

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 05, 2015

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

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

Absent: Council Members - Peralez. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:06 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 Subsection (d)(1) with respect to initiation of litigation in two (2) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation of significant exposure in one (1) matter. (C) Public Employment/Public Employee Appointment pursuant to Government Code Section 54957: Department: Office of the City Manager; Title: City Manager. (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Webster v. City, et al. Names of Parties Involved: Dana Webster, Gina Novello, Heather Hoshii, City of San José and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-247326; Amount of Money or Other Relief Sought: Damages according to proof. (2) Stand for San José, et al. v. City, et al. Names of Parties Involved: Stand for San José, Eileen Hannan, Michelle Brenot, Robert Brown, Karen Shirey, Fred Shirey, Robert Shields, City of San José, City Council of the City of San José, Successor Agency to the Redevelopment Agency, Oversight Board of the Successor Agency, Diridon Development Agency and Does 1-10;

CLOSED SESSION (Cont'd.)

Court: Superior Court of California, in and for the County of Sacramento; Case No: 34-2014-80001905-CU-WM-GDS; Amount of Money or Other Relief Sought: Authority for Appeal. (3) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (4) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (5) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (6) 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-972-M; Amount of Money or Other Relief Sought: Damages According to Proof. (7) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (8) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (9) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (10) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James

CLOSED SESSION (Cont'd.)

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; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (E) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of 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.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:35 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio (1:42 p.m.), Rocha; Liccardo.

Absent: Council Members - Peralez. (Excused)

INVOCATION

Ramon J. Martinez, PhD. offered the Invocation. (District 5)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo, accompanied by the Fifth Grade Students of Horace Mann Elementary School led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Margie Matthews and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Peralez.)

Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Item 4.1 was withdrawn by the Applicant and not heard. (9-0-1-1. Absent: Peralez. Abstain: Khamis.)

CLOSED SESSION REPORT

Mayor Sam Liccardo announced that Norberto Dueñas was unanimously appointed as City Manager.

City Attorney Doyle disclosed the following Closed Session actions of May 05, 2015:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: Stand for San José, et al. v. City, et al.

Adverse Party or Parties: Stand for San José, Eileen Hannan, Michelle Brenot, Robert Brown, Karen Shirey, Fred Shirey and Robert Shields.

CLOSED SESSION REPORT (Cont'd.)

Substance of Litigation:	Appeal of decision.
Council Vote: Ayes:	Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Rocha; Liccardo.
Noes:	None.
Absent:	Oliverio, Peralez.
Abstain:	None.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring May 3, 2015 through May 9, 2015 as “Municipal Clerks Week” in the City of San José. (Mayor)

Mayor Sam Liccardo recognized the week of May 3, 2015 through May 9, 2015 as “Municipal Clerks Week” and commended City Clerk Toni Taber and her Staff.

1.2 Presentation of a proclamation declaring May as Asian American and Pacific Islander Heritage Month in the City of San José. (Kalra) (Rules Committee referral 4/29/15)

Mayor Sam Liccardo and Council Members Kalra and Nguyen recognized the month of May as “Asian American and Pacific Islander Heritage Month”.

1.3 Presentation of a proclamation declaring May as Older Americans Month in the City of San José. (Khamis) (Rules Committee referral 4/29/15)

Mayor Sam Liccardo and Council Member Ash Kalra recognized the month of May as “Older Americans Month”.

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

2.1 Approval of minutes.

(a) **Regular Minutes of February 3, 2015.**

(b) **Regular Minutes of February 10, 2015.**

(c) **Regular Minutes of February 24, 2015.**

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

2.1 (Cont'd.)

Documents Filed: The Regular Minutes dated February 3, 2015, February 10, 2015 and February 24, 2015.

Action: The Council Minutes were approved. (10-0-1. Absent: Peralez.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29554** – Rezoning certain real property of approximately 0.92 acre situated north of Charter Park Drive, approximately 650 feet south of Hillsdale Avenue (3591 Charter Park Drive) from the IP(PD) Planned Development Zoning District to the IP Industrial Park Zoning District. CEQA: Negative Declaration, Resolution No. 77325. C15-002

Documents Filed: Proof of Publication of the Title of Ordinance No. 29554 executed on April 24, 2015, submitted by the City Clerk.

