



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 25, 2015

The Council of the City of San José convened in Regular Session at 9:06 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 9:12 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54957 with respect to Public Employment/Public Employee Recruitment/Appointment: Title: City Auditor; Name: Sharon Erickson. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (2) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (3) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (4) OE#3 v. City of San José; Names of Parties Involved: Operating

CLOSED SESSION (Cont'd.)

Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (5) 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. (6) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of 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. (7) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (8) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building,

CLOSED SESSION (Cont'd.)

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

By unanimous consent, Council recessed from the Closed Session at 10:55 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio (1:46 p.m.), Peralez, Rocha, Liccardo.

Absent: Council Members - All Present.

INVOCATION

Aba Beza Gedifew, the Mekane Rama St. Gabriel Cathedral of the Ethiopian Orthodox Church offered the Invocation. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Heard after Ceremonial Items.

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Chappie Jones and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 9.1 deferred to September 22, 2015. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring August 26, 2015 as, “Women’s Equality Day,” in the City of San José. (Herrera)

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Magdalena Carrasco recognized August 26, 2015 as “Women’s Equality Day” in San José.

**1.2 Presentation of a commendation to Tim Quigley, outgoing president of the San José-Dublin Sister Cities Program for his many accomplishments during his three year term as president. (Mayor)
(Rules Committee referral 8/19/15)**

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Kalra, Khamis and Peralez recognized and commended Tim Quigley.

**1.3 Presentation of a commendation to John Boncher, CEO of Cupertino Electric Inc. for their philanthropy and community impact to San José residents.
(Carrasco/Peralez)
(Rules Committee referral 8/19/15)**

Mayor Sam Liccardo, Council Member Magdalena Carrasco and Council Member Raul Peralez recognized and commended John Boncher, CEO of Cupertino Electric Inc.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) **Regular Minutes of April 07, 2015.**
 - (b) **Regular Minutes of April 14, 2015.**
 - (c) **Study Session Minutes on the Medical Marijuana Program of April 20, 2015.**
 - (d) **Regular Minutes of April 21, 2015.**
 - (e) **Joint San José/Santa Clara Valley Water District Minutes of April 27, 2015.**
 - (f) **Regular Minutes of April 28, 2015.**
- CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.**

Documents Filed: (1) The Regular Minutes dated April 07, 2015, April 14, 2015, April 21, 2015 and April 28, 2015. (2) The Study Session Minutes on the Medical Marijuana Program dated April 20, 2015. (3) The Joint San José/Santa Clara Valley Water District Minutes dated April 27, 2015.

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

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29601 – Amending Title 17 of the San José Municipal Code by adding Chapter 17.86 to specify requirements for solar energy systems and to provide an expedited, streamlined permitting process for small residential rooftop solar systems. CEQA: Exempt, Guidelines Section 15268. Ministerial Projects. File No. PP15-073.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29601 executed on November 9, 2015, submitted by the City Clerk.

Action: Ordinance No. 29601 was adopted. (11-0.)

2.3 Approval of Council Committee Reports.

- (a) **Rules and Open Government Committee Report of August 5, 2015. (Mayor)**
CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: The Rules and Open Government Committee Report of August 5, 2015.

Action: The Rules and Open Government Committee Report dated August 5, 2015 was approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.5 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Adopt resolutions:

(a) Authorizing the Director of Finance to negotiate and execute the following agreements with MuniServices LLC, a Delaware Limited Liability Company (“MuniServices”) to provide:

(1) Sales and Use Tax revenue enhancement services and data analysis for the term of July 1, 2015 through June 30, 2018 at a maximum annual compensation not to exceed \$412,000, with two one-year options to extend through June 30, 2020, at the same rate of compensation for each additional optional year subject to the City Council’s annual appropriation of funds.

(2) Telephone Line Tax, Utility Users Tax and Franchise Fee compliance services for the term of July 1, 2015 through June 30, 2018 at a maximum annual compensation not to exceed \$70,000, with two one-year options to extend through June 30, 2020, at the same rate of compensation for each additional optional year subject to the City Council’s annual appropriation of funds.

