



## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, NOVEMBER 10, 2015**

The Council of the City of San José convened in Regular Session at 9:33 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - All Present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133(A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to anticipated 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) In re: Claim of Morrill; Amount of Money or Other Relief Sought: Administrative Appeal; (2) Longtin, Joseph v. City of San José, et al.; Names of Partie(s) Involved: Joseph Longtin; City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-269410; Amount of Money or Other Relief Sought: Damages According to Proof; (3) Heather Seacrist v. City, et al.; Names of Partie(s) Involved: Heather Seacrist; City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-264010; Amount of Money or Other Relief Sought: Damages According to Proof; (4) IAFF Local 230 v. City of San José; Names of Partie(s) Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (5) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved:

## CLOSED SESSION (Cont'd.)

International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (6) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (7) OE#3 v. City of San José; Names of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (8) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (9) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (10) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: City of San José, John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, 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 California, County of Santa Clara; Case: 1-12-CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B; (14) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s)

## CLOSED SESSION (Cont'd.)

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 California, County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint In Quo Warranto; (15) San José Retired Employees Association, et al. v. City of San José, et al; Names of Partie(s) 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-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (D) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: Property Street Address: The Plaza Hotel; Negotiation Parties: Jacky Morales-Ferrand for the City of San José; Richard Keit for the Successor Agency; and Mark Tersini for KT Properties Urban, Inc.; Under Negotiation: the direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (E) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries,

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

Hours, Working Conditions, etc.; Name of Existing Wages 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.; (12) Unit 99 Unrepresented Employees; 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 11:44 p.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

## **INVOCATION**

Pastor Jordan Wong, Almaden Neighborhood Church, presented the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Pierluigi Oliverio seconded by Councilmember Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation recognizing November 11, 2015 as Veterans' Day in the City of San José. (Herrera)**

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized November 11, 2015 as Veterans' Day in the City of San José.

**1.2 Presentation of a commendation to the Veterans Supportive Services Agency for their commitment to serve the Veteran Community in the City of San José. (Herrera)**

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmember Manh Nguyen commended the Veterans Supportive Services Agency for their remarkable commitment to serve the Veteran Community in the City of San José.

**1.3 Presentation of a commendation to The First Tee of Silicon Valley for positively impacting the youth of San José for ten years. (Carrasco)**

Mayor Sam Liccardo and Councilmember Magdalena Carrasco commended the First Tee of Silicon Valley for positively impacting the youth of San José for ten years.

**CONSENT CALENDAR**

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember 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 Minutes.**

None provided.

- 2.2 (a) ORD. NO. 29644 – An ordinance rezoning the real property located on an approximately 2.6 gross acre site situated on the east side of Edenvale Avenue approximately 1,000 feet north of Chynoweth Avenue (APN 685-03-002) from the LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District. CEQA: Mitigated Negative Declaration, File No. PDC14-060/PD15-019/PT15-023. (Planning, Building and Code Enforcement). District 2. File No. PDC14-060/PD15-019/PT15-023.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29644 executed on November 9, 2015, submitted by the City Clerk.

Action: Ordinance No. 29644 was adopted. (11-0.)

- (b) ORD. NO. 29645 – An ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to add new sections 9.10.151 and 9.10.545 to add the definition of illegal dumping and language prohibiting illegal dumping. CEQA: Not a Project, File No. PP10-068, General procedure and policy making that involve no change in the environment. (Environmental Services/Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29645 executed on November 9, 2015, submitted by the City Clerk.

Action: Ordinance No. 29645 was adopted. (11-0.)

**2.3 Approval of Council Committee Minutes.**

**(a) Rules and Open Government Committee Minutes of October 21, 2015. (Mayor)**

**(b) Community and Economic Development Committee Minutes of October 26, 2015. (Khamis)**

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

Documents Filed: (1) Rules and Open Government Committee Minutes dated October 21, 2015. (2) Community and Economic Development Committee Minutes dated October 26, 2015.

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

**2.4 (a) Request for an excused absence for Councilmember Carrasco from the October 7, 2015 Rules and Open Government Committee Meeting. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Carrasco)**

Documents Filed: Memorandum from Councilmember Magdalena Carrasco, dated October 20, 2015, requesting an excused absence due to illness.

Action: The absence request was accepted. (11-0.)

