



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 13, 2016

The Council of the City of San José convened in Regular Session at 9:06 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Carrasco, Herrera, Jones, Jimenez, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:08 p.m. to a Closed Session in Room W133; (A) to confer with Legal Counsel pursuant to subsection (c) of Section 54956.9 of the Government Code with respect to anticipated litigation in three (3) matters; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) City of San José v. City of Santa Clara; Names Of Partie(s) 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; (2) Binkovich v. Barthelmy; Names Of Partie(s) Involved: Aleksandr Binkovich, Bruce Barthelmy, Officer, Badge #4066; Court: Ninth Circuit Court of Appeals; Case No.: 14-16768, 14-16888 Cross-Appeals; Amount of Money or Other Relief Sought: Damages according to proof; (3) Smith, Ted v. City, Agency, et al.; Names Of Partie(s) 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 the Mayor of the City of San José; Pet Constant in his official capacity as Councilmember for the City of San José ; Ash Kalra, in his official

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CLOSED SESSION (Cont'd.)

Capacity as Councilmember for the City of San José; Sam Liccardo, in his official capacity as a Councilmember for the City of San José; Pierluigi Oliverio, in his official capacity as a Councilmember for the City of San José; Judy Chirco, in her official capacity as a Councilmember for the City of San José; Madison Nguyen, in her official capacity as a Councilmember for the City of San José; Rose Herrera, in her official capacity as a Councilmember for the City of San José; Kansen Chu, in his official capacity as a Councilmember for the City of San José; Nora Campos, in her official capacity as a Councilmember for the City of San José; and Nancy Pyle, in her official capacity as a Councilmember for the City of San José; and Does 1-20; Court: Santa Clara County Superior Court; Supreme Court of California, Sixth Appellate District; Case No.: 1-09-CV-150427; S218066; Amount of Money or Other Relief Sought: Damages according to proof; (4) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (5) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (6) OE#3 v. City of San José; Names Of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (7) ABMEI v. City, et al.; Names of Partie(s) Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No.: UPC SF CE 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 California, County of Santa Clara; 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 California, County of Santa Clara; Case No: 1-12-CV-225928; 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 California, County of Santa Clara; Case: 1-12-CV-226570; 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: City of San José, John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, Debra Figone in her official capacity as City Manager of the City of San José,

CLOSED SESSION (Cont'd.)

The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (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 California, County of Santa Clara; 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 Police Officers Association, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint In Quo Warranto; (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, Supersedeas, 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-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (C) to Confer regarding Potential Threat to Public Services or Facilities Pursuant to Government Code Section 54957(a): Consultation with: Chief of Police; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of

CLOSED SESSION (Cont'd.)

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

By unanimous consent, Council recessed from the Closed Session at 12:53 p.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

Present: Councilmembers - Carrasco, Herrera, Jones, Jimenez, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

INVOCATION

Pastor David Cannistraci, Gateway City Church, offered the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by Third Grade Students from Castlemont and Cedar Grove Elementary Schools.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Item 10.1(a) heard as a separate item; Item 10.1(b) was dropped and 10.1(c) was heard, with the implementation factor dropped, and to be renoticed.

CEREMONIAL ITEMS

1.1 Presentation of a commendation to supporters of the annual Day in the Park Festival for their commitment to volunteering and providing valuable resources to District 8 residents. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended the annual Day in the Park Festival.

Heard in the evening.

1.2 Special presentation to the “Partners in Reading Literacy Program”. (Mayor)

Mayor Sam Liccardo offered a special presentation to the “Partners in Reading Literacy Program” on behalf of Vice Mayor Rose Herrera, Council Member Pierluigi Oliverio and Council Member Manh Nguyen. Library Director Jill Bourne accepted the books for the “Partners in Reading Literacy Program.”

1.3 Presentation of a commendation to Pacific Coast Farmer’s Market Association (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended the Pacific Coast Farmer’s Market Association for their commitment to providing farm-fresh foods and nutritional education to San José families for over 25 years.

1.4 Presentation of a commendation to the California Department of Fish and Wildlife Wardens for supporting the City of San José and Santa Clara Valley Water District. (Mayor)

Mayor Sam Liccardo recognized and commended the California Department of Fish and Wildlife Wardens. Steve Holmes, South Bay Clean Creeks Coalition presented a brief video presentation highlighting the creeks and waterways to enhance our creeks and waterways and assisting the homeless response team.

1.5 Presentation of a commendation to Lieutenant Edward J. Ames. (Mayor/Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended Lieutenant Edward J. Ames for his 40 years of service to the United States Navy, a 93-year old resident of San José and the only crew member from the USS Astoria to have witnessed the attack on Pearl Harbor, for his 40 years of service to the United States Navy.

1.6 Presentation of a commendation to 2016 Science Fair Winners from District 8. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended the 2016 Science Fair Winners from District 8 for showcasing their talents on project-based research competition.

Heard in the evening.

CONSENT CALENDAR

Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the Consent Calendar was approved. (11-0.)

2.1 Approval of City Council Minutes.

(a) **Regular Minutes of November 15, 2016.**

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

Documents Filed: (1) Council Meeting Minutes dated November 15, 2016.

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

2.2 Final adoption of ordinances.

(a) **ORD. NO. 29835 – An ordinance of the City of San José rezoning certain real property of approximately 9.3 gross acres situated at the north side of Samaritan Drive approximately 700 feet south of the intersection of South Bascom Avenue and Samaritan Drive from the Co Commercial Office Zoning District and A(PD) Planned Development Zoning District to the CG(PD) Planned Development Zoning District. CEQA: Samaritan Medical Center Master Plan Project EIR, File No. GP15-014, PDC15-028 and PDC15-029. (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29835 executed on December 9, 2016, submitted by the City Clerk.

Action: Ordinance No. 29835 was adopted.

(b) **ORD. NO. 29836 – An ordinance of the City of San José rezoning certain real property of approximately 3.71 gross acres situated at the Terminus of Samaritan Court (2506 Samaritan Court) from the Co Commercial Office Zoning District to the CO(PD) Planned Development Zoning District. CEQA: Samaritan Medical Center Master Plan Project EIR, File No. GP15-014, PDC15-028, and PDC15-029. (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29836 executed on December 9, 2016, submitted by the City Clerk.

Action: Ordinance No. 29836 was adopted.

(c) **ORD. NO. 29837 – An ordinance of the City of San José rezoning certain real property of approximately 0.64 gross acres situated on the southwesterly corner of Stevens Creek Boulevard and South Bascom Avenue (2202 Stevens Creek Boulevard) from the CP Commercial Pedestrian Zoning District to the CP(PD) Planned Development Zoning District. CEQA: Exempt per CEQA Guidelines Section 15303(c), for New Construction or Conversion of Small Structures. (Planning, Building and Code Enforcement)**

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

- (c) Documents Filed: Proof of Publication of the Title of Ordinance No. 29837 executed on December 9, 2016, submitted by the City Clerk.

Action: Ordinance No. 29837 was adopted.

2.3 Approval of Council Committee Minutes.

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

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

Action: The Council Committee Minutes were approved.

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

- 2.7 (a) **Approve the proposed Spending Plan for the 2016 Edward Byrne Memorial Justice Assistance Grant.**
(b) **Adopt a resolution accepting the 2016 Justice Assistance Grant in the amount of \$284,921 and authorizing the City Manager to execute any documents required to effectuate the grant.**
(c) **Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:**
(c) (1) **Increase the estimate for Revenue from the Federal Government by \$223,351;**
(2) **Establish an appropriation to the Police Department for the 2016 Justice Assistance Grant in the amount of \$223,351.**

CEQA: Not a Project, File No. PP10-067(c), Non-Project Specific Funding Mechanism, Grant Distribution that would not result in a physical change to the environment. (Police/City Manager)

Action: Dropped per Administration.

- 2.8 Adopt a resolution authorizing the Airport to “sole source” certain products and/or services as part of any future Airport Capital Improvement Program project that expands certain existing Airport systems based on a finding that sole sourcing is needed to match products already in use. CEQA: Not a Project, File No. PP10-066(c), Agreements/Contracts, Contract Award for purchase of supplies and equipment. (Airport/Public Works)**

Documents Filed: Joint memorandum from Director of Public Works, Barry Ng and Director of Aviation, Kimberly J. Becker, dated November 21, 2016, recommending adoption of a resolution.

Action: Resolution No. 78012, entitled: “A Resolution of the Council of the City of San José Authorizing the Norman Y. Mineta San José Airport to “Sole-Source” Certain Products and/or Services as Part of any Future Capital Improvement Program Project at the Airport that Expands Certain Existing Systems Based on a Finding that Sole Sourcing is Needed to Match Products Already in Use”, was adopted. (11-0.)

- 2.9 Adopt a resolution authorizing the City Manager to award a Purchase Order to John Bean Technologies Corp. (Ogden, UT) for the purchase of two passenger boarding bridges at the Mineta San Jose International Airport, in an amount not to exceed \$1,708,764 inclusive of a 15% contingency, plus any applicable sales tax. CEQA: Not a Project, File No. PP10-066(a), Purchase Order. (Airport/Finance)**

Documents Filed: City Council Action Request from Director of Finance, Julia Cooper, dated December 13, 2016, recommending adoption of a resolution.

Action: Resolution No. 78013, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Purchase Order to John Bean Technologies Corp. (Ogden, UT) for the Purchase of Two Passenger Boarding Bridges at the Norman Y. Mineta San José International Airport, in an Amount Not to Exceed \$1,708,764, Inclusive of a 15% Contingency, Plus Any Applicable Sales Tax”, was adopted. (11-0.)

- 2.10 (a) Adopt a resolution authorizing the City Attorney to negotiate and execute amendments to agreements for legal services relating to implementation of the Alternate Pension Reform Settlement Framework approved by the voters at election in November 2016, as follows:**
- (a) (1) A fourth amendment to the continuation agreement with Renne Sloan Holtzman & Sakai LLP for legal services in connection with labor relations matters, adding additional compensation rates, increasing the amount of compensation by \$50,000 for a total amount not to exceed \$1,695,000, and extending the term through June 30, 2018;**
- (2) A seventh amendment to the agreement with Hanson Bridgett LLP for legal services in connection with the City of San José’s retirement plans and other benefit plans and programs, increasing the amount of compensation by \$100,000 for a total amount not to exceed \$450,000, and extending the term through June 30, 2018; and**

2.10 (Cont'd.)

- (a) (3) **An eighth amendment to the agreement with Ice Miller LLP for legal services in connection with retiree health and dental benefits and related tax issues, increasing the contract amount by \$100,000 for a total amount not to exceed \$500,000, and extending the term through June 30, 2018.**
- (b) **Adopt the following 2016-2017 Appropriation Ordinance amendments in the General Fund:**
 - (1) **Increase the City-Wide appropriation to the City Attorney's Office for Fiscal Reform Plan Outside Legal Counsel by \$165,000; and**
 - (2) **Decrease the Fiscal Reform Plan Implementation Reserve by \$165,000.****CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney/City Manager)**

Documents Filed: Memorandum from City Attorney Richard Doyle and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated December 1, 2016, recommending adoption of a resolution and appropriation ordinance amendments in the General Fund.

