



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 6, 2015

The Council of the City of San José convened in Regular Session at 9:09 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 9:12 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: Department or Agency: Housing; (B) to confer with Legal Counsel pursuant to Government Code Section 54957 with respect to Public Employment/Public Employee Evaluation: Department: Title: City Attorney; Name: Richard Doyle; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to anticipated litigation in one (1) matter; (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) City of San José v. Office of the Commissioner of Baseball, et al.; Names of Partie(s) Involved: City of San José; City of San José as Successor Agency to the Redevelopment Agency of the City of San José; the San José Diridon Development Authority; Office of the Commissioner of Baseball, an Unincorporated Association doing business as Major League Baseball; Allan Huber "Bud" Selig"; Court: United States Court of Appeals, Ninth Circuit; Case No.: C-13-02787 RMW and 14-15139; Amount of Money or Other Relief Sought: Damages According to Proof; (2) 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

CLOSED SESSION (Cont'd.)

Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (3) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: 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; (4) 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; (5) 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; (6) 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. (7) 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. (8) 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. (9) 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. (10) 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. (11) 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; (12) People of the

CLOSED SESSION (Cont'd.)

State of California, et al. v. City of San José, et al.; Names of Partie(s) 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; (13) 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; (E) 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; (F) 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

CLOSED SESSION (Cont'd.)

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, 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. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:58 p.m. and reconvened to Regular Session at 1:34 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

Professor Gus Lease, San José State University, sang "America the Beautiful" and "The Grand Old Flag" for the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Magdalena Carrasco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.5 deferred to October 27, 2015. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring City of San José's participation in the 2015 Combined Giving Campaign from October 6 through November 13, 2015. (Parks, Recreation and Neighborhood Services/Herrera).

Mayor Sam Liccardo and Vice Mayor Rose Herrera declared the City of San José's participation in the 2015 Combined Giving Campaign, and Director of Parks, Recreation and Neighborhood Services, Angel Rios invited participation.

1.2 Presentation of a proclamation proclaiming the month of October as Breast Cancer Awareness Month in the City of San José. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera proclaimed the month of October as Breast Cancer Awareness Month in the City of San José.

1.3 Presentation of a proclamation to declare Hindu American Awareness Month in the City of San José. (Kalra)

Mayor Sam Liccardo and Councilmember Ash Kalra proclaimed October Hindu American Awareness Month in the City of San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen 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 Final adoption of ordinances.

- (a) **ORD. NO. 29616 – Rezoning certain real property of approximately 3.34 acres situated at the southern terminus of Dove Hill Road, approximately 1,890 feet southerly of Yerba Buena Road (3830 Dove Hill Road) from the Agricultural Zoning District to the R-1-2 Single-Family Residence Zoning District. CEQA: Addendum to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041).**

Action: Ordinance No. 29616 was adopted. (11-0.)

- (b) **ORD. NO. 29617 – Rezoning certain real property of approximately 0.4 acre on the northeast corner of Lincoln Avenue and Savaker Street (590 Lincoln Avenue) from IP Industrial Park Zoning District to the CIC Combined Industrial/Commercial Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041).**

Action: Ordinance No. 29617 was adopted. (11-0.)

2.2 Final Adoption of Ordinances. (Cont'd.)

Recommendation:

- (c) **ORD. NO. 29618 – Rezoning certain real property of approximately 5.54 acres on the southwesterly corner of McLaughlin Avenue and Carnelian Drive (1523 McLaughlin Avenue) from the R-1-8 Single Family Residence District to the PQP Public/Quasi Public Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041).**

Action: Ordinance No. 29618 was adopted. (11-0.)

- (d) **ORD. NO. 29619 – Rezoning certain real property of approximately 42.53 acres situated on the southeast corner of Winchester and Stevens Creek Boulevards (Santana Row) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. CEQA: Santana Row Expansion Project Environmental Impact Report (Resolutions No. 77532), File No. PDC13-050.**

Action: Ordinance No. 29619 was adopted. (11-0.)

- (e) **ORD. NO. 29620 – Rezoning certain real property of approximately 0.72 gross acre situated at the northwest corner of North Capitol Avenue and Hostetter Road (1601 North Capitol Avenue) from the A(PD) Planned Development Zoning District to the CN(PD) Planned Development Zoning District. CEQA: Exempt, Guidelines Section 15303(c) for New Construction of Small Structures.**

Action: Ordinance No. 29620 was adopted. (11-0.)

- (f) **ORD. NO. 29623 – Rezoning certain real property of approximately 0.16 acre situated on the north side of South Almaden Avenue approximately 100 feet west of Sutter Street (863 South Almaden Avenue), from the CN Commercial Neighborhood Zoning District to the R-M Multiple Residence Zoning District. CEQA: Exempt, Guidelines Section 15303 New Construction or Conversion of Small Structures. File No. C15-015.**

Action: Ordinance No. 29623 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

- (a) **Rules and Open Government Committee Minutes of September 2, 2015. (Mayor)**
[Deferred from 9/22/2015 – Item 2.3(a)]
- (b) **Neighborhood Services and Education Committee Minutes of September 10, 2015. (Rocha)**
- (c) **Transportation and Environment Committee Minutes of September 14, 2015. (Kalra)**
- (d) **Rules and Open Government Committee Minutes of September 16, 2015. (Mayor)**
- (e) **Public Safety, Finance, and Strategic Support Committee Minutes of September 17, 2015. (Oliverio)**

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

Documents Filed: (1) Rules and Open Government Committee Minutes dated September 2, and September 16, 2015. (2) Neighborhood Services and Education Committee Minutes dated September 10, 2015. (3) Transportation and Environment Committee Minutes dated September 14, 2015. (4) Public Safety, Finance, and Strategic Support Committee Minutes dated September 17, 2015.

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

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Approve an Automated Teller Machine Concession Agreement with Bank of America, N.A., for a term of seven years starting January 1, 2016 with a concession fee to the City in the amount of \$313,500 for the first year. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)

Documents Filed: Memorandum from Director of Aviation Kimberly J. Becker, dated September 14, 2015, recommending approval of an Agreement.

Action: An Automated Teller Machine Concession Agreement with Bank of America, N.A., for a term of seven years starting January 1, 2016 with a concession fee to the City in the amount of \$313,500 for the first year, was approved. (11-0.)