(b) Authorizing MuniServices to examine all Sales and Use Tax records of the California State Board of Equalization for tax collection purposes and other governmental functions of the City of San José.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance) (Deferred from 6/16/15 – Item 2.13 and 8/4/15 – Item 2.7)

Action: Deferred to September 01, 2015 per Administration.

2.8 Approve a Second Amendment to the ALD Development Corp. dba Airport Lounge Development, Inc. (“ALD”) Concession Agreement to extend the term to January 31, 2019 with total annual revenue to the City of approximately \$76,000. CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for the same use. (Airport)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated August 3, 2015, recommending approval of a second amendment.

Action: A Second Amendment to the ALD Development Corp. dba Airport Lounge Development, Inc. (“ALD”) Concession Agreement to extend the term to January 31, 2019 with total annual revenue to the City of approximately \$76,000 was approved. (11-0.)

- 2.9 As recommended by the Rules and Open Government Committee on August 12, 2015, appoint Council Member Magdalena Carrasco to the San José Police Activities League Board. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)
[Rules Committee referral 8/12/15 – Item F(1)]**

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: Council Member Magdalena Carrasco was appointed to the San José Police Activities League Board. (11-0.)

- 2.10 As recommended by the Rules and Open Government Committee on August 12, 2015, approve the receipt of gifts received in official capacity in accordance with San José Municipal Code Section 12.08.040. CEQA: Exempt, Guidelines Section 15268. Ministerial Projects. File No. PP15-073. (Jones)
[Rules Committee referral 8/12/15 – Item G(2)]**

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 receipt of gifts received in official capacity in accordance with San José Municipal Code Section 12.08.040 for Council Member Chappie Jones was approved. (11-0.)

- 2.11 As recommended by the Rules and Open Government Committee on August 12, 2015, approve a grant of \$1,000 to the Martin-Fontana Parks Association to be paid from the budgeted District 10 SAP Center at San José allocation, which is funded by the Arena Community Fund City-Wide appropriation. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Khamis)
[Rules Committee referral 8/12/15 – Item G(3)]**

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: A grant of \$1,000 to the Martin-Fontana Parks Association to be paid from the budgeted District 10 SAP Center at San José allocation, which is funded by the Arena Community Fund City-Wide appropriation was approved. (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on August 12, 2015, approve a grant of \$1,000 to Branham High School for their Sports Booster Club to support student programs and activities, which is funded by the Arena Community Fund Citywide appropriation. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Rocha)
[Rules Committee referral 8/12/15 – Item G(4)]**

2.12 (Cont'd.)

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: A grant of \$1,000 to Branham High School for their Sports Booster Club to support student programs and activities, which is funded by the Arena Community Fund Citywide appropriation was approved. (11-0.)

**2.13 As recommended by the Rules and Open Government Committee on August 19, 2015, adopt a resolution in support of the Fix Our Roads Coalition's goals for the California State Transportation Special Session. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)
[Rules Committee referral 8/19/15 – Item G(6)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated August 21, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: Resolution No. 77502, entitled: "A Resolution of the Council of the City of San José Urging the State of California to Provide New Sustainable Funding For State and Local Transportation Infrastructure", was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.3 Discuss the policy alternatives for amending Council Policy 2-1 to establish guidelines for the permanent display of the POW/MIA (Prisoner-of-War/Missing-in-Action) flag at City Hall's West Plaza and direct City staff to amend the policy based on the selected alternative. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves not changes to the physical environment. (Public Works)
(Referred from 6/23/15 – Item 3.24 and Deferred from 8/11/15 – Item 3.3)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Raul Peralez and Chappie Jones, dated August 21, 2015, recommending approval of the Staff recommendations to permanently display the POW/MIA Flag below the USA Flag at City Hall 365 days (Option One). (2) Memorandum from Director of Public Works Barry Ng, dated August 13, 2015, recommending discussing the policy alternatives for amending Council Policy 2-1. (3) Staff presentation dated August 25, 2015 summarizing Displaying the POW/MIA Flag.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum she cosigned with Mayor Sam Liccardo and Council Members Raul Peralez and Chappie Jones described below in "Action." Council Member Chappie Jones seconded the motion.