**2.5 (a) Hear the travel report on Councilmember Peralez's park tours in Los Angeles, New York, and Philadelphia. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Peralez)**

Documents Filed: Memorandum from Councilmember Raul Peralez, dated November 3, 2015, providing an observation summary of his recent park tour.

Councilmember Raul Peralez pulled Item 2.5 to provide observations from his park tours of Los Angeles, New York and Philadelphia and referred to his information memorandum dated November 3, 2015.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, the travel report was accepted. (8-0-3. Absent: Kalra, T. Nguyen, Rocha.)

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

None provided.

- 2.7 (a) **Adopt a resolution authorizing the City Manager or his designee to negotiate and execute the Agreement for Public Art Management Services between the City of San José and Silicon Valley Creates in an amount not to exceed \$50,000, subject to the appropriation of funds.**
- (b) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the Appropriation to the Office of Economic Development for Cultural Affairs Special Projects in the amount of \$20,000; and**
- (2) **Increase the estimate for Other Revenue by \$20,000.**

**CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts that involve no change in the physical environment. (Economic Development/City Manager)**

Documents Filed: Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Senior Deputy City Manager Jennifer Maguire, dated October 19, 2015, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 77573, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Negotiate and Execute an Agreement with Silicon Valley Creates for Public Art Management Services in an Amount Not to Exceed \$50,000 Subject to the Appropriation of Funds”; Resolution No. 77574, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the General Fund”; and Ordinance No. 29646, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for Cultural Affairs Special Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

2.8 **Adopt resolutions to:**

- (a) **Authorize the City Manager to execute and deliver documents to the State Water Resources Control Board to complete the financial assistance application for a Clean Water State Revolving Fund Loan to finance the Digester and Thickener Facilities Upgrade Project at the San Jose-Santa Clara Water Pollution Control Plant;**
- (b) **Declare the official intent of the City of San José to reimburse itself for certain capital expenditures related to the Digester and Thickener Facilities Upgrade Project from the proceeds of the Clean Water State Revolving Fund Financing Agreement Project Funds; and**
- (c) **Pledge revenues received from the San José Sewer Service and Use Charge, the City of Santa Clara, and from Outside Users that are deposited into the San José-Santa Clara Treatment Plant Fund pursuant to San José Municipal Code Chapter 4.80 and written agreements with these agencies for each agency’s share of the capital cost including repayment of any and all Clean Water State Revolving Fund financings for the Digester and Thickener Facilities Upgrade Project.**

**CEQA: Mitigated Negative Declaration, File No. PP15-055. (Environmental Services/Finance)**

2.8 (Cont'd.)

Documents Filed: Joint memorandum from Environmental Services Director Kerrie Romanow and Director of Finance Julia H. Cooper, dated October 16, 2015, recommending adoption of resolutions.

Mayor Sam Liccardo pulled Item 2.8 to ask questions of Staff.

Assistant Director of the Environmental Services Ashwini Kantak offered clarifications to the Staff's recommendations.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77575, entitled: "A Resolution of the Council of the City of San José Authorizing the Execution and Delivery of Documents to the State Water Resources Control Board to Complete the Financial Assistance Application for a Clean Water State Revolving Fund Loan to Finance the Digester and Thickener Facilities Upgrade at the San José – Santa Clara Water Pollution Control Plant"; Resolution No. 77576, entitled: "A Resolution of the Council of the City of San José Declaring the Official Intent of the City of San José to Reimburse Itself for Certain Capital Expenditures Related to the Digester and Thickener Facilities Upgrade Project at the San José/Santa Clara Water Pollution Control Plant from the Proceeds of the Clean Water State Revolving Fund Financing Agreement Project Funds"; and Resolution No. 77577, entitled: "A Resolution of the Council of the City of San José For Pledge of Revenues Received from the San José Sewer Service and Use Charge, the City of Santa Clara, and Outside Users that are Deposited into the San José/Santa Clara Treatment Plant Fund Pursuant to San José Municipal Code Chapter 4.80 and Written Agreements with these Agencies for Each Agency's Share of the Capital Cost Including Repayment of Any and All Clean Water State Revolving Fund Financings for the Digester and Thickener Facilities Upgrade Project", were adopted. (11-0.)