Action: Resolution No. 78014, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Fourth Amendment to the Continuation Agreement with Renne Sloan Holtzman & Sakai LLP, a Seventh Amendment to the Agreement with Hanson Bridgett LLP, and an Eighth Amendment to the Agreement with Ice Miller LLP for Legal Services Relating to the Alternate Pension Reform Settlement"; and Ordinance No. 29838, entitled: "A Ordinance of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Fourth Amendment to the Continuation Agreement with Renne Sloan Holtzman & Sakai LLP, a Seventh Amendment to the Agreement with Hanson Bridgett LLP, and an Eighth Amendment to the Agreement with Ice Miller LLP for Legal Services Relating to the Alternate Pension Reform Settlement", were adopted. (11-0.)

2.11 Adopt a resolution declaring the results of the November 8, 2016 Run-Off and Special Municipal Elections pursuant to Elections Code Section 15400. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated November 29, 2016, recommending adoption of a resolution. (2) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated December 8, 2016, providing results of the November 8, 2016 Run-Off and Special Municipal Elections.

Councilmember Johnny Khamis pulled Item 2.11 for additional comments, and Mayor Sam Liccardo thanked Measure F stakeholders.

Councilmember Johnny Khamis moved approval of the results of the election. The motion was seconded by Councilmember Magdalena Carrasco.

2.11 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78011, entitled: "A Resolution of the Council of the City of San José Reciting that a Regular Run-Off Municipal Election and Special Municipal Election was Held in the City of San José on Tuesday, November 8, 2016; Stating the Offices to be Filled at the Election and Confirming the Passage of Measures E, F, and G; Finding and Declaring that the Registrar of Voters of the County of Santa Clara Has Canvassed the Returns of the Elections and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Names of the Persons and Offices Voted For, the Name of the Measure Voted For, the Number of Votes Given at Each Precinct to Each Person and the Measure; and Finding and Declaring Who Received the Highest Number of Votes of the Votes Cast and That Measure E, F and G Received a Majority of the Votes Cast", was adopted. (11-0.)

2.12 Adopt the following 2016-2017 Appropriation Ordinance and Funding Source Resolution Amendments in the General Fund:

- (a) Increase the estimate for Other Revenue by \$9,569; and**
- (b) Increase the Council District #10 appropriation by \$9,569.**

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

Documents Filed: Joint Memorandum from City Clerk Toni J. Taber, CMC, and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated December 2, 2016, recommending adoption of appropriation ordinance and funding source resolution amendments.

Action: Ordinance No. 29839, entitled: "A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the General Fund for the Council District #10 Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 78015, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the General Fund", were adopted. (11-0.)

2.13 Approve the following Board and Commission Appointments:

- (a) Arts Commission:**
 - (1) District 3 Seat: Appoint Chris Morrish to a term expiring 6/30/20.**
- (b) Housing and Community Development Commission:**
 - (1) Citywide Seat: Appoint Nhi Nguyen to a term expiring 6/30/17;**
- (c) Human Services Commission:**
 - (1) District 3 Seat: Appoint Rich Dotson for the term 1/1/17 to 12/31/20;**
 - (2) District 6 Seat: Appoint Shannon Was for the term 1/1/17 to 12/31/20;**
 - (3) District 10 Seat: Appoint Thomas Estrada for the term 1/1/17 to 12/31/20;**
 - (4) CAAC-Disability Service Provider/Disabled Community Representative Seat: Appoint Tiffany Maciel for the term expiring 12/31/18;**

2.13 (Cont'd.)

- (c) (5) **CAAC-Domestic Violence Service Provider/Survivor Seat: Appoint Tracy Fowler for the term 1/1/17 to 12/31/20.**
- (d) **Library and Early Education Commission:**
 - (1) **CAAC-Early Education/Child Care Seat: Appoint Thaddeus Aid for the term expiring 6/30/18;**
 - (2) **CAAC-Early Education/Child Care Seat: Appoint Carol Leimroth for the term 1/1/17 to 6/30/20;**
 - (3) **CAAC-Early Education/Child Care Seat: Appoint Michael Melillo for the term expiring 6/30/18.**

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

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated December 2, 2016, recommending approval of Board and Commission Appointments. (2) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated December 9, 2016, transmitting names of nominations of appointments. (3) Seven (7) memoranda from City Attorney Richard Doyle, dated November 8 – 21, 2016, providing conflicts review for commission applicants.

Action: The Board and Commission appointments were approved. (11-0.)

2.14 Adopt a resolution designating the City's Neighborhoods Commission as the local Sales Tax Independent Citizens Oversight Committee, as outlined in the City's Measure B Sales Tax ballot measure approved by the voters on June 7, 2016. CEQA: Not a Project, File No. PP10-069, City Organizational & Administrative Activities. (City Manager)

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated December 1, 2016, recommending adoption of a resolution.

Motion: Councilmember Rose Herrera moved to defer this item to allow for further vetting. Councilmember Johnny Khamis seconded the motion.

Deputy City Manager Julie Edmonds-Mares responded to questions from Council, and discussion ensued.

Councilmember Rose Herrera offered additional suggestions regarding community members' participation on a subcommittee and withdrew her earlier motion.

Motion: Councilmember Rose Herrera alternately moved approval of the staff recommendation. Councilmember Tam Nguyen seconded the motion.

Substitute Motion: Councilmember Pierluigi Oliverio offered a substitute motion, asking for participation by Silicon Valley Taxpayers Association. Councilmember Raul Peralez seconded the motion.

2.14 (Cont'd.)

Councilmember Rose Herrera cautioned against extending a special invitation to only one group, recommending that it be open to everyone.

The substitute motion failed. (4-6-1. Noes: Carrasco, Jimenez, Herrera, M. Nguyen, T. Nguyen, Peralez. Absent: Rocha.)

Action: On a call for the question, the original motion passed, and Resolution No. 78016, entitled: "A Resolution of the Council of the City of San José Designating the Neighborhoods Commission of the City of San José as the Local Sales Tax Independent Citizens Oversight Committee, as Outlined in the Measure B Sales Tax Ballot Measure Approved by San José Voters on June 7, 2016", was adopted. (8-2-1. Noes: Khamis, Oliverio. Absent: Rocha.)

2.15 Adopt a resolution as follows:

- (a) **Approve the creation of an Electrician I/II Hiring Incentive Pilot Program for new hires into the Electrician I/II classifications, effective January 1, 2017, for a period of up to two (2) years; and**
- (b) **Approve the creation of an Electrician I/II Referral Bonus Pilot Program for employees represented by the International Brotherhood of Electrical Workers, Local No. 332 (IBEW) who refer a new Electrician I/II hire to the City, effective January 1, 2017, for a period of up to two (2) years.**

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated December 2, 2016, recommending adoption of a resolution.

Action: Resolution No. 78017, entitled: "A Resolution of the Council of the City of San José Approving Implementation of an Electrician I/II Hiring Incentive and Referral Bonus Pilot Program, Effective January 1, 2017", was adopted. (11-0.)

2.16 **Adopt a resolution approving the extension of the terms of an Agreement between the City of San José and the Municipal Employees' Federation, AFSCME Local 101 (MEF) to provide employees in the Public Safety Radio Dispatcher class series with overtime or compensatory time at 2.0 times the hourly rate for all hours worked past twelve (12) hours in a single shift for a period of twenty-six (26) consecutive pay periods, effective December 4, 2016. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy change, Title 3 (Personnel). (City Manager)**

Documents Filed: Memorandum from Director of Employee Relations, Jennifer Schembri, dated December 2, 2016, recommending adoption of a resolution.

Action: Resolution No. 78018, entitled: "A Resolution of the Council of the City of San José Approving the Terms of Agreement Between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 (MEF) Related to the Public Safety Radio Dispatcher Classification Series", was adopted. (11-0.)

- 2.17 Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to Cooperative Agreement No. 8 between the City and Santa Clara Valley Transportation Authority (VTA), for the design, construction, and reimbursement relating to the public art component of the BART extension to Berryessa, to extend the existing term until December 31, 2017. CEQA: Final Environmental Impact Report prepared by the VTA for the extension of the BART system to Berryessa in City certified and related findings adopted by the VTA Board on December 9, 2004, and the Final Supplemental Environmental Impact Report prepared for the certified and related findings adopted by the VTA Board on June 7, 2007, and the Final Supplemental Environmental Impact Report #2 prepared for the Project certified and related findings adopted by the VTA Board on March 3, 2011. By Resolution 76126 adopted January 24, 2012, City Council adopted findings as a responsible agency under CEQA concurring with the analysis in the EIRs. Council District 4. (Economic Development)**

Documents Filed: City Council Action Request from Deputy City Manager/Director of Economic Development Kim Walesh, dated December 13, 2016, recommending adoption of a resolution.

Action: Resolution No. 78019, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Cooperative Agreement No. 8 with Santa Clara Valley Transportation Authority, for the Design, Construction and Reimbursement Relating to the Public Art Component of the Bay Area Rapid Transit Extension to Berryessa, to Extend the Existing Term Until December 31, 2017”, was adopted. (11-0.)

- 2.18 Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund to recognize grant funding received from the David and Lucile Packard Foundation (\$130,000) and the John S. and James L. Knight Foundation (\$30,000):**

- (a) Increase the estimate for Other Revenue by \$160,000;**
- (b) Establish a City-Wide appropriation to the Office of Economic Development for the Building Public Will for the Arts 2016-2017 in the amount of \$130,000;**
- (c) Establish a City-Wide appropriation to the Office of Economic Development for the Creative Industry Incentive Fund in the amount of \$30,000.**

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

Documents Filed: Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 21, 2016, recommending adoption of appropriation ordinance and funding resources resolution amendments.

Councilmember Magdalena Carrasco pulled item 2.18 to thank staff for their work on this project. She moved approval of the item, and the motion was seconded by Councilmember Tam Nguyen.

2.18 (Cont'd.)

Action: On a call for the question, the motion was carried unanimously, and Resolution No. 78020, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the General Fund", and Ordinance No. 29840, entitled: "A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the General Fund for Building Public Will for the Arts 2016-2017 and the Creative Industry Incentive Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0-1. Absent: Rocha.)

2.19 Adopt a resolution to:

- (a) **Authorize Strategic Economics (SE) to examine all California State Board of Equalization sales and use tax records for the City of San José in order to inform the San José Retail Study Analysis.**
- (b) **Authorize the Office of Economic Development and Strategic Economic to examine California State Employment Development Department (EDD) ES202 industry and employment data for the City of San José in order to inform the San José Retail Study Analysis.**
- (c) **Authorize the City Manager or his designee to negotiate and execute an Agreement with the EDD to examine ES202 industry and employment data for economic development purposes.**

CEQA: Not a Project, File No. PP10-066(d), Agreements and Contracts, Consultant Services. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated December 3, 2016, recommending adoption of a resolution.

Staff requested to pull Item 2.19 to for additional clarification, replacing the resolution title language as indicated below.

Councilmember Pierluigi Oliverio moved approval of the resolution with the revised language. Councilmember Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78021, entitled: "A Resolution of the Council of the City of San José Amending Authorizing Office of Economic Development and Strategic Economics go Examine all Sales And Use Tax Records of the California State Board of Equalization and to Examine ES202 Industry and Employment Data from the California State Employment Development Department on behalf of the City of San Jose, in order to Inform the San Jose Retail Analysis, and Authorizing the City Manager or Designee to Negotiate and Execute an Agreement with the Employment Development Department", was adopted. (10-0-1. Absent: Rocha.)