3.3 (Cont'd.)

Director of Public Works Barry Ng presented the Staff report and responded to Council questions.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to the motion on the floor were Dave Saunders, Vietnam Veterans of America; Vietnam J.D. Duenas, Vet Help Vet Brotherhood; Richard McCoy, Francis McVey, United Veterans Council; Frank Chavez, Michael Kelly, Veterans Supportive Services Agency; Jerry Arnold, Disabled American Veterans; Abel Ramos, American Legion Post 858 and James McMann, American Legion Willow Glen Post 318.

Council Members Peralez, Jones and Manh Nguyen expressed support to the motion on the floor.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Members Peralez and Jones, dated August 21, 2015, was approved, approving the Staff recommendation to permanently display the POW/MIA flag below the USA Flag at City Hall year round at 365 days. (11-0.)

3.4 **Interview applicants and consider an appointment to fill one (1) Attorney-at-Law representative with an unexpired term ending November 30, 2018 on the Civil Service Commission. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated August 14, 2015, recommending interviewing the applicant and consideration of an appointment. (2) Memorandum from City Attorney Richard Doyle, dated August 13, 2015, providing background on the Civil Service Commission Application for an Attorney member.

Action: Sharon Hightower, Attorney-a-Law was interviewed by the Mayor and Council members and appointed to an unexpired term ending November 30, 2018. (11-0.)

3.5 (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.**

3.5 (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 and 8/18/15 – Item 3.4)

Documents Filed: (1) Memorandum from Council Member Donald Rocha, dated August 7, 2015, recommending the Council approve the Staff recommendations. (2) Memorandum from Director of Employee Relations Jennifer Schembri and Senior Deputy City Manager Jennifer A. Maguire, dated July 24, 2015, recommending approval of the Alternative Pension Reform Settlement Framework Agreement, the memorandum of agreement and appropriation ordinance amendments. (3) Supplemental memorandum from Director of Employee Relations Jennifer Schembri, dated August 17, 2015, providing additional information. (4) Presentation Slides from the Office of the Mayor dated August 25, 2015. (5) Staff presentation dated August 25, 2015 describing the San José Police Officers' Association and International Association of Fire Fighters, Local 230 Alternative Pension Reform Settlement Framework.

Director of Employee Relations Jennifer Schembri offered the report.

Mayor Sam Liccardo opened the floor for public testimony

Public Comments: Speaking in support to the settlement agreement were Paul Kelly, James Gonzales, Police Officers' Association; Sean Kaldor, San José Fire Fighters Local 230 and Ross Signorino.

Mayor Sam Liccardo provided a brief presentation depicting estimated annual City retirement contributions projects for Police and Fire and Police Officer gross pay comparisons for Fiscal Year 2016-2017.

First Motion: Council Member Chappie Jones moved approval of the Staff recommendations including the Alternative Pension Reform Settlement Framework Agreement. Vice Mayor Rose Herrera seconded the motion.

Council Member Pierluigi Oliverio expressed opposition to the first motion on the floor.

Council discussion ensued.

Second Motion: Council Member Chappie Jones moved approved of the two supplemental memoranda. Vice Mayor Rose Herrera seconded the motion.

Council Member Pierluigi Oliverio expressed opposition to the second motion on the floor.

3.5 (Cont'd.)

Action: On a call for the question, both motions carried, Resolution No. 77503, entitled: "A Resolution of the Council of the City of San José Approving the Terms of the Alternative Pension Reform Settlement Framework Agreement With the San José Police Officers' Association and International Association of Fire Fighters, Local 230 and Authorizing the City Manager to Negotiate and Execute a Tripartite Retirement Memorandum of Agreement" and Ordinance No. 29609, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for the Citywide Measure B Settlement; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-1. Noes: Oliverio.)

