

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 12, 2016

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

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

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:38 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (c) with respect to anticipated litigation in two (2) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Cutright v. City of San José, et al. Names of Parties Involved: Lori Cutright, City of San José, Torie O'Reilly and Does 1-20; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-14-CV-267802; Amount of Money or Other Relief Sought: Damages according to proof. (2) Correa v. City of San José, et al. Names of Parties Involved: Thomas Correa, The City of San José, The San José Police Department (SJPD), Michael Sullivan, individually and in his official capacity as Lieutenant, SJPD, Kimberly Hudson, individually and in her official capacity as Sergeant, SJPD; Court: United States District Court, San José Division; Case No: CV12-05436 HRL; Amount of Money or Other Relief Sought: Damages according to proof. (3) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (4) IFPTE

CLOSED SESSION (Cont'd.)

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) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (7) ABMEI v. City, et al. Names of Parties Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No: UPC SF 1358 M; Amount of Money or Other Relief Sought: Damages according to proof. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-225928, H040979,

CLOSED SESSION (Cont'd.)

H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (14) San José Retired Employees Association, et al V. City of San José, et al. Names of Parties 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-2680085; Amount of Money or Other Relief Sought: Change to City Medical Plan. (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: Property Street Address: 88 East San Fernando Street, San José; Negotiation Parties: Jim Ortbal and Laura Wells for the City of San José; Seller: None. The property is being sold to highest bidder by the Successor Agency; Under Negotiation: The direction will concern price and terms of payment to be offered as a bid on the Property. Likely Range of Value of Property: Bid price based on appraisal and comparable property values. (D) 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

CLOSED SESSION (Cont'd.)

San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:25 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chamber.

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

Absent: Council Members - All Present.

INVOCATION

Thich Vien Thong and Thich Bao Tri, the Tu Lam Buddhist Temple offered the Invocation. (District 4)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing the Week of April 10 – 16, 2016 as “National Library Week” in the City of San José. (Library/Herrera)

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Library Director Jill Bourne recognized the week of April 10 through April 16, 2016 as “National Library Week” in San José.

1.2 Presentation of a proclamation recognizing the Week of April 10 – 16, 2016 as “National Public Safety Telecommunications Week” in the City of San José honoring the San José Police and Fire Public Safety Dispatchers who help those in need of emergency services. (Fire/Police/Peralez)

Mayor Sam Liccardo, Council Member Raul Peralez, Chief of Police Edgardo Garcia, Fire Chief Curtis Jacobson and Staff recognized the week of April 10 through April 16, 2016 as “National Public Safety Telecommunications Week” in San José and honored the San José Police and Fire Public Safety Dispatchers.

CONSENT CALENDAR

Upon motion by Council Member Johnny Khamis, seconded by Council Member Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Carrasco.)

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29715 – An ordinance of the City of San José amending Section 6.88.600 of Chapter 6.88 of Title 6 of The San José Municipal Code to change the date by which Medical Marijuana Collectives shall file an Annual Audit. CEQA: CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29715 executed on April 1, 2016, submitted by the City Clerk.

Action: Ordinance No. 29715 was adopted. (10-0-1. Absent: Carrasco.) (First Reading: 10-1. Noes: M. Nguyen.)

2.3 Approval of Council Committee Minutes.

- (a) **Rules and Open Government Committee Minutes of March 16, 2016. Mayor)**
(b) **Public Safety, Finance and Strategic Support Committee Minutes of March 17, 2016. (Oliverio)**

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

Documents Filed: (1) The Rules and Open Government Committee Minutes dated March 16, 2016. (2) The Public Safety, Finance and Strategic Support Committee Minutes dated March 17, 2016.

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

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There was no report.

2.6 Report from the Council Liaison to the Retirement Boards.

There was no report.

**2.7 Approve a Fourth Amendment to Master Agreement with the Jacobs Engineering Group, Inc. (formerly Carter & Burgess, Inc.) for continuing program support services on Airport capital improvement projects, extending the term one year from July 1, 2016 through June 30, 2017, with no increase in total compensation. CEQA: Not a Project, File No. PP10-066(a), Agreements/Contracts for Professional Services that involve no changes to the physical environment. (Airport)
(Deferred from 3/29/16 – Item 2.9)**

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated March 16, 2016, recommending approval of a fourth amendment to the master agreement.