- 2.8 (a) Adopt an ordinance ratifying final 2014-2015 expenditures in various appropriations detailed in this report.
- (b) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:
- (1) Increase the Earned Revenue estimate by \$1,431,298;
 - (2) Increase the Needs-Based Allocation Transfer to Council District 1 by \$77,450;
 - (3) Increase the Needs-Based Allocation Transfer to Council District 2 by \$56,962;
 - (4) Increase the Needs-Based Allocation Transfer to Council District 3 by \$88,745;
 - (5) Increase the Needs-Based Allocation Transfer to Council District 4 by \$60,735;
 - (6) Increase the Needs-Based Allocation Transfer to Council District 5 by \$109,598;
 - (7) Increase the Needs-Based Allocation Transfer to Council District 6 by \$91,061;
 - (8) Increase the Needs-Based Allocation Transfer to Council District 7 by \$102,475;
 - (9) Increase the Needs-Based Allocation Transfer to Council District 8 by \$60,371;
 - (10) Increase the Needs-Based Allocation Transfer to Council District 9 by \$96,268;
 - (11) Increase the Needs-Based Allocation Transfer to Council District 10 by \$63,568;
 - (12) Increase the Transfer to the Parks City-Wide Construction and Conveyance Tax Fund by \$403,113; and
 - (13) Increase the Transfer to the General Fund – Parks Eligible Maintenance Costs by \$220,952.
- (c) Adopt the following 2014-2015 Appropriation Ordinance amendments in the General Fund:
- (1) Increase the City-Wide Expenses Sick Leave Payments Upon Retirement appropriation by \$564,064; and
 - (2) Decrease the City-Wide Expenses Workers' Compensation Claims – Police appropriation by \$564,064.
- (d) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the 1943 Gas Tax Maintenance and Construction Fund:
- (1) Increase the estimate for Earned Revenue by \$256,584; and
 - (2) Increase the Transfer to the General Fund for Street Maintenance by \$256,584.
- (e) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the 1990 Gas Tax Maintenance and Construction Fund:
- (1) Increase the estimate for Earned Revenue by \$200,106; and
 - (2) Increase the Transfer to the General Fund for Street Maintenance by \$200,106.

2.8 Ratification of Final Expenditures for 2014-2015. (Cont'd.)

- (f) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the 1964 Gas Tax Maintenance and Construction Fund:**
- (1) Increase the estimate for Earned Revenue by \$31,258; and**
 - (2) Increase the Transfer to the General Fund for Street Maintenance by \$31,258.**
- (g) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:**
- (1) Increase the Earned Revenue estimate by \$1,857; and**
 - (2) Increase the Transfer to the Park Yards Operating and Maintenance Expenses appropriation by \$1,857.**
- CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager)**

Documents Filed: Memorandum from Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 23, 2015, recommending adoption of an ordinance and adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29624, entitled: “An Ordinance of the City of San José Authorizing and Ratifying Certain Encumbrances and/or Expenditures in Various Funds Made During City’s 2014-2015 Fiscal Year in Excess of Sums Appropriated Therefore”; Ordinance No. 29625, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund for the Needs-Based Allocation Transfer to Council Districts One through Ten, the Transfer to Parks City-Wide Construction and Conveyance Tax Fund, and the Transfer to the General Fund – Parks Eligible Maintenance Costs; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 29626, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Fund for Sick Leave Payments Upon Retirement; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 29627, entitled: “An Ordinance of the City of San José to Appropriate Monies in the 1943 Gas Tax Maintenance and Construction Fund for the Transfer to the General Fund for Street Maintenance; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 29628, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the 1990 Gas Tax Maintenance and Construction Fund for the Transfer to the General Fund for Street Maintenance, and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 29629, entitled: “An Ordinance of the City of San José to Appropriate Monies in the 1964 Gas Tax Maintenance and Construction Fund for the Transfer to the General Fund for Street Maintenance; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 29630, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards

2.8 Ratification of Final Expenditures for 2014-2015. (Cont'd.)

Action (Cont'd.): Purposes for the Transfer to the Park Yards Operating and Maintenance Expenses; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 77539, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund”; Resolution No. 77540, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the 1943 Gas Tax Maintenance and Construction Fund”; Resolution No. 77541, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the 1990 Gas Tax Maintenance and Construction Fund”; Resolution No. 77542, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the 1964 Gas Tax Maintenance and Construction Fund”; Resolution No. 77543, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes”, were adopted. (11-0.)

- 2.9 (a) **Approve the Master Service Agreement with Bonkowski & Associates, Inc. for Water Well Evaluation Pre-Design Services for San José Municipal Water System for the term beginning on the date of Council approval of the agreement through September 30, 2017, with a not-to-exceed amount of \$1,500,000.**
- (b) **Adopt a resolution authorizing the Director of Environmental Services to exercise two options: one option to extend the term for one additional year after the initial term; and a second option to extend the term for one additional year after the first option year, with no increase in the maximum compensation for exercise of the options.**

CEQA: Exempt, Guidelines Section 15306. Information Collection, File No. PP15-080. (Environmental Services)

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated September 14, 2015, recommending approval of a Master Service Agreement and adoption of a resolution.

Action: The Master Service Agreement with Bonkowski & Associates, Inc. for Water Well Evaluation Pre-Design Services for San José Municipal Water System for the term beginning on the date of Council approval of the agreement through September 30, 2017, with related contingencies, was approved; and Resolution No. 77544, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Exercise Two One-Year Options to Extend the Master Service Agreement with Bonkowski & Associates, Inc. for Water Well Evaluation Pre-Design Services for San José Municipal Water System, with No Increase in the Maximum Compensation for the Option Terms”, was adopted. (11-0.)

2.10 As recommended by the Rules and Open Government Committee on September 23, 2015:

- (a) Approve the Westfield Oakridge Winter Walk (WOWW) scheduled on February 26, 2016 as a City Council sponsored Special Event and approve the expenditure of funds;**
- (b) Approve and accept donation from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Khamis)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 24, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: Westfield Oakridge Winter Walk (WOWW) 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 (a) Approve the Crime Prevention Forum scheduled on October 22, 2015 as a City Council sponsored Event and approve the expenditure of funds; and**
- (b) Approve and accept donation from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Khamis)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 24, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Crime Prevention Forum 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 (a) Accept an invitation from the Bill and Melinda Gates Foundation to attend the International Network of Emerging Library Innovators – Cohort 2 (INELI) - from October 18 to October 22, 2015. The Bill and Melinda Gates Foundation will pay the cost for travel and lodging within Cape Town during the event.**
- (b) Approve travel to Cape Town, South Africa for Jill Bourne, Library Director, who will represent the City of San José as a featured presenter at the INELI conference.**

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

Action: Dropped per Administration.