- 2.9 **Approve the First Amendment to the Master Agreement with AN West, Inc. and MTH Engineers, Inc., a Joint Venture for various City projects to: (1) increase the total compensation by \$600,000 for a total agreement amount not to exceed \$1,100,000, and (2) extend the term of the agreement from December 31, 2015 to December 31, 2018. CEQA: Statutorily Exempt, File No. PP10-066(d), CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Public Works)**

Action: Deferred to November 17, 2015 per Administration.

- 2.10 **As recommended by the Rules and Open Government Committee on October 28, 2015:**

- (a) **Approve the District 5 Community Health Resource Fair scheduled on November 14, 2015 as a City Council sponsored Event and approve the expenditure of funds; and**
- (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. (Carrasco)**



**2.10 (Cont'd.)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated October 29, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 5 Community Health Resource Fair as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

**2.11 As recommended by the Rules and Open Government Committee on October 28, 2015:**

- (a) Approve the East San José Infant Clothing Drive scheduled on November 16, 2015 until November 27, 2015 as a City Council sponsored Special Event and approve the expenditure of funds; and**
- (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. (Carrasco)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated October 29, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The East San José Infant Clothing Drive as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

**2.12 As recommended by the Rules and Open Government Committee on October 28, 2015:**

- (a) Approve the Code for San José – Civic Hack Night scheduled on November 12, 2015 as a City Council sponsored Special Event and approve the expenditure of funds; and**
- (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. (Mayor)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated October 29, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Code for San José – Civic Hack Night as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

**2.13 As recommended by the Rules and Open Government Committee on October 14, 2015:**

- (a) Retroactively approve the Seven Trees Litter Clean Up scheduled on October 10, 2015; Crime Prevention Seminar on October 14, 2015; Coyote Creek Clean Up at Yerba Buena Road on October 17, 2015; Halloween Family Fun Night at Alma on October 31, 2015; and Halloween Family Fun Night at Santee on October 31, 2015 as City Council sponsored Special Events and approve the expenditure of funds;**
- (b) Approve the Bay Area Hmong New Year Celebration and Resource Fair on November 14, 2015; Iola Williams Senior Advisory Board Holiday Event on December 5, 2015; District 7 Townhall Meeting on December 9, 2015; District 7 Community Volunteer Appreciation on December 12, 2015; District 7 Youth Commission Holiday Appreciation on December 19, 2015; Litter and Graffiti Clean Up on January 30, 2016; Women and Girls Empowerment Seminar on March 12, 2016; and District 7 Community Day on March 19, 2016 as City Council sponsored Special Events and approve the expenditure of funds;**
- (c) Approve and accept donations from various individuals, businesses or community groups to support the events.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events; Exempt, File No. PP13-056. (T. Nguyen)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated October 29, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Seven Trees Litter Clean Up, Crime Prevention Seminar, Coyote Creek Clean Up at Yerba Buena Road, Halloween Family Fun Night at Alma, Halloween Family Fun Night at Santee, Bay Area Hmong New Year Celebration and Resource Fair, Iola Williams Senior Advisory Board Holiday Event, District 7 Townhall Meeting, District 7 Community Volunteer Appreciation, District 7 Youth Commission Holiday Appreciation, Litter and Graffiti Clean Up, Women and Girls Empowerment Seminar, and District 7 Community Day as City Council Sponsored Special Events were approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the events, were approved. (11-0.)

**2.14 Adopt a resolution appointing Walter W. Katz for services as Independent Police Auditor for a term beginning December 28, 2015 and ending December 31, 2016 and approving terms of compensation. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated November 3, 2015, recommending adoption of a resolution.

Action: Resolution No. 77578, entitled: "A Resolution of the Council of the City of San José Approving the Appointment of Walter W. Katz as Independent Police Auditor with a Term Starting on December 28, 2015 and Ending on December 31, 2016, and the Terms of Compensation", was adopted. (11-0.)

- 2.15 As recommended by the Rules and Open Government Committee on November 4, 2015, approve the General Plan 2040 Four-Year Major Review Task Force membership. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approval of City actions with a potential change in the environment. (Mayor)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated November 6, 2015, recommending a representative for the General Plan Four Year Review Task Force. (2) Memorandum from City Clerk Toni J. Taber, dated November 6, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Mayor Sam Liccardo pulled Item 2.15 to offer comments regarding the Task Force.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Pierluigi Oliverio and carried unanimously, the General Plan 2040 Four-Year Major Review Task Force membership, was approved. (11-0.)