Action: A Fourth Amendment to Master Agreement with the Jacobs Engineering Group, Inc. (formerly Carter & Burgess, Inc.) for continuing program support services on Airport capital improvement projects, extending the term one year from July 1, 2016 through June 30, 2017, with no increase in total compensation was approved. (10-0-1. Absent: Carrasco.)

2.8 As recommended by the Rules and Open Government Committee on March 30, 2016:

- (a) Retroactively approve the Vinci Park North Dumpster Day scheduled on April 9, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve the two additional Dumpster Days in District 4 on April 30, 2016 and May 14, 2016, as City Council sponsored Special Events and approve the expenditure of funds.**
- (c) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (M. Nguyen)
[Rules Committee referral 3/30/16 – Item G(1)(c)]**

2.8 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 1, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Vinci Park North Dumpster Day scheduled on April 9, 2016 (retroactively approved) and two additional Dumpster Days in District 4 on April 30, 2016 and May 14, 2016 as a City Council sponsored Special Events 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: Carrasco.)

- 2.9 (a) **Adopt a resolution to identify the City Manager or his designee as the authorized representative to negotiate and execute a Grant Agreement and associated documents with Caltrans for the Coyote Creek Trail segment from Mabury Road to Empire Street.**
- (b) **Commit to provide a local match of \$927,600 in support of the grant funded project.**

CEQA: Coyote Creek Trail Master Plan Mitigated Negative Declaration, File No. PP09-218. (Parks, Recreation and Neighborhood Services/Transportation)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Director of Transportation James Ortbal, dated March 30, 2016, recommending adoption of a resolution and commit to provide a local match.

Action: Resolution No. 77712, entitled: "A Resolution of the Council of the City of San José Authorizing the Filing of An Application of \$5,256,000 in Funding Assigned to the Metropolitan Transportation Commission for the Coyote Creek Trail Segment from Mabury Road to Empire Street Project, Committing \$927,600 in Matching Funds and Stating Assurance to Complete the Project", was adopted and a local match of \$927,600 in support of the grant funded project was approved. (10-0-1. Absent: Carrasco.)

- 2.10 **Approve a Consultant Agreement with Community Crime Prevention Associates to evaluate the San José Bringing Everyone's Strengths Together and Mayor's Gang Prevention Task Force programs, for a period retroactive to December 1, 2015 through November 30, 2016, for an amount not to exceed \$176,845. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)**

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated March 30, 2016, recommending approval of a consultant agreement.

Action: A Consultant Agreement with Community Crime Prevention Associates to evaluate the San José Bringing Everyone's Strengths Together and Mayor's Gang Prevention Task Force programs, for a period retroactive to December 1, 2015 through November 30, 2016, for an amount not to exceed \$176,845 was approved. (10-0-1. Absent: Carrasco.)

- 2.11 (a) Approve travel for Council Member Magdalena Carrasco and Sabrina Parra-Garcia.
- (b) Authorize an excused absence for Council Member Carrasco from Rules and Open Government on April 20, 2016 and April 27, 2016 as well as the Public Safety, Finance & Strategic Support Committee Meeting on April 21, 2016 and the City Council Meeting on April 26, 2016 due to Authorized City Business. Source of Funds: Mayor/Council Travel Budget and D5 Council Budget.
- CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Carrasco)**

Documents Filed: Memorandum from Council Member Magdalena Carrasco, dated April 1, 2016, requesting approval of travel and excused absence.

Action: The travel for Council Member Magdalena Carrasco and Sabrina Parra-Garcia was approved and absences for Council Member Magdalena Carrasco were excused. (10-0-1. Absent: Carrasco.)

- 2.12 As recommended by the Rules and Open Government Committee meeting on April 6, 2016, adopt a position of Support if Amended for AB 2176 (Campos). In addition, direct staff to take necessary action to meet the stated objective as needed. **CEQA: Not a Project, File No. PP10-069(d), Legislative Positions. (Housing)**
[Rules Committee referral 4/6/16 – Item G(1)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 7, 2016, transmitting the recommendations of the Rules and Open Government Committee.

