

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, NOVEMBER 01, 2016

The Council of the City of San José convened in Regular Session at 9:36 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 9:43 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code 54956.9 subsection (c) pertaining to anticipated litigation of significant exposure in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) Sharks Sports & Entertainment LLC v. City of San José, et al. Names of Parties Involved: Sharks Sports & Entertainment LLC, City of San José, San José City Council and Does 1-10; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction. Case No: 16 CV296834; Amount of Money or Other Relief Sought: Damages According to Proof. (2) City of San José v. City of Santa Clara. Names of Parties Involved: City of San José, City of Santa Clara. Court: Superior Court of California, County of Santa Clara; Case No: 16-CV-298317. 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 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:

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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, 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

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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) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court. Names of Parties Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, A California Non-Profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, The People of the State of California ex rel, San José Police Officers' Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or in the alternative, supersedes or other appropriate relief. (15) 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. (16) SJJC Aviation Services, LLC v. City of San José, et al. Names of Parties Involved: SJJC Aviation Services, LLC, City of San José, City Council of the City of San José and Does 1-25; Court: Superior Court of California, County of Santa Clara Sixth Appellate District, San José Division; Case No: 1-13CV246057 H041946; Amount of Money or Other Relief Sought: Damages According to Proof. (17) Shahrivar, Farid v. City, et al. Names of Parties Involved: Farid Shahrivar, City of San José, a municipality, Rodney Rapson, an individual, David Sykes, an individual, Harry Frietas, an individual, Katherine Jensen, an individual, David Printy, an individual, Danny Tsao, an individual, Katrina Allen, an individual, Doug Baker, an individual, Alex Gurza, an individual, Saran Nunes, an individual, Les White, an individual, Allen Demers, an individual, Rajiv Das, an individual, Steve Pagan, an individual, Angela Chen, an individual, Mark Danaj, an individual, Robert Fabela, an individual, Susan Lacy, an individual and Does 1-45; Court: United States District Court, Oakland Division; Case No: CV-10-01029 PSG; Amount of Money or Other Relief Sought: Damages according to proof. (18) Great Oaks Water, Inc., v. City, et al. Names of Parties Involved: Great Oaks Water Company, Inc., John W.S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and Betty B. Roeder, Trustees of the Walter S. Roeder Trust B, the City of San José, the San José Redevelopment Agency, Southbay Water Recycling, Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-04-CV012008; Amount of Money or Other Relief Sought: Damages According to Proof. (19) County of Alameda, et al. v. AMBAC Financial, et al. Names of Parties Involved: County of Alameda, City and County of San Francisco, City of Los Angeles, Los Angeles Department of Water and Power, Los Angeles World Airports, City of Oakland, City of Richmond, Redwood City, East Bay Municipal Utility District, City of Sacramento, Sacramento Suburban Water District, Sacramento Municipal Utility District, City of San José, City of Stockton, The Redevelopment Agency of the City of Stockton, The Public Financing Authority of the City of Stockton, County of Tulare, The Regents of the University of California, The Redevelopment Agency of the City of San José, AMBAC

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Financial Group, Inc., AMBAC Assurance Corporation, MBIA, Inc., MBIA Insurance Corporation, MBIA Insurance Corp. of Illinois, aka National Public Finance Guarantee Corporation, Syncora Guarantee, Inc., fka XL Capital Assurance, Inc., Financial Guaranty Insurance Company, Financial Security Assurance, Inc., CIFG Assurance North America, Inc., Assured Guaranty Corp., Jason Kissane, Does 1-50; Court: Superior Court of California, In and for the City and County of San Francisco; Case No: CJC-08-04555; Amount of Money or Other Relief Sought: Damages According to Proof. (20) RDA/City vs. Bank of America, N.A., et al. Names of Parties Involved: City of San José, The San José Redevelopment Agency, Bank of America, N.A. Merrill Lynch & Co., Inc., UBS AG, UBS Financial Services, Inc., UBS Securities, LLC, MBIA, Inc., Citibank, N.A., Citigroup Financial Products Inc., Citigroup Global Markets Holdings Inc., Morgan Stanley, Rabobank Group, Bayerische, Landesbank Gironzentrale, Piper Jaffray & Co., Societe Generale SA, Financial Security Assurance, Inc., Assured Guaranty US Holdings Inc., Dexia S.A. National Westminster Bank, PLC, Natixis Funding Corp., Natixis S.A., the Goldman Sachs Group, Inc., Goldman Sachs Mitsui Marine Derivative Products, LP, Goldman Sachs Bank USA, CDR Financial Products, Winters and Co., Advisors, LLC, George K. Baum & Co., Sound Capital Management, Inc., Investment Management Advisory Group, Inc., First Southwest Company, PFM Investment, LLC, PFM Asset Management LLC; Court: U.S. District Court, Northern District of California; Case No: CV 10 2199; Amount of Money or Other Relief Sought: Damages According to Proof. (21) Seibert v. City of San José. Names of Parties Involved: Grant Seibert, City of San José, San José Civil Service Commission, Debra Figone as San José City Manager, Alex Gurza as San José Director of Employee Relations, William McDonald as Fire Chief for the San José Fire Department, Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-11CV 204096; Amount of Money or Other Relief Sought: Damages According to Proof. (22) Debra Ward and Patricia Tapia, v. City, Fire Chief William McDonald, et al. Names of Parties Involved: Debra Ward, Patricia Tapia, City of San José Fire Chief William McDonald; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV203561; Amount of Money or Other Relief Sought: Damages According to Proof. (23) Ivan Lee v. City of San José. Names of Parties Involved: Ivan Lee, City of San José, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-15-CV-287181; Amount of Money or Other Relief Sought: Damages According to Proof. (24) Anderson, et al v. City of San José and San José City Council. Names of Parties Involved: Sarah Anderson, Joana Cruz, Urban Habitat Program and Housing California, City of San José, a governmental entity, San José City Council and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 16-CV297950; Amount of Money or Other Relief Sought: Damages According to Proof. (25) Cali-Arioto, LLC v. City of San José. Names of Parties Involved: Cali-Arioto, LLC, the City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 16-CV-296549; Amount of Money or Other Relief Sought: Damages According to Proof. (26) Cu Thanh Nguyen v. City of San José. Names of Parties Involved: Cu Thank Nguyen, City of San José. Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268209; Amount of Money or Other Relief Sought: Damages According to Proof. (27) Berg & Berg Associates, LLC v. City, et al. Names of Parties Involved: Berg & Berg Enterprises, LLC, City of San José, San José City Council and Does 1-50; Court: Superior

