

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 18, 2015

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, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:10 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Pringle; Amount of Money or Other Relief Sought: Administrative Appeal. (2) Rodriguez, Lori v. City of San José; Names of Parties Involved: Lori Rodriguez, City of San José; Court: Santa Clara County Superior Court; Case No: 1-13-CV-241669; Amount of Money or Other Relief Sought: Damages according to proof. (3) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (4) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (5) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M;

CLOSED SESSION (Cont'd.)

Amount of Money or Other Relief Sought: Damages According to Proof. (6) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (7) 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, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City

CLOSED SESSION (Cont'd.)

Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:07 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chamber.

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

Absent: Council Members - All Present.

INVOCATION

The Seven Trees Chinese Folk Dancers performed to "Singing in the Rain." (District 7)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

CEREMONIAL ITEMS

1.1 Presentation of a commendation honoring Brocade for their 20th anniversary and their contributions to our City. (Mayor)

Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Donald Rocha and Council Member Manh Nguyen recognized and commended Brocade for their contributions to the City of San José and on their anniversary.

1.2 Presentation of a commendation to the Children's Discovery Museum for engaging and being active in our communities for more than 25 years. (Perez)

Mayor Sam Liccardo, Council Members Perez, Rocha and Carrasco recognized and commended the Children's Discovery Museum.

1.3 Presentation of a commendation to Velma Million, aka "the Lady of the Lake," for her long time advocacy of Lake Cunningham Regional Park and concern for preserving this open space recreation gem for the residents of San José. (Herrera) (Rules Committee referral 8/12/15)

Documents Filed: Brochure on Lake Cunningham Park submitted by Velma Million dated August 18, 2015.

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended Velma Million for her long time advocacy.

ORDERS OF THE DAY

Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, and Items 3.4 and 3.5 were deferred until August 25, 2015. (11-0.)

CONSENT CALENDAR

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

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29599 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Greenwaste Recovery Inc., dba GW Debris Services LLC. CEQA: Exempt, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment, File No. PP08-228. (Environmental Services)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29599 executed on August 7, 2015, submitted by the City Clerk.

Action: Ordinance No. 29599 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of July 29, 2015. (Mayor) CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)**

Documents Filed: The Rules and Open Government Committee Report dated July 29, 2015.

Action: The Rules and Open Government Committee was approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Approve the following appointments to Boards and Commissions:

- (a) **Downtown Parking Board:**
- (1) **At-Large Representative: Appoint Ajay Singh to a term expiring June 30, 2016.**
 - (2) **At-Large Representative: Appoint Daniel Salguero to a term expiring June 30, 2019.**
- (b) **Housing and Community Development Commission:**
- (1) **District 10: Appoint Sherry Davis to an unexpired term ending June 30, 2019.**

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

2.7 (Cont'd.)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated August 7, 2015, recommending approval of the appointments. (2) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated August 14, 2015, transmitting the name of Sherry Davis to the Housing and Community Development Commission.

Action: The three appointments were approved. (11-0.)

- 2.8 (a) **Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4:**
- (1) **Increase the Beginning Fund Balance by \$172,000.**
 - (2) **Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation and Neighborhood Services Department by \$172,000.**
- (b) **Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9:**
- (1) **Increase the Beginning Fund Balance by \$80,000.**
 - (2) **Increase the Camden Pool Renovations appropriation to the Parks, Recreation and Neighborhood Services Department by \$80,000.**
- (c) **Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the Subdivision Park Trust Fund:**
- (1) **Increase the Beginning Fund Balance by \$21,000.**
 - (2) **Increase the Alviso Area Minor Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$21,000.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager)

Documents Filed: Memorandum from Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated July 27, 2015, recommending adoption of appropriation ordinances and funding sources resolution amendments.

Action: Ordinance No. 29602, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 for Strategic Capital Replacement and Maintenance Needs; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 77490, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4", Ordinance No. 29603, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9 for the Camden Pool

2.8 (Action Cont'd.)

Renovations; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, Resolution No.77491, 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 Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9”, Ordinance No. 29604, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Subdivision Park Trust Fund for Alviso Area Minor Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 77492, 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 Subdivision Park Trust Fund”, were adopted. (11-0.)

2.9 Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated July 27, 2015, recommending appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29605, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for Building Public Will for the Arts; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 77493, 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”, were adopted. (11-0.)