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

Motion: Council Member Johnny Khamis moved approval of the Staff recommendations with Staff directed to include as a condition: to specify that the emergency declaration applies to a “transitional community within its jurisdiction”. Vice Mayor Rose Herrera seconded the motion.

Discussion ensued.

Action: On a call for the question, the motion carried unanimously, Support position for adopted for Amended AB 2176. Staff was directed to include as a condition: to specify that the emergency declaration applies to a “transitional community within its jurisdiction”. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas announced the City of San José was recognized for the 26th year for receiving the 2016 Distinguished Budget Presentation Award and thanked Senior Deputy City Manager/Budget Director Jennifer A. Maguire, Assistant Budget Director Margaret McCahan, Deputy Director Jim Shannon and Staff for their excellent work.

3.3 (a) Adopt a resolution:

- (1) Amending the current prevailing wage enforcement mechanism for late submission of certified payroll records on City's Housing projects to assess liquidated damages in the amount of \$250.00 per day provided that the liquidated damages assessed do not exceed the total contract amount of the developer's, general contractor's or subcontractor's contract who failed to submit timely certified payroll records, and provided further there was no actual wage violation discovered in the late records and the late records were submitted to the City within one year from when they were due.
 - (2) Applying the amended prevailing wage enforcement mechanism for late submission of certified payroll records to all City's Housing project contracts entered into on or after January 1, 2013.
 - (3) Authorizing City staff to refund, subject to the appropriation of funds, the difference in the amount of liquidated damages between the prior enforcement mechanism without a cap and the amended enforcement mechanism with a cap for all City's Housing project contracts entered into on or after January 1, 2013 where full payment of liquidated damages was made to the City within one year from when they were due.
- (b) Adopt the following 2015-2016 Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:
- (1) Increase the Loan Management appropriation to the Housing Department for Loan Management in the amount of \$100,680.
 - (2) Decrease the Unrestricted Ending Fund Balance appropriation in the amount of \$100,680.

CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy Change that involve no changes in the physical environment. (Public Works/City Manager)

Action: Deferred to April 19, 2016 per Administration.

- 3.4 As recommended by the Neighborhood Services and Education Committee on March 10, 2016, accept the audit report on the use and coordination of volunteers. **CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments, and Annual Reports that involve no approvals of City Actions. (City Auditor)**
[Neighborhood Services & Education Committee referral 3/10/16 – Item (d)(1)]

3.4 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated April 11, 2016, recommending acceptance of the audit with further direction as described in "Action" below. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated April 1, 2016, transmitting the recommendations of the Neighborhood Services and Education Committee.

City Auditor Sharon W. Erickson presented the Report on the Use and Coordination of Volunteers. Assistant to the City Manager Andrew Freeman provided the Administration's Response.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum from Mayor Sam Liccardo and the report from the City Auditor. Council Member Tam Nguyen seconded the motion.

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, dated April 11, 2016, was approved, including the following: (1) Accept the Audit on the City's Use and Coordination of Volunteers. (2) In addition to the recommendations of the City Auditor, direct the City Manager to place particular emphasis on actions to: (a) Align volunteer agreements and policies to make volunteer enrollment and management easier. (b) Align and consolidate current volunteer web pages, databases and software to: 1. Create a simplified, streamlined point of access for residents. 2. Ensure consistent reporting across departments 3. Link with the web pages of the Mayor and the Council Offices; including www.wearesanjose.org. 4. Integrate with the next generation CRM enterprise software Citywide (c) Develop a program for collaborating with neighborhood based social media platforms such as NextDoor and the (under construction) Neighborhood Dashboard Project, so that program level staff can post volunteer opportunities and events in a geographically targeted manner. (d) Incorporate suggestions for engagement through volunteer opportunities conveyed in multiple languages from community partners. (e) Return to the Neighborhood Services and Education Committee in early 2017 with an update on progress, using objective service metrics across all programs and departments. (11-0.)