- 2.13 (a) Approve “STEM with Mayor Sam” as a City Council sponsored Event and approve the expenditure of funds; and
(b) Approve and accept donation from various individuals, businesses or community groups to support the event.

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 24, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: STEM with Mayor Sam 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.)

- 2.14 (a) Accept staff report on the status of the San José Curb Café pilot program.
(b) Adopt a resolution that reauthorizes and expands the San José Curb Café pilot program and associated guidelines to authorize the Director of Public Works to issue encroachment permits to no more than ten total Curb Café’s in San José from the date of reauthorization until December 31, 2016. .

CEQA: Exempt, Guidelines Section 15304(b). Minor Alterations to Land, File No. PP12-103. (Public Works)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated October 5, 2015, approving staffs’ recommendations with modifications. (2) Memorandum from Director of Public Works Barry Ng, dated September 14, 2015, recommending adoption of a resolution.

Mayor Sam Liccardo pulled Item 2.14 to express his support for widespread activation of Curb Cafés.

Motion: Councilmember Raul Peralez moved approval of staffs’ recommendations, including direction as outlined in Mayor Sam Liccardo’s memorandum dated October 5, 2015, as amended below in “Action”. Vice Mayor Rose Herrera seconded the motion.

Public Comment: Michael Mulcahy encouraged quality over quantity when considering future Curb Cafés.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 77545, entitled: “A Resolution of the Council of the City of San José Reauthorizing and Expanding the San José Curb Café Pilot Program to December 2016”, was adopted, including Mayor Sam Liccardo’s memorandum, dated October 5, 2015, was approved as amended, directing staff to (1) Move forward with the Municipal Code changes, as directed by City Council in January 2013, to create a streamlined single fee and approval process for curb cafes, and if necessary to include outdoor sidewalk cafes as well; (2) Expand the Curb Café Program to allow up to twenty-five (25) curb cafes, ~~and extend the Curb Café Program through December 31, 2017;~~ and (3) Create a 1-page flyer which can be disseminated electronically, outlining the guidelines of the pilot program, which Councilmembers may use to promote the Curb Café Program within their Council Districts”, including extending the pilot program to December, 2016. (11-0.)

- 2.15 Report on bids and award of a construction contract for the 7978 – 2015 ADA Accessibility Ramps Project to the low bidder Spencon Construction, Inc. in the amount of \$1,033,475 with a contingency of \$103,348. CEQA: Exempt, Guidelines Section 15301. Existing Facilities, File No. PP13-051. (Transportation)**

Documents Filed: City Council Action Request dated October 6, 2015, recommending award of a construction contract.

Action: Report on bids and award of a construction contract for the 7978 – 2015 ADA Accessibility Ramps Project to the low bidder Spencon Construction, Inc. in the amount of \$1,033,475, with related contingencies, were approved. (11-0.)

STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas invited participation in Viva Calle San José which will close miles of San José streets on October 11, bringing communities together to walk, bike, skate, play, and explore the city. Additionally he announced that Super Bowl trophies are currently on display at St. James Park.

Councilmember Pierluigi Oliverio requested follow-up on the City's ability to mandate netting for bird-nesting cleanup under CalTrain freeway and railroad overpasses.

- 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)

Action: Deferred to October 20, 2015 per Administration.

3.4 Discussion and direction relating to modifications to Title 12 of the San José Municipal Code regarding Disclosure of Electioneering Communications, Duties of the City Clerk in Publishing Campaign Statement Information, Voluntary Spending Limits Program, and Late Contribution Disclosure requirements. CEQA: Not a Project, File No. PP10-068(c), Code of Policy change that involves no physical changes to the environment. (City Attorney/City Clerk)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated October 2, 2015 recommending actions to clarify and simplify the election laws. (2) Memorandum from Councilmember Chappie Jones, dated October 5, 2015, providing recommendations regarding Title 12 of the San José Municipal Code. (3) Memorandum from City Attorney Richard Doyle, dated September 25, 2015, regarding to modifications to Title 12. (4) Supplemental memorandum from City Attorney Richard Doyle, dated October 2, 2015, clarifying the deadline for expenditure of surplus funds.

City Attorney Richard Doyle and Deputy City Attorney Arlene Silva provided an overview of recommended changes to Title 12, and Council discussion followed.

Proposed changes to municipal elections provisions of the Municipal Code were heard separately as indicated below:

A. Disclosure of Electioneering Communication.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (A) from his memorandum dated October 5, 2015, and Item (A) from Mayor Sam Liccardo's memorandum dated October 2, 2015. Councilmember Johnny Khamis seconded the motion.

Action: On a call for the question, the motion carried unanimously, and staffs' recommendations were accepted, including Item (A) in the memoranda from Mayor Sam Liccardo, dated October 2, 2015 and from Councilmember Chappie Jones, dated October 5, 2015. (10-0-1. Absent: Rocha.)

B. City of San José Form 503.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (B) from his memorandum dated October 5, 2015, and Item (B) from Mayor Sam Liccardo's memorandum dated October 2, 2015. Councilmember Raul Peralez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and staffs' recommendations were accepted, including Item (B) in the memoranda from Mayor Sam Liccardo, dated October 2, 2015 and from Councilmember Chappie Jones, dated October 5, 2015. (11-0.)

3.4 (Cont'd.)

C. Duties of the City Clerk – Publishing Campaign Statement Information.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (C) from his memorandum dated October 5, 2015, and Item (C) from Mayor Sam Liccardo's memorandum dated October 2, 2015. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and staffs' recommendations were accepted, including Item (C) in the memoranda from Mayor Sam Liccardo, dated October 2, 2015 and from Councilmember Chappie Jones, dated October 5, 2015. (11-0.)

D. Deadlines to Close Out Campaign Committees.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including, Item (D) from his memorandum dated October 5, 2015, and including changing all three of the deadlines to six (6) months from the date of the election. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and staffs' recommendations were accepted, including Item (D) from Councilmember Chappie Jones' memorandum, dated October 5, 2015, and including changing all three of the deadlines to six (6) months from the date of the election. (11-0.)