2.10 Report on Request for Proposal for electrical services and adopt a resolution to authorize the City Manager to:

- (a) **Execute Purchase Orders with Cupertino Electric (San José, CA), Ray Scheidts Electric (San José, CA) and Rosendin Electric (San José, CA) for Citywide electrical services for the initial term of September 1, 2015 through August 31, 2016, in the total aggregate not to exceed amount of \$2,475,000 for all three purchase orders.**
- (b) **Exercise four one-year options to renew each purchase order subject to the annual appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(a), Professional services with no changes in the physical environment. (Finance)

2.10 (Cont'd.)

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated August 6, 2015, recommending approval of the report on request for proposal and adoption of a resolution.

Action: The report on Request for Proposal was approved and Resolution No. 77494, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Purchase Orders with Cupertino Electric, Ray Scheidts Electric and Rosendin Electric for Electrical Contracting Services In An Amount Not To Exceed \$2,475,000 for the Term Beginning September 1, 2015 Through August 31, 2016 and To Execute Up To Four, One Year Options To Extend the Term of the Electrical Services With Each Company Through August 31, 2020, Subject to the Annual Appropriation of Funds", was adopted. (11-0.)

2.11 Approve a change in funding source from the Low and Moderate Income Housing Asset Fund to the Multi-Source Housing Fund for the restoration of fire damage at the City-owned restricted affordable apartment building located at 110 Roundtable Drive. CEQA: Exempt, Section 15301(a), Existing Facilities, File No. PP14-048. Council District 2. (Housing)

Documents Filed: City Council Action Request from Interim Director of Housing Jacky Morales-Ferrand, dated August 6, 2015, recommending approval of a change in funding source.

Action: A change in funding source from the Low and Moderate Income Housing Asset Fund to the Multi-Source Housing Fund for the restoration of fire damage at the City-owned restricted affordable apartment building located at 110 Roundtable Drive was approved. (11-0.)

**2.12 Adopt a resolution authorizing the City Manager to apply for federal funding, negotiate, and execute an Other Transaction Agreement with the Transportation Security Administration to fund eligible costs for deployment of law enforcement officers at each airport passenger-screening location at the Norman Y. Mineta San José International Airport in excess of the City Manager's contract authority and in the estimated amounts of approximately \$1,254,000 per year or approximately \$3,762,000 for the period January 1, 2016 to December 31, 2018. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)
(Rules Committee referral 8/12/15)**

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated August 12, 2015, recommending adoption of a resolution.

2.12 (Cont'd.)

Action: Resolution No. 77495, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Apply for Funding from the Transportation Security Administration to Partially Reimburse the Norman Y. Mineta San José International Airport for Eligible Costs Associated with Law Enforcement Officers and To Negotiate and Execute An Other Transaction Agreement in Excess of the City Manager's Contract Authority In An Approximate Amount of \$3,762,000", was adopted. (11-0.)

2.13 As recommended by the Rules and Open Government Committee on August 12, 2015:

- (a) **Approve the Internet Cat Video and Film Festival scheduled for November 15, 2015 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) **Approve and accept donations from various individuals, businesses, or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Oliverio)
[Rules Committee referral 8/12/15 – Item G(1)(a)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 13, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Internet Cat Video and Film Festival scheduled for November 15, 2015 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

2.14 As recommended by the Rules and Open Government Committee on August 12, 2015:

- (a) **Approve the District 6 City Council Candidate Forum tentatively scheduled for March 21, April 18, and May 16, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) **Approve and accept donations from various individuals, businesses, or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Oliverio)
[Rules Committee referral 8/12/15 – Item G(1)(b)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 13, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 6 City Council Candidate Forum tentatively scheduled for March 21, April 18, and May 16, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

Council Member Pierluigi Oliverio requested an update on the unpermitted collection boxes from City Manager Norberto Dueñas.

3.3 Approve one of the following alternatives related to the two required air monitoring stations in the 2001 Cooperation Agreement with CalPine/Metcalf Energy and delegate authority to the City Manager to execute the steps outlined in the memorandum to Council for the selected option:

- (a) Alternative 1: Calpine Reimburses City to Build and Operate Northern and Southern Station for A Term of 25 Years.
- (b) Alternative 2: Calpine Makes Payment In Lieu For Both Stations, City Builds And Operates Both Stations.
- (c) Alternative 3: Calpine Reimburses City To Build And Operate Northern Station Only For A Term Of 25 Years.
- (d) Alternative 4: Calpine Makes Payment In Lieu For Both Stations, City Earmarks Monies For Community Project.

