



## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 03, 2016

The Council of the City of San José convened in Regular Session at 9:35 a.m. in the Council Chamber at City Hall.

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

Absent: Council Members - Carrasco. (Excused)

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:41 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (2) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (3) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (4) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (5) ABMEI v. City, et al. Names of Parties Involved: Association of

## CLOSED SESSION (Cont'd.)

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

## CLOSED SESSION (Cont'd.)

Change to City Medical Plan. (B) 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 (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 11:14 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio (1:52 p.m.), Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.



## INVOCATION

Tamara Mozahuani Alvarado offered the Invocation. (District 5)

## PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo, accompanied by Easterbrook Discovery School Third Grade Students, led the Pledge of Allegiance.

## CEREMONIAL ITEMS

### **1.1 Presentation of a proclamation recognizing the week of May 1 – May 6, 2016 as “National Business Week” in the City of San José. (Khamis)**

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Johnny Khamis recognized May 1, 2016 through May 6, 2016 as “National Business Week” in San José.

### **1.2 Presentation of a proclamation recognizing May as “Older Americans Month” in the City of San José. (Khamis)**

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Johnny Khamis recognized May 2016 as “Older Americans Month” in San José.

### **1.3 Presentation of a proclamation for El Dia de Los Niños (Children’s Day), a celebration of children and reading that takes place every year on April 30 highlighting the importance of advocating literacy for children of all cultural backgrounds. (Carrasco)**

Mayor Sam Liccardo, Council Member Magdalena Carrasco and Council Member Raul Peralez recognized Jorge Emilio Sousa in honor of El Dia de Los Niños in the City of San José. Jorge is a student at Selma Olinder Elementary School and was also recognized as “Counsel General for a Day.”

## 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 of the Amended Agenda were approved. (10-0-1. Absent: Carrasco.)

*Note: Agenda Items may be heard out of order per the discretion of Mayor Liccardo and the Council Members.*

## CONSENT CALENDAR

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

### 2.1 Approval of Minutes.

There were none.

### 2.2 Final Adoption of Ordinances.

- (a) **ORD. NO. 29721** – An ordinance of the City of San José rezoning certain real property of approximately 0.5 acre on the west side of South 4<sup>th</sup> Street, approximately 170 feet southerly of East San Salvador Street (439 and 451 South 4<sup>th</sup> Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District. CEQA: Determination of Consistency to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617), File No. C15-026.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29721 executed on April 25, 2016, submitted by the City Clerk.

Action: Ordinance No. 29721 was adopted. (11-0.)

- (b) **ORD. NO. 29722** – An ordinance of the City of San José rezoning certain real property of approximately 0.48 acre situated on the west side of North 21<sup>st</sup> Street, approximately 250 feet north of East Santa Clara Street (21 North 21<sup>st</sup> Street) from the R-2 Two-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District. CEQA: Determination of Consistency to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617), File No. C15-053.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29722 executed on April 25, 2016, submitted by the City Clerk.

Action: Ordinance No. 29722 was adopted. (11-0.)

- (c) **ORD. NO. 29723** – An ordinance of the City of San José rezoning certain real property of approximately 0.29 gross acre situated at the northwest corner of Monterey Road and Cottage Grove Avenue (1499 Monterey Road) from the A Agricultural Zoning District to the CN Commercial Neighborhood Zoning District. CEQA: Exempt, Sections 15303(c) New Construction or Conversion of Small Structures, File No. C16-005.

**2.2 (c) (Cont'd.)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29723 executed on April 25, 2016, submitted by the City Clerk.

Action: Ordinance No. 29723 was adopted. (11-0.)

**2.3 Approval of Council Committee Minutes.**

**(a) Rules and Open Government Committee Minutes of April 6, 2016. (Mayor)**

**(b) Neighborhood Services and Education Committee Minutes of April 14, 2016. (Rocha)**

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

Documents Filed: (1) The Rules and Open Government Committee Minutes dated April 6, 2016. (2) The Neighborhood Services and Education Committee Minutes dated April 14, 2016.