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Court of California, County of Santa Clara; Case No: 1-07-CV-091955; Amount of Money or Other Relief Sought: Damages According to Proof. (28) Stand for San José, et al. v. City, et al. Names of Parties Involved: Stand for San José and Eileen Hannan, City of San José, City Council of the City of San José, Redevelopment Agency of the City of San José, Diridon Development Authority; Court: Superior Court of California, County of Santa Clara; Case: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive relief. (29) Stand for San José, et al. v. City et al. Names of Parties Involved: Stand for San José, Eileen Hannan, Michelle Brenot, Robert Brown, Robert Shields, City of San José, City Council of the City of San José, Successor Agency to the Redevelopment Agency of the City of San José, Successor Agency Oversight Board, Diridon Development Authority, Does 1-10, inclusive, Athletics Investment Group, LLC, Does 1-20, inclusive; Court: Superior Court of California, In and For the County of Santa Clara; Case No: 1-13-CV-250372; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorney's fees. (30) Friends of the Willow Glen Trestle v. City of San José, et al. Names of Parties Involved: Friends of the Willow Glen Trestle, an unincorporated association, City of San José, City Council of the City of San José; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-14-CV-260439; Amount of Money or Other Relief Sought: Damages According to Proof. (31) Alemayehu v. City of San José. Names of Parties Involved: Dawit Alemayehu, the City of San José, the City of San José Police Department, a municipal corporation, Officer Jorge Garibay #4218, a sworn San José Police Officer and as an individual, Sergeant D. Tran Badge #3268, a San José Police Officer and as an individual and Does 1-40; Court: U.S. District Court, Northern Division. Court: U.S. District Court, Northern Division. Case No: C14-1738 EJD; Amount of Money or Other Relief Sought: Damages According to Proof. (32) David Armstrong v. City of San José, Alexander Keller, et al. Names of Parties Involved: David Armstrong, City of San José, San José Police Officer Alexander Keller, San José Police Officer Baldwin, San José Police Officer Zarate, San José Police Officer Bortolotti; Court: U.S. District Court, Northern District, San José Division. Case No: 16-CV-029838-EJD; Amount of Money or Other Relief Sought: Damages According to Proof. (33) Binkovich v. Barthelmy, et al. Names of Parties Involved: Aleksandr Binkovich, City of San José, Officer Barthelemy, Officer Grondahl, Officer Panighetti, Officer Craig, Officer Jacob and Officer Bollendorf; Court: U.S. District Court, Northern District, San José Division. Case No: C 11-03774 PSG; Amount of Money or Other Relief Sought: Damages According to Proof. (34) Burt v. City of San José. Names of Parties Involved: Shauncey Burt, City of San José, San José Police Department, unidentified San José Police Officers numbered 1-6 and Does 7-50. Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction. Case No. 1-15-CV-280121; Amount of Money or Other Relief Sought: Damages According to Proof. (35) Chavez-Alvarez v. City of San José. Names of Parties Involved: Rafael Chavez-Alvarez, San José Police Department; Court: U.S. District Court, Northern District, San José Division. (36) Correa v. City of San José, et al. Names of Parties Involved: Thomas Correa, City of San José, 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: U.S. District Court, San José Division. Case No: CV12-05436 HRL. Amount of Money or Other Relief Sought:

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Damages According to Proof. (37) Michael Fujikawa v. City, Chief Chris Moore. Names of Parties Involved: Michael Fujikawa, City of San José, Police Chief Chris Moore, Officers Payne (Badge No. 3971), Officer Pfiefer (Badge No. 3951), Officer Jeffrey (Badge No. 3926), Officer Burke (Badge No. 3949), Officer Akery (Badge No. 3495) and Does 1-50. Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-219612; Amount of Money or Other Relief Sought: Damages According to Proof. (38) Gonzales v. City of San José, et al. Names of Parties Involved: Mary Lou Gonzales, City of San José, as a municipal corporation, SJPD Detective Delacruz in her official and individual capacity, SJPD Homicide Detective Jamie (last name unknown) in his individual and official capacity, SJPD Officers Doe 1 – Doe 7 in their individual and official capacities, SJPD Officers and Detectives and Employees Does 8-50 in their individual and official capacities. Court: U.S. District Court, Northern District of California. Case No: 13-CV-00695-BLF (PSG); Amount of Money or Other Relief Sought: Damages According to Proof. (39) Juan Hernandez, et al. v. City of San José, et al. Names of Parties Involved: Juan Hernandez, an individual, Nathan Velasquez, an individual, Frank Velasquez, an individual, Rachel Casey, an individual, Mark Doering, an individual, Dustin Haines-Scrodin, an individual, Andrew Zambetti, an individual, Christina Wong, an individual, Craig Parsons, an individual, I.P., a minor individual, on behalf of themselves and all others similarly situated, City of San José, a municipal Corporation, Sam Liccardo, sued in his individual capacity, Anthony Yi, an individual, H.A., a minor individual, S.M., a minor individual and Does 1-38. Court: United States District Court, Northern District of California, San José Division; Case No: 5:16-CV-03957 LHK; Amount of Money or Other Relief Sought: Damages according to proof. (40) Luis Hernandez and Cindy Calderon v. City of San José, et al. Names of Parties Involved: Luis Hernandez, Cindy Calderon, City of San José, Ernie Alcantar, individually and in his official capacity as Captain, SJPD and James Werkema, individually and in his official capacity as Lieutenant, SJPD. Court: United States District Court, Northern District of California, San José Division; Case No: CV12-02952 HRL. Amount of Money or Other Relief Sought: Damages according to proof. (41) Yanira Hernandez v. City, Geoffrey Evatt Graves, et al. Names of Parties Involved: City of San José, Geoffrey Evatt Graves, Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 114CV270467; Amount of Money or Other Relief Sought: Damages according to proof. (42) Kerkeles v. City of San José, et al. Names of Parties Involved: Michael Kerkeles, aka Michael Kerk, City of San José, Matthew Christian and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV103523; Amount of Money or Other Relief Sought: Damages according to proof. (43) Hung Lam v. City of San José, et al. Names of Parties Involved: Hung Lam, individually, through his next friend, Kathy Lam, City of San José, a municipal corporation, Larry Esquivel, in his capacity as Chief of Police for the City of San José, Dondi West, individually and in her official position. Court: United States District Court, Northern District of California, San José Division; Case No: 14-CV-00877-PSG. Amount of Money or Other Relief Sought: Damages according to proof. (44) Eliel Paulino v. Marco Cruz, et al. v. City of San José, et al. Names of Parties Involved: Eliel Paulino, Marco Cruz, individually and as an Officer of the San José Police Department, Gerardo Silva, individually and as an Officer of the San José Police Department, Gurbaksh Sohal, individually and as an Officer of the San José Police Department and Does 1-10. Court:

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United States District Court, Northern District of California, San José Division; Case No: CV 16-2642 NC; Amount of Money or Other Relief Sought: Damages according to proof. (45) JoAnn Rice, American Savin, et al. v. City et al. Names of Parties Involved: JoAnn Rice, American Savin, Perry Nelson, W.N., a minor, by and through his Guardian and Litem, American Savin, City of San José, San José Police Department, Does 1-10; Court: United States District Court; Case No: 2:13-CV-00334-KJM-CKD; Amount of Money or Other Relief Sought: Damages according to proof. (46) Lori Rodriguez v. City of San José. Names of Parties Involved: Lori Rodriguez, City of San José, Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-241669; Amount of Money or Other Relief Sought: Damages according to proof. (47) Sutter's Place, Inc. dba Bay 101 v. City of San José. Names of Parties Involved: Sutter's Place, Inc. dba Bay 101, City of San José, the Division of Gaming Control. Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-258057; Amount of Money or Other Relief Sought: Damages according to proof. (48) Sharon Watkins, et al. v. City of San José, et al. Names of Parties Involved: Sharon Watkins, Sylvia Buchanan, Deviny Buchanan, on her own behalf and on behalf of her minor child Laniyah Watkins, City of San José, San José Police Officer Ryan Dote and San José Police Officer James Soh; Court: United States District Court, Northern District of California, San José Division; Case No: 15-CV-05786-LHK; Amount of Money or Other Relief Sought: Damages according to proof. (49) Lee Darnell Watson v. City of San José, Matthew Bracket, Ryan Hansen, Ronald Hughes and Does 1-10. Court: United States District Court, Northern District of California, San José Division; Case No: 15-CV-04054-NC; Amount of Money or Other Relief Sought: Damages according to proof. (50) Camacho vv. CSJ, et al. Names of Parties Involved: Carolina Camacho, individually and as Successor in Interest to Jessenia Camacho-Torres, deceased, The City of San José, Amy M. Dorr, Sarah R. Cox; Court: Court of Appeal of the State of California, Sixth Appellate District; Case No: HO41762; Amount of Money or Other Relief Sought: Damages according to proof. (51) Herrera, et al. v. City, et al. Names of Parties Involved: Martha Herrera, Michelle Rodriguez, Jessica Rodriguez, Minors, By and Through Their Guardian Ad Litem Martha Herrera, City of San José, John Doe, John Doe Company, et al; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-165689; Amount of Money or Other Relief Sought: Damages According to Proof. (52) City of San José v. CSAA Insurance Exchange. Names of Parties Involved: City of San José, CSAA Insurance Exchange and Does 1-10; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-15-CV-284966; Amount of Money or Other Relief Sought: Damages According to Proof. (53) Deanna Smith and Johnny Garcia v. City of San José, Santa Clara Valley Transportation Authority, et al. Names of Parties Involved: Deanna Smith, Johnny Garcia, City of San José, a public entity, Santa Clara Valley Transportation Authority, a public entity, Union Pacific Railroad Company, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-271771; Amount of Money or Other Relief Sought: Damages According to Proof. (54) Ilidio Avila, Angelina Avila, Sonny Avila, a minor, Dominic Avila, a minor, Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, City of San José. Names of Parties Involved: Ilidio Avila, Angelina Avila, Sonny Avila, a minor, Dominic Avila, a minor, Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, City of San José, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-

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CV-245894; Amount of Money or Other Relief Sought: Damages According to Proof. (55) Lisa Blevins v. City of San José. Names of Parties Involved: Lisa Blevins, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV270060; Amount of Money or Other Relief Sought: Damages According to Proof. (56) City of San José v. County of Santa Clara. Names of Parties Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, individually, and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara; Court: Superior Court of California, County of Santa Clara; Case No: 34-2012-80001190; Amount of Money or Other Relief Sought: Damages According to Proof. (57) City of San José v. First Serve Productions. Names of Parties Involved: City of San José, First Serve Productions, Inc.; Court: Superior Court of California, County of San Mateo; Case No: CIV536836; Amount of Money or Other Relief Sought: Damages According to Proof. (58) Ted Smith v. City, et al. Names of Parties Involved: Ted Smith, City of San José, a municipal entity, San José Redevelopment Agency, a municipal entity, Harry Mavrogenes, in his official capacity as Executive Director of the San José Redevelopment Agency, Mayor Chuck Reed, in his official capacity as Mayor of the City of San José, Pete Constant, in his official capacity as a Council Member for the City of San José, Ash Kalra, in his official capacity as a Council Member for the City of San José, Sam Liccardo, in his official capacity as a Council Member for the City of San José, Pierluigi Oliverio, in his official capacity as a Council Member for the City of San José, Madison Nguyen, in her official capacity as a Council Member for the City of San José, Rose Herrera, in her official capacity as a Council Member for the City of San José, Judy Chirco, in her official capacity as a Council Member for the City of San José, Kansan Chu, in his official capacity as a Council Member for the City of San José, Nora Campos, in her official capacity as a Council Member for the City of San José, Nancy Pyle, in her official capacity as a Council Member for the City of San José, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-150427; Amount of Money or Other Relief Sought: Damages According to Proof. (59) Vietnamese-American Community of Northern California v. City, et al. Names of Parties Involved: Vietnamese-American Community of Northern California, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-107082; Amount of Money or Other Relief Sought: For declaratory and injunctive relief according to proof. (60) Raymond and Michelle Plata v. City of San José. Names of Parties Involved: Raymond and Michelle Plata, individually and on behalf of other members of a class of similarly situated residents and taxpayers, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-258879; Amount of Money or Other Relief Sought: Declaratory Relief, Injunctive Relief. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, 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

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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 Contract or 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 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. (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

Father Larry Hendel, Pastor, Saint Anthony Catholic Church, performed the "Blessing of the Animals." Kittens and dogs that were available for adoption were provided by Assistant Director of Public Works Jon Cicirelli and the City of San José Animal Care Center. (District 10)

PLEDGE OF ALLEGIANCE

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

ORDERS OF THE DAY

Heard following Ceremonials.

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Manh Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Item 4.3 was dropped and Item 6.3 was deferred to November 8, 2016. (10-0-1. Absent: Rocha.)

CEREMONIAL ITEMS

- 1.1 Presentation of commendations to the outgoing San José Public Library Foundation Board Members for their dedication to supporting our libraries and the many resources they provide to the San José community. (Herrera)**

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized the outgoing San José Public Library Foundation Board Members for their dedication.

- 1.2 Presentation of a commendation for the District 4 Parks Maintenance Team for their hard work and dedication to the community. (M. Nguyen)**

Mayor Sam Liccardo and Council Member Manh Nguyen recognized the District 4 Parks Maintenance Team for their hard work and dedication.

- 1.3 Presentation of a commendation to HomeFirst for their continued partnership on the All the Way Home Campaign to End Veteran Homelessness. (Mayor)**

Mayor Sam Liccardo and Council Member Ash Kalra recognized HomeFirst for their continued partnership.

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, 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: Rocha.)

2.1 Approval of City Council Minutes.

- (a) Regular Minutes of September 13, 2016.
- (b) Regular Minutes of September 20, 2016.
- (c) Regular Minutes of September 27, 2016.

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

Documents Filed: The Regular Minutes dated September 13, 2016, September 20, 2016 and September 27, 2016.

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

2.2 Final Adoption of Ordinances.

- (a) **ORD. NO. 29804** – An ordinance of the City of San José amending Title 20 (zoning) of the San José Municipal Code to amend Table 20-110 of Chapter 20.50; to amend Table 20-140 of Chapter 20.70; to amend Section 20.80.775 of Chapter 20.80; and to amend Section 20.100.1530 of Chapter 20.100 to add “Medical Marijuana, Collective, Dispensary Site Only” as a newly enumerated Restricted Use in specified Industrial Zoning Districts and the Downtown Primary Commercial Zoning District and to remove the fifty (50) foot minimum required distance between Medical Marijuana Collectives, Cultivation Sites only and to make other technical, non-substantive changes. **CEQA: Negative Declaration (File No. PP11-039, Resolution No. 75984), as added by File Nos. PP11-076, PP14-030, and PP16-076. (Planning, Building and Code Enforcement/Police)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29804 executed on October 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29804 was adopted. (10-0-1. Absent: Rocha.)