CEQA: Exempt, CEQA Guidelines Section 15303(e), New Construction or Conversion of Small Structures, File No. PP15-056. (City Manager)
(Deferred from 6/23/15 – Item 3.18)

Documents Filed: Supplemental memorandum from Assistant to the City Manager Teri Killgore, dated August 14, 2015, recommending deferral of the item in order to have additional time to reach resolution with Calpine.

Action: Deferred to October 6, 2015 per Administration.

3.4 (a) Adopt a resolution to:

- (1) Approve the terms of the Alternative Pension Reform Settlement Framework Agreement between the City and the San José Police Officers' Association (SJPOA) and San José Fire Fighters, International Association of Fire Fighters, Local 230 (IAFF, Local 230).
- (2) Authorize the City Manager to negotiate and execute a Tripartite Retirement Memorandum Agreement between the City, the SJPOA, and IAFF, Local 230.

(b) Adopt the following 2015-2016 Appropriation Ordinance amendments in the General Fund:

- (1) Establish a City-Wide Measure B Settlement appropriation to the City Manager's Office in the amount of \$1,500,000.
- (2) Decrease the Fiscal Reform Plan Implementation Reserve in the amount of \$1,500,000.

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)
(Deferred from 8/11/15 – Item 3.4)

3.4 (Cont'd.)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated August 18, 2015, recommending deferring Items 3.4 and 3.5 for one week to the August 25, 2015 Council Meeting.

Action: Deferred to August 25, 2015 per Mayor Sam Liccardo and Orders of the Day.

- 3.5 (a) Adopt a resolution approving the terms of a collective bargaining agreement between the City and the San José Police Officers' Association and authorizing the City Manager to execute an agreement with a term effective upon execution of the agreement through December 31, 2016.**
- (b) Adopt the following 2015-2016 Appropriation Ordinance amendments in the General Fund:**
- (1) Increase the Personal Services appropriation to the Police Department in the amount of \$9,545,000.**
 - (2) Increase the Personal Services appropriation to the City Attorney's Office in the amount of \$20,000.**
 - (3) Decrease the Police Department Staffing/Operations Reserve in the amount of \$9,100,000.**
 - (4) Decrease the Salaries and Benefits Reserve in the amount of \$465,000.**

CEQA: Not a Project, File No PP10-069(b), Personnel Related Decisions. (City Manager)

Action: Deferred to August 25, 2015 per Mayor Sam Liccardo and Orders of the Day.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Adopt a resolution approving a change in funding source for \$7,915,000 of the City's total of up to \$15,145,000 loan commitment for the Metropolitan Apartments North Phase, affordable apartments to be constructed at 2112 Monterey Road, from the Multi-Source Housing Fund to the Home Investment Partnership Program Fund and authorizing the Interim Housing Director to negotiate and execute any documents necessary to implement such substitution, including but not limited to an Amendment to the existing Loan Agreement, HOME Affordability Restrictions, and a HOME Regulatory Agreement with 2112 Monterey Road LP.**
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the HOME Investment Partnership Program Fund:**
- (1) Increase the estimate for Earned Revenue in the amount of \$7,915,000.**
 - (2) Increase the appropriation to the Housing Department for Housing Loans and Grants in the amount of \$7,915,000.**

CEQA: Mitigated Negative Declaration, File Nos. GP08-07-04 and PDC09-015. Council District 7. (Housing/City Manager)

4.1 (Cont'd.)

Documents Filed: Memorandum from Interim Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated July 27, 2015, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Mayor Sam Liccardo opened the floor for public testimony.

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

Action: Upon motion by Council Member Tam Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77496, entitled: "A Resolution of the Council of the City of San José Approving the Substitution of Federal Home Funds for a Portion of Multi Source Housing Funds Committed to the Existing Construction/Permanent Loan for the Metropolitan Apartments North Phase"; Ordinance No. 29606, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Home Investment Partnership Program Fund for Housing Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 77497, 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 Home Investment Partnership Program Fund", were adopted. (11-0.)

