 77932, entitled: "A Resolution of the Council of the City of San José Adopting the Interstate 280/Winchester Boulevard Transportation Development Policy to Address the Traffic Impacts of Projected Development and Establishment a Traffic Impact Fee Program to Partially Fund Modification of the Interstate 280/Winchester Boulevard Partial Interchange To Construct a New Northbound Off-Ramp", were adopted; Ordinance No. 29789, entitled: "An Ordinance of the City of San José Adding Chapter 14.34 to Title 14 of the San José Municipal Code Adopting a Traffic Impact Fee on New Development Within the Interstate

11.2 (Cont'd.)

280/Winchester Boulevard Transportation Development Policy Area and Ordinance No. 29790, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 12.99 Gross Acres Situated on the Northwesterly Corner of Olsen Drive and Winchester Boulevard (3161, 6162, 6164 Olsen Drive and 449 South Winchester Boulevard) From the CG Commercial General Zoning District to the CP(PD) Planned Development Zoning District", were passed for publication. (8-2-1. Noes: Kalra, Rocha. Absent: Khamis.)

- 11.3 (a) **Adopt a resolution approving the North 11th Street and East Santa Clara Street Student Housing 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.**
- (b) **Consideration of an ordinance rezoning the real property located on an approximately 0.627 gross acre site, at the northeasterly corner of E. Santa Clara Street and N. 11th Street (525 E. Santa Clara Street), within the E. Santa Clara Urban Village Boundary (Horizon Real Properties Holding LLC, Owner).**
- (c) **Adopt a resolution approving a Planned Development Permit to allow demolition of three existing buildings, removal of three ordinance size trees, and the construction of a Signature Project under the Envision 2040 San José General Plan consisting of 86 multi-family attached residential units, with 271 bedrooms of student housing and 11,530 square feet of commercial space in a seven story building.**

**CEQA: North 11th Street and East Santa Clara Street Student Housing Project Mitigated Negative Declaration. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)
PDC15-049/PD15-044 – Council District 3**

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas, dated August 29, 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. PDC15-0649/PD15-044 dated August 3, 2016. (2) Proof of Publication of Notice of Public Hearing executed on July 22, 2016 submitted by the City Clerk. (3) Email from a member of the public dated August 31, 2016, pertaining to the East Santa Clara Street Student Housing Project.

Director of Planning, Building and Code Enforcement Harry Freitas provided introductory comments. Division Manager Jason Rogers presented the Staff Report. Mark Hirth, representing Verizon Real Properties Holding LLC, spoke to the merits of the project.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Angela Lopez expressed concerns about the impacts of parking and pedestrian safety.

11.3 (Cont'd.)

Mayor Sam Liccardo closed the Public Hearing.

Mark Hirth, representing Verizon Real Properties Holding LLC, noted that the project is designed for student housing, there is secure bicycle parking for each student, a free bus pass for every student, it is four blocks from the Rapid Transit Station, walking distance from grocery stores, fast foods and restaurants, including a ZipCar Station and motorcycle parking in the parking garage.

Action: Upon motion by Council Member Raul Peralez, seconded by Council Member Pierluigi Oliverio and carried unanimously, Resolution No. 77933, entitled: "A Resolution of the Council of the City of San José Adopting the North 11th Street and East Santa Clara Street Student Housing 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 Mitigated Monitoring and Reporting Program", was adopted; Ordinance No. 29791, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.63 Gross Acre Situated on the Northeasterly Corner of East Santa Clara Street and North 11th Street (505, 509, 525 East Santa Clara Street) from the R-M Multi Family Residence and CG Commercial General Zoning District To CP(PD) Planned Development Zoning District", was passed for publication and Resolution No. 77934, entitled: "A Resolution of the Council of the City of San José Approved a Planned Development Permit, Subject to Conditions, To Allow Construction of 11,530 Square Feet of Commercial Space and 86 Multi Family Attached Residences, With 271 Bedrooms of Student Housing on a 0.63 Gross Acre Site Located at the Northeasterly Corner of East Santa Clara Street and North 11th Street (505, 509 and 525 East Santa Clara Street)", was adopted. (10-0-1. Absent: Khamis.)

- 11.4 Consideration of an ordinance to approve the First Amendment to the Development Agreement between Jackson Taylor Partners, LLC, et. al. and the City of San José to vest previously approved Planned Development Zoning (File No. PDC15-018) and Planned Development Permit (File No. PD15-055) for the subject property located at 696 North 6th Street (City of San José, Owner). The First Amendment to the Development Agreement would vest the Zoning District designation of R-M(PD) Planned Development and the development standards set forth in the rezoning and also authorize the construction of 520 residential units and 19,191 square feet of commercial space as further set forth in the Planned Development Permit. CEQA: Determination of Consistency with the Japantown Corporation Yard Redevelopment Project Environmental Impact Report, adopted by City Council Resolution No. 74384, and addendum thereto. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)
DA16-001 – Council District 3**

Item 11.4 was renumbered to 11.1(b) and subsequently deferred to October 18, 2016 per Orders of the Day.

OPEN FORUM

Documents Filed: Handout submitted by Mei Chen, dated September 20, 2016, concerning efforts to Help Stop Forced Live Organ Harvesting.

The followings speakers provided information and expressing concern about their efforts to help stop forced live organ harvesting from Falun Gong and other Prisoners of Conscience in China were Mei Chen, Clare K. Lee, Grace Gao, Gigi Zhang, Lee, George Lee and Honf Zhang.

ADJOURNMENT

The Council of the City of San José was adjourned at 11:12 p.m. in memory of Gus Constantine Lease, a beloved music and SJSU professor of 66 years, husband to Lois and father to Jeffrey, Brian, and Vicky. Gus passed away at the age of 93 on September 4, 2016.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/09-20-16 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.