- (b) **ORD. NO. 29805** – An ordinance of the City of San José amending Chapter 6.88 of Title 6 of the San José Municipal Code as follows: to add Section 6.88.213 to add the definition of dispensary; to add Section 6.88.214 to add the definition of dispensing; to amend Sections 6.88.242, 6.88.310, 6.88.360, 6.88.380, 6.88.400, 6.88.420, 6.88.425, 6.88.430, 6.88.435, 6.88.440, 6.88.445, 6.88.446, 6.88.450, 6.88.460, 6.88.465 and 6.88.490 to allow a registered collective two locations for cultivation, to allow a registered collective one cultivation site outside the city but within the state of California, to allow a cultivation site within the city to be shared by two registered collectives, to allow a registered collective to apply for registration to deliver medical marijuana to members subject to regulations promulgated by the City Manager, to allow medical marijuana to be transferred between a registered collective and other collectives lawfully operating within the state of

- 2.2 (b) **California, to specify recordkeeping requirements related to performance standards and to make other technical, nonsubstantive, or typographical changes.**

CEQA: Negative Declaration (File No. PP11-039, Resolution No. 75984), as addended by File Nos. PP11-076, PP14-030, and PP16-076. (Planning, Building and Code Enforcement/Police)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29805 executed on October 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29805 was adopted. (10-0-1. Absent: Rocha.)

- (c) **ORD. NO. 29806 – An ordinance of the City of San José amending various sections of title 24 (technical codes) of the San José Municipal Code to adopt the 2016 California Building, Residential, Plumbing, Mechanical, Electrical Codes, California Existing Building Code, California Historical Building Code, California Green Building Standards Code, California Building Energy Efficiency Standards and 2015 International Existing Building Code with certain exceptions, modifications and additions. CEQA: Exempt, Section 15308 – Actions by Regulatory Agencies for the Protection of the Environment, File No. PP16-090. (Planning, Building and Code Enforcement/Fire)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29806 executed on October 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29806 was adopted. (10-0-1. Absent: Rocha.)

- (d) **ORD. NO. 29807 – An ordinance of the City of San José amending Chapter 17.12 of Title 17 of the San José Municipal Code to adopt the 2016 California Fire Code with local amendments relating to fire flow, sprinkler and fire alarm systems and standards, access control devices, large battery charging systems and continuous gas detection systems and to maintain existing fire protection and regulatory authority. CEQA: Exempt, Section 15308 – Actions by Regulatory Agencies for the Protection of the Environment, File No. PP16-090. (Planning, Building and Code Enforcement/Fire)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29807 executed on October 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29807 was adopted. (10-0-1. Absent: Rocha.)

- (e) **ORD. NO. 29808 – An ordinance of the City of San José amending Chapter 17.82 of Title 17 of the San José Municipal Code relating to fire safety during construction. CEQA: Exempt, Section 15308 – Actions by Regulatory Agencies for the Protection of the Environment, File No. PP16-090. (Planning, Building and Code Enforcement/Fire)**

2.2 (e) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29808 executed on October 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29808 was adopted. (10-0-1. Absent: Rocha.)

- (f) **ORD. NO. 29809 – An ordinance of the City of San José amending Section 11.48.130 of Chapter 11.48 of Title 11 of the San José Municipal Code to modify the Convention Center Permit Parking Area and rename the zone Market-Almaden Permit Parking Area. CEQA: Exempt, File No. PP14-069. Council District 3. (Transportation)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29809 executed on October 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29809 was adopted. (10-0-1. Absent: Rocha.)

- (g) **ORD. NO. 29810 – An ordinance of the City of San José rezoning certain real property of approximately 0.16 acre situated at the northeast corner of South Montgomery Street and West San Fernando Street (92 South Montgomery Street) from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District. CEQA: Determination of Consistency with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29810 executed on October 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29810 was adopted. (10-0-1. Absent: Rocha.)

- (h) **ORD. NO. 29811 – An ordinance of the City of San José rezoning certain real property of approximately 7.127 acres situated approximately 600 feet north of Charcot Avenue (2211 Junction Avenue) from the IP Industrial Park Zoning District to the LI Light Industrial Zoning District. CEQA: Determination of Consistency with the Addendum to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29811 executed on October 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29811 was adopted. (10-0-1. Absent: Rocha.)

- 2.3 (a) **Rules and Open Government Committee Minutes of October 12, 2016. (Mayor)**
(b) **Neighborhood Services and Education Committee Minutes of October 13, 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 October 12, 2016. (2) The Neighborhood Services and Education Committee Minutes dated October 13, 2016.

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

- 2.4 **Request for an excused absence for Council Member Magdalena Carrasco from the Regular Meeting of the City Council on October 25, 2016 due to Family Illness. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Carrasco)**

Documents Filed: Memorandum from Council Member Magdalena Carrasco, dated October 24, 2016, requesting an excused absence.

Action: The absence for Council Member Magdalena Carrasco was excused. (10-0-1. Absent: Rocha.)

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 **Adopt a resolution authorizing the City Manager to negotiate and execute a two-year Agreement with Team San José for international air service and destination marketing services in an amount not to exceed \$850,000. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts, Services that involve no physical changes to the environment. (Economic Development)**

Note: Item 2.7 was renumbered to Item 4.3. See Item 4.3 for action.

2.8 **Adopt a resolution:**

- (a) **Authorizing the City Manager to execute a Third Amendment to the Agreement providing for implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Countywide Program) that will extend the term of the memorandum of agreement for one fiscal year beyond the termination date of the current National Pollutant Discharge Elimination System stormwater permit, including any administrative extensions, with no change in the cost allocation formula for participation in the Countywide Program.**

- 2.8 (b) Authorizing the Director of Environmental Services to designate a City representative to serve on the Program Management Committee.**
CEQA: Not a Project, File No. PP10-066(g), Agreements/Contracts, Memorandum of Understanding. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated October 12, 2016, recommending adoption of a resolution.

Action: Resolution No. 77960, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Third Amendment to the Agreement Providing for Implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Countywide Program) That Will Extend the Term of the Memorandum of Agreement for One Fiscal Year Beyond the Termination Date of the Current National Pollutant Discharge Elimination System Stormwater Permit, Including Any Administrative Extensions, With No Change in The Cost Allocation Formula for Participation in the Countrywide Program and Authorizing the Designate a City Representative to Serve on the Program Management Committee", was adopted. (10-0-1. Absent: Rocha.)

- 2.9 Adopt a resolution to accept the State of California, Office of Traffic Safety 2016-2017 Selective Traffic Enforcement Program grant in the amount of \$300,000 and authorize the City Manager to execute the related grant agreement and to execute additional amendments and related documents without further Council action.**
CEQA: Not a Project, File No. PP10-066, Agreements and Contracts with no changes to the physical environment. (Police)

Documents Filed: Memorandum from Chief of Police Edgardo Garcia, dated October 26, 2016, providing additional pertinent background information and recommending adoption of the resolution.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Blair Beekman expressed his own views pertaining to the Office of Traffic Safety 2016-2017 Selective Traffic Enforcement Program Grant.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, Resolution No. 77961, entitled: "A Resolution of the Council of the City of San José Accepting the State of California Office of Traffic Safety 2016-2017 Selective Traffic Enforcement Program Grant In The Amount of \$300,000 and Authorizing the City Manager to Execute the Grant Agreement and All Related Documents and Amendments", was adopted. (10-0-1. Absent: Rocha.)