E. Voluntary Campaign Expenditure Limits.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (E) from his memorandum dated October 5, 2015, including eliminating the program in its entirety. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried, and staffs' recommendations were accepted, including Item (E) from Councilmember Chappie Jones' memorandum, dated October 5, 2015, including eliminating the program in its entirety. (9-2. Noes: Liccardo, Rocha.)

F. Campaign Contribution Limits-Special Elections.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (F) from Mayor Sam Liccardo's memorandum, dated October 2, 2015 and Item (F) from Councilmember Chappie Jones' memorandum, dated October 5, 2015, as indicated on page 16 in "Action". Vice Mayor Rose Herrera seconded the motion.

3.4 (Cont'd.)

F. Campaign Contribution Limits-Special Elections (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and staffs' recommendations were accepted, including Item (F) from Mayor Sam Liccardo's memorandum, dated October 2, 2015 and Item (F) from Councilmember Chappie Jones' memorandum, dated October 5, 2015, allowing separate contributions limits for both the special municipal election and the special run-off election, and to ensure the uniformity of those limits with standard election cycles. (11-0.)

G. Political Signs.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (G) from Mayor Sam Liccardo's memorandum dated October 2, 2015. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and staffs' recommendations were accepted, including Item (G) from Mayor Sam Liccardo's memorandum dated October 2, 2015, directing the City Attorney to move all electioneering communications rules for content of signs to Title 12, so that one can readily understand the rules with reference to a single section of the Code governing elections, and to direct the City Clerk to continue to provide outreach and education. (11-0.)

H. Minimum Penalty.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (H) from Mayor Sam Liccardo's memorandum dated October 2, 2015. Councilmember Johnny Khamis seconded the motion.

Action: On a call for the question, the motion carried unanimously, and staffs' recommendations were accepted, including Item (H) from Mayor Sam Liccardo's memorandum, dated October 2, 2015, directing the City Attorney to modify the Ethics Commission recommendation to mandate a standard minimum penalty of \$1,000 for failure to file late contribution reports, but allow the Commission the discretion to reduce the penalty upon making written findings of unusual mitigating circumstances that make a \$1,000 fine unreasonable. (11-0.)

I. Late Contributions.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (I) from his memorandum dated October 5, 2015. Vice Mayor Rose Herrera seconded the motion.

Councilmember Johnny Khamis requested an amendment to the motion, asking that submission of Form 460 be changed to 1 day rather than 2. Councilmember Chappie Jones and Vice Mayor Rose Herrera accepted the amendment to the motion.

3.4 (Cont'd.)

I. Late Contributions (Cont'd.)

Substitute Motion: Councilmember Manh Nguyen moved approval that submission of Form 460 be changed to the Friday before the election. Councilmember Johnny Khamis seconded the motion.

On a call for the question, the substitute motion failed. (3-8. Noes: Carrasco, Herrera, Jones, Kalra, Oliverio, Peralez, Rocha; Liccardo.)

Action: On a call for the question, the original motion carried as amended, and staffs' recommendations were accepted with modifications as stated in Item (I) in Councilmember Chappie Jones' memorandum dated October 5, 2015, to eliminate the City's late contribution filing requirements and require a third pre-election campaign statement (Form 460), with the Form 460 to be submitted 1 day before the election. Candidates would continue to follow FPPC rules of filing the Form 497 for contributions of \$1,000 or more within the 90 days before an election. (10-1. Noes: Manh Nguyen.)

J. Clarifying terms, Clean up, and Other Items.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including Item (J) from his memorandum dated October 5, 2015. Vice Mayor Rose Herrera seconded the motion.

Councilmember Ash Kalra expressed opposition to pre-election fundraising.

Councilmember Chappie Jones opined that it should be left up to the Ethics Commission to decide.

Action: On a call for the question, the motion carried, and staffs' recommendations were accepted with modifications as stated in Item (J) in Councilmember Chappie Jones' memorandum dated October 5, 2015, directing the Ethics Commission to review the pre- and post-election 180-day fundraising rules and come back to the Council with recommendations. (10-1. Noes: Kalra.)

3.5 **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)**

Action: Deferred to October 27, 2015 per Orders of the Day.

- 3.6 **As recommended by the Rules and Open Government Committee on September 30, 2015, direct the City Clerk to initiate the appointment process for the unanticipated, unscheduled vacancy for a police department employee member on the Board of Administration of the Police and Fire Department Retirement Plan to appoint a City police department employee to the end of the resigned member's term, November 30, 2017. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)**

Action: Dropped per Orders of the Day.

- 3.7 **As recommended by the Public Safety, Finance, and Strategic Support Committee on September 17, 2015, accept the semi-annual report on the status of City-wide technology projects and future information technology investment strategies. 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. (Information Technology)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated September 24, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Director of Information Technology Vijay Sameta provided a presentation and Director of Human Resources, Joe Angelo responded to questions.

Vice Mayor Rose Herrera asked that staff provide a future update on 'lessons learned' from past strategies.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen and carried unanimously, the semi-annual report on the status of City-wide technology projects and future information technology investment strategies was accepted. (11-0.)

- 3.8 (a) **Interview applicants for appointment to the Planning Commission; and**
(b) **Appoint one (1) applicant to the Planning Commission to an unexpired term ending June 30, 2016.**

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

[Deferred from 9/29/15 – Item 3.3]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 18, 2015, providing Planning Commission appointment background and analysis.

Action: Interviews were held, and Michelle Yesney was appointed to the Planning Commission to an unexpired term ending June 30, 2016.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **Adopt a resolution to approve the selection of Insight Realty Investments Inc., dba Insight Realty Company in response to the Parkside Hall Request for Qualifications, and authorize the City Manager, or his designee, to execute an Exclusive Negotiation Agreement with the selected developer, thereby allowing staff to continue non-binding discussions with the developer for the purposes of preparing a Purchase and Sale Agreement for City Council's consideration. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts for services that involve no physical change to the environment. Council District 3. (Economic Development)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmembers Peralez, Carrasco, Rocha and Khamis, dated October 2, 2015, approving staff recommendations with additional direction. (2) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated September 14, 2015, recommending adoption of a resolution.

Assistant Director of Economic Development, Nanci J. Klein provided a presentation.