- 3.5 (a) **Accept the report on the Request for Proposal for the purchase of a Radio Frequency Identification (RFID) System and adopt a resolution authorizing the City Manager to:**
- (1) **Execute an Agreement with Bibliotheca, LLC (Norcross, GA) for the purchase of a Library RFID System solution, including hardware, software licenses, related professional services, taxes, maintenance and support, for an initial five-year term, with a maximum compensation not-to-exceed \$2,899,391 for the initial five year term, subject to the annual appropriation of funds.**
 - (2) **Execute change orders to cover any unanticipated changes or requirements in the system design and implementation, not-to-exceed \$251,612, subject to the appropriation of funds.**

- 3.5 (a) (3) Exercise one-year options to extend the term of the Agreement to provide on-going maintenance and support, after the initial five-year term, at the rate of \$86,986 per year with annual cost adjustments capped at 3%, subject to the annual appropriation of funds.
- (4) Purchase RFID tags as required after the initial five-year term, subject to the annual appropriation of funds.
- (b) Adopt the following 2015-2016 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Library Purposes:
- (1) Increase the Materials Handling Technology appropriation by \$812,000.
- (2) Decrease the Ending Fund Balance by \$812,000.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for Professional Services that involve no changes to the physical environment. (Finance/City Manager)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated March 21, 2016, recommending acceptance of the report on the Request for Proposal, adoption of a resolution and appropriation ordinance amendments.

Library Director Jill Bourne responded to questions from Council Member Johnny Khamis.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, Report for the purchase of a Radio Frequency Identification (RFID) System was accepted, Resolution No. 77713, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute an Agreement with Bibliotheca, LLC for the Purchase of a Library RFID System Solution for An Initial Five-Year Term, With a Maximum Compensation Not To Exceed \$2,899,391 for the Initial Five-Year Term, (2) Execute Change Orders to Cover any Unanticipated Changes or Requirements in the System Design and Implementation Not To Exceed \$251,612, (3) Exercise One-Year Options to Extend the Term of the Agreement to Provide On-Going Maintenance and Support and (4) Purchase RFID Tags as Required After the Initial Five-Year Term, Subject to the Annual Appropriation of Funds" and Ordinance No. 29718, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Library Purposes for Materials Handling Technology; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" were adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **As recommended by the Community and Economic Development Committee on February 22, 2016, accept the status report related to updating the North San José Area Development Policy and Environmental Impact Report. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Office of Economic Development/Planning, Building and Code Enforcement/Transportation)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Council Member Manh Nguyen and Council Member Raul Peralez, dated April 8, 2016, recommending acceptance of the report with direction as outlined in "Action". (2) Memorandum from City Clerk Toni J. Taber, CMC, dated March 3, 2016, transmitting the recommendations of the Community and Economic Development Committee. (3) Staff presentation dated April 12, 2016 summarizing the Update of North San José Area Development Policy. (4) Letter from Patricia Sausedo, Director, NAIOP Silicon Valley, dated April 11, 2016, expressed support to the recommendations. (5) Letter from Jean Marlowe and Michael Betram, River Oaks Neighborhood Association, dated April 12, 2016, expressing opposition to the North San José Area Development Policy.

Division Manager Jason Rogers offered the North San José Area Development Policy Report.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Jean Marlowe, President, River Oaks Neighborhood Association, expressed opposition citing that the City of San José needs more employment opportunities instead of housing.

Motion: Council Member Manh Nguyen moved approval of the memorandum he cosigned with Mayor Sam Liccardo and Council Member Raul Peralez. Council Member Raul Peralez seconded the motion.

Mayor Sam Liccardo requested to amend the motion to direct Staff to incorporate standards for higher than minimum density for affordable housing. The amendment was accepted by Council Member Manh Nguyen and Council Member Raul Peralez.

Deputy City Manager/Director of Economic Development Kim Welsh, Director of Housing Jacky Morales-Ferrand, Director of Planning, Building and Code Enforcement Harry Freitas, Director of Transportation James Ortbal, Senior Business Development Manager Chris Burton and Division Manager Jason Rogers responded to Council questions and concerns.

Extensive Council discussion ensued.

4.1 (Cont'd.)