NEIGHBORHOOD SERVICES

5.1 **As recommended by the Public Safety, Finance, and Strategic Support Committee on May 21, 2015, accept the 2013-2014 Annual Report on the San José Bringing Everyone's Strengths Together (BEST) and the Mayor's Gang Prevention Task Force (MGPTF) Programs. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated June 11, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. presented introductory remarks. Division Manager Mario Maciel and Dr. Peter Ellis presented the reports on San José Bringing Everyone's Strengths Together and the Mayor's Gang Prevention Task Force Programs.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., Sergeant Paul Hamblin and Division Manager Mario Maciel responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

5.1 (Cont'd.)

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

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Magdalena Carrasco and carried unanimously, the 2013-2014 Annual Report on the San José Bringing Everyone's Strengths Together (BEST) and the Mayor's Gang Prevention Task Force (MGPTF) Programs were accepted. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Approve a Master Consultant Agreement with Black & Veatch Corporation for technical support services for the 7418 – Cogeneration Facility Project at the San José-Santa Clara Regional Wastewater Facility for a period beginning on the date of execution through June 30, 2019, with an optional one-year extension, in a total amount not to exceed \$2,000,000, subject to the appropriation of funds.**
- (b) **Adopt a resolution authorizing the City Manager to exercise an option to extend the term of the Master Consultant Agreement with Black & Veatch Corporation by one year.**

CEQA: Mitigated Negative Declaration, File No. PP14-005. Council District 4. (Environmental Services/Public Works)

Documents Filed: Memorandum from Public Works Director Barry Ng and Director of Environmental Services Kerrie Romanow, dated July 22, 2015, recommending approval of a master consultant agreement and adoption of a resolution.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall criticized the Staff recommendations.

Public Works Director Barry Ng and Principal Engineer John Cannon responded to Council questions and concerns.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, a Master Consultant Agreement with Black & Veatch Corporation for technical support services for the 7418 – Cogeneration Facility Project at the San José-Santa Clara Regional Wastewater Facility for a period beginning on the date of execution through June 30, 2019, with an optional one-year extension, in a total amount not to exceed \$2,000,000, subject to the appropriation of funds was approved and Resolution No. 77498, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Exercise An Option to Extend the Term of the Master Consultant Agreement for Technical Support Services for the 7418 – Cogeneration Facility Project with Black and Veatch Corporation by One Year", was adopted. (11-0.)

- 7.2 (a) Adopt a resolution to consent to the inclusion of certain properties within the City of San José in the California Home Finance Authority (“CHF”) Community Facilities District No. 2014-1 (Clean Energy), administered by Ygrene Energy Fund California, LLC (“Ygrene”), for the financing of renewable energy distributed generation sources and energy and water efficiency improvements and electric vehicle charging infrastructure.
- (b) Adopt a resolution to consent to the inclusion of certain properties within the City of San José in the CHF Property Assessed Clean Energy Assessment District, administered by Ygrene, for the financing of renewable energy distributed generation sources and energy and water efficiency improvements and electric vehicle charging infrastructure.
- (c) Approve an agreement with Ygrene for the indemnification of the City.
CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustments to Fees, Rates, and Fares. (Finance/Environmental Services)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Council Member Donald Rocha and Council Member Ash Kalra, dated August 14, 2015, recommending approval of the Staff recommendations. (2) Memorandum from Director of Finance Julia H. Cooper and Director of Environmental Services Kerrie Romanow, dated August 6, 2015, recommending adoption of resolutions and approval of an agreement.

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

Paul Ledesma, Environmental Services Department responded to Council questions and concerns.

Mayor Sam Liccardo and Council Members Khamis, Peralez and Kalra expressed their enthusiasm and support to the Ygrene Works Property Assessed Clean Energy (PACE) Financing Programs.

Mayor Sam Liccardo encouraged Staff to use the Mayor and Council Offices in the marketing plan to get the word out to the community.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Mike Lemyre, Ygrene Energy Fund, expressed support to the Staff recommendations. David Wall voiced opposition to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77499, entitled: “A Resolution of the Council of the City of San José Consenting to Inclusion of Properties Within the City’s Jurisdiction in the California Home Finance Authority Community Facilities District No. 2014-1 (Clean Energy) To Finance Renewable Energy Improvements, Energy Efficiency and Water Conservation Improvements and Electric Vehicle Charging Infrastructure” and Resolution No. 77500,

7.2 (Action Cont'd.)