Motion: Councilmember Raul Peralez moved approval of staff recommendations including recommendations as outlined in the joint memorandum he coauthored with Mayor Sam Liccardo and Councilmembers Carrasco, Rocha and Khamis, dated October 2, 2015, and with item 3.vi modified as indicated below in "Action". Councilmember Donald Rocha seconded the motion.

Public Comment: Encouraging a strong labor agreement with the developers and union were José Garcia (Building Trades Council); Sarah McDermott, Enrique Fernandez and Fernando Licea (Unite Here Local 19) and David Urhausen (South Bay Labor Council).

Action: On a call for the question, the motion carried unanimously, and Resolution No. 77546, entitled: "A Resolution of the Council of the City of San José Approving the Selection of Insight Realty Investments, Inc. DBA Insight Realty Company as Developer in Response to the Parkside Hall Request for Qualifications and Authorizing the City Manager or His Designee to Execute an Exclusive Negotiation Agreement with the Developer", was adopted, including the joint memorandum from Mayor Sam Liccardo and Councilmembers Peralez, Carrasco, Rocha and Khamis, dated October 2, 2015, with item 3.vi. modified to "require the developer to enter into a labor peace agreement with the appropriate union to locate the City's interests from a hotel-land dispute". (11-0.)

- 4.2 **Adopt a resolution authorizing the City Manager, or his designee, to execute a First Amendment to extend the current lease between Sun Garden Tenants in Common, as Landlord, and the City of San José, as Tenant, for an additional three-year period (expiring on May 31, 2019), allowing for the continued use and operation of the Police Vehicle and Evidence Warehouse, consisting of approximately 99,819 square feet of warehouse space located at 1598 Monterey Road in San José. The lease amount is \$712,419 for the first year, \$733,792 for the second year, \$755,805 for the third year. The total rental cost is \$2,202,016 for the three-year term of this lease extension. CEQA: Not a Project, File No. PP10-066(f), Lease of equipment of existing space for the same use. Council District 7. (Economic Development)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmember Tam Nguyen, dated October 2, 2015, recommending direction regarding amendment to the lease extension. (2) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated September 14, 2015, recommending adoption of an ordinance.

Public Comment: Robert Aguirre offered that seized property should be more carefully inventoried.

Motion: Councilmember Pierluigi Oliverio moved approval of the staff recommendations including recommendations as outlined in the joint memorandum from Mayor Sam Liccardo and Councilmember Tam Nguyen, dated October 2, 2015. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 77547, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a First Amendment to Extend the Current Lease with Sun Garden Tenants in Common, as Landlord, through May 31, 2019, Allowing for the Continued Use and Operation of the Police Vehicle and Evidence Warehouse at a Total Cost of \$2,202,016 for the Three-Year Term of the Lease Extension", was adopted, and the joint memorandum from Mayor Sam Liccardo and Councilmember Tam Nguyen, dated October 2, 2015, was approved, directing the City Manager to explore the eventual relocation of the police vehicle and evidence warehouse, focused on the acquisition of a permanent site with appropriate non-General Fund funding sources. (9-0-2. Absent: Carrasco, Kalra.)

4.3 **Adopt a resolution:**

- (a) **Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as "City of San José Multifamily Housing Revenue Note (Town Park Towers), Series 2015C" (the "Series 2015C Note") in a principal amount not to exceed \$48,000,000;**
- (b) **Approving a loan of Series 2015C Note proceeds to Town Park Towers L.P., a California limited partnership created by Northern California Presbyterian Homes and Services, Inc., a California nonprofit public benefit corporation, to finance the acquisition and rehabilitation of the Town Park Towers located at 60 North Third Street in San José;**

- 4.3 (c) Approving in substantially final form the Funding Loan Agreement, Borrower Loan Agreement, Assignment of Deed of Trust, and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2015C Documents”); and
- (d) Authorizing and directing the City Manager, Director of Finance and Interim Director of Housing, or their designees, to execute and deliver the Series 2015C Documents and related Series 2015C Documents as necessary.

CEQA: Addendum to the North San José Development Policies Update Final Program EIR (Resolution No. 72768, adopted June 21, 2005), File No. PDC07-101. Council District 3. (Housing/Finance)

Documents Filed: Joint memorandum from Interim Director of Housing Jacky Morales-Ferrand and Director of Finance Julia H. Cooper, dated September 14, 2015, recommending adoption of a resolution.

Staff read a correction to the CEQA Guidelines Section 15071(b)(3) into the record, as follows: “No potential for causing a significant impact on the environment and 15301(d). Existing Facilities, File No. PP15-104.”

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 77548, entitled: “A Resolution of the Council of the City of San José Approving the Issuance of a Tax-Exempt Multifamily Housing Revenue Note and Loan of Note Proceeds and Related Documents for the Town Park Towers Project”, was adopted. (9-0-2. Absent: Carrasco, Kalra.)

4.4 **Adopt a resolution:**

- (a) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Canoas Terrace), Series 2015B (the “Series 2015B Note”) in a principal amount not to exceed \$22,700,000;
- (b) Approving a loan of Series 2015B Note proceeds to ISG Canoas Terrace L.P., a California limited partnership created by Impact Development Group LLC and Sierra Point Group LLC, California limited liability corporations, to finance the acquisition and rehabilitation of the Canoas Terrace Apartments located at 420 Sands Drive, in San José;
- (c) Approving in substantially final form the Funding Loan Agreement, Borrower Loan Agreement, and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2015B Documents”); and
- (d) Authorizing and directing the City Manager, Director of Finance, and Interim Director of Housing, or their designees, to execute and deliver the Series 2015B Documents and related Series 2015B Documents as necessary.

CEQA: Addendum, North San José Development Policies Update Final Program EIR (Resolution No. 72768, adopted June 21, 2005), File No. PDC07-101. Council District 6. (Housing/Finance)

[Deferred from 9/29/15 – Item 4.2]

4.4 (Cont'd.)

Documents Filed: Joint memorandum from Interim Director of Housing Jacky Morales-Ferrand and Director of Finance Julia H. Cooper, dated September 8, 2015, recommending adoption of a resolution.

Public Comment: Robert Aguirre discussed housing affordability.

Staff read a correction to the CEQA Guidelines Section 15071(b)(3) into the record, as follows: "No potential for causing a significant impact on the environment and 15301(d). Existing Facilities, File No. PP15-103."