Action: On a call for the question, the motion carried, the memorandum from Mayor Sam Liccardo, Council Member Manh Nguyen and Council Member Raul Peralez, dated April 8, 2016, was approved, accepting the Staff Report related to the North San José Area Development Policy Update and preparation of the Environmental Impact Report, with direction that the Administration return to Council in August 2016 with: (A) A framework outlining specific criteria and a determination of the required environmental clearance by which 1,500 residential units from Phase II can move forward in the near term prior to the full build out of the 10 million industrial capacity triggering the threshold of Phase II. (1) The framework should allow for residential development in either of the two circumstances: (a) Densification of existing site for mixed use TOD: Where housing is integrated into a high density (>120 DU/AC) mixed use, transit oriented development that provides large ground floor retail space or build out of office, retail, hotel or other employment serving uses with some minimum requirements (e.g. exceeding 150,000 SF, or the FAR of the site's current use). Eligible sites must lie within a ½ mile of a light rail station. (b) On campus worker housing: Allowing large employers – with at least 2,000 employees – to build housing on-site exclusively for employees. (2) Requirements: (a) Affordable Housing: All developments will be subject to inclusionary and impact fee requirements, regardless of their date of entitlement. (b) Transportation Infrastructure: Projects must be accompanied by a Development Agreement that ensures payment of fees -- in an amount that substantially exceeds what would be paid under the current Area Development Policy for residential development -- to ensure progress toward needed road and transit improvements in North San José. (B) Identify a comprehensive strategy for build out of retail, restaurants and other basic amenities that make North San José a more compelling place to work and live. (C) Present options for a reduced Traffic Impact Fee for Office/R&D development, as directed by Council in November 2014. (D) Complete an assessment of utilities and other infrastructure needed to support the proposed 2030 jobs and housing capacity, as directed by Council in November 2014. (E) Provide an evaluation of the transportation implications of the proposed changes and the impacts to current residential neighborhoods in the short term (3-5 years) and what impact the opening of BART in 2017 at the Berryessa Station will have on traffic conditions, if any. (F) Present an Outreach Program that ensures that residents within the North San José Policy Area are provided an opportunity to meaningfully weigh in on the proposed policy changes. Staff was further directed to incorporate standards for higher than minimum density for affordable housing. (10-1. Noes: Oliverio.)

PUBLIC SAFETY SERVICES

- 8.1 (a) Approve an ordinance amending the City of San José 1.08.040 of Chapter 1.08 of Title 1 related to enforcement of the San José Municipal Code or other City Ordinance, adding a new Chapter 10.17 to Title 10, and repealing Section 17.12.940 of Chapter 17.12 of Title 17 of the San José Municipal Code to prohibit the sale, use, possession and storage of fireworks and to provide for civil liability under certain circumstances for persons responsible for minors who violate the prohibition in Chapter 10.17 related to fireworks.
- (b) Adopt a resolution amending the Administrative Citation Schedule of Fines to establish administrative fines for violations related to Fireworks, and repealing Resolution No. 77702.

CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy Change that involves no changes to the physical environment. (Fire)

Item 8.1 was heard following Item 4.1 per the discretion of the Mayor and Council.

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Raul Peralez, Council Member Donald Rocha and Council Member Johnny Khamis, dated April 8, 2016, recommending acceptance of the Staff recommendations with direction as described in “Action” on Pages 15 and 16. (2) Memorandum from Fire Chief Curtis Jacobson, dated April 1, 2016, recommending approval of an ordinance and adoption of a resolution. (3) Staff presentation dated April 12, 2016 describing the Fireworks Enforcement Ordinance.

Assistant Fire Chief Johnny Dellinger presented the report.

Motion: Council Member Ash Kalra moved approval of the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Raul Peralez, Council Member Donald Rocha and Council Member Johnny Khamis, dated April 8, 2016, as described in “Action” on Pages 15 and 16. Council Member Johnny Khamis seconded the motion.

Fire Chief Curtis Jacobson, Assistant Fire Chief Johnny Dellinger and Captain Edward Schroder responded to Council questions and concerns.

Mayor Sam Liccardo suggested getting the word out to the residents via the Council Newsletters.

Council Member Pierluigi Oliverio requested to amend the motion to direct Staff to revise the first offense fine to \$500 in lieu of \$350. Council Member Ash Kalra and Council Member Johnny Khamis accepted the amendment.