- 2.10 Adopt a resolution accepting the Fiscal Year 2016 Internet Crimes Against Children Task Force Invited Awards in the amount of \$411,960 and authorizing the City Manager to execute the Grant Agreement and all related documents and to execute additional amendments and related documents without further Council action.**
CEQA: Not a Project, File No. PP10-066, Agreements and Contracts with no changes to the physical environment. (Police)

2.10 (Cont'd.)

Documents Filed: Memorandum from Chief of Police Edgardo Garcia, dated October 26, 2016, providing additional pertinent background information and recommending adoption of the resolution.

Action: Resolution No. 77962, entitled: "A Resolution of the Council of the City of San José Accepting the Office of Juvenile Justice and Delinquency Prevention Fiscal Year 2016-2017 Internet Crimes Against Children Task Force Invited Awards In the Amount of \$411,960 and Authorizing the City Manager to Execute the Grant Agreement and All Related Documents and Amendment", was adopted. (10-0-1. Absent: Rocha.)

2.11 As recommended by the Rules and Open Government Committee on October 26, 2016:

- (a) **Approve the Westfield Oakridge Winter Walk scheduled on Friday, February 24, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) **Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Khamis)
[Rules Committee referral 10/26/16 – Item G.1.b.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 28, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Westfield Oakridge Winter Walk scheduled on Friday, February 24, 2017 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (10-0-1. Absent: Rocha.)

2.12 As recommended by the Rules and Open Government Committee on October 26, 2016, approve grant for Bagby Elementary School for their Home and School Club to support student programs and activities. To be paid by the Arena Community Funds City-Wide appropriation in the amount of \$750.00.

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Rocha)
[Rules Committee referral 10/26/16 – Item G.3]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 28, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The grant for Bagby Elementary School for their Home and School Club to support student programs and activities was approved. (10-0-1. Absent: Rocha.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 Approve an ordinance amending Title 12 of the San José Municipal Code to add Section 12.12.165 and amend Sections 12.12.400, 12.12.420, 12.12.430, 12.12.440, 12.12.600 and 12.12.800 to revise Lobbyist Reporting Disclosures and to Clarify Calculation of Fines. CEQA: Not a Project, File No. PP10-068(c) Municipal Code or Policy Change that involves no changes to the physical environment. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 21, 2016, recommending approval of an ordinance.

City Clerk Toni J. Taber, CMC provided a brief report on the Lobbyist Reporting Disclosures and the Calculation of Fines.

Mayor Sam Liccardo requested that Staff return in January 2017 on the status of software that enables weekly reporting and the capability of digital signature technology.

Motion: Vice Mayor Rose Herrera moved approval of the Staff recommendations with direction to Staff as requested by Mayor Sam Liccardo. Council Member Johnny Khamis seconded the motion.

Action: On a call for the question, the motion carried unanimously, Ordinance No. 29812, entitled: “An Ordinance of the City of San José Amending Title 12 of the San José Municipal Code to Add Section 12.12.165 and Amend Sections 12.12.400, 12.12.420, 12.12.430, 12.12.440, 12.12.600 and 12.12.800 To Revise Lobbyist Reporting Disclosures and To Clarify Calculation of Fines”, was passed for publication. Staff was directed to return in January 2017 on the status of software that enables weekly reporting and the capability of digital signature technology. (10-0-1. Absent: Rocha.)

- 3.4 Accept the report on the Request for Proposal for the Internet Protocol Television Maintenance and Support Services and adopt a resolution authorizing the City Manager to:**

- (a) Execute an Agreement with G4S Secure Integration LLC (Omaha, NE) for the replacement of obsolete security cameras; security improvements; software support; preventative maintenance; on-call support; and related services for the IPTV system at the Norman Y. Mineta San José International Airport (Airport), for a five-year term ending October 2021, with maximum compensation not-to-exceed \$478,452 for the initial twelve month period, and \$1,760,921 for the five year term, subject to the annual appropriation of funds.**
- (b) Negotiate and execute amendments and/or change orders to cover any unanticipated changes to system requirements as required by the Airport, subject to the appropriation of funds.**
- (c) Execute up to five one-year options to extend the term of the Agreement after the initial five-year term through October 2026, subject to the annual appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(a), Agreements/Contracts, Purchase Orders of Supplies, Equipment and Professional Services that involve no changes to the physical environment. (Finance)

3.4 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated October 11, 2016, recommending acceptance of the report and adoption of a resolution.

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

Deputy Director of Airport Operations Bob Lockhart responded to questions from Mayor Sam Liccardo.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Blair Beekman presented comments pertaining to the Internet Protocol Television Maintenance and Support Services.

Action: On a call for the question, the motion carried unanimously, the report on the Request for Proposal for the Internet Protocol Television Maintenance and Support Services was accepted and Resolution No. 77963, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute an Agreement with G4S Secure Integration LLC for the Replacement of Obsolete Security Cameras, Security Improvements, Software Support, Preventative Maintenance, On-Call Support and Related Services for the IPTV System at the Norman Y. Mineta San José International Airport, For a Five Year Term Ending October 2021, With Maximum Compensation Not To Exceed \$478,452 for the Initial Twelve Month Period and \$1,760,921 for the Five Year Term, Subject to the Annual Appropriation of Funds. (2) Negotiate and Execute Amendments and/or Change Orders to Cover Any Unanticipated Changes to System Requirements As Required by the Airport, Subject to the Appropriation of Funds and (3) The Term of the Agreement After the Initial Five Year Term Through October 2026, Subject to the Appropriation of Funds", was adopted. (10-0-1. Absent: Rocha.)

- 3.5 (a) **As recommended by the Rules and Open Government Committee on October 19, 2016, adopt a resolution to approve the proposed revisions to Council Policy 0-11, "Council Resolution Policy" to amend the purpose provisions of the Policy and allow Council Members to issue letters individually or collectively representing their position, and not the Council position, on an issue which is outside the purview of the Council.**
- (b) **Mayor's letter of support regarding Standing Rock Sioux Tribe's opposition to the Dakota Access Pipeline.**

CEQA: Not a Project, File No. PP10-068(c) Municipal Code or Policy Change that involves no changes to the physical environment. (City Attorney)
[Rules Committee referral 10/19/16 – Item G.2]

3.5 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated October 18, 2016, recommending direction to the City Attorney as described in “Action” below. (2) Copy of the draft letter (undated) from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco, Council Member Raul Peralez and Council Member Chappie Jones, opposing the Dakota Access Pipeline threatening Standing Rock Tribal Lands, Water and Heritage. (3) Memorandum from City Clerk Toni J. Taber, CMC, dated October 20, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Note: Item (1) and (2) of the memorandum from Mayor Sam Liccardo was bifurcated, and voted upon separately:

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Shaunn Cartwright expressed comments on the revisions to City Council Policy 0-11.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum from Mayor Sam Liccardo, dated October 18, 2016. Council Member Manh Nguyen seconded the motion.