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 77549, entitled: "A Resolution of the Council of the City of San José Approving the Issuance of a Tax-Exempt Multifamily Housing Revenue Note and Loan of Note Proceeds and Related Documents for the Canoas Terrace Apartments Project", was adopted. (10-0-1. Absent: Kalra.)

- 4.5 Approve an Ordinance to amend Title 20 of the San José Municipal Code to add new Sections 20.70.140 and 20.70.150 and to amend sections 20.70.020 and 20.70.100 of Chapter 20.70; to add new Sections 20.200.111.5, 20.200.625 and 20.200.835 and amend Sections 20.200.070, 20.200.100, 20.200.700, 20.200.1090 and 20.200.1110 of Chapter 20.200 to add and regulate Art Display Structures and Lighting Displays as allowable uses and modify the permitting process for Amusement Game Arcades in the DC-Downtown Primary Commercial Zoning District, to add auction, second-hand stores, photography studios, weight loss centers, interior decorating, auditoriums and community centers as allowable uses in the DG-Downtown Ground-floor Space Overlay Area, to clarify that residential uses are only allowed in the Downtown Zoning Districts where the General Plan designation for a Site supports Residential Use, to add new definitions related to Outdoor Art, Art Display Structure and Lighting Displays and to clarify definitions related to Adult Entertainment Establishments, Amusement Game Arcades, Lot Line, Front Setback Area and Side Setback Area. CEQA: Addendum, Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041); Addendum, Downtown Strategy EIR (Resolution No. 72767), Addendum, Diridon Station Area Plan EIR (Resolution No. 77096). Planning Commission recommends approval (5-0-1, Bit-Badal absent).**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated October 6, 2015, recommending amendments to Title 20 of the San José Municipal Code. (2) Memorandum from Councilmember Raul Peralez, dated October 5, 2015, providing recommendations to staff. (3) Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas transmitting Project File No. PP15-074, dated September 14, 2015. (4) Memorandum from Planning Commission Secretary Harry Freitas, dated September 28, 2015, transmitting the Planning Commission recommendation. (5) Proof of Publication of Notice of Public Hearing executed on August 21, 2015, submitted by the City Clerk.

4.5 (Cont'd.)

Director of Planning, Building and Code Enforcement, Harry Freitas offered a presentation and responded to questions.

Mayor Liccardo opened the public hearing.

There was no testimony from the floor. Mayor Liccardo closed the public hearing.

Motion: Councilmember Raul Peralez moved approval of the staff recommendations to amendments of the Title 20 Zoning Code, including recommendations outlined in Mayor Sam Liccardo's memorandum, dated October 6, 2015. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29631, entitled: "An Ordinance of the City of San José Amending Title 20 (Zoning) of the San José Municipal Code to Add New Sections 20.70.140 and 20.70.150 and to amend sections 20.70.020 and 20.70.100 of Chapter 20.70; to add new Sections 20.200.111.5, 20.200.625 and 20.200.835 and amend Sections 20.200.070, 20.200.100, 20.200.700, 20.200.1090 and 20.200.1110 of Chapter 20.200 to Add and Regulate Art Display Structures and Lighting Displays as Allowable Uses and Modify the Permitting Process for Amusement Game Arcades in the DC-Downtown Primary Commercial Zoning District, to Add Auction, Second-Hand Stores, Photography Studios, Weight Loss Centers, Interior Decorating, Auditoriums and Community Centers as Allowable Uses in the DG-Downtown Ground-Floor Space Overlay Area, to Clarify that Residential Uses are Only Allowed in the Downtown Zoning District Where the General Plan Designation for a Site Supports Residential Use, to Add New Definitions Related to Art Display Structure and Lighting Displays and to Clarify Definitions Related to Adult Entertainment Establishments, Amusement Game Arcades, Lot Line, Front Setback Area and Side Setback Areas", was passed for publication, including Mayor Sam Liccardo's memorandum dated October 6, 2015, approving amendments to Title 20, and with the sign district concept forwarded to the Rules and Open Government Committee for further review, returning to City Council by December 2015. (9-0-2. Absent: Kalra, T. Nguyen.)

4.6 Adopt a resolution:

- (a) **Approving a Master Agreement for the Non-Exclusive Installation and Property Use of Small-Scale Telecommunications Facilities in the Right-of-Way and on City-Owned Property ("Master Agreement") for a 15 year term;**
- (b) **Approving a standard Site License Agreement for a fifteen year term;**
- (c) **Approving a standard usage fee schedule based on a site's location within the City, equipment space requirements, and effective radiated power output of the antenna facility; and**
- (d) **Authorizing the City Manager to execute the Master Agreements and Site License Agreements and all other documents necessary to complete a transaction.**

CEQA: Exempt, Guidelines Section 15303(d), New Construction or Conversion of Small Structures, File No. PP15-093. (Economic Development)

4.6 (Cont'd.)

Documents Filed: (1) Statement of Declaration of Conflict of Interest Form dated October 6, 2015 from Councilmember Johnny Khamis, noting a conflict of interest from owning AT&T and Sprint stock. (2) Statement of Declaration of Conflict of Interest Form dated October 6, 2015 from Councilmember Donald Rocha, noting a conflict of interest from owning Verizon stock (3) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated August 31, 2015, recommending adoption of a resolution. (4) Supplemental memoranda dated September 14, 2015 and October 2, 2015, providing recommended changes to the proposed master agreement. (5) Letter from John D. Newman, representing AT&T, dated September 22, 2015, requesting a continuance on the hearing for adoption of the Master Agreement.

Due to a conflict of interest, both Councilmember Donald Rocha and Councilmember Johnny Khamis were recused from participating in Council discussion and voting due to an investment in telecommunications stock.

Public Comment: Carl Blumenstein, representing T Mobile; Leon Beauchman and John Newman, representing AT&T; Michele Phippen, representing Verizon Wireless; and Brenda Coleman, representing Sprint, offered concerns regarding the proposed agreement; Robert Aguirre offered insight into the telecommunications industry, and Blair Beekman expressed opposition.

Deputy City Manager/Director of Economic Development Kim Walesh provided a presentation, and she and Assistant Director of Economic Development, Nanci J. Klein and Property Agent Loren Haley responded to questions from Council.

Staff read the following corrections into record, with the last sentence in the recital to read: "(1) For the purpose of this agreement, *property* does not include public rights-of-way owned or controlled by *City* but does include existing improvements owned by the *City* that may lie within the right-of-way, such as light poles and utility cabinets. (2) The Usage Fee is based on cubic footage measurements, not square footage, which erroneously appears in one or more places within the agreement".