Council Member Raul Peralez requested to amend the motion to direct Staff to elevate the length of time for the second fine to an 18-month window. Council Member Ash Kalra and Council Member Johnny Khamis accepted the amendment.

8.1 (Cont'd.)

Council Member Manh Nguyen requested to amend the motion to direct Staff to report back with the data of the results of outreach to the community and what the total amount of fines were received. Council Member Ash Kalra and Council Member Johnny Khamis accepted the amendment.

Mayor Sam Liccardo requested to amend the motion to direct Staff to report back through the Budget Process. Council Member Ash Kalra and Council Member Johnny Khamis accepted the amendment.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Larry Ames expressed support to the program.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29719, entitled: “An Ordinance of the City of San José Amending Section 1.08.040 of Chapter 1.08 of Title 1 Related to Enforcement of the San José Municipal Code or Other City Ordinance, Adding a New Chapter 10.17 to Title 10 and Repealing Section 17.12.940 of Chapter 17.12 of Title 17 of the San José Municipal Code to Prohibit the Sale, Use, Discharge and Storage of Fireworks, To Establish Liability for Persons Who Allow or Permit the Sale, Use or Discharge of any Fireworks on Certain Properties and To Provide for Liability for Response Costs Related to Fireworks”, was passed for publication. The memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Raul Peralez, Council Member Donald Rocha and Council Member Johnny Khamis, dated April 8, 2016, was approved, accepting the City Manager’s recommendations, with direction to the City Manager to return to Council in 30 days with a more detailed program utilizing the full scope of the ordinance changes to enable administrative enforcement of illegal firework usage and include: (1) A clear description of which City employees will now be authorized, trained and managed to issue citations – such as Code Enforcement Officers, Park Rangers, Parking Control Officers, Community Service Officers or any other appropriate Staff authorized by the City Manager. (2) An implementation plan to ensure that: (a) Dispatchers, Council Offices and other City Staff are coordinated, particularly to ensure clear direction about to whom they can refer complaints and reports of illegal fireworks activity. (b) Authorized enforcement Staff are fully trained on the administration citation processes. (c) A clear description processes for challenges of citations. (d) Adequate Staffing of non-sworn personnel to enforce the ordinance administratively. (3) Any marketing or outreach plan – through media, social media or other digital means, neighborhood meetings, nonprofits, schools or through relevant City Staff such as San José Police Department Crime Prevention and Parks, Recreation and Neighborhood Services Gang Preventions – to inform residents of the ability to report online or by phone and to notify youth and other residents of enhanced enforcement. (4) The proposed ordinance must allow anonymity of reporting parties and permit those complainants to voluntarily wave anonymity where citations are challenged. (5) Any other elements essential for effective implementation of administrative enforcement. (6) Annual post 4th of July Report to the Public Safety, Finance and

8.1 (Action Cont'd.)

Strategic Support Committee. Staff was further directed to return with an update at the Budget Process in May 2016 as to the status of the following items: (1) First offense fine \$500 in lieu of \$350. (2) Length of time for the second fine elevated to an 18-month window. (3) Report back specifically with data of the results of outreach to the community and what the total amount of fines were received. Resolution No. 77714, entitled: "A Resolution of the Council of the City of San José Amending the Administration Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Establish an Administrative Fine for Violations of Section 10.17.100 of the San José Municipal Code Related to the Sale, Use, Discharge and Storage of Fireworks and Repealing Resolution No. 77702", was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 **Adopt a resolution approving a City Council Policy for disposing of surplus property that includes provisions relating to affordable housing. CEQA: Not a Project, File No. PP10-068(c), Code or Policy change that involve no changes in the physical environment. (Economic Development/Housing)**
(Deferred from 2/2/16 - Item 4.1, 3/1/16 - Item 4.1, et al, and 4/5/16 – Item 4.1)

Action: Deferred to April 19, 2016 per Administration.

- 4.3 **As recommended by the Community and Economic Development Committee on March 28, 2016, accept staff report on how the City will maintain ongoing "Best Face Forward" activities regarding human trafficking, graffiti abatement, tree trimming, and gateway clean-ups Downtown after the Super Bowl. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Economic Development)**
[Community and Economic Development Committee referral from 3/28/16 – Item (d)(4)]

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Council Member Raul Peralez, Council Member Ash Kalra and Council Member Donald Rocha, dated April 8, 2016, recommending accepting the Staff recommendations with further direction. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated April 8, 2016, transmitting the recommendations of the Community and Economic Development Committee.