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

**2.4 Mayor and Council Excused Absence Requests.**

There were none.

**2.5 City Council Travel Reports.**

Vice Mayor Rose Herrera advised that she will provide a detailed report of her travel to the City of San José's Sister City, Dublin Ireland at the May 17, 2016 Council Meeting.

**2.6 Report from the Council Liaison to the Retirement Boards.**

There were none.

**2.7 Adopt a resolution authorizing the City of San José to submit applications to the California Department of Resources Recycling and Recovery (CalRecycle) for any and all payment programs offered and authorizing the City Manager or designee to execute all documents to implement programs, effective until rescinded by the signature authority or CalRecycle. CEQA: Not a Project, File No. PP10-068(a); Grant Application. (Environmental Services)**

Documents Filed: City Council Action Request from Director of Environmental Services Kerrie Romanow, dated April 11, 2016, recommending adoption of a resolution.

**2.7 (Cont'd.)**

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77732, entitled: "A Resolution of the Council of the City of San José Authorizing the City of San José to Submit Applications to the California Department of Resources Recycling and Recovery (CalRecycle) for Any and All Payment Programs Offered and Authorizing the City Manager or Designee to Execute All Documents To Implement Programs, Effective Until Rescinded by the Signature Authority or CalRecycle", was adopted. (10-0-1. Absent: Carrasco.)

**2.8 Report on bids and award of construction contract for the 7381 – Lincoln-Savaker Sanitary Sewer Improvement (JLS11/13) Project to the low bidder, Pacific Underground Construction, Inc., in the amount of \$1,237,640 and approve a 10% construction contingency in the amount of \$123,700. CEQA: Exempt, Section 15282(h) Other Statutory Exemptions and Public Resources Code 21080.21(a) (b), File No. PP13-076. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated April 11, 2016, recommending approval of the report on bids and award of the construction contract to the low bidder.

Action: The report on bids and award of construction contract for the 7381 – Lincoln-Savaker Sanitary Sewer Improvement (JLS11/13) Project to the low bidder, Pacific Underground Construction, Inc., in the amount of \$1,237,640, with related contingency, was approved. (11-0.)

- 2.9 (a) Approve an Agreement with KB Home South Bay, Inc. to fund the City's costs in conducting annexation proceedings for Annexation Area No. 2 to Community Facilities District No. 8 for the maintenance of landscape and open space improvements within the Communications Hill Specific Plan area.**
- (b) Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the Community Facilities District #8 (Communications Hill) Fund:**
- (1) Increase the estimate for Earned Revenue by \$20,000.**
  - (2) Establish an appropriation to the Department of Public Works for the Community Facilities District No. 8 Annexation Feasibility Project in the amount of \$20,000.**
- (c) Adopt a resolution of intention to:**
- (1) Annex Annexation Area No. 2 to Community Facilities District No. 8 (Communications Hill).**
  - (2) Levy a special tax on land within Annexation Area No. 2.**
  - (3) Set a Public Hearing for June 14, 2016 at 1:30 p.m. regarding the annexation.**
  - (4) Hold an election immediately following the close of Public Hearing.**

**CEQA: Communications Hill 2 Final EIR (Resolution No 77172), File No. PDA14-035-01. Council District 7. (Public Works/City Manager)**

**2.9 (Cont'd.)**

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated April 14, 2016, recommending approval of an agreement, adoption of appropriation ordinance and funding sources resolution amendments and adoption of a resolution. (2) Statement and Declaration of Conflict of Interest Form from Council Member Johnny Khamis, dated May 3, 2016, disclosing real estate property owned within the project area.