Action: Ordinance No. 29554 was adopted. (10-0-1. Absent: Peralez.)

- (b) **ORD. NO. 29556** - Amending Sections 15.10.310, 15.10.330 and 15.10.360 and repealing Section 15.10.370 of Part 3 of Chapter 15.10 of Title 15 of the San José Municipal Code to replace the time of day landscape irrigation restrictions and prohibition on use of potable water for all outdoor landscape irrigation, with limited exceptions, that are triggered by a Council declaration of water shortage with a landscape and turf irrigation restriction of zero (0) to four (4) days per week, with the specific number of days, days per week and exceptions to the prohibition to be as set forth in a resolution adopted by City Council; (b) to modify the restriction related to swimming pool filling so that it is triggered by a Council adoption of a resolution declaring a thirty percent (30%) or greater water shortage and includes an exception for refilling after repair for leaks; to provide that after Council adoption of a resolution declaring a thirty percent (30%) or greater water shortage, it shall be unlawful for any person to install new outdoor landscaping or turf during the months of May through October in an area with an overhead irrigation system, unless the overhead irrigation system is disconnected, removed or converted to drip irrigation, except for drought-tolerant native plants, plants or trees grown for consumption, installation that has been commenced prior to the date of the Council Resolution declaring the thirty percent (30%) water shortage pursuant to a development permit or building permit for which a landscape documentation package has been submitted to the City or installation on a project for which a development permit application has been filed prior to the date of the Council Resolution declaring the thirty percent (30%) water shortage, and which is located in an employment lands area, as designated in the City of San José Envision 2040 General Plan; and to repeal Section 15.10.370 limiting outdoor irrigation after Council declaration of a forty percent (40%) water shortage. CEQA: Exempt, File Nos. PP15-032 and PP15-041.

2.2 (b) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29556 executed on May 1, 2015, submitted by the City Clerk.

Action: Ordinance No. 29556 was adopted. (10-0-1. Absent: Peralez.)

2.3 Approval of Council Committee Reports.

(a) Neighborhood Services and Education Committee Report of April 9, 2015. (Rocha)

(c) Public Safety, Finance, and Strategic Support Committee Report of April 16, 2015. (Oliverio)

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

Documents Filed: (1) The Neighborhood Services and Education Committee Report dated April 9, 2015. (2) The Public Safety, Finance and Strategic Support Committee Report dated April 16, 2015.

Action: The Council Committee Reports were approved. (10-0-1. Absent: Peralez.)

(b) Rules and Open Government Committee Report of April 15, 2015. (Mayor)

Documents Filed: (1) The Rules and Open Government Committee Report dated April 15, 2015. (2) Memorandum from Council Members Rocha, Kalra, Carrasco and Matthews, dated April 9, 2015, providing recommendations as described below in "Action". (3) Memorandum from Council Member Magdalena Carrasco, dated May 4, 2015, recommending moving this item forward to the full Council for discussion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Speaking in support to a wage theft ordinance were Fred Hirsch, Raymond Sullivan Blum, Maria Blum-Sullivan, Ruth Silver Taube, Wage Theft Coalition; Maria Noel Fernandez, Working Partnerships; Huy Tran, Tomas E. Margain, Justice at Work Law Group; Ross Signorino, Rabiah Khalid, Asian Americans for Community Involvement (AACI); Josue Garcia, Building Trades Council; Enrique Arguello, Liuna Laborers Local 270; Dennis Raj, South Bay Labor Council and Rebeca Armendariz, SEUI-USWW.

Mayor Sam Liccardo asserted that there are three primary solutions for wage theft and pointed out that revising contracts and Request for Proposal requirements to protect the City and providing available information on the issue of theft are taken care of easily. However, Mayor Sam Liccardo stated that authorizing departments that issue business licenses or permits to deny, suspend or revoke licenses and permits to businesses with unpaid wage theft judgments take time and noted that Staff will create an important prioritization process for Council to follow.