Motion: Councilmember Manh Nguyen moved approval of staffs' recommendations, with staff directed to return to Council prior to entering into an agreement with any company providing an antenna facility that has the capability of monitoring the general public. Councilmember Raul Peralez seconded the motion.

Substitute Motion: Vice Mayor Rose Herrera moved approval of staffs' recommendations. Councilmember Chappie Jones seconded the motion.

Councilmember Chappie Jones recommended an amendment to the substitute motion to include an option of considering 5-8 cell antenna based on negotiations with providers. Vice Mayor Rose Herrera agreed to the amendment to the motion.

4.6 (Cont'd.)

Action: On a call for the question, the substitute motion carried, Resolution No. 77551, entitled: "A Resolution of the Council of the City of San José Approving the Form of a Master Agreement for the Non-Exclusive Installation and Property Use of Small-Scale Telecommunications Facilities in the Right-of-Way and on City-Owned Property; Approving the Form of a Site License Agreement; and Approving a Standard Usage Fee Schedule; and Ordinance No. 29632, entitled: "An Ordinance of the City of San José to Appropriate Monies in the General Fund for the Internet Crimes Against Children Federal Grant 2014-2015; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted, with an option of considering 5-8 cell antenna based on negotiations with providers. (8-1-0-2. Noes: M. Nguyen. Abstain: Khamis, Rocha.)

NEIGHBORHOOD SERVICES

- 5.1 As recommended by the Neighborhood Services and Education Committee on September 10, 2015, accept the report with information on the causes of decline in net operating and maintenance income to the Golf Course Fund. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Auditor)
[Neighborhood Services and Education Committee referral 9/10/15 – Item d(1)]

Action: Deferred To October 20, 2015 per Administration.

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Reject all bids received on July 9, 2015 for the 7981 – Mineta San José International Airport - Airfield Fence Improvements 2015 Project, Federal Aviation Administration, Airport Improvement Program Project No. 87.
(b) Report on bids and award of contract for the 7981 – Mineta San José International Airport – Airfield Fence Improvements 2015 RE-BID Project to the low bidder, Granite Rock Company, Inc., for the base bid and Add Alternate No. 1 in the amount of \$3,730,629; and approve a ten percent contingency in the amount of \$373,063, all subject to the appropriation of funds, and subject to award and execution of an Airport Improvement Program grant from the Federal Aviation Administration.
CEQA: Determination of Conformance, San José International Airport Master Plan Update, Supplemental Final EIR (Resolution Nos. 67380 and 71451), File No. PP15-053. (Public Works/Airport)

6.1 (Cont'd.)

Documents Filed: Memorandum from Director of Aviation Kimberly J. Becker and Director of Public Works Barry Ng, dated September 14, 2015, recommending rejection of bids and acceptance of the report.

Motion: Councilmember Donald Rocha moved approval of the staffs' recommendations, with direction to staff as indicated below in "Action". The motion was seconded by Vice Mayor Rose Herrera.

Action: On a call for the question, the motion carried unanimously, with rejection of all bids received on July 9, 2015 for the 7981 – Mineta San José International Airport - Airfield Fence Improvements 2015 Project, Federal Aviation Administration, Airport Improvement Program Project No. 87; and the report on bids and award of contract for the 7981 – Mineta San José International Airport – Airfield Fence Improvements 2015 RE-BID Project to the low bidder, Granite Rock Company, Inc., for the base bid and Add Alternate No. 1 in the amount of \$3,730,629; and approve a ten percent contingency in the amount of \$373,063, all subject to the appropriation of funds, and subject to award and execution of an Airport Improvement Program grant from the Federal Aviation Administration, approved, with staff directed to investigate potential flexibility in FAA regulations regarding setbacks from the fence line versus the end of the runway. (8-0-3. Absent: Kalra, T. Nguyen, Oliverio.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Conduct a Public Hearing on the application of Bay Area Dumpsters for Commercial Solid Waste and Recyclables Collection Franchise for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris;**
- (b) **Adopt an ordinance granting the franchise; and**
- (c) **Approve the Commercial Solid Waste and Recyclables Collection Franchise Agreement for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris for a term from November 1, 2015 to June 30, 2017 with the option of three one-year extensions.**

CEQA: Exempt, Guidelines Section 15308. Actions by Regulatory Agencies for the Protection of the Environment. File No. PP08-228. (Environmental Services)

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated September 14, 2015, recommending conducting a public hearing, adoption of an ordinance and approval of agreements.

Mayor Liccardo opened the public hearing.

Public Comment: Blair Beekman offered suggestions regarding garbage collection.

Mayor Liccardo closed the public hearing.

7.1 (Cont'd.)

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29633, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Bay Area Dumpsters", was passed for publication, and the Commercial Solid Waste and Recyclables Collection Franchise Agreement for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris for a term from November 1, 2015 to June 30, 2017 with the option of three one-year extensions, was approved. (9-0-2. Absent: Kalra, Oliverio.)

PUBLIC SAFETY SERVICES

8.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on September 17, 2015:

- (a) **Accept the status report on the feasibility of the San José Fire Department assuming emergency medical services patient transport responsibility within Santa Clara County.**
- (b) **Authorize the Fire Department to issue a Request for Qualifications for a potential public/private partnership for emergency medical services patient transport.**

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. (Fire)

[Public Safety, Finance, and Strategic Support Committee referral 9/17/15 – Item d(6)]

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmember Chappie Jones, dated October 2, 2015, recommending acceptance of the report with additional direction to staff. (2) Memorandum from City Clerk Toni Taber, dated September 24, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Supplemental memorandum from Fire Chief Curtis Jacobson, dated October 1, 2015, providing a response from the County of Santa Clara Executive Jeffrey V. Smith.

Fire Chief Curtis Jacobson introduced the status report, and Deputy Director Don D'Acchioli provided a presentation.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including recommendations as outlined in the memorandum he coauthored with Mayor Sam Liccardo, dated October 2, 2015 and direction as indicated below in "Action". Councilmember Johnny Khamis seconded the motion.