Council Member Johnny Khamis recused himself from participating in the Council discussion and voting on this item due to a conflict of interest.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Council Member Tam Nguyen and carried unanimously, an Agreement with KB Home South Bay, Inc. to fund the City's costs in conducting annexation proceedings for Annexation Area No. 2 to Community Facilities District No. 8 for the maintenance of landscape and open space improvements within the Communications Hill Specific Plan area, was approved; Ordinance No. 29725, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Community Facilities District #8 (Communications Hill) Fund for the Community Facilities District No. 8 Annexation Feasibility Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 77733, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the in the Community Facilities District #8 (Communications Hill) Fund", and Resolution No. 77734, entitled: "A Resolution of Intention of the Council of the City of San José To Annex Territory Into Community Facilities District No. 8 (Communications Hill) and To Authorize the Levy of Special Taxes", were adopted. (8-0-2-1. Absent: Kalra, Rocha. Abstain: Khamis.)

- 2.10 (a) Approve award of a construction contract for the 8082 – 2016 Street Sealing Project, to the low bidder, Graham Contractors, Inc. in the amount of \$3,838,004.**

- (b) Approve a 10% contingency in the amount of \$383,800.**

**CEQA: Exempt, Section 15301(c) Existing Facilities, File No. PP14-069. Council Districts 1, 3, 4, 5, 6, 7, 8, 9, 10. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Ortbal, dated April 11, 2016, recommending award of a contract to the low bidder, with related contingency.

Action: The award of a construction contract for the 8082 – 2016 Street Sealing Project, to the low bidder, Graham Contractors, Inc. in the amount of \$3,838,004 and a 10% contingency in the amount of \$383,800, were approved. (11-0.)



- 2.11 As recommended by the Rules and Open Government Committee on April 27, 2016:**
- (a) Retroactively approve the Cambodian New Year Celebration on Friday, April 22, 2016, and the 2<sup>nd</sup> Annual Valley Palms On The Move Health Resource Fair and BBQ on Saturday, April 30, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the events.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events.  
[Rules Committee referral 4/27/16 – Item G.1.a.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated April 29, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Cambodian New Year Celebration on Friday, April 22, 2016, and the 2<sup>nd</sup> Annual Valley Palms On The Move Health Resource Fair and BBQ on Saturday, April 30, 2016 as 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. (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 that the proposed FY2016-2017 Operating/Capital Budgets and the Fees and Charges Document were released on May 1, 2016. City Manager Dueñas pointed out that Community Budget Meetings began last night at Leininger Center, Kelley Park (District 7) and the next meeting will be held at Lee Mathson Middle School (District 5) at 9:00 a.m. – 11:00 a.m. *For more information about future Community Budget Meetings visit the City's Website at [www.sanjoseca.gov](http://www.sanjoseca.gov)*

Responding to questions from Council Member Pierluigi Oliverio, City Manager Norberto Dueñas noted that Actions Related to Reducing Economic Barriers to Library Access will be heard at the May 17, 2016 Council Meeting.

### **COMMUNITY & ECONOMIC DEVELOPMENT**

- 4.1 (a) Hold a final Public Hearing regarding the approval of the City's FY 2016-2017 Annual Action Plan and take public comment.**
- (b) Adopt the FY 2016-2017 Annual Action Plan, including the FY 2016-2017 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.**

- 4.1 (c) **Approve staff recommendations to award federal funds to the six agencies selected under the federal services Request for Proposal (RFP) including:**
- (1) **\$500,000 to Rebuilding Together Silicon Valley for Minor Repair Services benefiting low- and moderate-income single-family and mobilehome owners.**
  - (2) **\$499,850 to San José Streets Team to facilitate a work experience program benefiting unhoused individuals in San José.**
  - (3) **\$390,450 to the fair housing consortium led by the Law Foundation of Silicon Valley for fair housing services.**
  - (4) **\$150,000 to SOMOS Mayfair Inc. to administer Neighborhood Engagement Services.**
  - (5) **\$50,000 to San José State University Research Foundation for CommUniverCity to administer Neighborhood Engagement and Leadership Services.**
  - (6) **\$800,000 to the Health Trust to administer services under the Housing Opportunities for People with Aids (HOPWA).**
- (d) **Authorize the Housing Department to submit the FY 2016-2017 Annual Action Plan to the U.S. Department of Housing and Urban Development.**
- (e) **Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capital project agreements to implement the projects and services identified in the staff memorandum not requiring CEQA review, including new agreements awarded through the federal services RFP, and to negotiate all capital project agreements and contracts including any amendments or modifications, for the expenditure of CDBG, ESG, HOME and HOPWA funds on behalf of the City.**