2.3(b) (Cont'd.)

City Attorney Richard Doyle clarified that this item will have to be agendized separately for a full Council Discussion and can return in June for the voting process.

Motion: Council Member Magdalena Carrasco moved approval to agendize this item in June 2015. Council Member Ash Kalra seconded the motion.

Council Member Ash Kalra stated that this important item should go forward now.

Substitute Motion: Council Member Johnny Khamis moved approval to accept the Rules and Open Government Committee Report. Vice Mayor Rose Herrera seconded the motion.

Vice Mayor Rose Herrera and Council Member Chappie Jones concurred with Mayor Sam Liccardo and pointed out that it is all about the process.

Council Member Donald Rocha expressed opposition to the substitute motion on the floor.

Council discussion ensued.

On a call for the question, the substitute motion failed. (5-5-1. Noes: Carrasco, Kalra, Matthews, Nguyen, Rocha. Absent: Peralez.)

Action: On a call for the question, the original motion carried, Item 2.3(g)(5), Wage Theft Ordinance was referred to a Council Meeting in June 2015. (6-4-1. Noes: Jones, Khamis, Oliverio; Liccardo. Absent: Peralez.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

Vice Mayor Rose Herrera attended the California League of Cities Legislative Action Day on April 29, 2015 and met with legislators on a variety of issues including SB16 Senator Beall's Transportation Bill. On April 30, 2015 Vice Mayor Herrera represented the City on the California League of Cities Board of Directors and discussed how to expand economic development, considered a new local government tax structure and other important issues.

2.5 (Cont'd.)

Council Member Johnny Khamis travelled to Washington D.C. on April 29 through May 1, 2015 to represent the City of San José at the Arab American Institute Foundation's Kahlil Gibran *Spirit of Humanity* Awards Gala and 2015 Arab American Leadership Day. Council Member Khamis attended a White House briefing on public engagement, national security, civil rights and international development.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 As recommended by the Rules and Open Government Committee on April 22, 2015:

- (a) Retroactively approve District 5 Cassell/Hillview Beautification/Dumpster Day event scheduled on April 18, 2015 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Exempt, File No. PP13-056, Activities associated with citywide litter clean-up activities. (Carrasco)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 22, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 5 Cassell/Hillview Beautification/Dumpster Day event scheduled on April 18, 2015 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (10-0-1. Absent: Peralez.)

2.8 Adopt the following 2014-2015 Appropriation Ordinance amendments in the General Fund:

- (a) Establish a City-Wide appropriation to the Office of Economic Development for San José Works: Youth Jobs Initiative in the amount of \$161,000.**
- (b) Decrease the Personal Services appropriation to the Parks, Recreation and Neighborhood Services Department by \$161,000.**

CEQA: Not a Project; File No. PP10-067(b), Appropriation Ordinance. (Economic Development/Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated April 24, 2015, recommending approval of appropriation ordinance amendments.

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

2.8 (Cont'd.)

Action: Ordinance No. 29559, entitled: An Ordinance of the City of San José Amending Ordinance No. 29431 To Appropriate Monies in the General Fund for the San José Works: Youth Jobs Initiative; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-0-1. Absent: Peralez.)

2.9 Approve a Lateral Tie-Back Agreement with Full Power Properties, LLC (Developer) providing consent to Developer to allow a crane to operate non-live loads over the Fallon House and approval of easements and encroachments necessary to accomplish both the tie-back agreement and crane installation, operation and removal. CEQA: Supplemental Environmental Impact Report, File No. H13-041. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated April 23, 2015, recommending approval of an agreement.

Action: A Lateral Tie-Back Agreement with Full Power Properties, LLC (Developer) providing consent to Developer to allow a crane to operate non-live loads over the Fallon House and approval of easements and encroachments necessary to accomplish both the tie-back agreement and crane installation, operation and removal, was approved. (10-0-1. Absent: Peralez.)