## **STRATEGIC SUPPORT SERVICES**

- 3.3 As recommended by the Rules and Open Government Committee on October 7, 2015, adopt a resolution authorizing parcels that are located in both an unincorporated Santa Clara County and within the sphere of influence of the City of San José to be eligible for incentives under the County's Urban Agriculture Incentive Zone Ordinance. CEQA: Exempt, Guideline Section 15304 Minor Alterations to Land File No. PP15-108. (City Attorney)  
[Rules and Open Government Committee referral 10/07/15 - Item g(4)]**

Action: Deferred to November 17, 2015 per Administration.

- 3.4 Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on September 17, 2015, accept the audit report on Police Hiring: Additional Efforts to Recruit Qualified Candidates Urgently Needed to Fill Vacancies. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports that involve no approval of City actions with a potential change in the environment. (City Auditor)  
[Public Safety, Finance, and Strategic Support Committee referral 9/17/15 – Item d(4)]**

Action: Deferred to December 1, 2015 per Administration.

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Conduct a Public Hearing and adopt a resolution:

- (a) Approving a conditional grant commitment (“Grant”) to Housing for Independent People (“Developer”), a nonprofit public benefit corporation merged with Abode Services, Inc., of up to \$3,017,000 to rehabilitate the City-owned Vermont House, located at 1072 and 1082 Vermont Street (“Property”) to provide 16 rooms in two residential houses for homeless individuals or couples (“Project”);
- (b) Accepting the summary of costs and findings of the Summary Report pursuant to Section 33433 of the California Health and Safety Code for the disposition of the Property to Developer under the terms and conditions of the proposed Ground Lease, and approving the Ground Lease;
- (c) Authorizing the Interim Director of Housing to enter into the Ground Lease with Developer for a term of not more than thirty (30) years at a nominal rent; and
- (d) Authorizing the Interim Director of Housing, or her designee, to set the specific business terms and to negotiate and execute any and all documents necessary to implement the Project, including, but not limited to, the Grant Agreement, applications, agreements, amendments, and payment requests which may be necessary in connection with the Grant.

**CEQA: Exempt, Guidelines Section 15302, Replacement or Reconstruction and 15330 Minor Action to Mitigate/Eliminate Hazardous Wastes or Substances. File No. PP15-109. Council District 6. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand, dated October 23, 2015, recommending holding a public hearing and adoption of a resolution. (2) Proof of Publications of Notices of a Public Hearing, executed on October 13, 2015, October 27, 2015 and November 3, 2015, submitted by the City Clerk.

Public Comment: Mayor Liccardo opened the public hearing. There was no testimony from the floor. Mayor Liccardo closed the public hearing.

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

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77579, entitled: “A Resolution of the Council of the City of San José Regarding a Conditional Grant Commitment and Site Lease for the Rehabilitation of Vermont House”, was adopted. (11-0.)

- 4.2 (a) **Accept an update on the status of the Affordable Housing Impact Fee (AHIF), approved by City Council on November 18, 2014;**
- (b) **Discuss and provide direction on staff responses to questions posed by the City Council at the November 18, 2014, meeting about the AHIF; and**
- (c) **Direct staff to return with a resolution modifying the AHIF to exempt rental developments with fewer than 20 units.**

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

Documents Filed: (1) Memorandum from Councilmember Donald Rocha, dated November 9, 2015, recommending approval of Staff recommendations with additional direction. (2) Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated October 19, 2015, providing follow-up to Council's questions from the November 18, 2014 meeting.

Interim Director of Housing Jacky Morales-Ferrand and Housing Department Senior Executive Analyst Patrick Heisinger provided a presentation and responded to questions from Council.

Public Comment: Matthew Reed, representing Sacred Heart urged rejection of Staffs' recommendations except for modifying the AHIF to exempt rental developments with fewer than 20 units. Pilar Lorenzana-Campo, SVC Home, and Ron Johnson, Sacred Heart Housing Action Committee, asked that there be no new exemptions included.

Councilmember Johnny Khamis expressed concern that more exemptions should be allowed.

Mayor Sam Liccardo provided recommendations as indicated below in "Action".