Council Member Ash Kalra requested to amend the motion in order to bifurcate Paragraph 1 and 2 of the Mayor’s memorandum. The amendment was accepted by Vice Mayor Rose Herrera and Council Member Manh Nguyen.

Mayor Sam Liccardo noted that there was the ability to enter the letter in the Public Record at the Rules and Open Government Committee.

Council Member Magdalena Carrasco requested to amend the motion to clarify when there are two or more Council Member signatories on a letter/memorandum, that it be submitted for public record at the Rules and Open Government Committee. The amendment was accepted by Vice Mayor Rose Herrera and Council Member Manh Nguyen.

Council Member Pierluigi Oliverio requested to amend the motion to add as a guiding principal, that the item be heard at the end of the Council Agenda. The amendment was accepted by Vice Mayor Rose Herrera and Council Member Manh Nguyen.

Action: On a call for the question, the first motion carried, the memorandum from Mayor Sam Liccardo, dated October 18, 2016, was approved, with direction to the City Attorney’s Office to amend Council Policy 0-11 to include the following policy revisions: (1) Amend “Purpose” paragraph to read: To provide guidelines where the City Council considers a request for action upon a matter over which the City lacks jurisdiction or substantial influence, and to preserve public time, resources and deliberation for those matters upon which the City Council’s decisions have direct and concrete consequence.” Resolution No. 77964, entitled: “A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 0-11, The Council Resolution Policy”, was adopted, as amended. (9-1-1. Noes: Kalra. Absent: Rocha.)

3.5 (Action Cont'd.)

On a call for the question, the second motion carried unanimously, Item (2) of the Mayor's memorandum was approved: Codify that in lieu of the City Council taking up items that do not fall within the basic criteria for resolutions outlined in Council Policy 0-11, Council Members may individually or collectively, issue declaratory letters representing their position on the issue. (a) Letters issued by Council Members must include language indicating that the position contained in the letter does not represent an official position of the City of San José and only represents the position of the undersigned. The letters may further clarify that the City, as a matter of policy, does not take official positions on matters such as that. (b) Pending an opinion by the City Attorney, the policy should further clarify that any serial consideration of such letters by multiple members of the Council should not be considered for purposes of assessing a Brown Act violation, since the matter lies beyond the Council's purview in the first instance. Additional amendments: (1) When there are two or more Council Member signatories on a letter/memorandum, that it be submitted for public record at the Rules and Open Government Committee. (2) As a guiding principal, that the item be heard at the end of the Council Agenda. (10-0-1. Absent: Rocha.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt an urgency ordinance amending Chapter 20.80 of Title 20 of the San José Municipal Code to add a new Part 9.8 confirming the prohibition on cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana; confirming limitations on personal cultivation of nonmedical marijuana should Proposition 64 (the Control, Regulate, and Tax Adult Use of Marijuana Act) pass; and setting forth the facts constituting such urgency. CEQA: Not a Project or Exempt, File No. PP16-110, Guidelines Sections 15061(b)(3), No Significant Impact on the Environment and 15308 Actions by Regulatory Agencies for Protection of the Environment. (City Attorney/City Manager)**

Documents Filed: Memorandum from City Attorney Richard Doyle and City Manager Norberto Dueñas, dated October 21, 2016, recommending adoption of an urgency ordinance.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, Ordinance No. 29813, entitled: "An Urgency Ordinance of the City of San José Amending Chapter 20.80 of Title 20 of the San José Municipal Code To Add New Part 9.8 Confirming the Prohibition on Cultivation, Processing, Manufacture, Distribution, Testing and Sale of Nonmedical Marijuana; Confirming limitations on Personal Cultivation of Nonmedical Marijuana Should Proposition 54 Pass and Setting Forth the Facts Constituting Such Urgency", was adopted. (10-0-1. Absent: Rocha.)

- 4.2 As recommended by the Community and Economic Development Committee on September 26, 2016, accept report on the City Auditor's recommendation concerning the San José Theatre Preservation Fund. 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 9/26/16 – Item (d)(4)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated October 21, 2016, transmitting the recommendations of the Community and Economic Development Committee.

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

Director of Cultural Affairs Kerry Adams Hapner responded to Council questions.

Mayor Sam Liccardo requested to amend the motion to add direction to Staff to circulate an annual report on the Theatre Preservation Fund actions during the budget session through a Manager's Budget Addendum.

Action: On a call for the question, the motion carried unanimously, the report on the City Auditor's recommendation concerning the San José Theatre Preservation Fund was accepted. Staff was directed to circulate an annual report on the Theatre Preservation Fund actions during the budget session through a Manager's Budget Addendum. (10-0-1. Absent: Rocha.)

- 4.3 Adopt a resolution authorizing the City Manager to negotiate and execute a two-year Agreement with Team San José for international air service and destination marketing services in an amount not to exceed \$850,000. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts, Services that involve no physical changes to the environment. (Economic Development)**

Note: Item 4.3 was renumbered from Item 2.7.

Documents Filed: (1) Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated October 11, 2016, recommending adoption of a resolution. (2) Supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated October 28, 2016, providing additional information on marketing strategy and metrics concerning the Staff recommendations.

Action: Dropped per Orders of the Day.

NEIGHBORHOOD SERVICES

- 5.1 (a) **Adopt a resolution adopting the Addendum to the North San José Development Policies Update Environmental Impact Report for the Iris Chang Park Master Plan (File No. PP16-087), for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Program.**
- (b) **Approve the Iris Chang Park Master Plan for a new 2.6-acre neighborhood park (APN 097-15-038).**

CEQA: Addendum to the North San José Development Policies Update Final EIR, File No. PP16-087. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated October 11, 2016, recommending adoption of a resolution and approval of the Iris Chang Park Master Plan.

Deputy Director of Parks, Recreation and Neighborhood Services Marybeth Harasz presented the Report on the Iris Chang Park Master Plan and responded to Council questions.

Action: Upon motion by Council Member Manh Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77966, entitled: “A Resolution of the Council of the City of San José Adopting the Iris Chang Memorial Park Project Addendum to the North San José Development Policies Update Final Program Environmental Impact Report, In Accordance With the California Environmental Quality Act, As Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted and the Iris Chang Park Master Plan was approved. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 **Adopt a resolution authorizing the City Manager to apply for, execute, and accept upon receipt, grants from the Federal Aviation Administration, Volkswagen Clean Air Act Partial Settlement Trust Fund, and the Bay Area Air Quality Management District in a total amount not to exceed \$80.0 million for certain projects at the Norman Y. Mineta San José International Airport.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP16-113 (Upgraded Lighting System for CAT II Approach, Terminal B Expansion Ramp, and Zero Emission Bus Infrastructure); Not a Project, File No. PP10-066(a), Purchase Order of Supplies, Equipment and Profession Services that involve no changes to the physical environment (Airport Noise Monitoring System Replacement and Zero Emissions Buses); Exempt, File No. PP10-066(d), Consultant Services for Design, Study, Research, Inspection Services to determine the feasibility of a project with no commitment to future action (Airport Rescue and Fire Fighting Facility Renovation Design and Airfield Electrical System Upgrades Design); Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment (Safety Management System and Electronic Airport Layout Plan Development). (Airport)

6.1 (Cont'd)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated October 11, 2016, recommending adoption of a resolution.