2.10 Adopt a resolution declaring the results of the April 7, 2015 Primary Special Municipal Election pursuant to Elections Code Section 15400. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk) (Rules Committee referral 4/29/15)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 16, 2015, recommending adoption of a resolution.

Action: Resolution No. 77330, entitled: “A Resolution of the Council of the City of San José Reciting that a Primary Special Municipal Election in District 4 Was Held in the City of San José on Tuesday, April 7, 2015; Finding and Declaring that the Registrar of Voters of the County of Santa Clara Has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, The Names of the Persons Voted For, The Number of Votes Given at Each Precinct to Each Person and Finding and Declaring Who Received the Highest Number of Votes of the Votes Cast”, was adopted. (10-0-1. Absent: Peralez.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 Accept the staff report, approve proposed Council Priority Setting Process, and set the next Council Priority Setting Session for June 16, 2015. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (City Manager)**

Action: Deferred to May 12, 2015 per the Rules and Open Government Committee.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Denial of General Plan Amendment and Communications Hill 4.1 Specific Plan Amendment to change the Land Use/Transportation Diagram designation from Heavy Industrial to Urban Residential and increase the amount of allowable residential units in the Communications Hill Specific Plan, on a 7.50 gross acre located at 2829 Monterey Road (The Wolff Company, Owner). In the alternative, refer to staff to complete CEQA review and include the proposed amendments for consideration as part of the annual General Plan Amendment cycle for 2015. CEQA: Statutory Exemption, Section 15270. Planning Commission recommends denial (6-0-0). (Planning, Building and Code Enforcement)
GP14-011 - District 7
(Deferred from 4/21/15 – Item 4.3)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Chappie Jones, dated May 1, 2015, recommending denial of the General Plan Amendments. (2) Memorandum from Council Member Tam Nguyen, dated May 1, 2015, recommending denial of the General Plan Amendments. (3) Memorandum from Council Member Donald Rocha, dated April 30, 2015, recommending deferring this item to the evening of the May 12, 2015 Council Meeting. (4) Memorandum from Planning Commission Secretary Harry Freitas, dated March 4, 2015, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP14-011 dated February 17, 2015 and recommending denial of the General Plan Amendments. (5) Proof of Publication of Notice of Public Hearing, executed on February 13, 2015, submitted by the City Clerk. (6) Statement and Declaration of Conflict of Interest Form from Council Member Johnny Khamis dated May 5, 2015, disclosing that he owns property in Communications Hill.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Item 4.1 was withdrawn by the Applicant and not heard. (9-0-1-1. Absent: Peralez. Abstain: Khamis.)

- 4.2 (a) **Hold a Public Hearing and take public comment on a Substantial Amendment to the City’s FY 2014-15 Annual Action Plan to:**
- (1) **Increase the 2014-2015 Emergency Solutions Grant (ESG) allocation by \$146,287 from previous years unused ESG allocations for emergency shelter operations.**
 - (2) **Add the Shelter Operations category under Description of ESG Programs.**
- (b) **Adopt a resolution approving the recommended Substantial Amendment to the FY 2014-15 Annual Action Plan.**

CEQA: Not a Project, File No. PP10-066(a), Purchase Order/Cooperative Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment. (Housing)

Documents Filed: Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated April 14, 2015, recommending holding a public hearing and adoption of a resolution.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: David Wall provided comments on the City’s FY 2014-2015 Annual Action Plan.

Mayor Sam Liccardo closed the Public Hearing.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, Resolution No. 77331, entitled: “A Resolution of the Council of the City of San José Approving a Substantial Amendment to the FY 2014-2015 Annual Action Plan”, was adopted. (9-0-2. Absent: Kalra, Peralez.)