Motion: Vice Mayor Rose Herrera moved approval of Staffs' recommendations, including Mayor Sam Liccardo's mixed-use concerns, Councilmember Donald Rocha's memorandum dated November 9, 2015, and an additional exemption to be included for assisted living/memory care facilities. Councilmember Tam Nguyen seconded the motion.

Action: On a call for the question, the motion was carried, with the update on the status of the Affordable Housing Impact Fee (AHIF) accepted, with Staff directed to return with a resolution modifying the AHIF to exempt rental developments with fewer than 20 units; and including Councilmember Donald Rocha's memorandum dated November 9, 2015, Mayor Sam Liccardo's recommendation to accelerate analysis of mixed use development, and with an additional exemption included for assisted living/memory care facilities. (10-1. Noes: Khamis.)

**4.3 Accept the report on the Request for Proposal (“RFP”) for consultants to assist with the development of the City’s Urban Village Master Plans and adoption of a resolution authorizing the City Manager to:**

- (a) Execute Master Agreements for consultants to provide Urban Village Master Plan Consulting Services in seven technical areas: 1) Urban Design, 2) Circulation Improvements, 3) Environmental Review Analysis, 4) Online Engagement, 5) Public Finance, 6) Public Art, and 7) Traffic Impact Analysis, for an initial five-year term ending November 2020, with the various consultants and respective amounts listed below, and a maximum aggregate compensation not to exceed \$12,580,000 for all the Agreements, subject to the appropriation of funds.**

<b>Vendor Name</b>	<b>Maximum Compensation</b>
(1) AECOM, Inc. (San Diego, CA)	\$1,000,000
(2) Alta Planning & Design (San José, CA)	\$500,000
(3) Bottomley (Oakland, CA)	\$500,000
(4) Circlepoint (San José, CA)	\$270,000
(5) David J. Powers (San José, CA)	\$1,000,000
(6) Dyett & Bhatia (San Francisco, CA)	\$500,000
(7) Economic & Planning (Oakland, CA)	\$500,000
(8) ESA Associates (San Francisco, CA)	\$1,000,000
(9) Fehr & Peers (San José, CA)	\$500,000
(10) Gehl Studio (San Francisco, CA)	\$270,000
(11) Hexagon (San José, CA)	\$270,000
(12) HKS Architects (Dallas, TX)	\$500,000
(13) Keyser Marston (San Francisco, CA)	\$500,000
(14) Kimley & Horn (San José, CA)	\$500,000
(15) Metropolitan Planning (Mountain View, CA)	\$270,000
(16) Moore Iacofano Goltsman (Berkeley, CA)	\$1,000,000
(17) Nelson\Nygaard (San Francisco, CA)	\$500,000
(18) Opticos Design (Berkeley, CA)	\$500,000
(19) Placeworks (Berkeley, CA)	\$500,000
(20) Skidmore, Owings & Merrill New York, NY)	\$500,000
(21) Strategic Economics (Berkeley, CA)	\$500,000
(22) Wallace, Roberts & Todd (San Francisco, CA)	\$500,000
(23) ZGF (Portland, OR)	\$500,000

- (b) Execute amendments to the Master Agreements to increase or decrease the maximum compensation of each agreement, not to exceed the aggregate compensation amount of \$12,580,000 for all of the agreements.**
- (c) Execute three one-year options to extend the term of the Agreements, after the initial five-year term, subject to the appropriation of funds.**

**CEQA: Exempt, CEQA Guidelines Section 15262. Feasibility and Planning Studies. (Planning, Building and Code Enforcement/Finance)**

Action: Deferred to November 17, 2015 per Administration

**4.4 Adopt a resolution:**

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Casa Del Pueblo Apartments), Series 2015D” in a principal amount not to exceed \$30,000,000 (“Series 2015D Bonds”);**
- (b) Approving a loan of Series 2015D Bond proceeds to Casa Del Pueblo Preservation Limited Partnership, a California limited partnership created by Preservation Partners Development III, L.P, to finance the acquisition and rehabilitation of the Casa Del Pueblo Apartments located at 200 South Market Street in San José;**
- (c) Approving in substantially final form the Trust Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Bond Purchase Agreement, and Official Statement (collectively, the “Series 2015D Bond Documents”);**
- (d) Authorizing and directing the City Manager, Director of Finance, Assistant Director of Finance, and Interim Director of Housing, or their designees, to execute and deliver the Series 2015D Bond Documents and related Series 2015D Bond documents as necessary.**