- 3.6 (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)**

Documents Filed: Memorandum from Director of Employee Relations Jennifer Schembri and Senior Deputy City Manager Jennifer A. Maguire, dated August 14, 2015, recommending adoption of a resolution and appropriation ordinance amendments.

Director of Employee Relations Jennifer Schembri presented a brief update.

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

Council Member Pierluigi Oliverio expressed support to the motion on the floor.

Mayor Sam Liccardo opened the floor for public testimony

Public Comments: Shaunn Cartwright presented comments on the collective bargaining agreement between the City and the San José Police Officers' Association.

3.6 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Resolution No. 77504, entitled: "A Resolution of the Council of the City of San José Approving an Agreement Between the City of San José and the San José Police Officers' Association with a Term Commencing Upon Execution of the Agreement to December 31, 2016" and Ordinance No. 29610, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund For the Personal Services Appropriations to the Police Department and the City Attorney's Office; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution directing the Interim Director of Housing to pursue steps necessary to acquire the Plaza Hotel located in San José at 96 South Almaden Boulevard ("Plaza Hotel") from the Successor Agency to the Redevelopment Agency of the City of San José (SARA), for housing the homeless, and return to City Council to obtain authorization to acquire. CEQA: Exempt, Guidelines Section 15301, Existing Facilities. (Housing)
(Deferred from 6/16/15 – Item 4.2, et al, and 8/11/15 – Item 4.1)**

Action: Deferred to September 22, 2015 per Administration.

- 4.2 (a) Adopt a resolution:**
- (1) Approving an early disbursement of the existing \$8,000,000 construction-permanent loan commitment, in the form of a land acquisition loan, of up to \$5,000,000 that will refinance an existing land acquisition loan in order to support development of the Second Street Studio Apartments, an affordable multifamily rental development offering permanent supportive housing for the homeless to be located at 1140 South Second Street at Keyes Street ("Development") and developed by a legal affiliate of First Community Housing Corporation ("FCH" or "Developer").**
 - (2) Approving an increase of up to a \$6,452,000 to the existing City Council-approved construction-permanent loan commitment of \$8,000,000, for a total of up to \$14,452,000 of Low and Moderate Income Housing Asset Funds to Developer.**
 - (3) Approving an increase of up to \$500,000 to the existing predevelopment loan.**

- 4.2 (b) **Adopt the following Appropriation Ordinance amendments in the Low and Moderate Housing Asset Fund (346):**
- (1) **Increase the appropriation to the Housing Department for Housing Loans and Grants in the amount of \$5,000,000.**
 - (2) **Decrease the Housing Project Reserve appropriation in the amount of \$5,000,000.**

CEQA: Mitigated Negative Declaration, File No. PDC07-086, adopted 8/26/2008. (Housing/City Manager)

Action: Deferred to September 15, 2015 per Administration.

- 4.3 **Adopt a resolution initiating proceedings and setting September 15, 2015 at 1:30 p.m., for City Council consideration of the reorganization of territory designated as Story No. 65, which involves the annexation to the City of San José of an approximately 0.52 gross acre of land located on the west side of East Hills Drive, approximately 250 feet easterly of Dale Drive, and the detachment of the same from the appropriate special districts, including Central Fire Protection, CO Lighting County Service, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service. CEQA: Envision 2040 General Plan Final Program EIR (Resolution No. 76041). Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: City Council Action Request from Director of Planning, Building and Code Enforcement Harry Freitas, dated August 14, 2015, recommending adoption of a resolution.

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77505, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Story No. 65, Described More Particularly Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (11-0.)