- 4.3 (a) **Hold a final Public Hearing regarding the approval of the City’s Five-Year (2015-2020) Consolidated Plan and the FY 2015-2016 Annual Action Plan.**
- (b) **Adopt the City’s Five-Year Consolidated Plan for FY 2015-2020.**
 - (c) **Adopt the City’s Annual Action Plan FY 2015-2016, including the FY 2015-2016 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program.**
 - (d) **Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capitol agreements and contracts not requiring CEQA/NEPA review and to negotiate all capital project agreements and contracts, including any amendments or modifications, and to execute all documents for the expenditure of CDBG, HOME, and HOPWA funds on behalf of the City.**

- 4.3 (e) **Adopt a resolution authorizing the Housing Department to submit the Five-Year (2015-2020) Consolidated Plan and the FY 2015-2016 Annual Action Plan to the U.S. Department of Housing and Urban Development, which makes the City eligible to receive and distribute approximately \$12,300,000 for FY 2015-2016.**
- (f) **Adopt a resolution authorizing the Director of Housing to negotiate and execute extensions to the existing CDBG/ESG Homeless Services agreements with Homefirst, Bill Wilson Center, and the Domestic Violence Collaborative through September 30, 2015.**
- (g) **Modify the definition of a substantial amendment from the greater of \$100,000 or a 15% change in the amount allocated to the greater of \$100,000 or a 25% change.**

CEQA: Not a Project, File No. PP10-069(a), Annual Report. (Housing)

Documents Filed: (1) Replacement memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated April 27, 2015, replacing the report due to a change in the estimated CDBG program income from \$500,000 to \$700,000 and recommending holding a public meeting, adopting the Five Year Consolidated Plan and the Annual Action Plans, adoption of the resolutions and modification of the definition of a substantial amendment. (2) Supplemental memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated May 4, 2015, providing additional information.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: David Wall and Blair Beekman expressed comments on the Five-Year (2015-2020) Consolidated Plan and the FY 2015-2016 Annual Action Plan to the U.S. Department of Housing and Urban Development.

Mayor Sam Liccardo closed the Public Hearing.

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

Brief Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the City's Five-Year (2015-2020) Consolidated Plan and the FY 2015-2016 Annual Action Plan were adopted; Resolution No. 77332, entitled: "A Resolution of the Council of the City of San José Authorizing the Interim Director of Housing to Negotiate and Execute All Non-Capital Agreements and CEQA/NEPA Review and To Negotiate All Capital Agreements and Contracts, Including Any Amendments or Modifications and After CEQA/NEPA Review and City Council Approval, To Execute All Documents"; Resolution No. 77333, entitled: "A Resolution of the Council of the City of San José Authorizing the Interim Director of Housing to Submit the Five Year Consolidated Plan, FY 2015-2020 and the Annual Action Plan FY 2015-2016 to the U.S. Department of Housing and Urban Development";

4.3 (Cont'd.)

Resolution No. 77334, entitled: "A Resolution of the Council of the City of San José Authorizing the Interim Director of Housing to Negotiate and Execute Extensions to Existing CDBG/ESG Homeless Services Agreements", were adopted and the definition of a substantial amendment from the greater of \$100,000 or a 15% change in the amount allocated to the greater of \$100,000 or a 25% change was approved. (10-0-1. Absent: Peralez.)

NEIGHBORHOOD SERVICES

5.1 As recommended by Public Safety, Finance, and Strategic Support Committee on April 16, 2015, accept the Anti-Graffiti and Anti-Litter Program Annual Report. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (Parks, Recreation and Neighborhood Services) [Public Safety, Finance, and Strategic Support Committee referral 4/16/15 – Item D(6)]

Documents Filed: (1) Memorandum from Council Member Raul Peralez, dated May 5, 2015, recommending acceptance of the report. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated April 23, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Email from Chris Tulin, dated May 4, 2015, expressing his support to the Anti Graffiti Program.

Motion: Council Member Johnny Khamis moved approval of the Staff recommendations. Council Member Pierluigi Oliverio seconded the motion.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. presented introductory remarks. Parks, Recreation and Neighborhood Services Division Manager Mario Maciel and Deputy Director of Parks, Recreation and Neighborhood Services Suzanne Wolf offered the report.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to the Anti-Graffiti and Anti-Litter Program Annual Report were John Turner, Bryan Talmage, David Wall, Gary Sanchez, Ross Signorino and Deb Kramer.