**CEQA: Not a Project, File No.PP10-069(a), Annual Report. Specific development projects that are funded as a result of the Action Plan are subject to project-specific CEQA clearance. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand, dated April 20, 2016, recommending holding a public hearing, adopt the FY 2016-2017 Annual Action Plan, approve to award federal funds to six agencies selected, and authorize Housing to submit the FY 2016-2017 Annual Action Plan to the U.S. Department of Housing and Urban Development and adoption of a resolution.

Mayor Sam Liccardo opened the Public Hearing.

Public Comments: Expressing suggestions, comments, opposition and support were Dorsey Moore, David Navarro, Brandon Rios, Osvaldo Santiago, Luis Lopez, Harman Hunjan, Thomas V. Albrecht, Francisco Gonzalez, Misraini Contreras, San José Conservation Corps; Kyra Kazantzis, Law Foundation of Silicon Valley; Shawn Yee, Asian Law Alliance; Molly Current, Fair Housing Consortium; Beatriz Lopez, Senior Adults Legal Assistance; Camille Llanes-Fontanilla, Somos Mayfair; Cayce Hill, Veggielution; Christian Chavarin, Nancy Chung, Shaunn Cartwright and Robert Aguirre.

Mayor Sam Liccardo closed the Public Hearing.

#### 4.1 (Cont'd.)

Housing Division Manager David Bopf and Housing Policy and Planning Administration James Stagi responded to Council questions and concerns.

Mayor Sam Liccardo requested that Staff provide a Manager's Budget Addendum or information memorandum to Council during the May Budget process related to outcomes performance measures and goals, in addition to providing annual reports to the Neighborhood Services and Education Committee.

Motion: Council Member Johnny Khamis moved approval of the Staff recommendations, except for (c)(3): *\$390,450 to the fair housing consortium led by the Law Foundation of Silicon Valley for fair housing services*. Council Member Pierluigi Oliverio seconded the motion.

Council Member Chappie Jones expressed support to the motion on the floor.

Substitute Motion: Council Member Ash Kalra moved approval all the Staff recommendations. Council Member Raul Peralez seconded the motion.

Council discussion ensued.

Action: On a call for the question, the substitute motion carried, the FY 2016-2017 Annual Action Plan, including the FY 2016-2017 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 were adopted; The Staff recommendations for Item 4.1(c)(1)-(6) were approved; Resolution No. 77735, entitled: "A Resolution of the Council of the City of San José Authorizing the Interim Director of Housing to Negotiate and Execute All Noncapital Agreements and Contracts Not Requiring 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", was adopted. Staff was directed to provide a Manager's Budget Addendum or information memorandum to Council during the May Budget process related to outcomes performance measures and goals, in addition to providing annual reports to the Neighborhood Services and Education Committee. (6-4-1. Noes: Jones, Khamis, M. Nguyen, Oliverio. Absent: Rocha.)

**4.2 Consideration of an ordinance of the City of San José extending and re-establishing a temporary moratorium on the closure or conversion of Mobilehome Parks to any other use and suspending the provisions of Chapter 20.180 of Title 20 (Zoning) of the San José Municipal Code, pending the review and possible amendment of land use regulations related to Mobilehome Park conversions, setting forth the findings to support the temporary moratorium, and making other technical, non-substantive, or formatting changes within Title 20. Planning Commission recommends approval (4-1-2) (Abelita opposed, Yob and Pham absent). CEQA: The provisions of this Ordinance have been found to be not a project under the California Environmental Quality Act of 1970 (“CEQA”), together with regulations and guidelines promulgated thereunder (including without limitation Section 15378 of the CEQA Guidelines), and this Ordinance is also exempt from CEQA pursuant to Section 15061(b)(3) because it has no potential for causing a significant effect on the environment, and Section 15308 as a regulatory action under the City’s police power to assure maintenance and protection of the environment pending evaluation and adoption of potential local legislation and regulation. (Planning, Building and Code Enforcement)  
PP15-084 - Citywide**