Director of Aviation Services Kimberly J. Becker responded to questions from Mayor Sam Liccardo.

Action: Upon motion by Council Member Tam Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77967, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Apply For, Execute and Accept Upon Receipt, Grants from the Federal Aviation Administration, Volkswagen Clean Air Act Partial Settlement Trust Fund and the Bay Area Air Quality Management District In A Total Amount Not To Exceed \$80,000,000 For Certain Projects at the Norman Y. Mineta San José International Airport", was adopted. (11-0.)

- 6.2 (a) Conduct a Public Hearing pursuant to California Government Code Section 53083 regarding application of the City's Air Service Support Program, as authorized by the Federal Aviation Administration to Southwest, United, JetBlue, and Alaska Airlines.**
- (b) Adopt a resolution authorizing the City Manager or his designee to provide the City's Air Service Support Program to new air carrier service as outlined in the table on Page 12:**

Airline	Southwest	JetBlue	United	United	Alaska
Market	Baltimore-Washington	Long Beach	Chicago	Newark/ New York	Newark/ New York
Airport	BWI	LGB	ORD	EWR	EWR
Frequency	1 Daily	4 Daily	2 Daily	1 Daily	1 Daily
Support Period	18 Months	12 Months	18 Months	18 Months	18 Months
Landing Fee Waivers	\$212,751	\$560,226	\$432,299	\$216,149	\$216,149
Marketing Funds	\$50,000	\$25,000	\$50,000	\$50,000	\$50,000

For each airline and corresponding route, landing fees are waived under the program for the qualifying periods and marketing funds are provided to promote the new services.

CEQA: Resolutions Nos. 67380 and 71451, File No. PP09-192. (Airport)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated October 11, 2016, recommending conducting a public hearing and adoption of a resolution.

6.2 (Cont'd.)

Mayor Sam Liccardo opened the Public Hearing

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

Director of Aviation Services Kimberly J. Becker presented the Staff Report and responded to Council questions.

Action: Upon motion by Council Member Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77698, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Provide Fee Waivers and Marketing Support to Southwest Airlines and Alaska Airlines Pursuant to the Air Service Support Program at the Norman Y. Mineta San José International Airport", was adopted, and for each airline and corresponding route, landing fees are waived under the program for the qualifying periods and marketing funds are provided to promote the new services. (11-0.)

6.3 **Accept the status report regarding a potential amendment to the Team San José Agreement to include management and operations oversight of the City's Convention Center Parking Garage. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (Transportation)**

Action: Deferred to November 8, 2016 per Orders of the Day.

6.4 **Approve an ordinance to amend Section 11.04.031 of Chapter 11.04 of Title 11 of the San José Municipal Code to add "Lincoln Avenue between Coe Avenue and Minnesota Avenue" to the list of street segments where bicycling on the sidewalk is prohibited. CEQA: Exempt, File No. PP16-111. Council District 6. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation James Ortbal, dated October 11, 2016, recommending approval of an ordinance.

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29814, entitled: "An Ordinance of the City of San José Amending Section 11.04.031 of Title 11 of the San José Municipal Code to Identify Lincoln Avenue Between Coe Avenue and Minnesota Avenue As A Designated Area Where Bicycling on the Sidewalk is Prohibited", was passed for publication. (11-0.)

OPEN FORUM

- (1) Valerie Driscoll complained about issues related to services in Santa Clara County.

Mayor Sam Liccardo asked Assistant City Manager David Sykes to assist Ms. Driscoll following the afternoon Council Session.

- (2) Teddy Daligga, Santa Clara County Public Health Department, invited the Mayor and Council Members to attend the Healthy Cities Conference.
- (3) Thi (Tee) Tran thanked the Mayor and Council Members for their continued service to San José and the community.

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon Council Session at 3:34 p.m.

RECESS/RECONVENE

The City Council recessed at 3:34 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - All Present.

City Clerk Toni J. Taber, CMC read the requests for continuance of the applications. Upon motion by Vice Mayor Rose Herrera seconded by Council Member Johnny Khamis and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) **Consideration of an ordinance of the City of San José rezoning certain real property on a 78.4-gross acre site, located on the west side of Great Oaks Boulevard, approximately 1,000 feet northwesterly of Highway 85 from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to reduce the residential front-to-front building setbacks from 30 feet to 20 feet and the single-family detached side-to-side separations from ten feet to seven feet (iStar San Jose LLC, Owner). CEQA: Determination of Consistency with the Great Oaks Mixed Use Project Final Environmental Impact Report (Resolution No. 77219), and the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617). Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement) PDC16-038 – Council District 2**

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD16-038 dated October 18, 2016. (2) Proof of Publication of Notice of Public Hearing executed on November 1, 2016 submitted by the City Clerk.

Mayor Sam Liccardo opened the Public Hearing

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

11.1 (a) (Cont'd.)

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Donald Rocha and carried unanimously, the recommendation of the Planning Director was approved, Ordinance No. 29815, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 78.4 Acres Situated on the East Side of Perimeter Road, Between Great Oaks Boulevard and Miyuki Drive, From the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District", was passed for publication. (7-1-3. Noes: Oliverio. Absent: Carrasco, Jones, T. Nguyen.)

END OF CONSENT CALENDAR

- 11.2 (a) **Consideration of the Determination of Consistency with the Envision 2040 Final Environmental Impact Report, adopted by City Council Resolution 76041 on November 1, 2011; and, the Envision San José 2040 Final Supplemental Environmental Impact Report adopted by City Council Resolution No. 77617 on December 15, 2015.**
- (b) **Conduct an Administrative Hearing on and consider an Appeal of the Planning Commission's approval of Conditional Use Permit File No. CP15-085 to construct a 50-foot tall wireless communication facility (monopole), associated equipment enclosure, and emergency generator in the CN Commercial Neighborhood Zoning District, located at the southeast corner of Bollinger Road and Miller Avenue (6164 Bollinger Road) (Marchese Christopher Trustee & Et Al, Owner).**
- (c) **Adopt a resolution denying an appeal and approving a Conditional Use Permit No. CP15-085 to construct a 50-foot tall wireless communication facility (monopole), associated equipment enclosure, and emergency generator in the CN Commercial Neighborhood Zoning District, located at the southeast corner of Bollinger Road and Miller Avenue (6164 Bollinger Road) (Marchese Christopher Trustee & Et Al, Owner).**

CEQA: Determination of Consistency with the Envision San José 2040 Final Environmental Impact Report, adopted by City Council Resolution No. 76041 on November 1, 2011; and, the Envision San José 2040 Final Supplemental Environmental Impact Report adopted by City Council Resolution No. 77617 on December 15, 2015. (Planning, Building and Code Enforcement)

CP15-085 – District 1

(Continued from 8/16/16 – Item 11.2 and from 10/18/16 – Item 11.2)

Documents Filed: (1) Memorandum from Council Member Chappie Jones, dated October 31, 2016, recommending upholding the permit appeal and deny the Planning Commission's approval. (2) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated July 27, 2016, recommending as described above in 11.2(a)-(c) and transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-085 dated May 4, 2016. (3) Six letters from the public all dated November 2, 2016 expressing concerns related to the construction of the a 50-foot tall wireless communication facility.