**CEQA: Exempt, Guidelines Section 15061(b)(3), File No. PP15-105. Council District 3. (Housing/Finance) (Deferred from 11/3/15 – Item 4.1)**

Documents Filed: Joint memorandum from Interim Director of Housing Jacky Morales-Ferrand and Director of Finance Julia H. Cooper, dated October 29, 2015, recommending adoption of a resolution.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77580, entitled: “A Resolution of the Council of the City of San José Authorizing the Issuance, Sale and Delivery of Multifamily Housing Revenue Bonds, and the Loan of the Proceeds Thereof for the Financing of the Casa Del Pueblo Apartments; and Approving Other Related Documents and Actions”, was adopted. (11-0.)

## **NEIGHBORHOOD SERVICES**

- 5.1 As recommended by the Neighborhood Services and Education Committee on September 10, 2015, accept the report on Age-Friendly City Initiative as supported by the World Health Organization. CEQA: Not a Project, File No. PP10-069(a), Staff reports, Assessments, and Annual Reports that that involve no approval of City actions with a potential change in the environment. (Parks, Recreation and Neighborhood Services)**

*Note: Item 5.1 heard directly following the Consent Calendar.*

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated October 29, 2015, transmitting the recommendations of the Neighborhood Services and Education Committee.

5.1 (Cont'd.)

Public Comment: Offering support to the report as presented were Larry Ames, Ray Perez, La Recontra Oferta Newspaper (LRON); Jim Ramoni and Diana Miller, County of Santa Clara Social Services Agency; Janice Levin, Willow Glen Senior Center; Kenny Ramirez, Episcopal Senior Communities; Vickie Johnson and Marsha Adler, Senior Steering Committee; and Warren Gannon, Senior Citizen's Commission.

Deputy Director of Parks, Recreation and Neighborhood Services, Suzanne Wolf and Interim Assistant Director of Housing Dave Bopf offered a presentation and responded to questions from Council.

Vice Mayor Rose Herrera moved approval of Staff recommendations, with the inclusion of offering housing for persons requiring memory-assisted living care. Councilmember Johnny Khamis seconded the motion.

Action: On a call for the question, the motion carried unanimously, with the report on Age-Friendly City Initiative as supported by the World Health Organization, accepted, with staff directed to include information for creating housing for persons requiring memory-assisted living care. (11-0.)

- 5.2
- (a) **Accept and support the Saint James Park Revitalization Strategy (Strategy);**
  - (b) **Direct staff to meet with stakeholders, reporting to the Director of Parks, Recreation and Neighborhood Services, to assist in the implementation of the Strategy;**
  - (c) **Adopt a resolution to:**
    - (1) **Establish a new Saint James Park Area park fee program to allow high-rise developers to voluntarily pay 50% of their parkland in-lieu fees, and to make a donation credited against the equivalent of the remaining 50% to be used for parks operations, maintenance, and activation; and allow mid-rise developers to voluntarily pay 75% of their parkland in-lieu fees and to make a donation credited against the equivalent to the remaining 25% to be used for parks operations, maintenance, and activation; and**
    - (2) **Authorize the City Manager to execute agreements with developers within the Saint James Park Area that are willing to participate in the program on the terms specified in the resolution.**
  - (d) **Direct staff to return to City Council in winter 2016-2017 with a feasibility study for the potential formation of a special financing district and/or other sustainable funding mechanism for operations, maintenance and capital repairs of Downtown parks, as well as for all parks within the City of San José. This study should be funded with an appropriate parks capital funding source.**

**CEQA: Exempt, Guidelines Section 15061(b)(3). No potential for causing a significant effect on the environment. Council District 3. (Parks, Recreation and Neighborhood Services)**



## 5.2 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Councilmember Raul Peralez, Councilmember Manh Nguyen, Councilmember Magdalena Carrasco and Councilmember Johnny Khamis, dated November 6, 2015, recommending acceptance of the staff report with modifications. (2) Memorandum from Director of Parks, Recreation and Neighborhood Services, Angel Rios, dated October 19, 2015, providing recommendations regarding Saint James Park Revitalization Strategy. (3) Letter from Randi Kinman, President of the Burbank/Del Monte Neighborhood Advisory Committee, dated November 2, 2015.