- 2.20 Approve an Agreement for the refund of construction taxes in the amount of \$2,128,962.89 paid under the incorrect rate by Federal Realty Investment Trust for a project located at 3090 Olsen Drive and direct the Director of Finance to make payment in accordance with the Agreement. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. Council District 6. (Economic Development/Planning, Building and Code Enforcement/Transportation)**

Documents Filed: Joint memorandum from Planning, Building and Code Enforcement Director, Harry Freitas, Deputy City Manager/Director of Economic Development Kim Walesh and Director, Department of Transportation, Jim Ortbal, dated November 16, 2016, recommending approval of a resolution.

Assistant City Attorney Ed Moran, responded to questions from Mayor Liccardo.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Sergio Jimenez and carried unanimously, the Agreement for the refund of construction taxes in the amount of \$2,128,962.89 paid under the incorrect rate by Federal Realty Investment Trust for a project located at 3090 Olsen Drive and direct the Director of Finance to make payment in accordance with the Agreement, was approved. (11-0.)

- 2.21 Approve the Settlement Agreement related to the Organics Processing Services Agreement with Zero Waste Energy Development Company, LLC, to allow a one-time waiver of disposal payment requirements to offset enhancements made to processing and diversion services. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts, Services that involve no changes to the physical environment. (Environmental Services)**

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated November 21, 2016, recommending approval of a Settlement Agreement.

Councilmember Johnny Khamis pulled Item 2.21 to present questions to staff. Assistant City Attorney Ed Moran offered clarification regarding the partial waiver.

Public Comments: Greg Ryan, representing Zero Waste Energy Development thanked staff for their work on this project and said he was available to answer questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Magdalena Carrasco and carried unanimously, the Settlement Agreement related to the Organics Processing Services Agreement with Zero Waste Energy Development Company, LLC, to allow a one-time waiver of disposal payment requirements to offset enhancements made to processing and diversion services, was approved. (11-0.)

2.22 Accept the report on the Request for Proposal for the purchase and implementation of a Business Intelligence Enterprise Solution, and adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an Agreement with AgreeYa Solutions, Inc. (Folsom, CA) for the implementation of a Business Intelligence Enterprise Solution, including related professional services such as business requirements development, configuration, training, testing, technical support, and maintenance, for an initial five-year term commencing on or about December 14, 2016 and ending on or about December 13, 2021, with a maximum compensation amount not to exceed \$369,415, subject to the appropriation of funds;**
- (b) Negotiate and execute any necessary documents or agreements with Microsoft or through Microsoft's Large Account Resellers including PCM-G, Inc. (Chantilly, CA) and SoftwareOne (Dallas, TX) as applicable, to purchase various Microsoft Business Intelligence, Azure and related software licenses, subscriptions, data storage, and hosting services for this project, with a maximum compensation amount not-to-exceed \$273,000 during the initial five-year term, subject to the appropriation of funds;**
- (c) Execute change orders to cover any additional requirements, not to exceed \$200,000 during the initial five-year term, subject to the appropriation of funds;**
- (d) Exercise up to five one-year options to extend the terms of the various Agreements after the initial terms as may be applicable, to provide ongoing software subscriptions, maintenance, hosting, data storage, technical support, and related professional services as required, subject to the appropriation of funds.**

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

Documents Filed: Memorandum from Director of Finance, Julia H. Cooper, dated November 21, 2016, recommending adoption of a resolution.

Action: Resolution No. 78022, entitled: "A Resolution of the Council of the City of San José Amending Authorizing the City Manager to (1) Negotiate and Execute an Agreement with AgreeYa Solutions, Inc. for the Implementation of a Business Intelligence Enterprise Solution for an Initial Five-Year Term Ending on or About December 13, 2021, with a Maximum Compensation Amount not to Exceed \$369,415; (2) Negotiate and Execute any Necessary Documents or Agreements with Microsoft or Through Microsoft's Large Account Resellers with a Maximum Compensation Amount Not to Exceed \$273,000 During the Initial Five-Year Term; (3) Execute Change Orders to Cover any Additional Requirements, Not to Exceed \$200,000; and (4) Exercise Extend the Terms of the Various Agreements, Subject to the Appropriation of Funds", was adopted. (11-0.)

2.23 Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an Agreement with Alliant Insurance Services, Inc. to provide broker, claims, and administrative services to establish and maintain a multiline, rolling Owner Controlled Insurance Program for capital improvements at the San José-Santa Clara Regional Wastewater Facility for the term December 14, 2016 through December 13, 2021, with maximum compensation of \$900,000, subject to the appropriation of funds;**
- (b) Exercise up to two five-year options to extend the term of the Agreement through December 13, 2031, with maximum compensation not to exceed \$245,000 annually, subject to the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Finance)

Documents Filed: (1) Letter from Treatment Plan Advisory Committee Chair, Pierluigi Oliverio, dated December 9, 2016, providing recommendations of the Committee. (2) Letter from Director of Finance, Julia Cooper, dated November 21, 2016, recommending acceptance of the report and adoption of a resolution.

Action: The report on the Request for proposal was accepted, and Resolution No. 78023, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Alliant Insurance Services, Inc. to Provide Broker, Claims and Administrative Services to Establish and Maintain a Multiline, Rolling Owner Controlled Insurance Program for Capital Improvement at the San José – Santa Clara Regional Wastewater Facility”, was adopted. (11-0.)

2.24 (a) Adopt a resolution that:

- (1) Certifies that the City shall provide all matching funds required for the grant protect and any cash match will be appropriated as required.**
 - (2) Certifies that any liability arising out of the performance of the agreement shall be the responsibility of the City Council.**
 - (3) Certifies that the grant funds shall not be used to supplant expenditures controlled by the City Council.**
 - (4) Authorizes the City Manager to execute an Agreement between the City of San José and the County of Santa Clara to accept the 2016 EMPG grant allocation in the amount of \$51,915, and to negotiate and execute additional amendments and related documents without further City Council action.**
- (b) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) Establish a City-Wide Expenses appropriation to the Fire Department for the Emergency Management Performance Grant - Fire 2016 in the amount of \$51,915;**
 - (2) Increase the estimate for Revenue from Federal Government by \$51,915.**

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

2.24 (Cont'd.)

Documents Filed: Joint memorandum from Fire Chief Curtis B. Jacobson and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 28, 2016, recommending adoption of a resolution and appropriation ordinance and funding resources resolution amendments.

Action: Resolution No. 78024, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement Between the City of San José and the County of Santa Clara to Accept the 2016 Emergency Management Performance Grant Allocation in the Amount of \$51,915 and to Negotiate and Execute Additional Amendments and Related Documents Without Further City Council Action and Making Certain Certifications Regarding Acceptance of the Grant"; Resolution No. 78025, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the General Fund", and Ordinance No. 29841, entitled: "A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 To Appropriate Moneys in the General Fund for the Emergency Management Performance Grant - Fire 2016; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

- 2.25 (a) Adopt a resolution authorizing the Director of Housing to:**
- (1) Accept the VAWA-HOPWA Project Demonstration grant award in the amount of \$1,286,520 and approve grant agreements CAH15-001 and CAH15-002 with the U.S. Department of Housing and Urban Development (HUD);**
 - (2) Negotiate and execute Grant Agreements to implement the services identified in the memorandum to Council with the following two agencies:**
 - (i) \$1,059,300 to The Health Trust to provide permanent housing placement assistance, rental assistance, motel vouchers, and training and capacity building services to support victims of domestic violence who are also living with HIV/AIDS;**
 - (ii) \$192,215 to Next Door Solutions to Domestic Violence to provide individual advocacy and self-sufficiency case management to participants of the Health Trust program described above in subsection 2(i).**
- (b) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund:**
- (1) Increase the estimate for Revenue from the Federal Government by \$1,286,520;**
 - (2) Increase the appropriation to the Housing Department for HOPWA SHAPPS Grants by \$1,286,520.**

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

2.25 (Cont'd.)

Documents Filed: Joint memorandum from Director of Housing, Jacky Morales-Ferrand and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 21, 2016, recommending adoption of an ordinance and adoption of appropriation ordinance and funding resources resolution amendments.

Action: Resolution No. 78026, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Accept the Violence Against Women Act – Housing Opportunities for People with AIDS Project Demonstration Grant and to Negotiate and Execute Grant Agreements to Implement Services”; Resolution No. 78027, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the Multi-Source Housing Fund”; and Ordinance No. 29842, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Multi-Source Housing Fund for the HOPWA SHAPPS Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

2.26 Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement between the City of San José and Managed Health Network for Employee Assistance Programs and Critical Incident Stress Management, and MHN Services for Substance Abuse Treatment Services for the period of January 1, 2017, through December 31, 2021, for a total cost not to exceed \$2,346,114, subject to the annual appropriation of funds. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources Joe Angelo, dated November 17, 2016, recommending adoption of a resolution.

Action: Resolution No. 78028, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Managed Health Network for Employee Assistance Programs and Critical Incident Stress Management, and MHN Services for Substance Abuse Treatment Services for the Period of January 1, 2017 through December 31, 2021 in an Amount Not to Exceed \$2,346,114, Subject to the Annual Appropriation of Funds”, was adopted. (11-0.)

2.27 Adopt a resolution authorizing the City Manager to negotiate and execute:

- (a) An Agreement with Service Systems Associates, Inc. (SSA) to provide retail concession services at Happy Hollow Park and Zoo, effective from January 9, 2017 through five years, with a Minimum Annual Guarantee of \$60,000 per year to be paid to the City;**
- (b) Extensions or amendments to the Agreement which include three additional two year options to extend the agreement after the initial term.**

CEQA: Not a Project, File No. PP10-066(e), Agreement and Contracts, Services that involve no physical changes to the environment. Council District 7. (Parks, Recreation and Neighborhood Services)

2.27 (Cont'd.)

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., dated December 13, 2016, recommending adoption of a resolution.

Action: Resolution No. 78029, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute: (1) An Agreement with Service Systems Associates, Inc., for Retail Concession Services at Happy Hollow Park and Zoo, Effective January 9, 2017 through Five Years, with a Minimum Annual Guarantee of \$60,000 Per Year to be Paid to the City; and (B) Extensions or Amendments to the Agreement Which Include Three Additional Two-Year Options to Extend the Agreement After the Initial Term", was adopted. (11-0.)

- 2.28 (a) **Adopt a resolution adopting the Mitigated Negative Declaration for the Rincon South Park Master Plan (File No. PP16-077) as having been completed in compliance with the California Environmental Quality Act, and adopting a related Mitigation Monitoring and Reporting Program;**
- (b) **Approve the Rincon South Park Master Plan regarding a 0.9 acre site at the intersection of Kerley Drive and Rosemary Street (APN 235-05-010); and**
- (c) **Approve "Rincon South" as the name for this new neighborhood park.**
- CEQA: Rincon Park Master Plan Mitigated Negative Declaration, File No. PP16-077. Council District 3. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Document from Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., dated November 21, 2016, recommending adoption of a resolution and approval of a Master Plan.

Action: Resolution No. 78030, entitled: "A Resolution of the Council of the City of San José Adopting the Rincon Park Master Plan Project Mitigated Negative Declaration, 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", was adopted; the Rincon South Park Master Plan regarding a 0.9 acre site at the intersection of Kerley Drive and Rosemary Street, and "Rincon South" as the name for this new neighborhood park, were approved. (11-0.)