11.2 (Cont'd.)

Mayor Sam Liccardo opened the Administrative Hearing.

Joanna Wang, Applicant, representing Verizon Wireless, presented the merits of the project. Alyona Pakhnu, representing the Regency Park Community, expressed opposition to the monopole, citing there were two hundred and fifty signatures opposing the building of the monopole at this location.

Public Comments: Expressing opposition, support, comments and suggestions were Edward Godfrey and Paul Albritton, Verizon Wireless; Kai Jing, Bill Hammett, Hammett and Edison; Rebecca Fernandez, Alex Pakner, Tracy Chen, Paul Riley, Gary Ehle, Regency Park Community; Lidan Jiang, David Witkowski, Joint Venture Silicon Valley; Blair Beekman, Ramesh Calamur, Sruesh Velayudhan, Anna Ko, representing Congressman Mike Honda; Jingzhao Ou and Venna Bishop.

Mayor Sam Liccardo closed the Administrative Hearing.

Director of Planning, Building and Code Enforcement Harry Freitas offered background and comments.

Council discussion ensued.

Motion: Council Member Chappie Jones moved approval to uphold the Permit Appeal and to deny the Planning Commission recommendations. Council Member Magdalena Carrasco seconded the motion.

Substitute Motion: Council Member Tam Nguyen moved approval of the Staff recommendations to deny the Permit Appeal and uphold the recommendations of the Planning Commission. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the substitute motion carried, the Determination of Consistency with the Envision 2040 Final Environmental Impact Report, adopted by City Council Resolution 76041 on November 1, 2011 and the Envision San José 2040 Final Supplemental Environmental Impact Report adopted by City Council Resolution No. 77617 on December 15, 2015 was approved and Resolution No. 77969, entitled: "A Resolution of the Council of the City of San José Denying a Permit Appeal and Approving a Conditional Use Permit to Construct a 50 Foot Tall Wireless Communication Facility (Monopole) Associated Equipment Enclosure and Emergency Generator in the CN Commercial Neighborhood Zoning District on an Approximately 1.85 Gross Acre Site, Located on the Southeast corner of Bollinger Road and Miller Avenue (6164 Bollinger Road)", was adopted. (8-3. Noes: Carrasco, Jones, Rocha.)

- 11.3 (a) Consideration of the statutory exemption pursuant to CEQA Guideline Section 15301(a) for Existing Facilities.
- (b) Conduct an Administrative Hearing on and consider an Appeal of the Planning Commission's approval of a Conditional Use Permit to allow late night use for a public drinking establishment in an existing 8,684-square foot building on an approximately 0.15-gross acre site, in the DC Downtown Primary Commercial Zoning District, approximately 400 feet southerly of East Santa Clara Street (58 South 1st Street) (Martin Trust, Owner).
- (c) Adopt a resolution and make the required findings to either grant or deny the appeal for a Conditional Use Permit to allow late night use for a public drinking establishment in an existing 8,684-square foot building on an approximately 0.15-gross acre site, in the DC Downtown Primary Commercial Zoning District, approximately 400 feet southerly of East Santa Clara Street (58 South 1st Street) (Martin Trust, Owner).

Planning Commission recommends approval (4-1-2, Abelite opposed, Allen and Vora abstained). CEQA: Exempt per CEQA Guidelines Section 15301(a) for Existing Facilities. (Planning, Building and Code Enforcement)

CP16-005 - Council District 3

(Deferred from 10/18/16 – Item 11.4)

Documents Filed: (1) Memorandum from Council Member Donald Rocha, Council Member Johnny Khamis, Council Member Ash Kalra and Council Member Pierluigi Oliverio, dated October 28, 2016, recommending the Council uphold the Planning Commission's recommendations. (2) The Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP16-005 dated July 14, 2016. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated October 5, 2016, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing, executed on September 19, 2016, submitted by the City Clerk. (5) Nineteen letters from the public all dated November 1, 2016 concerning the appeal of the Conditional Use Permit to allow late night use for a public drinking establishment.

Mayor Sam Liccardo opened the Administrative Hearing.

Jeff Essner, Hopkins and Carley, Appellant, urged the Council to oppose the application citing there is an overconcentration of bars and nightclubs in this particular area of Downtown San José.

George W.M. Mull, Esquire, Tackett Mull LLP, representing the Applicant, stated that the Applicant was committed to the Downtown and has addressed all the concerns of the Council and urged the Council to grant the Conditional Use Permit.

Public Comments: Expressing opposition, support, comments and suggestions were Johnny Lee, Ashwini Kuman, Masian Fusion Restaurant; Bill Ryan, Barry Swenson; Cache Bouren, Haberdasher; Dan Phan, Original Gravity/Paper Plane; Nicholas Adams, Mac Huynh, Eric Nielsen, Tin Le, Temple Bar; Thai Nguyen, Chris Freise, Lift Partners and David Silberstein.

Mayor Sam Liccardo closed the Administrative Hearing.

11.3 (Cont'd.)

Director of Planning, Building and Code Enforcement Harry Freitas and Assistant Director of Planning, Building and Code Enforcement Rosalynn Hughey responded to Council questions and concerns.

Motion: Council Member Johnny Khamis moved approval of the memorandum he cosigned with Council Member Donald Rocha, Council Member Ash Kalra and Council Member Pierluigi Oliverio, dated October 28, 2016, recommending the Council uphold the Planning Commission's recommendations. Council Member Donald Rocha seconded the motion.

Substitute Motion: Council Member Raul Peralez moved approval to deny the appeal for a Conditional Use Permit to allow late night use for a public drinking establishment in an existing 8,684-square foot building an approximately 0.15-gross acre site, in the DC Downtown Primary Commercial Zoning District, approximately 400 feet southerly of East Santa Clara Street. Council Member Magdalena Carrasco seconded the motion.

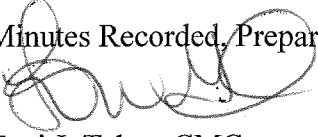
Extensive Council discussion ensued.

Action: On a call for the question, the substitution motion carried, Resolution No. 77970 was adopted and the appeal for the Conditional Use Permit was denied. (6-5. Noes: Kalra, Khamis, T. Nguyen, Oliverio, Rocha.)

ADJOURNMENT

The Council of the City of San José was adjourned at 11:44 p.m. in honor and memory of John Monty "Jack" Allen, lifelong resident and beloved member of the San José community. He is survived by sons, Peter, Chris, and Danny; their mother, Janice; sister, Judy; nieces, Corinne and Tina; cousins, Carolyn, Jenny, and John; dog, Cooper; and countless friends. (Rocha)

Minutes Recorded, Prepared and Respectfully Submitted by,


Toni J. Taber, CMC
City Clerk

smd/11-02-16 MIN

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

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10389	1875 Dobbin Drive	3	Dobbin Home Corp.	14 / 101	MFA

This notice is to be posted with the City Council's regular agenda.