*Note: Item 4.2 was heard following Item 6.1.*

Documents Filed: (1) Memorandum from Planning Commission Secretary Harry Freitas dated April 8, 2016, transmitting the Planning Commission recommendation. (2) Proof of Publication of Notice of Public Hearing, executed on March 4, 2016, submitted by the City Clerk. (3) Email from a member of the public dated May 3, 2016 expressing support to the 18-month moratorium.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to the 18-month moratorium were Warren Gannon, Moria Merriweather, Ruth Greathouse, Jill Borders, Gail Osmer, Robert Aguirre, Don Nick, Victor Lecha III, South Bay Tenants Association; Sherman Adams, Katie Martin and Shaunn Cartwright.

Director of Planning, Building and Code Enforcement Harry Freitas, Deputy City Attorney Shasta Greene and Supervising Planner, Ordinance and Policy Team Jenny Nusbaum responded the Council questions and concerns.

Motion: Council Member Ash Kalra moved approval of the Staff recommendations with Staff directed to continue with outreach to the Community and to provide protection to the mobilehome residents. Council Member Chappie Jones seconded the motion.

Council discussion ensued.

**4.3 (Action Cont'd.)**

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29727, entitled: "An Ordinance of the City of San José Extending an Interim Ordinance of the City of San José Establishing a Temporary Moratorium on the Conversion or Closure of Mobilehome Parks Pending the Review and Possible Amendment or Adoption of Land Use Regulations Applicable to Such Conversions and Closures and Setting Forth Findings to Support Such Temporary Moratorium and the Effectiveness and Applicability of the Provisions of this Ordinance", was passed for publication. Staff was directed to continue with outreach to the Community and to provide protection to the mobilehome residents. (10-0-1. Absent: Rocha.)

- 4.3 (a) Adopt a resolution approving new Council Policy 0-43 entitled "Wage Theft Prevention Policy."**
- (b) Approve an ordinance amending Section 6.02.130 of Chapter 6.02 of Title 6 of the San José Municipal Code to specifically authorize the denial, suspension or revocation of a permit or license based upon a final judgment by a court or by final administrative action of an investigatory government agency that a violation of wage and hour laws occurred and has not been satisfied.**

**CEQA: Not a Project, File No. PP10-068(c), Code or Policy change that involve no changes in the physical environment. (Public Works)**

Action: Deferred to May 24, 2016 Per Administration.

- 4.4 As recommended by the Rules and Open Government Committee on April 6, 2016, accept the staff report regarding the scope, workload assessment and budget for the potential establishment of a Business Development Commission (BDC). CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Economic Development)**  
**[Rules and Open Government Committee referral 4/6/16 – Item G(2)]**

Action: Deferred to May 10, 2016 Per Administration.

**NEIGHBORHOOD SERVICES**

- 5.1 As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2016, accept the 2014-2015 Annual Report on the Anti-Graffiti and Anti-Litter Programs. CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involve no approvals of any City Actions. (Parks, Recreation and Neighborhood Services)**  
**(Deferred from 4/5/16 – Item 5.2 and 4/26/16 – Item 5.1)**  
**[Public Safety, Finance and Strategic Support referral 3/17/16 – Item (d)(7)]**

*Item 5.1 was heard jointly with Item 7.1.*

## 5.1 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco, Council Member Johnny Khamis and Council Member Raul Peralez, dated April 2016, recommending acceptance of the reports with direction to the City Attorney and City Manager (See "Action" on Pages 14-15). (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated April 27, 2016, providing responses regarding the programs. (3) Staff presentation dated May 3, 2016 summarizing the 2014-2015 Annual Report on Anti-Graffiti and Anti-Litter Programs.