2.29 **Adopt a resolution:**

- (a) **Accepting the 2017-2018 Hazardous Vegetation Commencement Report (see Weed Abatement Program Commencement Report attached to the memorandum to Council) compiled by the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation;**
- (b) **Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the Report are a public nuisance; and**

- 2.29 (c) **Directing the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation to mail notices of a Public Hearing on January 31, 2017, at 1:30 p.m. before the City Council on the Report to property owners of affected real properties pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

CEQA: Exempt, Section 15301(h), Existing Facilities, File No. PP13-097. (Planning, Building, and Code Enforcement)

Documents Filed: Memorandum from Planning, Building and Code Enforcement Director, Harry Freitas, dated November 21, 2016, recommending adoption of a resolution.

Action: Resolution No. 78031, entitled: “A Resolution of the Council of the City of San José Accepting and Confirming the 2017-2018 Hazardous Vegetation Commencement Report Compiled by the Office of the Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation, Declaring that those Certain Noxious or Dangerous Seasonal and Recurrent Weeds, Growing or Likely to be Growing, and Refuse to be a Public Nuisance, and Directing Notices of January 31, 2017 Public Hearing at 1:30 p.m. Be Sent to Affected Property Owners”, was adopted. (11-0.)

- 2.30 **Adopt a resolution amending the 2016-2017 Schedule of Fees and Charges (Resolution No. 72737, as amended) to establish an Urban Agriculture Tax Incentive Application Fee in the amount of \$1,540 per application for eligible parcels in an Urban Agriculture Incentive Zone. CEQA: Not a Project, Section 15378 Definition of Project and Exempt, Section 15061(b)(3), No potential for causing a significant effect on the environment, File No. PP16-119. (Planning, Building and Code Enforcement/City Manager)**

Documents Filed: Joint memorandum from Planning, Building and Code Enforcement Director, Harry Freitas and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 29, 2016, recommending adoption of a resolution. (2) Letter from SPUR Food and Agriculture Policy Director, Eli Zigas and Email correspondence from Alex Shoor, both dated December 12, 2016, encouraging only minimal fees and regulations for the incentive zone applications.

Planning, Building and Code Enforcement Director, Harry Freitas and staff provided a presentation.

Public Comments: Encouraging Council to reduce the cost of the Urban Agriculture Tax Incentive Application Fees and the need for accessible community gardens, were: Erin Healy (The Health Trust); Jacky Fuera, Veronica Orozco, Eileen Hunter, John Olsen, Azra Caus, Tori Truscheit, Martha Barahona, Rodrigo Orozco, Jumana Latif (La Mesa Verde); Dr. Leslie Gray (Santa Clara County Food System Alliance); Jamie Chen (Sacred Heart Community Services); Esther Ng (Veggielution); Denise Olena, Jessica Schweiger, Brenta Carvalho; Mary Helen Doherty Sandi Taylor, Alrie Middlebrook and Moria Merriweather.

2.30 (Cont'd.)

Planning, Building and Code Enforcement Director, Harry Freitas described possible alternatives for the fee hike and offered to report back to Council with more information on bundling contiguous parcels and monitoring fees. Council discussion followed.

Vice Mayor Rose Herrera, District 8 and Council Member Raul Peralez, District 3 offered donations from their district funds for two applications in the amount of \$308 each, totaling \$616.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 78032, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737, as Previously Amended by Resolutions Nos. 73019, 73056, 73242, 73637, 73831, 73879, 73881, 74035, 74047, 74452, 74839, 74841, 74981, 75135, 75334, 75338, 75442, 75502, 75509, 75600, 75610, 75639, 75641, 75684, 75725, 75783, 75863, 75913, 76085, 76230, 76282, 76397, 76476, 76611, 76663, 76953, 77018, 77102, 77110, 77137, 77253, 77382, 77558 and 77784 to Establish the Urban Agriculture Incentive Zone Application Fee, to be Effective November 15, 2016", was adopted, as amended, Staff recommendation Alternative #1 was approved: charging a fee of \$308 for two hours of Staff time. Two applications will be paid by donations from Vice Mayor Rose Herrera, District 8 and Councilmember Raul Peralez, District 3, in the amount of \$308 each, totaling \$616. (11-0.)

- 2.31 (a) Adopt a resolution approving a Third Addendum to the Sign Code Negative Declaration (Resolution No. 76826), for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended.**
- (b) Approve an ordinance amending Title 23 (the Sign Code) of the San José Municipal Code to amend Chapter 23.04, Part 1, Commercial and Industrial Zoning Districts and Neighborhood Business Districts, Section 23.04.20 Attached Signs, to allow large ground-level single tenant spaces located within a Shopping Center Site to have additional and large Attached Signs, flexibility in placement of Attached Signs on an Occupancy Frontage, and specify the maximum size and number of Attached Signs; and make nonsubstantive, ministerial, technical, or typographical changes to various Sections of Chapter 23.04 of the Sign Code.**

CEQA: Negative Declaration, File No. PP13-067, and Addenda thereto File Nos: PP13-083, PP14-007 and PP16-083. (Planning, Building, and Code Enforcement)

Documents Filed: (1) Memorandum from Planning, Building and Code Enforcement Director, Harry Freitas, dated November 21, 2016, recommending adoption of a resolution and approval of an ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on December 2, 2016, submitted by the City Clerk.

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

2.31 (Cont'd.)

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 78033, entitled: “A Resolution of the Council of the City of San José Adopting the Addendum to the San José Sign Code Update Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as amended, was adopted; and Ordinance No. 29843, entitled: “A Ordinance of the Council of the City of San José Amending Section 23.04.020 of Part 1 of Chapter 23.04 of Title 23 of the San José Municipal Code to Increase the Number of Attached Signs Allowed for Large Ground-Level Single Tenant Spaces Located on Large Shopping Center Sites, Including Specific Regulations Related to the Number, Size and Location of These Additional Attached Signs and Making Other Nonsubstantive, Ministerial, Technical, or Typographical Changes to Chapter 23.04 of the Sign Code”, was passed for publication. (10-0-1. Absent: Peralez.)

- 2.32 (a) **Approve the proposed 2016-2018 Spending Plan for the Supplemental Law Enforcement Services (SLES) Grant in the amount of \$1,604,880 and authorize the Chief of Police to amend the Spending Plan in conformity to the budget priorities set out in the memorandum to Council in the event State SLES Grant payments are less or more than expected.**
- (b) **Approve the revised 2015-2017 Spending Plan for the Supplemental Law Enforcement Services (SLES) Grant in the amount of \$2,061,872, including the addition of a new Crime Prevention Community Policing Program.**
- (c) **Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services Fund:**
- (1) **Increase the estimate for Revenue from State of California by \$609,623;**
 - (2) **Establish an appropriation for Revenue from the Use of Money/Property in the amount of \$7,105;**
 - (3) **Increase the appropriation to the Police Department for the SLES Grant 2015-2017 in the amount of \$473,017;**
 - (4) **Establish an appropriation to the Police Department for the SLES Grant 2016-2018 in the amount of \$143,711.**

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

Documents Filed: Joint Memorandum from Police Chief Edgardo Garcia and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 30, 2016, recommending approval of spending plans and adoption of appropriation ordinance and funding resources resolution amendments.

Public Comments: Blair Beekman spoke on good reasoning and self-defense for police officers.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Ordinance No. 29844, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 To Appropriate Moneys in the Supplemental Law Enforcement Services (SLES) Fund for the SLES Grant 2015-

2.32 (Cont'd.)

2017 and SLES Grant 2016-2018; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78034, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the Supplemental Law Enforcement Services (SLES) Fund”, were adopted. (10-0-1. Absent: Peralez.)

- 2.33 (a) **Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2016 UASI grant allocation in the amount of \$1,403,416, and to negotiate and execute additional amendments and related documents without further City Council action.**
- (b) **Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) **Establish a City-Wide Expenses appropriation to the Police Department for the Urban Areas Security Initiative Grant - Police 2016 in the amount of \$733,382;**
 - (2) **Establish a City-Wide Expenses appropriation to the Fire Department for the Urban Areas Security Initiative Grant - Fire 2016 in the amount of \$340,694;**
 - (3) **Increase the estimate for Revenue from Federal Government by \$1,074,076.**

CEQA: Not a Project, File No. PP10-066(g), Grant Agreements and Memorandum of Understanding. (Police/Fire/City Manager)

Documents Filed: Joint memorandum from Police Chief Edgardo Garcia, Fire Chief Curtis P. Jacobson and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 28, 2016, recommending adoption of a resolution and adoption of appropriation ordinance and funding resources resolution amendments.

Action: Resolution No. 78035, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with the City and County of San Francisco, Acting as Fiscal Agent for the Bay Area Urban Areas Security Initiative (UASI), to Accept the Federal Fiscal Year 2016 UASI Grant Allocation in the Amount of \$1,403,416, and to Negotiate and Execute Additional Amendments and Related Documents Without Further City Council Action”; Ordinance No. 29845, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the General Fund for the Urban Areas Security Initiative Grant – Police 2016 and the Urban Areas Security Initiative Grant – Fire 2016; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78036 Amending Resolution No. 77796 Setting Forth The Estimated Sources Of Funds For The Fiscal Year 2016-2017 To Adjust Revenues In The General Fund”, were Adopted. (10-0-1. Absent: Peralez.)

- 2.34 Approve the First Amendment to the 7417 – City Facilities On-Call Mechanical Contract with Kinetics Mechanical Service Inc. to:**
- (a) Extend the Contract term by six months from the expiration date of December 31, 2016 to June 30, 2017;**
 - (b) Make the California Department of Industrial Relations 2016-2 Wage Index applicable to the payment of prevailing wages for the period of December 31, 2016 to June 30, 2017.**

CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)

Documents Filed: City Council Action Request from Director of Public Works, Barry Ng, dated December 13, 2016, recommending approval of a First Amendment.

Action: The First Amendment to the 7417 – City Facilities On-Call Mechanical Contract with Kinetics Mechanical Service Inc. to: (a) Extend the Contract term by six months from the expiration date of December 31, 2016 to June 30, 2017; and (b) Make the California Department of Industrial Relations 2016-2 Wage Index applicable to the payment of prevailing wages for the period of December 31, 2016 to June 30, 2017, was approved. (10-0-1. Absent: Peralez.)

- 2.35 Report on bids and award of contract for the 8149 – Large Trash Capture Device Installation - Phase IV project to the low bidder, KJ Woods Construction, Inc. in the amount of \$3,248,000, and approval of a contingency in the amount of \$324,800. CEQA: Citywide Large Trash Capture Device Installation, File No. PP15-081 dated September 1, 2015 is an Addendum to a Mitigated Negative Declaration for a previous project File No. PP08-257 adopted on January 22, 2009. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Barry Ng, dated November 21, 2016, recommending acceptance of a report on a bid and award of a contract.

Action: The report on bids and award of contract for the 8149 – Large Trash Capture Device Installation - Phase IV project to the low bidder, KJ Woods Construction, Inc. in the amount of \$3,248,000, with related contingency, was approved. (10-0-1. Absent: Peralez.)

- 2.36 Report on bids and award of a design-build construction contract for 7338 – PAC Fire Alarm Replacement Rebid to the low bidder, Rollin Electric, in the amount of \$740,716, and approval of a contingency in the amount of \$111,107. CEQA: Exempt, Section 15301 Existing Facilities, File No. PP15-052. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Barry Ng, dated November 21, 2016, recommending acceptance of a report on a bid and award of a contract.

Action: The report on bids and award of contract for 7338 – PAC Fire Alarm Replacement Rebid to the low bidder, Rollin Electric, in the amount of \$740,716, with related contingency, was approved. (10-0-1. Absent: Peralez.)