- 4.4 (a) **Adopt an interim ordinance of the City of San Jose, as an urgency measure, establishing a temporary moratorium on the conversion or closure of mobilehome parks pending the review and possible amendment of the land use regulations applicable to such conversions and closures and setting forth the findings to support (1) the need for the temporary moratorium; and (2) the need for the urgency measure.**
- (b) **Direct staff to refer to the Planning Commission for its review and recommendation, at its earliest possible regular meeting, a substantially similar ordinance establishing a temporary moratorium on the conversion or closure of mobilehome parks pending the review and possible amendment of the land use regulations applicable to such conversions and closures.**

CEQA: Exempt, Guidelines Sections 15061(b)(3) No Significant Impact on the Environment and 15308 Actions by Regulatory Agencies for Protection of the Environment. (Housing/Planning, Building, and Code Enforcement)

4.4 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Johnny Khamis, dated August 24, 2015, with direction to Staff. (2) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas and Interim Director of Housing Jacky Morales-Ferrand, dated August 21, 2015, recommending adoption of an interim ordinance and direction to Staff. (3) Letter from Diana Castillo, Senior Attorney, Fair Housing Law Project, Law Foundation of Silicon Valley, dated August 24, 2015, regarding the Mobilehome Park Conversion Moratorium.

Director of Planning, Building and Code Enforcement Harry Freitas provided introductory remarks.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Speaking in support to the Mobilehome Park Conversion Moratorium were David Tripp, Phyllis Tripp, Winchester Ranch Mobilehome Park; Katharine Turner, Winchester Ranch; Diana Castillo, Law Foundation of Silicon Valley; Bill Baron, Eric Brandenburg, Brandenburg, Staedler and Moore; Shaunn Cartwright, Gary Smith, Millpond Mobilehome Park; Mike Connolly, Richard Lawrence, Gail Osmer, Lee Ellak, Davlyn Jones, Marylou Clark, Martha O'Connell, Phil Olmstead, Erik Schoennauer, Debbi Cosentino, Stan Soles, Chris Giangreco, Reverend C. Lynn Bailey, Robert Aguirre, Brian Darby, Giau Huynh Nguyen, Ross Signorino and Karen Carpenter.

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

Council Member Johnny Khamis requested to amend the motion to include his memorandum dated August 24, 2015. Council Member Chappie Jones and Vice Mayor Rose Herrera accepted Part (c) of Council Member Johnny Khamis' memorandum: direct Staff to meet with the Mobile Home Park Owners and residents as necessary to prepare an "Opt-In; Stay in Business" alternative *to be included* within a proposed work plan for Council consideration.

Council discussion ensued.

Council Member Raul Peralez objected to the motion on the floor.

Substitute Motion: Council Member Raul Peralez moved approval of the Staff recommendations. Council Member Donald Rocha seconded the motion.

City Attorney Richard Doyle clarified that nine votes are needed for an urgency ordinance.

On a call for the question, the substitute motion failed. (7-4. Noes: Herrera, Jones, Khamis, Oliverio.)

4.4 (Cont'd.)

Action: On a call for the question, the original motion carried unanimously, Ordinance No. 29611, entitled: "An Interim Ordinance of the City of San José Establishing a Temporary Moratorium on the Conversion or Closure of Mobilehome Parks Pending the Review and Possible Amendment of Land Use Regulations Applicable to Such Conversions and Closures and Setting Forth Findings to Support Such Temporary Moratorium", was adopted. Staff was directed to meet with the Mobile Home Park Owners and residents as necessary to prepare an "Opt-In; Stay in Business" alternative *to be included* within a proposed work plan for Council consideration. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) Approve the acquisition of 226 Balbach by the City from the Successor Agency to the Redevelopment Agency of the City of San José for \$2,400,000 from the Low and Moderate Income Housing Asset Fund to that the Housing Department can acquire the site and determine an appropriate future affordable housing development.**
- (b) Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:**
- (1) Increase the appropriation to the Housing Department for Housing Loans and Grants by \$2,410,000.**
 - (2) Decrease the Housing Project Reserve appropriation by \$2,410,000.**
- CEQA: Determination of Consistency with Downtown Strategy 2000 EIR (Resolution No. 72767). Council District 3. (Housing/City Manager)**

Action: Deferred to September 22, 2015 per Orders of the Day.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:07 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/08-25-15 MIN