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the Anti-Graffiti and Anti-Litter Program Annual Report was accepted. (10-0-1. Absent: Peralez.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 Adopt a resolution:

- (a) **Authorizing the City Manager to accept an award of partnership grant funds under the Santa Clara Valley Water District Safe, Clean Water and Natural Flood Protection Program.**
 - (b) **Authorizing the City Manager to negotiate and execute partnership agreements to effectuate Water District award of funds to the City.**
- CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Environmental Services)**

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated April 24, 2015, recommending adoption of a resolution.

Mayor Sam Liccardo opened the floor for public testimony.

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

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Council Member Johnny Khamis and carried unanimously, Resolution No. 77335, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Accept an Award of Partnership Grant Funds Under the Santa Clara Valley District Safe, Clean Water and Natural Flood Protection Program and To Negotiate and Execute Partnership Agreements to Effectuate the Water District Award of Funds to the City”, was adopted. (10-0-1. Absent: Peralez.)

- ### 7.2
- (a) **Hold a Public Hearing on the Great Oaks Water Company application for renewal of a potable water franchise per San José Municipal Code Section 15.40.720.**
 - (b) **Approve an uncodified ordinance, to extend the term of the Great Oaks Water Company franchise until July 1, 2020, with no change in any other terms and conditions of the franchise.**

CEQA: Exempt, File No. PP10-066, Agreements and Contracts. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated April 24, 2015, recommending holding a public hearing and approval of an ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on April 30, 2015, submitted by the City Clerk. (3) Letter from Timothy S. Guster, Vice President/General Council, Great Oaks Water Company, dated March 26, 2015, requesting that its potable water franchise be extended and renewed upon the same terms and conditions as the existing potable water franchise.

Mayor Sam Liccardo opened the Public Hearing.

7.2 (Cont'd.)

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

Director of Environmental Services Kerrie Romanow responded to questions from Mayor Sam Liccardo.

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Pierluigi Oliverio and carried unanimously, Ordinance No. 29560, entitled: “An Ordinance of the City of San José Renewing the Grant of a Potable Water Franchise to Great Oaks Water Company”, was passed for publication. (10-0-1. Absent: Peralez.)

- 7.3 (a) **Approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to clarify commercial solid waste collection requirements.**
- (b) **Adopt a resolution amending the Administrative Citation Schedule of Fines related to solid waste service, storm water, and water use to add new fines, change current fines, and reinstate fines inadvertently removed in September 2014.**

CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated April 13, 2015, recommending approval of an ordinance and adoption of a resolution. (2) Supplemental memorandum from City Attorney Richard Doyle, dated May 1, 2015, providing additional information regarding fines that were inadvertently omitted from the Schedule of Fines adopted in September 2014 and that are proposed to be reinstated.

Mayor Sam Liccardo opened the floor for public testimony.

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

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29561, entitled: “An Ordinance of the City of San José Adding Section 9.10.525 and Amending Section 9.10.1610 of Chapter 9.10 of Title 9 of the San José Municipal Code To Clarify Commercial Solid Waste Collection Requirements”, was passed for publication and Resolution No. 77336, entitled: “A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Establish and Increase Administrative Fines for Violations Related to Sections 9.10.520, 9.10.525 and 9.10.540 of Chapter 9.10 of Title 9 of the San José Municipal Code Which Regulates Solid Waste Service, Sections 15.10.200 – 15.10.375 of Chapter 15.10 of Title 15 Relating to Water Use and Sections 20.95.120(B) and 20.95.120(C) of Chapter 20.95 of Title 20 Relating to Storm Water and To Reinstate Fines Inadvertently Removed in September 2014 and Repealing Resolution No. 77254”, was adopted. (9-0-2. Absent: Carrasco, Peralez.)