- 2.37 Approve Master Agreements with IBI Group and Group 4 Architecture Research + Planning, Inc. for architectural design and master planning services from the date of execution through December 31, 2020 in an amount not to exceed \$1,000,000 for each agreement. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. PW**

Action: Deferred to January 10, 2017 Per Administration.

- 2.38 Report on bids and award of contract for the 7636 - Mineta San José International Airport – Northeast Cargo Switchgear and Generator Relocation project to the low bidder, Rosendin Electric, Inc., in the amount of \$1,345,509; and approve a contingency in the amount of \$134,551. CEQA: Resolution Nos. 67380 and 71451, File No. PP16-060. (Public Works/Airport)**

Documents Filed: (1) Joint memorandum from Director of Public Works, Barry Ng and Director of Aviation, Kimberly J. Becker, dated November 21, 2016, recommending acceptance of a report on a bid and award of a contract. (2) Supplemental memorandum from Director of Public Works, Barry Ng and Director of Aviation, Kimberly J. Becker, dated December 9, 2016, providing additional bid information.

Action: The report on bids and award of contract for 7636 - Mineta San José International Airport – Northeast Cargo Switchgear and Generator Relocation project to the low bidder, Rosendin Electric, Inc., in the amount of \$1,345,509, with related contingency, was approved. (10-0-1. Absent: Peralez.)

- 2.39 (a) Report on bids and award of a construction contract for 7267 – Bramhall Park Lawn Bowling Green Renovation project to the low bidder, Goodland Landscape Construction, Inc. for the base bid in the total amount of \$1,104,350 and approval of a five percent contingency in the amount of \$55,218;**
- (b) Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:**
- (1) Increase the Bramhall Park Lawn Bowling project to the Parks, Recreation and Neighborhood Services Department by \$455,000;**
 - (2) Decrease the Future PDO/PIO Project Reserves by \$455,000.**

CEQA: Exempt, Section 15301 Existing Facilities, File No. PP15-065. Council District 6. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: Joint memorandum from Director of Public Works, Barry Ng, Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 21, 2016, recommending acceptance of a report on bids and adoption of appropriation ordinance amendments.

Public Comments: Heather Seacrist encouraged the renovations proposed for the lawn bowling facility in her neighborhood.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the report on bids and award of a construction contract for 7267 – Bramhall Park Lawn Bowling Green Renovation project to the low

2.39 (Cont'd.)

bidder, Goodland Landscape Construction, Inc. for the base bid in the total amount of \$1,104,350, with related contingencies was accepted; and Ordinance No. 29846, entitled: "A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Subdivision Park Trust Fund for the Bramhall Park Lawn Bowling Green Renovation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0-1. Absent: Peralez.)

2.40 Approve a Vehicle Registration Fee Grant Agreement with the Santa Clara Valley Transportation Authority in an amount not to exceed \$958,000 to fund five transportation infrastructure and signal retiming projects throughout San José. CEQA: Exempt, Section 15301 Existing Facilities, File No. PP16-112. (Transportation)

Documents Filed: City Council Action Request from Director, Department of Transportation, Jim Ortbal, dated December 13, 2016, recommending approval of a grant agreement.

Action: A Vehicle Registration Fee Grant Agreement with the Santa Clara Valley Transportation Authority in an amount not to exceed \$958,000 to fund five transportation infrastructure and signal retiming projects throughout San José, was approved. (11-0.)

2.41 Approve a Cost Sharing Agreement with the Santa Clara Valley Transportation Authority for construction of improvements to the existing pavement and sidewalk as part of the Alum Rock/Santa Clara Bus Rapid Transit Project in the amount of \$3,600,000. CEQA: Exempt, File No. PP13-075. Council District 5. (Transportation)

Documents Filed: Memorandum from Director, Department of Transportation, Jim Ortbal, dated November 21, 2016, recommending approval of a cost sharing agreement.

Councilmember Magdalena Carrasco offered accolades and thanks to everyone involved and extended an invitation to Alum Rock Avenue's tree-lighting celebration.

Action: Upon motion by Councilmember Magdalena Carrasco, seconded by Vice Mayor Rose Herrera and carried unanimously, a Cost Sharing Agreement with the Santa Clara Valley Transportation Authority for construction of improvements to the existing pavement and sidewalk as part of the Alum Rock/Santa Clara Bus Rapid Transit Project in the amount of \$3,600,000, was approved. (11-0.)

2.42 Accept the annual and five-year report prepared in accordance with the Mitigation Fee Act (Government Code section 66000 *et seq.*) on the status of the City's four traffic impact fee programs: North San José, Evergreen-East Hills, US-101/Oakland/Mabury, and Interstate 280/Winchester Boulevard. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Transportation)

Documents Filed: Memorandum from Director, Department of Transportation, Jim Ortbal, dated November 21, 2016, recommending acceptance of the reports.

2.42 (Cont'd.)

Action: The annual and five-year report prepared in accordance with the Mitigation Fee Act (Government Code section 66000 *et seq.*) on the status of the City's four traffic impact fee programs: North San José, Evergreen-East Hills, US-101/Oakland/Mabury, and Interstate 280/Winchester Boulevard, were accepted. (11-0.)

- 2.43 (a) Adopt a resolution to appoint Walter Katz as the City's Independent Police Auditor for a four-year term, commencing January 1, 2017 through December 31, 2020.**
- (b) Adopt a resolution to grant an additional 100 hours of Executive Leave to the City Manager for the 2017 payroll calendar year.**
- CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated December 8, 2016, recommending adoption of a resolution.

Action: Resolution No. 78037, entitled: "A Resolution of the Council of the City of San José Approving the Appointment of Walter W. Katz as Independent Police Auditor with a Term Starting on January 1, 2017 and Ending on December 31, 2020"; and Resolution No. 78038, entitled: "A Resolution of the Council of the City of San José Approving the Grant of Additional Executive Leave to the City Manager for the 2017 Payroll Calendar Year", were adopted. (11-0.)

2.44 As recommended by the Rules and Open Government Committee on December 7, 2016:

- (a) Approve the Independent Police Auditor Community Trust in Policing Forum scheduled on Saturday, January 21, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve the Independent Police Auditor Strengthening Community Relations Project as City Council sponsored Special Events and approve the expenditure of funds.**
- (c) Approve and accept donations from various individuals, businesses or community groups to support the events.**

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated December 9, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Independent Police Auditor Community Trust in Policing Forum as a City Council Sponsored Special Event, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.3 Accept the Open Audit Recommendations Status Report. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Auditor/City Manager)

Documents Filed: Joint memorandum from City Manager Norberto Dueñas and City Auditor Sharon W. Erickson, dated December 2, 2016, recommending acceptance of the report.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pierluigi Oliverio and carried unanimously, the Open Audit Recommendations Status Report was accepted. (11-0.)

Note: Items 3.4, 3.5 and 9.2 were heard concurrently.

3.4 Accept the Fiscal Year 2015-2016 Comprehensive Annual Financial Report for the City of San José. CEQA: Not a Project. File No. PP10-069(a), Organizational and Administrative Activities, Staff Reports. (Finance)

Heard Jointly with Items 3.5 And 9.2.

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated November 21, 2016, recommending acceptance of the financial report.

City Manager Norberto Dueñas and City Auditor Sharon W. Erickson provided opening comments. Director of Finance, Julia Cooper and staff provided a presentation and responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, the Fiscal Year 2015-2016 Comprehensive Annual Financial Report for the City of San José was accepted.

3.5 Accept the Single Audit Report and Report to Those Charged with Governance for the year ended June 30, 2016 as issued by Grant Thornton LLP, the City's external auditor. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Finance)

Heard Jointly with Items 3.4 And 9.2.

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated December 1, 2016, recommending acceptance of the report.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, the Single Audit Report and Report to Those Charged with Governance for the year ended June 30, 2016 as issued by Grant Thornton LLP, the City's external auditor was accepted. (11-0.)

3.6 Accept the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2015-2016. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Staff Reports. (Finance)

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated November 21, 2016, recommending acceptance of the annual debt report.

Director of Finance, Julia Cooper, offered a report and responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pierluigi Oliverio and carried unanimously, the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2015-2016 was accepted. (11-0.)

3.7 As recommended by the Community and Economic Development Committee on November 28, 2016:

- (a) **Accept staff's report on the Business Tax Modernization and Minimum Wage Increase Outreach Plan;**
- (b) **Approve an ordinance adding a new Section 4.76.290.5 to Chapter 4.76 of Title 4 of the San José Municipal Code to extend the deadline from July 1, 2017 to December 15, 2017 for residential landlords of 1 or 2 units to register with the City and pay the Business Tax owed as of July 1, 2017 without incurring interest or penalties;**
- (c) **Adopt the following 2016-2017 Appropriation Ordinance Amendments in the General Fund:**
 - (1) **Increase the Finance Department Non-Personal/Equipment appropriation by \$150,000; and**
 - (2) **Decrease the Business Tax Outreach Reserve by \$150,000.**

**CEQA: Exempt, CEQA Guidelines Section 15378(b)(4). (Finance/City Manager)
[Community and Economic Development Committee referral 11/28/16 – Item (d)(7)]**

Documents Filed: (1) Memorandum from Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 28, 2016, requesting approval to allocate funding to implement the Plan. (2) Memorandum from City Clerk Toni J. Taber, dated December 1, 2016, transmitting the recommendations of the Community and Economic Development Committee.

Division Manager Nina Grayson responded to questions and indicated that a summary of 'frequently asked questions' will be out in January 2017. She and Director of Finance, Julia Cooper, responded to questions, and Council discussion followed.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio, and carried unanimously, Ordinance No. 29848, entitled: "A Ordinance of the Council of the City of San José Amending Chapter 4.76 of Title 4 of the San José Municipal Code Adding a New Section 4.76.290.5 to Extend the Deadline from July 1, 2017 to December 15, 2017 for Residential Landlords of 1 or 2 Units to Apply for a Business Tax Certificate and Pay the Business Tax Owed as of July 1, 2017 Without Incurring Interest or Penalties", was passed for publication; Ordinance No. 29849, entitled:

3.7 (Cont'd.)

“An Ordinance of the Council of the City of San José Authorizing Amending Ordinance No. 29762 to Appropriate Moneys in the General Fund for the Finance Department Non-Personal/Equipment Appropriation for the Business Tax Outreach Plan; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

3.8 **Appoint Lawrence Jay Castellano to the Board of Administration for Federated City Employees Retirement System for the term December 1, 2016 to November 30, 2020. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (City Clerk) (Deferred from 12/6/16 – Item 2.7)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated November 23, 2016, recommending appointment of a member to the Board of Administration for Federated City Employees Retirement System. (2) Memorandum from City Attorney Richard Doyle, dated December 12, 2016, updating the conflict of interest information.

Public Comment:

Bob Leininger, representing the Board of Directors of the Federated Retirement Employee’s Association, offered support to the appointment. Brad Imamura argued that he received the majority of votes and should be appointed, and Gary Jansen and David Freitas offered agreement with Mr. Imamura.

Assistant City Attorney Ed Moran and City Clerk Toni J. Taber, CMC, offered insight into the process, indicating that the panel’s decision takes precedent over the vote.

Motion: Councilmember Johnny Khamis moved rejection of the panel’s decision and recommended appointment of Brad Imamura. The motion was seconded by Councilmember Pierluigi Oliverio.

Substitute motion: Vice Mayor Rose Herrera moved returning this item back before the panel for further review. Councilmember Tam Nguyen seconded the motion.