Director of Parks, Recreation and Neighborhood Services, Angel Rios provided a presentation, and he and Interim Assistant Director of Parks, Recreation and Neighborhood Services Matt Cano responded to questions from Council.

Public Comment: Expressing support to the Saint James Park Revitalization Strategy and offering support to adequately funding parks in the City of San José were: Kathy Sutherland, San José Parks Foundation; Benjamin Grant, SPUR; Larry Ames, Jill Sardegna, Jack Sardegna, Kymberli Brady, Downtown Resident's Association; Rick Holden, Bob Carlson, Matthew Avedo; Geri Wong, Julie Matsushima and Scott Knies, San José Downtown Association; Roma Dawson, Jean Dresden, Erik Schoennauer; David Bird, Trinity Cathedral; and Josh Burroughs.

Councilmember Pierluigi Oliverio and Councilmember Donald Rocha indicated that this strategy presents a narrow focus and could not support the recommendations as presented, but indicated the park's revitalization should be a budget priority.

Motion: Councilmember Raul Peralez moved approval of the Staff report including acceptance of the memorandum he coauthored with Mayor Sam Liccardo, Councilmember Manh Nguyen, Councilmember Magdalena Carrasco and Councilmember Johnny Khamis, dated November 6, 2015. Councilmember Magdalena Carrasco seconded the motion.

Action: On a call for the question, the motion carried, and the Saint James Park Revitalization Strategy was accepted, with staff directed to meet with stakeholders, reporting to the Director of Parks, Recreation and Neighborhood Services, to assist in the implementation of the Strategy, and Resolution No. 77581, entitled: "A Resolution of the Council of the City of San José to (1) Establish a New Saint James Park Area Park Fee Program to Allow High-Rise and Mid-Rise Developers to Make a Donation Credited Towards a Portion of Their Parkland In-Lieu Fees to be Used for Operations, Maintenance and Activation of Saint James Park, and (2) Authorize the City Manager to Execute Agreements with Developers Within the Saint James Park Area that are Willing to Participate in the Program", was adopted; and directing staff to return to City Council in winter 2016-2017 with a feasibility study for the potential formation of a special financing district and/or other sustainable funding mechanism for operations,

5.2 (Cont'd.)

Action (Cont'd.): maintenance and capital repairs of Downtown parks, as well as for all parks within the City of San José. This study should be funded with an appropriate parks capital funding source, and including the joint memorandum from Councilmember Raul Peralez, Mayor Sam Liccardo, Councilmember Manh Nguyen, Councilmember Magdalena Carrasco and Councilmember Johnny Khamis, dated November 6, 2015. (9-2. Noes: Oliverio, Rocha.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 **As recommended by the Transportation and Environment Committee on October 5, 2015, accept the report regarding Citywide taxicab regulations and operations of taxicabs and Transportation Network Companies (TNC) at the Airport. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)**

Action: Deferred to November 17, 2015 per Administration.

- 6.2 **As recommended by the Transportation and Environment Committee on October 5, 2015, accept the Airport staff report and recommendations related to the current status of Transportation Network Companies (TNC) activity at Mineta San José International Airport. CEQA: Not a Project, File No. PP10-069(a), Staff reports, Assessments, and Annual Reports that involve no approval of City actions with a potential change in the environment. (Airport)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmembers Peralez, Rocha and Khamis, dated November 6, 2015, supporting Staffs' recommendations, with additional direction. (2) Joint memorandum from Councilmember Ash Kalra and Councilmember Chappie Jones, dated November 6, 2015, recommending approval of Staffs' recommendations. (3) Memorandum from Councilmember Raul Peralez, dated November 10, 2015, providing recommendations. (4) Memorandum from City Clerk Toni J. Taber, CMC, dated October 22, 2015, providing recommendations of the Transportation and Environment Committee. (5) Joint supplemental memorandum from Director of Aviation Kimberly J. Becker, Chief of Police Larry Esquivel and Interim Director of Transportation Jim Ortbal, dated November 2, 2015, providing further information and clarification and a status update. (6) Letter from Ray Mundy, Ph.D, Executive Director, Yellow Checker Cab Company, dated October 23, 2015 regarding a status report on 'Leveling the Playing Field'.