8.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and the status report on the feasibility of the San José Fire Department assuming emergency medical services patient transport responsibility within Santa Clara County was accepted, and the Fire Department was authorized to issue a Request for Qualifications for a potential public/private partnership for emergency medical services patient transport, with staff directed to continue to work with the County, particularly in examining Option 4 as outlined in Interim Fire Chief Curtis Jacobson's memorandum of September 10, 2015, describing a fire-based EMS patient transport model. Staff was directed to continue to work with the County of Santa Clara on their draft Advanced Life Support First Response and Emergency Ambulance Services Request for Proposal (RFP) and communicate the City's preference for a full and fair evaluation of all delivery models. (9-0-2. Absent: Kalra, Oliverio.)

Items 8.2 and 8.3 were heard concurrently.

- 8.2 As recommended by the Public Safety, Finance, and Strategic Support Committee on September 17, 2015, accept the annual report on cardroom compliance with Title 16 of the San José Municipal Code (Gaming Control Regulatory Program). 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. (Police)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated September 24, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: See Item 8.3 for action taken.

- 8.3 As recommended by the Public Safety, Finance, and Strategic Support Committee on September 17, 2015, accept the report on the impact of cardroom gambling on crime in the San José metropolitan area. 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. (Police)
[Public Safety, Finance, and Strategic Support Committee referral 9/17/15 – Item d(3)]**

Documents Filed: Memorandum from City Clerk Toni Taber, dated September 24, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Motion: Vice Mayor Rose Herrera moved approval of staffs' recommendations, including a request for supplemental data as indicated on page 29 in "Action". Councilmember Tam Nguyen seconded the motion.

8.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, Items 8.2 and 8.3, the annual report on cardroom compliance with Title 16 of the San José Municipal Code, and the report on the impact of cardroom gambling on crime in the San José metropolitan area, were accepted, with the Asian Americans for Community Involvement (AACI) to provide supplemental data on problem gambling for next years' crime report, and directing staff to audit financials to ensure proper payment under the agreement. (9-0-2. Absent: Kalra, Oliverio.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 **Approve an Amended and Restated Promissory Note and Amendment to Loan Agreement between the Successor Agency to the Redevelopment Agency of the City of San José and Camera Pavilion Management Corporation (Camera 12) to restructure the repayment terms under a Promissory Note. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts resulting in no physical change in the environment. (Successor Agency)**

Documents Filed: Memorandum from Successor Agency Managing Director Richard A. Keit, dated September 21, 2015, recommending approval of an Amended and Restated Promissory Note and Amendment.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen and carried unanimously, an Amended and Restated Promissory Note and Amendment to Loan Agreement between the Successor Agency to the Redevelopment Agency of the City of San José and Camera Pavilion Management Corporation (Camera 12) to restructure the repayment terms under a Promissory Note, was approved. (9-0-2. Absent: Kalra, Oliverio.)

- 9.2 (a) **The Successor Agency Board adopt a resolution authorizing the Executive Officer or his designee to negotiate and execute:**
- (1) **A Second Amendment to the Amended and Restated Off-Site Improvement and Disbursement Agreement (“Improvement Agreement”) among the Successor Agency to the Redevelopment Agency of the City of San José (“SARA”), North San Pedro Townhomes LLC, San Pedro Life 1 LLC, and First Community Housing (“FCH”), the Affordable Housing Developer for the Project, to amend the Agreement to (a) delete FCH’s right to use up to \$1,600,000 of Grant Funds for the Affordable Housing Project, (b) allow the SARA or another party to the Improvement Agreement to use up to, or a portion of, the \$1,600,000 of Grant Funds to reimburse itself for costs previously incurred in connection with the development and construction of the Project as defined in the Disposition and Development Agreements (“DDAs”), and (c) provide that, upon receipt of such funds, the party receiving such Grant Funds shall disburse such funds to FCH to satisfy the remainder of the SARA obligation to provide Affordable Housing Assistance to FCH as defined in the DDAs;**

9.2 (Cont'd.)

- (a) (2) Any other documents as may be necessary to effectuate and finalize the SARA obligations related to the North San Pedro Housing Project.
- (b) The City Council adopt a resolution:
 - (1) Approving a predevelopment loan in an amount not to exceed \$800,000 to FCH, or its legal affiliate, to support the development of 135 affordable apartments known as the North San Pedro Affordable Apartments to be located at Bassett and Terraine Streets; and
 - (2) Authorizing the Interim Director of Housing to negotiate and execute all documents to effectuate and finalize this transaction.
- (c) The City Council 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 in the amount of \$800,000; and
 - (2) Decrease the Housing Project Reserve appropriation in the amount of \$800,000.

CEQA: Brandenburg Mixed Use Project/North San Pedro Housing Sites Project EIR (Resolution No. 72170), File No. GPT03-03-01a and GP03-03-01b. Council District 3. (Successor Agency/Housing/City Manager)

Documents Filed: Memorandum from Successor Agency Managing Director Richard A. Keit, Interim Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated September 14 2015, recommending adoption of resolutions and an appropriations ordinance amendment.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, Successor Agency Resolution No. 7043, a Resolution of the Successor Agency to the Redevelopment Agency of the City Of San José Authorizing the Executive Officer Or His Designee to Negotiate and Execute A Second Amendment to the Amended and Restated Off-Site Improvement and Disbursement Agreement Among the Successor Agency to the Redevelopment Agency of the City Of San José, North San Pedro Townhomes, LLC, San Pedro Life 1 LLC, and First Community Housing, and Any Other Documents As May Be Necessary to Effectuate and Finalize the Successor Agency Obligations Related to the North San Pedro Housing Project”; and Resolution No. 77550, entitled: “A Resolution of the Council of the City of San José Approving a Predevelopment Loan to First Community Housing to Support the Development of the North San Pedro Apartments and Authorizing the Interim Director of Housing to Negotiate and Execute all Documents Necessary to Effectuate and Finalize this Transaction”; and Ordinance No. 29634, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Low and Moderate Income Housing Asset Fund for Housing Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (9-0-2. Absent: Kalra, Oliverio.)

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 receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10323	6055 Guadalupe Mines Road	10	La Encina Development LLC	7/6	SFD

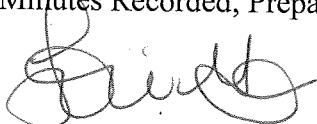
OPEN FORUM

Blair Beekman spoke on a variety of topics, including cell phones as a cause of radiation and developing a mediation process between homeless individuals and the City.

ADJOURNMENT

The Council of the City of San José adjourned at 8:55 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/10-06-15MIN