Action: On a call for the question, the substitute motion carried, with the appointment of Lawrence Jay Castellano to the Board of Administration for Federated City Employees Retirement System not approved, but with Staff directed to return Item 3.8 back to the Panel for further review and analysis. (8-3. Noes: Khamis, Oliverio, Rocha.)

3.9 **As recommended by the Rules and Open Government Committee on December 7, 2016:**

- (a) **Direct the City Attorney to draft a resolution that fixes the disparity for retirement plans offered to the Council Members. (Mayor)**
- (b) **Consideration of a resolution increasing the City’s contribution rate for Council Members in the City’s PTC Deferred Compensation Plan. (City Attorney)**

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

3.9 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated December 9, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Mayor Sam Liccardo discussed alternatives for fixing the disparity for retirement plans offered to the councilmembers.

Public Comments: Laverne Washington, representing AFSCME, recommended that this item be deferred until fully vetted.

Councilmember Donald Rocha questioned why no staff report was provided. City Manager Norberto Dueñas responded to questions.

Motion: Councilmember Pierluigi Oliverio moved tabling the motion until the evening session until staff was available and further questions on this item can be answered. Councilmember Raul Peralez seconded the motion.

Action: On a call for the question, the motion to table this item to the evening session was carried. (9-2. Noes: M. Nguyen, T. Nguyen.)

This item was continued to the evening session. Assistant City Attorney Ed Moran, City Manager Norberto Dueñas, Director of Finance, Julia Cooper and Director of Employee Relations, Jennifer Schembri responded to questions.

Motion: Councilmember Donald Rocha moved approval to accept the staff's recommendations. The motion was seconded by Councilmember Raul Peralez.

Action: On a call for the question, the motion carried, and Resolution No. 78041, entitled: "A Resolution of the Council of the City of San José Increasing the City's Contribution Rate for Councilmembers in the City's PTC Deferred Compensation Plan", was adopted. (10-0-1. Absent: Khamis.)

3.10 As recommended by the Rules and Open Government Committee on December 7, 2016:

- (a) **Direct the City Manager to create a six-member date-limited task force to study the opportunities and impacts of implementing requirements for Community Workforce Agreements and Project Labor Agreements on City capital projects, and report back to City Council before June 30, 2017.**
- (b) **Appoint Assistant City Manager Dave Sykes to convene the task force as its Chair.**
- (c) **Appoint Council Member Jones to the panel, representing the City Council.**
- (d) **Direct the City Manager to coordinate with the South Bay Labor Council, San Jose/Silicon Valley Chamber of Commerce, the Santa Clara and San Benito County Building & Trades Council, and the Association of General**

3.10 (Cont'd.)

Contractors, in appointing the remaining four members. Those seats should be divided equally between labor and business representatives.

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated December 9, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: José Garcia, Building Trades Council, provided comments.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, (a) the City Manager was directed to create a six-member date-limited task force to study the opportunities and impacts of implementing requirements for Community Workforce Agreements and Project Labor Agreements on City capital projects, and report back to City Council before June 30, 2017; (b) Assistant City Manager Dave Sykes was appointed to convene the task force as its Chair; (c) Councilmember Jones was appointed to the panel, representing the City Council; and (d) the City Manager was directed to coordinate with the South Bay Labor Council, San Jose/Silicon Valley Chamber of Commerce, the Santa Clara and San Benito County Building & Trades Council, and the Association of General Contractors, in appointing the remaining four members. Those seats should be divided equally between labor and business representatives. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Conduct a Public Hearing regarding an economic development subsidy in connection with a below-market-rate lease with the San Jose Downtown Association, pursuant to California Government Code Section 53083.**
- (b) Adopt a resolution authorizing the City Manager or his designee to negotiate a lease of approximately 12 parking spaces inside of the City-owned parking garage at 45 N. Market St. with the San Jose Downtown Association for a period of five years with one five-year option for \$1 per year for the development of four retail units and a contribution to the tenant improvements in the amount of \$98,000 based upon the terms and conditions outlined in the memorandum to Council and to execute the lease and all other documents needed to complete the transaction.**

CEQA: Not a Project, File No. PP10-069, City Administrative Activities and File No. PP10-066, Agreement and Contracts. Council District 3. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated November 21, 2016, recommending conducting a public hearing and adoption of a resolution.

Assistant to the City Manager, Blage Zelalich, provided a brief report.

4.1 (Cont'd.)

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 Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 78042, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to Negotiate a Lease of Approximately 12 Parking Spaces for \$1 Per Year in the City-Owned Parking Garage at 45 North Market Street with the San José Downtown Association for the Development of Four Retail Units, for a Period of Five Years with One Five-Year Option, with a Contribution by the City to the Tenant Improvements in the Amount of \$98,000, and to Execute the Lease and All Other Documents Necessary to Complete the Transaction", was adopted. (11-0.)

4.2 **Adopt a resolution declaring the continued existence of a shelter crisis in the City of San José pursuant to and in accordance with the provisions of California Government Code section 8698 et seq. and designating the following four city owned facilities to be occupied as overnight warming facilities by homeless individuals and families during the crisis:**

- (a) **Bascom Community Center, 1000 S Bascom Ave, San José, CA 95128;**
- (b) **Tully Community Library, 880 Tully Rd, San José, CA 95111;**
- (c) **Washington United Youth Center, 921 S 1st St, San José, CA 95110;**
- (d) **Bibliotheca Branch Library, 921 S 1st St, San José, CA 95110.**

CEQA: Exempt, Section 15301 Existing Facilities, File No. PP15-119. (Housing)

Documents Filed: Memorandum from Director of Housing, Jacky Morales-Ferrand, dated November 21, 2016, recommending adoption of a resolution.

Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr. and Division Manager, Ray Bramson responded to questions.

Public Comments: Robert Aguire, Gabriela Gabrian, Andrew Lanier, Karen Gillette and Phil Mastrocola spoke to the urgent need for a response to the existing shelter crisis.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 78043, entitled: "A Resolution of the Council of the City of San José Declaring a Continued Shelter Crisis in the City of San José and Designating Facilities for Overnight Warming Center Activation", was adopted. (11-0.)

- #### 4.3
- (a) **Adopt a resolution approving a Fourth Addendum to the Sign Code Negative Declaration (Resolution No. 76826), for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended.**
 - (b) **Approve an ordinance amending Title 23 (the Sign Code) of the San José Municipal Code to amend Parts 1 and Part 4 of Chapter 23.02 and Parts 1 and 2 of Chapter 23.04 to allow and regulate supergraphic signs in the Downtown Sign Zone and the North San José Signage Area, including specific regulations**

4.3 (Cont'd.)

- (b) related to the number, size, and location of supergraphic signs; to amend and add definitions related to supergraphic signs, including but not limited to revising the definition of Banner Sign, defining “Historic Building”, “Large Downtown Convention”, “Large Downtown Special Event”, “Peak Room Nights”, and “Supergraphic Sign”; and to make nonsubstantive, ministerial, technical, or typographical changes to various Sections of Chapters 23.02 and 23.04 of the Sign Code. (File No. PP16-131).
- (c) Direct staff to report back to the City Council in three years with an evaluation of the effectiveness of the Ordinance and any recommended changes to improve outcomes.

CEQA: Negative Declaration, File No. PP13-067, and Addenda thereto File Nos. PP13-083, PP14-007, PP16-083 and PP16-131. (Planning, Building, and Code Enforcement)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Councilmember Raul Peralez and Councilmember Manh Nguyen, dated December 9, 2016. (2) Memorandum from Planning, Building and Code Enforcement Director, Harry Freitas, dated November 23, 2016, recommending adoption of a resolution and approval of an ordinance. (3) Letter from President of the San José/Silicon Valley Chamber of Commerce Matthew Mahood, dated December 12, 2016, expressing support to the sign ordinance recommendations. (4) Proof of Publication of Notice of Public Hearing, executed on December 2, 2016, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Harry Freitas offered an introduction, and Principal Planner, Planning, Building and Code Enforcement, Jenny Nusbaum provided a presentation.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Offering comments regarding safety issues, were Tessa Woodmansee and Andrew Boone.

Mayor Sam Liccardo closed the public hearing.

Council discussion followed, and Assistant City Attorney Ed Moran offered clarifications on the proposed ordinance.

Motion: Councilmember Raul Peralez moved approval of the memorandum he coauthored with Mayor Sam Liccardo and Councilmember Manh Nguyen, dated December 9, 2016. Councilmember Chappie Jones seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 78044, entitled: “A Resolution of the Council of the City of San José Adopting the Addendum to the San José Sign Code Update Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, As Amended”, was adopted; Ordinance No. 29850, entitled: “A Ordinance of the Council of

4.3 (Cont'd.)

the City of San José Amending Part 1 of Chapter 23.02 and Parts 1 and 2 of Chapter 23.04 of Title 23 of the San José Municipal Code to Allow and Regulate Supergraphic Signs in Both the Downtown Sign Zone and the North San José Signage Area, Including Specific Regulations Related to the Number, Size, Location and Duration of Supergraphic Signs, and to Amend and Add Definitions Related to Supergraphic Signs and Make Other Nonsubstantive, Ministerial, Technical, or Typographical Changes to Chapter 23.04 of the San José Municipal Code”, was passed for publication; and the memorandum from Mayor Sam Liccardo, Council Member Raul Peralez and Council Member Manh Nguyen, dated December 9, 2016, was approved, accepting the Staff recommendation with the following direction to the City Manager: (1) Report back to Council with a community outreach strategy expanding on Council Policy 6-30 that engages the community prior to supergraphics being displayed on any eligible building; (2) Within the 14-day timeframe of the display of a supergraphic sign associated with a large convention or special event, allow for flexibility to enable the applicant to shift all or most of the timeframe to a duration prior to the actual date of the event, rather than after the conclusion of the event; (3) Based on prior Council direction and on the experience of City Staff in observing the Denver “Arts District” model, analyze a fee structure and return to Council during the budget process to assess whether and how San José could use supergraphic fee revenues to fund Downtown and North San José aesthetic improvements such as cleanup, graffiti removal, beautification and murals.

4.4 As recommended by the Rules and Open Government Committee on November 30, 2016:

- (a) **Approve an ordinance amending Section 4.46.036 of Chapter 4.46 and Section 4.47.089 of Chapter 4.47 of Title 4 of the San José Municipal Code to suspend fifty percent (50%) of construction taxes on high-rise developments in the Downtown Area and to provide for payment at time of issuance of the Certificate of Occupancy.**
- (b) **Adopt a resolution setting the Parkland Fees charged for residential downtown high-rise developments at fifty percent (50%) of the applicable Parkland Fees for multi-family 5+ units in the Downtown Area and to provide for payment at time of issuance of the Certificate of Occupancy.**
- (c) **Discussion of memorandum from Mayor Liccardo and Council Member Peralez regarding Downtown High Rise Incentive Program.**

**CEQA: Not a Project, File No. PP10-067(a), Non-Project Specific Funding Mechanism, Increase or Adjustments to Fees, Rates, and Fares. (Mayor/Peralez)
[Rules Committee referral 11/30/16 – Item G.2.]**

Documents Filed: (1) Memorandum from Councilmember Donald Rocha, dated December 12, 2016, offering support to the November 22, 2016 memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez with additional amendments and direction. (2) Memorandum from Councilmember Raul Peralez, dated December 13, 2016, providing recommendations regarding the Program. (3) Memorandum from City Clerk Toni J. Taber, dated December 1, 2016, transmitting the recommendations of the Rules and Open Government Committee. (4) Supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated December 8, 2016,

4.4 (Cont'd.)