Director of Aviation Kimberly J. Becker provided an introduction, followed by a presentation from San José Police Lieutenant Tommy Troy and Interim Director of Transportation Jim Ortbal.

## 6.2 (Cont'd.)

Public Comment: Offering support to recommendations related to Transportation Network Companies were José Leon, Kellyn Blossom, Carl Guardino (Silicon Valley Leadership Group), Pamela Meek, Kristen Anderson, Rosemary Arzaga, Ted Kerbiak, Michael Casas, Neil Hopper, Randy McMaer, Anthony Jordan, Sarah Lopes, Eli Love, James Rhedin, David Mewalters, Anthony Jordan Chris Zimmer, John Doherty, Michele Gutto, Evelyn Ortiz, Zoe Mullendore, Timothy Burr Jr., Tim Johnston, Lia Krenznel, Chris O'Hanlon, Michelle Arzaga, Divina Videna and Nur Muse.

Taxi drivers speaking in opposition to Transportation Network Companies (TNC) activity at Mineta San José International Airport, were Lakhbir Singh Pooni, Abdikarim Jama, Said Ibrahim Ali, Kumlacheve Mekarid, Aliraza Mirzarani, Abraham Solomon, Testalev Abraha, Shakur Buni, Marpall Chahal, Rahul Malik, Max Maxamed, Ali Roble, Farhan Qandid, Kebede Kaba, Eli Tekle, Durrani Iqbal, Ali Robleh, Sadiq Abeeb, Endero Abdu, Hailid Guta, Sunny, Ray Duque, Fekadu Keremo, Farhan Mohamed, Jatinder Kumar, Jagdeep Singh, Mandeep Singh, Manu Saini, Habte Abraha, Kesete Takele, Navi Singh, Endale, Fiseha Bizuneh, Abdul, Ahmed Ali, Dave Logan, Larry Silva, Shakur (Ricky), Mohamed Elnni, Hayelon Nerie, Amrjet Singh, Raj, Kulwant Singh, Tewodros Reda, Navtgi Pal Virk, Abay Bekele, Samatar, Jaspal Singh, Haid Guta, Paramijit Singh, Desaleyn Alemu, Ibrahim Mohamed, Nelson Adjei, Engida, Shuacab Dualeh, Tsegaye Dellele, Duri Ibrahim, Rajiv Batra, Paul Smolyantsky, Kirpal Bajwa, Kindie Setegne, Gasim Rahma, Kebade Kaba, Marvin Charesma, Abdirahman Ateye and Bikram Jeet Singh.

Motion: Vice Mayor Rose Herrera moved approval of Staff's supplemental memorandum, dated November 2, 2015 as indicated below in "Action" and the joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmembers Peralez, Rocha and Khamis, dated November 6, 2015 (Items 1-5), and Councilmember Raul Peralez' memorandum dated November 10, 2015. The motion was seconded by Councilmember Raul Peralez.

Councilmember Johnny Khamis and Councilmember Manh Nguyen requested amendments to the motion asking for assurance that TNC fines be fully paid before being allowed to operate at the Airport, and continue research into the availability of data related to accidents and/or incidents occurring at the Airport, the question of predatory pricing/permit conditions violated, and to determine drivers' requirement to have business licenses visible and available for inspection. Vice Mayor Rose Herrera and Councilmember Raul Peralez agreed to amendments to the motion.

Action: On a call for the question and carried unanimously, Staff's supplemental memorandum, dated November 2, 2015, Recommendation #2 approving TNC operations at the Airport and the Management and Operating Plan was accepted, and the joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmembers Peralez, Rocha and Khamis, dated November 6, 2015 (Items 1-5); Councilmember Raul Peralez' memorandum dated November 10, 2015 regarding safety inspections of TNC vehicles, were approved, with the assurance that TNC fines be fully paid before being allowed to operate at the Airport. Staff was directed to continue its

**6.2 (Cont'd.)**

Action (Cont'd.): research into the availability of data related to accidents and/or incidents occurring at the Airport, the question of predatory pricing/permit conditions violated, and to determine drivers' requirement to have business licenses visible and available for inspection. (11-0.)

**OPEN FORUM**

Brian Darby provided an acknowledgement of Veteran's Day.

**ADJOURNMENT**

The Council of the City of San José was adjourned at 7:46 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

rmk/11-10-15MIN