Documents Filed: (Cont'd.) entitled: "A Resolution of the Council of the City of San José Consenting to Inclusion of Properties Within the City's Jurisdiction in the California Home Finance Authority Program to Finance Renewable Energy Generation, Energy and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure", were adopted and an agreement with Ygrene for the indemnification of the City was approved. (11-0.)

OPEN FORUM

- (1) Tim Gildersleeve expressed concerns about the body cameras citing that it is very expensive and there should be full statistical evidence that it is warranted in San José.
- (2) Jill Borders presented issues and concerns about Mobile Home Conversions.
- (3) David Wall expressed criticism and comments about the water pollution control plant among other issues.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 3:51 p.m.

RECESS/RECONVENE

The City Council recessed at 3:51 p.m. from the afternoon Council Session and reconvened at 7:00 p.m. in the Council Chamber, City Hall.

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

Absent: Council Members - All Present.

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

CEREMONIAL ITEMS

- 1.4 Presentation of commendations to exceptional Girl Scouts who received the Gold Award, the highest award a Girl Scout can earn. (Herrera)
(Rules Committee referral 8/12/15)**

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended the extraordinary Girl Scouts who received the Gold Award.

- 1.5 Presentation of a commendation to Boy Scout Troop 221 for their exemplary work in servicing the community through a variety of projects benefitting the residents of San José. (Khamis)
(Rules Committee referral 8/12/15)**

Mayor Sam Liccardo and Council Member Johnny Khamis recognized and commended Boy Scout Troop 221 for their exceptional good work.

PUBLIC HEARINGS

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the north side of S. Almaden Avenue approximately 100 feet west of Sutter Street (863 Almaden Avenue) from the CN Commercial Neighborhood Zoning District to the R-M Multiple Residence Zoning District on a 0.16 gross acre site with a General Plan designation of Mixed Use Neighborhood, (Henely Robert, Owner). CEQA: Exempt per Section 15332: Infill Development Project. Planning Commission recommends approval (7-0-0). (Planning, Building, and Code Enforcement)
C15-015 – District 3**

Action: Deferred to September 1, 2015 per Administration.

- 11.1 (b) **Consideration of an ordinance rezoning the real property located at the southeast corner of Monterey Highway and East Alma Avenue (1402 Monterey Road) from the LI Light Industrial and HI Heavy Industrial Zoning Districts to the CIC Combined Commercial/Industrial Zoning District on an approximately 3.69 gross acre site (Southern Lumber Company, Owner). CEQA: Section 15168, Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building, and Code Enforcement)**
C15-019 – District 7

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-019 dated July 30, 2015. (2) Proof of Publication of Notice of Public Hearing, executed on July 31, 2015, submitted by the City Clerk.

Mayor Sam Liccardo opened the Public Hearing.

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

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29607, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 3.69 Acres at the Southwest Corner of Monterey Highway and East Alma Avenue (1402 Monterey Highway) from the HI Heavy Industrial Zoning Districts and LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District”, was passed for publication. (11-0.)

- (c) **Consideration of an ordinance rezoning the real property located at 15350 Warwick Road from the R-1-2 to the R-1-5 Single-Family Residence Zoning District on a 0.3 gross acre site. CEQA: Section 15168, Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building, and Code Enforcement)**
C15-025 – District 9

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-025 dated August 5, 2015. (2) Proof of Publication of Notice of Public Hearing, executed on July 31, 2015, submitted by the City Clerk.

Mayor Sam Liccardo opened the Public Hearing.

11.1 (c) (Cont'd.)

Public Comments: Susan and Larry Quezada expressed opposition to the Staff recommendations. Viet Nguyen, the property owner, stated that he would like to build a unit in the rear yard.

Mayor Sam Liccardo closed the Public Hearing.

Director of Planning, Building and Code Enforcement Harry Freitas responded to Council questions and concerns.

Action: Upon motion by Council Member Donald Rocha, seconded by Council Member Johnny Khamis and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29608, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.3 Gross Acres Situated Approximately 300 Feet North of Heather Drive on The East Side of Warwick Rock (15350 Warwick Road) From the R-1-2 Single Family Residence Zoning District to the R-1-5 Single Family Residence Zoning District", was passed for publication. (11-0.)