Deputy City Manager/Director of Economic Development Kim Welsh presented introductory remarks. Assistant to the City Manager/Downtown Manager Teri Killgore provided the report. Michael Knox, Police Department Bureau of Field Operations was available for questions.

Motion: Council Member Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo, Council Member Ash Kalra and Council Member Donald Rocha, dated April 8, 2016. Vice Mayor Rose Herrera seconded the motion.

4.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Council Member Raul Peralez, Council Member Ash Kalra and Council Member Donald Rocha, dated April 8, 2016, was approved: (1) Accepting the Staff Report on how the City will maintain ongoing “Best Face Forward” activities following Super Bowl 50. (2) Staff was directed to report back to Council by November 2016 on all updates related to the sign code in the Downtown Sign Zone including but not limited to electronic billboards and supergraphics. (11-0.)

NEIGHBORHOOD SERVICES

- 5.1 (a) **Approve the 2016 Caucus Process recommended by the Neighborhoods Commission to select Neighborhood Commissioners in Districts 2, 4, 6, 8 and 10.**
- (b) **Reaffirm as adopted on June 18, 2013 (Item 5.1) by City Council that Commissioners who had been serving on the pilot were appointed to serve terms ending with the district caucuses in 2014 and 2016.**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no physical changes to the environment. Council Districts 2, 4, 6, 8, and 10. (City Manager)

Documents Filed: (1) Memorandum from Deputy City Manager Julie Edmonds-Mares, dated March 30, 2016, recommending approval of the 2016 Caucus Process and reaffirm as adopted on June 18, 2013 (Item 5.1) by City Council that Commissioners who had been serving on the pilot were appointed to serve terms ending with the district caucuses in 2014 and 2016.

Deputy City Manager Julie Edmonds-Mares presented the Staff Report.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Larry Ames expressed support to the 2016 Caucus Process.

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

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the 2016 Caucus Process recommended by the Neighborhoods Commission to select Neighborhood Commissioners in Districts 2, 4, 6, 8 and 10 was approved and as adopted on June 18, 2013 (Item 5.1) by City Council the Commissioners who had been serving on the pilot were appointed to serve terms ending with the district caucuses in 2014 and 2016, were reaffirmed. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Approve award of a construction contract for the 8099-2016 Remove and Replace Asphalt Concrete Pavement Project, to the lowest responsive bidder, G. Bortolotto & Company, Inc. in the amount of \$2,428,425.
 (b) Approve a ten percent contingency in the amount of \$242,843.
CEQA: Exempt, Section 15301(c) Existing Facilities, File No. PP14-069. Council Districts 1, 3, 4, 5, 6, 7, 8, 9, and 10. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Ortbal, dated March 30, 2016, recommending award of a construction to the lowest responsive bidder, with related contingency.

Director of Transportation James Ortbal responded to Council questions and concerns.

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, the award of a construction contract for the 8099-2016 Remove and Replace Asphalt Concrete Pavement Project, to the lowest responsive bidder, G. Bortolotto & Company, Inc. in the amount of \$2,428,425, with related contingency, was approved. (9-0-2. Absent: Carrasco, M. Nguyen.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Proposed Type</u>	<u>Decision</u>
10348	2485 Almaden Expressway	6	Pulte Home Corporation	1/24	MFA	Approve

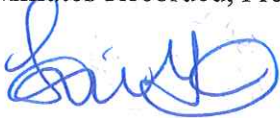
In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10355	201 W. Julian Street	3	San Pedro Life I	1/315	MFA

ADJOURNMENT

The Council of the City of San José adjourned the meeting at 6:32 p.m. in memory of Julie Loeffler. Julie Adriane Loeffler passed away on February 20, 2016. A loving mother to Sydney and Kyle, a loving wife to Larry, and a devoted sister and daughter, she will be sorely missed. The Cambrian District and the San José community lost a bright star who has left a caring legacy in her absence.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/04/12/16 MIN