Documents Filed (Cont'd.): providing administrative input to support the Rules Committee report. (5) Letter from Teresa Alvarado, San José Director of SPUR, dated December 7, 2016; from Carl Guardino, Silicon Valley Leadership Group and from President of the San José/Silicon Valley Chamber of Commerce Matthew Mahood, both dated December 12, 2016; from Jean Dresden, dated November 29, 2016 and an email from John Leyba, dated December 13, 2016, offering comments and suggestions regarding the high-rise incentive program. Letter from Bill Guthrie, Plumbers & Steamfitters UA Local Union 393, dated December 13, 2016, offering support to the incentive program. (6) “Where the Cranes Are”; Source: Rider Levett Bucknall.

Deputy City Manager/Director of Economic Development Kim Welsh provided a staff report, and Tim Kelly with Keyser Marston Associations provided additional information.

Mayor Sam Liccardo opened the floor for public comment.

Public Comments: Offering comments and suggestions regarding the Mayor’s Fee Waiver Initiative, were: Lisa Long, Wayd LaPearle, Karl Baumheckel, Ricci Herro and Al Gonzalez (UA Local 393); Teresa Alvarado (SPUR); Jeff Cristina (Zanker Recycling); Don Tran (Silicon Valley Leadership Group); Alex Caraballo, Robert Gill, Sal Venture, Gerald Pfeiffer, Stefan Pacleb and Adam Cole (IBEW Local 332); David Neale and Chris Neale (Core Companies); Mark Tersini (KT Urban); Jeff Dreyer Sr, Pat Sausedo (NAIOP); Dennis Martin (San José Stage); José Garcia (Trades Council); Richard Truempler (The Sobrato Organization); Dylan Boldt (Local 483 Sprinkle Fitters); Victor Gomez (SJSV Chamber of Commerce); Dennis Randall (Insight Realty); Bob Leininger, Josh Burroughs, David Lerhausen and Scott Knies.

Mayor Sam Liccardo expressed support to items #2 and #3 from Councilmember Donald Rocha’s memorandum of December 12, 2016. He offered comments on Jean Dresden’s letter dated November 29, 2016, indicating it should come back through the park Greenprint process.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29847, entitled: “A Ordinance of the Council of the City of San José Amending Section 4.46.036 of Chapter 4.46 and Section 4.47.089 of Chapter 4.47 of Title 4 of the San Jose Municipal Code to Expand the Suspension Program for the Collection Of A Portion of Construction Taxes on Downtown High Rise Developments”, was passed for publication; Resolution No. 78039, entitled: “A Resolution of the Council of the City of San José Setting Forth the Schedule of Parkland Fees Charged Pursuant to Chapters 14.25 and 19.38 of the San Jose Municipal Code to Amend Section 2 of Exhibit B of Resolution No. 73587, as Amended, Temporarily Setting the Parkland Fees Charged for High-Rise Multi-Family Residential Projects of Twelve (12) Stories or More Located in the Downtown Core at Fifty Percent (50%) of the Applicable Parkland Fees for Multi-Family 5+ Units in the Downtown Area and Deferring Collection of Parkland Fees to the Time of Issuance of a Certificate of Occupancy, Subject to Developers Meeting Certain Requirements”, was adopted, and including the memorandum from Mayor Sam Liccardo and Council Member Raul Peralez, dated November 22, 2016,

4.4 (Cont'd.)

was approved, with direction to the City Manager to extend the Downtown High Rise Incentive Program for new construction of residential buildings of at least 12 stories in height for the next 1,500 units (including existing allocations) in the Downtown Growth Area, as defined by the Planned Growth Area Diagram in the Envision 2040 San José General Plan (Attachment 1).

- (1) Similar to the preexisting incentive structure, the renewed incentive program should consist of the following elements:
 - (a) Identification of a single point of contact in the Planning Department for high rise projects.
 - (b) Expediting the site development permit process such that a decision will be reached at a Director's Hearing within 120 days upon filing of a completed application and with the applicant's full compliance of regulations relating to public outreach and architectural review.
 - (c) Deferral of fees and taxes to be paid at the time of issuance of a Certificate of Occupancy.
 - (d) Reduction of the aggregate fee and tax burden at levels commensurate with the following:
 1. Reduce Park Fees by 50%
 2. Reduce Construction related taxes by 50%
 3. Other fees or taxes that Staff may publicly propose to Council, upon Council approval
- (2) To qualify for any of these incentives, the high rise residential development must:
 - (a) Break ground by July 2018 and be completed by December 2020.
 - (b) Retain contractors licensed by the State of California and the State of San José.
 - (c) Employ only construction workers who possess licenses and certifications required by the State of California.
 - (d) Post bids on websites such as The Bay Area Builders Exchange for subcontractors to readily access work to bid on for local works in the 9 Bay Area Counties, including Santa Cruz, Monterey and San Benito Counties.
- (3) In addition, the developer who opts in to the Downtown High Rise Residential Incentive Program shall make good faith efforts to:
 - (a) Comply with the State of California's apprenticeship program requirement that at least 16.7% of the hours worked by their respective construction workforces on the project must be worked by registered apprentices from approved apprenticeship training programs.
 - (b) Ensure that 25% of those registered apprentices are identified as having an employment barrier such as homeless, veterans or at risk youth.

From the memorandum from Council Member Donald Rocha, dated December 12, 2016, the following two items were approved:

- (2) Staff was directed to analyze all the proposals (except for the public safety impact fee proposal) outlined on Page 2 of the attached joint letter from the Construction Trades Council, the South Bay Labor Council, and Working Partnerships as part of Staff's existing work plan item on the topic of local hire.

4.4 (Cont'd.)

- (3) Staff was further directed to take steps necessary to return to Council with their analysis of the local hire issue, including the analysis above in Recommendation (2) by June 2017. If any budget allocation or other Council action is needed to facilitate that timeline, Staff was directed to put those decisions before Council in a timely fashion to ensure that the timeline can be met.

Additionally, Staff was directed to update the Nexus Study as part of the Greenprint process. Staff was further directed to provide a verbal update on the timeline status of the Request for Qualifications (RFQ) at Rules and Open Government Committee and/or the Community and Economic Development Committee in January 2017.

(11-0.)

NEIGHBORHOOD SERVICES

- 5.1 As recommended by the Neighborhood Services and Education Committee on November 10, 2016, accept the annual update on capital improvement and bond projects. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Annual Reports that involve no approvals of any City actions. (Parks, Recreation and Neighborhood Services)
(Neighborhood Services and Education Committee referral 11/10/16 – Item d.3)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated December 1, 2016, transmitting the recommendations of the Neighborhood Services and Education Committee. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services, Angel Rios, Jr., dated December 8, 2016, providing updated information on Park Impact Fees.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Tam Nguyen and carried unanimously, the annual update on capital improvement and bond projects was accepted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Adopt the following 2016-2107 Appropriation Ordinance and Funding Sources Resolution amendments in the Airport Capital Improvement Fund:**
 - (1) Establish an appropriation to the Airport Department for Lighting System Upgrade for the CAT II Approach in the amount of \$806,000;**
 - (2) Establish an appropriation to the Airport Department for Airfield Electrical System Upgrade in the amount of \$6,448,000;**
 - (3) Establish an appropriation to the Airport Department for Zero Emissions Buses in the amount of \$12,089,000;**
 - (4) Increase the estimate for Revenue from Federal Government in the amount of \$19,343,000.**
 - (5) Provide that these amendments will automatically expire in the event that revenue from the federal government is not received.**

6.1 (Cont'd.)

- (b) **Adopt the following 2016-2107 Appropriation Ordinance amendments in the Airport Renewal and Replacement Fund:**
- (1) **Establish an appropriation to the Airport Department for Lighting System Upgrade for the CAT II Approach in the amount of \$194,000;**
 - (2) **Establish an appropriation to the Airport Department for Airfield Electrical System Upgrade in the amount of \$1,552,000;**
 - (3) **Establish an appropriation to the Airport Department for Zero Emissions Buses in the amount of \$2,911,000; and**
 - (4) **Decrease the Unrestricted Ending Fund Balance in the amount of \$4,657,000.**

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

Documents Filed: Joint memorandum from Director of Aviation, Kimberly J. Becker and Senior Deputy City Manager/Budget Director, Jennifer A. Maguire, dated November 29, 2016, recommending adoption of appropriation ordinance and funding resources resolution amendments.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Donald Rocha and carried unanimously, Ordinance No. 29851, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Airport Capital Improvement Fund for the Lighting System Upgrade for the Cat II Approach, the Airfield Electrical System Upgrade, and the Zero Emissions Buses; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption and Shall Automatically Expire in the Event that Revenue from the Federal Government Is Not Received”; Ordinance No. 29852, entitled: “A Ordinance of the Council of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Airport Renewal and Replacement Fund for the Lighting System Upgrade for the Cat II Approach, Airfield Electrical System Upgrade, and Zero Emissions Buses; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 78045, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds For the Fiscal Year 2016-2017 to Adjust Revenues in the Airport Capital Improvement Fund; and Providing that this Resolution Shall Automatically Expire in the Event that Revenue From the Federal Government is Not Received”, were adopted. (11-0.)

- 6.2 **Accept the report on the City Administration’s Staffing and Resource Plan for the Diridon Station and Regional Rail Megaprojects. CEQA: Not a Project. File No. PP10-067(a), Non-Project Specific Funding Mechanism, Increase or Adjustment to Fees, Rates & Fares. Council District 3. (Economic Development/Planning, Building and Code Enforcement/Transportation)**

6.2 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated December 9, 2016, recommending accepting the Plan with additional direction. (2) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, Director, Department of Transportation, Jim Ortbal and Planning, Building and Code Enforcement Director, Harry Freitas, dated November 28, 2016, recommending acceptance of the City Administration's Staffing and Resource Plan.

Director, Department of Transportation, Jim Ortbal and Deputy City Manager/Director of Economic Development Kim Walesh provided the staff report.

Motion: Councilmember Raul Peralez moved approval of the staff recommendations, including the memorandum from Mayor Sam Liccardo, dated December 9, 2016. Councilmember Donald Rocha seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the memorandum from Mayor Sam Liccardo, dated December 9, 2016, was approved, accepting the Staffing and Resource Plan for the Diridon Station and Regional Rail Megaprojects as outlined by the Administration, with additional direction to: Engage with the Metropolitan Transportation Commission, Association of Bay Area Governments, Santa Clara Valley Transportation Authority and the California High Speed Rail Authority on the availability of funding sources to support the significant workload related to public and private investments that are envisaged in the area over the next decade. (11-0.)

6.3 **Direct the City Attorney to examine whether or not the City of San José can fine State Agencies for not maintaining or cleaning property within City Boundaries, and determine if the City of San José can bill State Agencies for these services. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (Oliverio)**

Documents Filed: (1) Memorandum from Councilmember Pierluigi Oliverio, dated December 7, 2016, recommending a "Clean City" plan. (2) Letter from Mayor Sam Liccardo to Board of Supervisors President Dave Cortese, dated December 12, 2016, regarding support for a proposed cooperative agreement with CalTrans. (3) Email correspondence from Doris Livezey, Alan Bautista and David Muhlthner, dated December 11 and December 12, 2016, supporting Councilmember Pierluigi Oliverio's proposal.

Public Comments: Ralph Roberts and Robert Aguirre offered comments on blight.