- 11.2 Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to approve a Conditional Use Permit to allow construction of a 760 square foot fitness center, new pedestrian access paths, and landscape improvements to an existing Swim and Racquet club on a 3.33 acre site in the R-1-8 Single-Family Residence Zoning District located on southeast corner of Northridge Drive and Bose Lane (Almaden Swim and Racquet Club, 6604 Northridge Drive). Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval. Adopt a resolution setting forth the City Council's findings and decision on the Conditional Use Permit. CEQA: Exempt, per Section 15301(e)(1), Existing Facilities. (Planning, Building, and Code Enforcement) CP13-004 – District 10 (Deferred from 6/23/15 – Item 11.4 and 8/4/15 – Item 4.2)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated July 29, 2015, recommending conducting an (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP13-004 dated April 28, 2015.

Mayor Sam Liccardo opened the Administrative Public Hearing.

Barbara Fontana, Appellant, cited she shares a common property with the existing swim and racquet club and is impacted daily with the trash and the frequent pounding of metal to fit into the dumpster.

Wenqing Jiang stated that his family is a member of the Almaden Swim and Racquet Club and that this is the best position for the dumpster.

11.2 (Cont'd.)

Public Comments: Expressing concerns and opposition on the subject of the new location of the dumpster, safety issues for children, adults and animals, increased traffic and noise and air pollution, parking congestion issues, decreased property values were: Jeffrey Phan, M.D.; Yoi Ransing, Member of Almaden Swim and Racquet Club; Robert Fontana, George Hopkins, Terry Boretti, Peter Groot, Mary Clare Hopkins, Lori Adam, Charles A. Brown, Michael Ross, Patrick Lui, Allison J. Daniel, Michael Francis, Ruben De La Rosa, Elisabeth Morris, Bill Frederics and Glenn Burkhardt.

Mayor Sam Liccardo closed the Administrative Public Hearing.

Motion: Council Member Johnny Khamis moved approval to deny the two appeals and to uphold the Planning Commission's recommendation to approve a Conditional Use Permit, with the modification to locate the dumpster in the middle of the parking lot on the clubhouse side. Vice Mayor Rose Herrera seconded the motion.

Brief Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77501, entitled: "A Resolution of the Council of the City of San José Denying Two Appeals and Approving a Conditional Use Permit to Allow for the Expansion of the Existing Legal Non Conforming Swim and Racquet Club (2,253 Square Foot of Building, One Lap/Diving Pool, One Spa, a 5,000 Square Foot Lawn Area, 6 Full Size Tennis Courts and One Small Practice Tennis Court) With the Construction of a 760 Square Foot Exercise Room, New Pedestrian Access Paths and Landscape Improvements on An Existing 3.33 Acre Site Located At the Almaden Swim and Racquet Club at the Southeast Corner of Bose Lane and Northridge Drive (6604 Northridge Drive)", was adopted, with the modification to locate the dumpster in the middle of the parking lot on the clubhouse side. (10-0-1. Absent Oliverio.)

11.3 Consideration of an ordinance rezoning the real property located on the east side of S. Montgomery, between The Alameda and W. San Fernando Street (50 S. Montgomery St.) from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District to allow commercial use on a 0.166 gross acre site, (Ilya Neizvestny, Owner). CEQA: Addendum to the San José Downtown Strategy 2000 Final EIR, Resolution No. 77096, and the Diridon Station Area Plan Final EIR, Resolution No. 77096. (Planning, Building, and Code Enforcement)

C15-014 – District 6

Action: Item 11.3 was dropped; To be renoticed.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10307	W. side of Monterey Road bounded by Esfahan Drive and Montecito Vista Drive	7	Taylor Morrison of California, a California limited liability company	9 / 22	MFA	Approve
10308	Bounded by Esfahan Drive, Montecito Vista Drive and Montecito Vista Way	7	Taylor Morrison of California, a California limited liability company	23 / 162	MFA	Approve

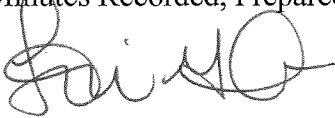
OPEN FORUM

Blair Beekman urged the Council to create a safe and cohesive plan for the UAS Drone Program.

ADJOURNMENT

The Council of the City of San José was adjourned at 8:33 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/08-18-15 MIN