- 7.4 (a) Approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to add an alternate procedure for the billing collection of garbage and recycling services, prescribed or imposed by the provisions of the Municipal Code, to have such charges for each fiscal year placed on the Santa Clara County Secured Property Tax Bill and collected in the same manner, by the person and at the same time as, and together with and not separate from, general taxes.
- (b) Adopt a resolution to suspend the assessment of late payment charges on delinquent accounts related to Municipal Water Service and Recycle Plus collection services for the period May 15, 2015 through August 31, 2015 to accommodate the transition of billing activities from the current Integrated Billing System (i.e. Enterprise Tools by People Soft) to the new Customer Information System (i.e. Infinity by Advanced Utilities Systems).
- CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (Environmental Services/Finance)**

Documents Filed: Memorandum from Director of Finance Julia H. Cooper and Director of Environmental Services Kerrie Romanow, dated April 13, 2015, recommending approval of an uncodified ordinance and adoption of a resolution.

Mayor Sam Liccardo opened the floor for public testimony.

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

Director of Environmental Services Kerrie Romanow and Deputy Director of Environmental Services Jo Zientek responded to Council questions and concerns.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Pierluigi Oliverio and carried, Ordinance No. 29562, entitled: “An Ordinance of the City of San José Amending Chapter 9.10 of Title 9 of the San José Municipal Code to Add an Alternate Procedure for the Billing and Collection of Fees for Solid Waste Collection Service By Placing Such Charges on the Santa Clara County Secured Property Tax Roll”, was passed for publication and Resolution No. 77337, entitled: “A Resolution of the Council of the City of San José Suspending the Assessment of Late Payment Charges on Delinquent Accounts Related to Municipal Water Services and Recycle Plus Collection Services for the Period of May 15, 2015 Through August 31, 2015 to Accommodate the Transition of Billing Activities from the Current Integrated Billing System to the New Customer Information System”, was adopted. (8-1-2. Noes: Rocha. Absent: Carrasco, Peralez.)

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>
10304	2979 Huff Avenue	1	STEI, LLC	1 Lot/ 16 Units	MFA

OPEN FORUM

Documents Filed: Twenty eight letters all dated May 1, 2015 from the Fifth Graders, Horace Mann Elementary School asking the Council to consider assisting their school by reducing the rental fee for City Hall use in order to hold their “Exhibition” Project.

Fifth Graders from Horace Mann Elementary School asked Mayor Liccardo and the Council Members to consider assisting their school by reducing the rental fee for City Hall use in order to hold their “Exhibition” Project. After listening to the uplifting speeches from the students, the Mayor and Council generously offered to pay the entire rental fee for this important event.

- (1) Zetha Nobles, Principal
- (2) Jimmy Bui, Teacher
- (3) Angelita Torres
- (4) Brandon Sanchez
- (5) Sergio Aguilera
- (6) Edgar Rivera
- (7) Nicole Hoang
- (8) Jade Lare
- (9) Amari Glass
- (10) Andrew Gonzales
- (11) Victor Batres
- (12) Isaias Zanella
- (13) Samara Torres
- (14) Julian Villalobos
- (15) Aiyana Marsh
- (16) Katelyn Hinkel

The following Horace Mann students were present and offered their support: Christopher Perez, Angel Dimas, Yajaira Hernandez, Jayden Alejandro, Kevin Wang and Rasta Edwards.

OPEN FORUM (Cont'd.)

- (17) Ray Perez expressed concern about the potential closing of a soccer field in the City of Santa Clara. Mayor Sam Liccardo encouraged Mr. Perez to go to the City Hall in Santa Clara as they have the authority and will be making that decision.
- (18) David Wall congratulated City Manager Norberto Dueñas on his appointment as City Manager.
- (19) Marc Hannigan, Royal Pools/Adams Pools presented additional information related to the ban the City has instituted on the filling of swimming pools. Mayor Sam Liccardo asked Mr. Hannigan to meet with him after the Council meeting.
- (20) Blair Beekman opined about the UAS Drone Program.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:11 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

smd/05-05-15 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website <http://www.sanjoseca.gov/civiccentertv>.
For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.