Deputy Director of Parks, Recreation and Neighborhood Services Suzanne Wolf and Staff presented the report on the Anti-Graffiti and Anti-Litter Programs. Director of Environmental Services Kerrie Romanow and Deputy Director of Environmental Services Jo Zientek offered the Illegal Dumping Initiative Update.

Mayor Sam Liccardo suggested that Staff identify the short range solutions, look at the comparables between expanding the functionality of the service the City is currently contracting with and determine the cost of the data.

Motion: Council Member Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco and Council Member Johnny Khamis, dated April 29, 2016 and incorporated Mayor Sam Liccardo's suggestions and the memorandum dated October 27, 2015. Vice Mayor Rose Herrera seconded the motion.

Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco, Council Member Johnny Khamis and Council Member Raul Peralez, dated April 29, 2016, was approved, as follows: (1) Accept the Status Report on the City's Illegal Dumping Mitigation Effort and the 2014-2015 Annual Report on the Anti-Graffiti and Anti-Litter Programs. (2) Direct the City Attorney and City Manager to report back to Council through the FY2016-2017 Budget Process to: (a) Determine whether Council can use Integrated Waste Management Fund or other sources for supplemental use in staffing and response to illegal dumps and litter issues, particularly for coordination of volunteer efforts and offer cost estimates and options. (b) Determine the cost and process for implementing the development of an anti-graffiti/anti-illegal dumping reward program that will pay up to \$1,000 for each tip that leads to arrests or fines levied against graffiti vandals and those caught dumping illegally within the City of San José. (3) Regarding illegal dumping, direct the City Manager to report back to the Council as part of the FY2016-2017 Budget Process, through a Manager's Budget Addendum or where more time is needed, return to the Transportation and Environment Committee and Neighborhoods Commission in the Fall with the following: (a) Explore alternatives for the time and day of the proactive pickups in targeted illegal dumping focus areas. (b)



## 5.1 (Action Cont'd.)

Identify costs and potential funding sources for a second compactor truck and for a driver to increase efficiencies with large scale illegal dumping clean ups. (c) Explore additional services to handle illegally dumped bio-waste as a resource available to all departments. (d) Explore opportunities to work with external partners of the City Manager's Data Analytics Team and of the Mayor's Office of Strategic Partnerships and Innovation to leverage behavioral insights to reduce illegal dumping. (e) Assess and report progress through the development of metrics that specifically capture direct impact and not merely work performed. (4) Regarding graffiti, direct the City Manager to report back to the City Council as part of the FY2016-2017 Budget Process, through a Manager's Budget Addendum or where more time is needed, return to the Public Safety, Finance and Strategic Support Committee and Neighborhoods Commission in the Fall with the following: (a) Determine whether the City Manager can execute a "shared data" agreement with Graffiti Protective Coatings to enable reports of graffiti on businesses and private property to simultaneously flow to the tip submit line with the San José Police Department and to Code Enforcement. (b) Assess the cost of restoring the City's prior commitment to address graffiti complaints within 48 hours and how that might affect the response metrics on Page 9 of the Staff Report. (c) Assess and report progress through the development of metrics that specifically capture direct impact and not merely work performed. Staff was directed to: (1) Identify the short range solutions, look at the comparables between expanding the functionality of the service the City is currently contracting with and determine the cost of the data with regard to *enhancing the "San José Clean" application and to make it more interactive by including self-reporting features for illegal dumping\*\**. (2) Involve more residents and *to develop an educational campaign to inform residents about the need to reduce illegal dumping.\*\** (10-0-1. Absent: Rocha.)

\*\* *From the October 27, 2015 Council Meeting, Item 7.2, Illegal Dumping: direction from the previously approved memorandum from Council Member Raul Peralez, Council Member Magdalena Carrasco and Council Member Tam Nguyen, dated October 23, 2015.*

## TRANSPORTATION & AVIATION SERVICES

*Item 6.1 was heard following Item 4.1.*

- 6.1 (a) **Report on bids and award of construction contract to the low bidder, Rodan Builders, Inc. in the amount of \$4,799,000 for the San José International Airport Federal Inspection Service Improvements project, and approval of a fifteen percent contingency in the amount of \$719,850.**
- (b) **Adopt a resolution authorizing the Director of Public Works to issue any single and/or multiple change orders up to the amount of the contingency.**
- CEQA: Determination of Consistency with the City of San José International Airport Master Plan Final EIR, as Supplemented, and Addenda thereto (Resolution Nos. 67380 and 71451), File Nos. PP15-053, PP15-122, and PP16-005. (Public Works/Airport)**

**6.1 (Cont'd.)**

Documents Filed: Supplemental memorandum from Director of Public Works Barry Ng and Director of Aviation Services Kimberly J. Becker, dated April 27, 2016, providing additional information after the bid opening on April 7, 2016 and recommending award of the contract to the low bidder and adoption of a resolution.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the report on bids and award of construction contract to the low bidder, Rodan Builders, Inc. in the amount of \$4,799,000 for the San José International Airport Federal Inspection Service Improvements project with related contingency was approved and Resolution No. 77736, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Issue Any Single and/or Multiple Change Orders Up to The 15% Contingency of the Contract Amount for the Federal Inspection Services Improvements Project", was adopted. (10-0-1. Absent: Rocha.)

**ENVIRONMENTAL & UTILITY SERVICES**

- 7.1 As recommended by the Transportation and Environment Committee on March 7, 2016, accept the status report on the City's Illegal Dumping Mitigation Effort. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Planning, Building and Code Enforcement/ Environmental Services)**

*Heard Jointly With Item 5.1.*

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated March 11, 2016, transmitting the recommendations of the Transportation and Environment Committee. (2) Staff presentation dated May 3, 2016 summarizing the Update on Illegal Dumping Prevention and Cleanup Efforts.

Action: *Please see Item 5.1 for Action, including the direction described in the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco, Council Member Johnny Khamis and Council Member Raul Peralez, dated April 29, 2016 and direction from the previously approved memorandum from Council Member Raul Peralez, Council Member Magdalena Carrasco and Council Member Tam Nguyen, dated October 23, 2015.*

- 7.2 (a) Hold a Public Hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreements between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services.**

- 7.2 (b) **Adopt a resolution setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organic processing services.**

**CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates & Fares. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated April 22, 2016, recommending holding a public hearing and adoption of a resolution.

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

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, Resolution No. 77738, entitled: “A Resolution of the Council of the City of San José Fixing and Determining Maximum Commercial Solid Waste Services Rates in the City of San José Pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement Between the City of San José and Allied Waste Services of North America, LLC DBA Republic Services Including the Total Costs for Organics Processing Services, Effective July 1, 2016”, was adopted. (9-0-2. Absent: Kalra, Rocha.)

- 7.3 **Approve a Master Consultant Agreement with HDR Engineering, Inc. to provide engineering services for the 7731 – Nitrification Clarifiers Rehabilitation Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through December 31, 2023, in a total amount not to exceed \$5,000,000, subject to the appropriation of funds. CEQA: Statutory Exempt, File No. PP10-066(d), Section 15262, Feasibility and Planning Studies with respect to the scope of work that is limited to this action. Any future activities resulting in a change to the physical environment would require approval of CEQA review. (Environmental Services)**

Action: Deferred to May 10, 2016 Per Administration.

## **PUBLIC SAFETY SERVICES**

- 8.1 **Accept the 2015 Independent Police Auditor Year End Report. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports that involve no approvals of any City Actions. (Independent Police Auditor)**

*Heard Jointly With Item 8.2 Immediately Following the Consent Calendar.*

**8.1 (Cont'd.)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Raul Peralez and Council Member Donald Rocha, dated April 29, 2016, recommending acceptance of the report with direction to the City Manager to begin publishing an Annual Force Response Report. (2) The 2015 Independent Police Auditor Year End Report From the Office of the Independent Police Auditor. (3) Staff presentation dated May 3, 2016 summarizing the 2015 Independent Police Auditor Year End Report.

Independent Police Auditor Walter W. Katz provided the 2015 Independent Police Auditor Year End Report. Chief of Police Edgardo Garcia presented the San José Police Department Internal Affairs Department Initiated Investigations.

Chief of Police Edgardo Garcia, Independent Police Auditor Walter W. Katz and Assistant Independent Police Auditor Shivaun Nurre responded to Council questions and concerns.

Motion: Council Member Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Chappie Jones and Council Member Donald Rocha, including the Reports from the Police Chief and the Independent Police Auditor. Vice Mayor Rose Herrera seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Robert Aguirre, Blair Beekman and Shaunn Cartwright presented comments about the 2015 Independent Police Auditor Year End Report.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Chappie Jones, Council Member Raul Peralez and Council Member Donald Rocha, dated April 29, 2016, was approved, the 2015 Independent Police Auditor Year End Report was accepted. The City Manager was directed to begin publishing an Annual Force Response Report. (11-0.)

**8.2 Accept the San José Police Department's Internal Affairs Unit report on Department Initiated Investigations for CY 2015. CEQA: Not a Project, File No. PP10-069(a), Annual Report that involve no approvals of any City Actions. (Police)**

*Heard Jointly With Item 8.2 Immediately Following the Consent Calendar.*

Documents Filed: (1) Memorandum from Chief of Police Edgardo Garcia, dated April 21, 2016, recommending acceptance of the report. (2) Staff presentation dated May 3, 2016 summarizing the 2015 San José Police Department's Internal Affairs Department Initiated Investigations.

Action: See Item 8.1 for Council Action.

- 8.3 (a) Approve the proposed 2015-2017 Spending Plan for the Supplemental Law Enforcement Services (SLES) Grant for \$1,588,855, and authorize the Chief of Police to amend the Spending Plan in conformity to the budget priorities set out in the staff memorandum in the event State SLES Grant payments are less or more than expected.
- (b) Approve the revised 2014-2016 Spending Plan for the Supplemental Law Enforcement Services Grant reallocating funds from Project #1 to Project #2 to purchase Tasers.
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services Fund:
- (1) Increase the Earned Revenue estimate by \$786,183; and
  - (2) Establish an appropriation to the Police Department for the SLES Grant 2015-2017 for \$786,183.

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

*Item 8.3 was heard following Items 8.1 and 8.2.*

Documents Filed: Memorandum from Chief of Police Edgardo Garcia and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated April 20, 2016, recommending approval as described above in Item 8.3.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the proposed 2015-2017 Spending Plan for the Supplemental Law Enforcement Services (SLES) Grant for \$1,588,855 was approved, and the Chief of Police was authorized to amend the Spending Plan in conformity to the budget priorities set out in the staff memorandum in the event State SLES Grant payments are less or more than expected; the revised 2014-2016 Spending Plan for the Supplemental Law Enforcement Services Grant reallocating funds from Project #1 to Project #2 to purchase Tasers was approved; Ordinance No. 29728, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Supplemental Law Enforcement Services (SLES) Fund for the SLES Grant 2015-2017; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 77737, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the Supplemental Law Enforcement Services (SLES) Fund", were adopted. (11-0.)

## OPEN FORUM

- (1) Charles Bedolla inquired about the Sewer Assessment Fees, parcels affected by the fees, the improvement bonds and other related issues.

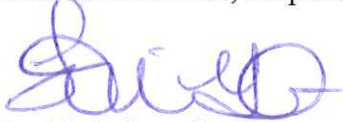
Mayor Sam Liccardo requested Director of Environmental Services Kerrie Romanow to address the inquiries from Mr. Bedolla after the meeting.

- (2) Blair Beekman opined about the Stationary Camera Program.

## ADJOURNMENT

The Council of the City of San José was adjourned at 7:47 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

smd/05/03/16 MIN