Councilmember Pierluigi Oliverio addressed the letter provided to the Board of Supervisors from Mayor Sam Liccardo and addressed his own memorandum of December 7, 2016, and called forth for support.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the memorandum from Council Member Pierluigi Oliverio, dated December 7, 2016, was referred to the City Manager to analyze the City of San José's options. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Conduct a Public Hearing on the application of Del Toro Trucking for a Non-Exclusive Franchise for the non-exclusive collection, transport, and disposal of residential clean-out material and construction and demolition debris.**
- (b) **Approve an ordinance granting the franchise.**
- (c) **Approve the Non-Exclusive Franchise Agreement for the collection, transport, and disposal of residential clean-out material and construction and demolition debris for a retroactive one-year term from July 1, 2016 to June 30, 2017 with the option of two one-year extensions.**

CEQA: Exempt, File No. PP08-228. (Environmental Services)

Documents Filed: (1) Memorandum from Director, Environmental Services, Kerrie Romanow, dated November 21, 2016, recommending adoption of an ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on December 2, 2016, submitted by the City Clerk.

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 Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29853, entitled: “A Ordinance of the Council of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Uriel Del Toro dba Del Toro Trucking”, was passed for publication, and the Non-Exclusive Franchise Agreement for the collection, transport, and disposal of residential clean-out material and construction and demolition debris for a retroactive one-year term from July 1, 2016 to June 30, 2017 with the option of two one-year extensions, was approved. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 **Successor Agency Board approve:**
- (a) **Purchase and Sale Agreement of Interest in Declaration of Covenants and Restrictions Affecting Real Property, between the Successor Agency to the Redevelopment Agency, as seller, and the County of Santa Clara, as buyer, to acquire the Successor Agency’s interest in the Declaration of Covenants and Restriction Affecting Real Property recorded against the Marriott Hotel, for the Appraised Value of \$12,470,000;**
- (b) **Purchase and Sale Agreement of Interest in Declaration of Covenants and Restrictions Affecting Real Property, between the Successor Agency to the Redevelopment Agency, as seller, and the County of Santa Clara, as buyer, to acquire the Successor Agency’s interest in the Declaration of Covenants and Restrictions Affecting Real Property recorded against the Sheraton Four Points Hotel, for the Appraised Value of \$1,960,000.**

CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts for services that involve no physical changes to the environment. (Successor Agency)

Action: Dropped per Administration.

9.2 Accept the Fiscal Year 2015-2016 Independent Auditor’s Reports and Basic Financial Statements for the Successor Agency to the Redevelopment Agency of the City of San José. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Annual Reports. (Successor Agency/Finance)

Heard Jointly with Items 3.4 and 3.5.

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated November 21, 2016, recommending acceptance of the reports.

Action: See Item 3.4 and 3.5 for action taken.

9.3 Adopt a resolution authorizing the General Counsel to negotiate and execute an agreement with Jones Hall, a Professional Law Corporation, for bond and disclosure counsel services in connection with the potential refunding of Successor Agency Bonds in an amount not to exceed \$450,000. CEQA: Not a Project; File No. PP10-066(e), Agreements and Contracts, Services that involve no physical changes to the environment. (City Attorney)

Documents Filed: Memorandum from Successor Agency General Counsel Richard Doyle, dated December 2, 2016, recommending adoption of a resolution.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Johnny Khamis and carried unanimously, Successor Agency Resolution No. 7055, a Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Authorizing the General Counsel to Negotiate and Execute an Agreement with Jones Hall, a Professional Corporation, for Bond and Disclosure Counsel Services in Connection with a Potential Refunding of Successor Agency Bonds in an Amount Not to Exceed \$450,000, Contingent on the Sale of the Bonds”, was adopted. (11-0.)

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon Council Session at 6:39 p.m.

RECESS/RECONVENE

The City Council recessed at 6:39 p.m. from the afternoon Council Session and reconvened at 7:05 p.m. in the Council Chambers, City Hall.

Present: Councilmembers - Carrasco, Herrera, Jones, Jimenez, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All present.

GENERAL PLAN PUBLIC HEARINGS

10.1 Tentative approval of General Plan Consent Calendar items.

Note: Item 10.1(a) was heard as a Separate Item per Orders of the Day.

(a) General Plan Text Amendment: General Plan Four-Year Review.

**City-initiated General Plan Text Amendments associated with the General Plan Four-Year Review. CEQA: Addendum to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José General Plan Final Program EIR (Resolution No. 77517). Planning Commission recommends approval (4-0-3) (Commissioners Bit-Badal, Ballard, and Vora absent). (Planning, Building and Code Enforcement)
GPT16-009 – Citywide**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmember Chappie Jones, dated December 9, 2016, offering support to the staff recommendation with additional direction. (2) Joint memorandum from Councilmember Donald Rocha and Councilmember Raul Peralez, dated December 9, 2016, offering support to the staff recommendation with additional direction. (3) Memorandum from Councilmember Chappie Jones, dated December 12, 2016, offering support to the staff recommendation with additional direction. (4) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. GPT16-009, dated November 9, 2016. (5) Memorandum from Planning Commission Secretary Harry Freitas, dated November 22, 2016, transmitting the Planning Commission recommendation. (6) Letters from the public: Roy Molseed, Valley Transportation Center, dated November 14, 2016; Greenbelt Alliance, dated November 16, 2016 and December 6, 2016; Brandenburg Properties & the Sobrato Organization, dated December 8, 2016; Teresa Alvarado, Director, SPUR, dated December 8, 2016; SV@Home, dated December 9, 2016; Matthew Warren, Law Foundation of Silicon Valley, dated December 12, 2016; Carl Guardino, Silicon Valley Leadership Group, dated December 12, 2016; Andrew Boone, “I Walk I Bike I Vote”, dated December 13, 2016.

Planning, Building and Code Enforcement Director, Harry Freitas introduced the item, and Division Manager, Michael Brilliot, provided the report.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Providing comments, suggestions and support, were: Ryan Ford, Tessa Woodmansee, Colleen Haley (Destination Home), Amanda Montez (Silicon Valley Leadership Group), Sarah Chaffin, Geoffrey Morgan (First Community Housing), Kevin Zwick (Housing Trust), Pilar Lorenzana (SV@Home), Dan Mountsier (Pinion Property Company), Andrew Boone, Alice Kaufman (Committee for Green Foothills), Matthew Warren (Law Foundation of Silicon Valley), Laura Tolkoff (SPUR), Phil Mastrocola, Robert Aguirre, and Andrew Laneer (Casa de Clara).

10.1 (Cont'd.)

Mayor Sam Liccardo closed the public hearing.

Task Force recommendations were presented by Division Manager Michael Brilliot and General Plan 2040 Task Force Co-Chair, Shirley Lewis. Council discussion ensued.

Motion: Councilmember Chappie Jones moved the memorandum he cosigned with Mayor Sam Liccardo, dated December 9, 2016, with additional direction as indicated below in "Action". Vice Mayor Rose Herrera seconded the motion.

Councilmember Raul Peralez requested an amendment to the motion to include the memorandum he cosigned with Councilmember Donald Rocha dated December 9, 2016. Councilmember Chappie Jones and Vice Mayor Rose Herrera accepted the amendment to their motion.

Action: On a call for the question, the motion was carried, City-initiated General Plan Text Amendments associated with the General Plan Four-Year Review was accepted, including the memorandum from Mayor Sam Liccardo and Council Member Chappie Jones, dated December 9, 2016, approving the Staff recommendations with the additional direction to the City Manager to:

- (1) Attachment D, Chapter 4, "Affordable Housing" section, Page 31, H-2.9, 3. – Revise as bolded and underlined: The site has adjacent properties with a residential General Plan Land Use/Transportation Diagram designation on at least ~~one side~~ two sides and the development would be compatible with the surrounding neighborhood.
- (2) Attached E, 2d: Return to Council during the Spring General Plan Hearing with amendments and rezonings for retail uses, as directed by Council in April 2015 with special focus to identifying prime retail sites in retail starved areas of the City, such as North San José and the North 13th Street Corridor.
- (3) Attachment E, 2f(1): Return to Council with further study per the April 2015 Council direction to maintain a minimum FAR for employment uses in the range of .35-.4 for high priority Urban Villages along transit corridors in the near term, as plans are developed.

Also including the memorandum from Council Member Chappie Jones, dated December 12, 2016, was approved, accepting the Staff Report with the following changes:

- (1) Remove/delete General Plan Policy IP Industrial Park Zoning Districts-2.10, which reads: *"To facilitate the development of complete Urban Village areas, following construction of a Signature Project within a future Horizon Urban Village, move the subject Urban Village into the current Planning Horizon."* (Envision San José 2040, Chapter 7, Implementation, Page 9).

And including the memorandum from Council Member Donald Rocha and Council Member Raul Peralez, dated December 9, 2016, was approved, recommending approval of the Staff recommendations, with additional direction: Before Planning Staff begins planning efforts on additional urban village areas, direct Staff to agendaize a Council item for the purpose of seeking input from the Council and the public on where new urban village planning efforts should be targeted. Staff may make recommendations as to which villages they believe should be planned next but should also make an effort to evaluate a

10.1 (Cont'd.)

range of alternatives for Council consideration. Staff should consider whether planning specific villages can help achieve City policy, whether a village has shown market interest or other criteria Staff believes is relevant.

(10-1. Noes: Jimenez.)

(b) **General Plan Text Amendment: Implementation Chapter for Roosevelt Park and Little Portugal Urban Village Plans.**

**Recommendation: Tentative approval of the General Plan Text Amendment to the Roosevelt Park and Little Portugal City Council adopted Urban Village Plans to include an Implementation Chapter. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José General Plan Final Program EIR (Resolution No. 77517). Planning Commission recommends approval (4-0-3) (Ballard, Bit-Badal, and Vora absent). (Planning, Building and Code Enforcement)
GPT16-010 – Council Districts 3 and 5**

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. GPT16-010, dated November 9, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated November 22, 2016, transmitting the Planning Commission recommendation.

Action: Dropped per Orders of the Day.

(c) **Alameda Urban Village Plan Policy Framework. (Cont'd.)**

Tentative approval of the Alameda Urban Village Plan prepared by the City and community to provide a Policy framework to guide new job and housing growth within the Urban Village boundary and guide the preservation of existing neighborhoods and historic buildings. The Plan will also guide the characteristics of the future developments, including buildings, parks, plazas and public art, streetscape and circulation, and financing within this area. This Plan supports the identified growth capacity for this Urban Village in the Envision San José 2040 General Plan, providing the capacity for development of approximately 411 new dwelling units and 1,610 new jobs (483,000 square feet of commercial space).

CEQA: Determination of Consistency with the Envision San José 2040 General Plan (Resolution No. 76041) and Supplemental EIR to the Envision San José General Plan Final Program EIR (Resolution No. 77517). Planning Commission recommends approval (4-0-3) (Commissioners Ballard, Bit-Badal, and Vora absent). Council District 6. (Planning, Building and Code Enforcement)

10.1 (c) (Cont'd.)

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on the Alameda Urban Village Plan, dated November 8, 2016. (5) Memorandum from Planning Commission Secretary Harry Freitas, dated November 22, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on October 14, 2016, submitted by the City Clerk. (4) Letters from the public: Shasta/Hanchett Park Neighborhood Association, dated November 16, 2016; Teresa Alvarado, SPUR, dated December 7, 2016; and Greenbelt Alliance, dated December 12.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Johnny Khamis and carried unanimously, The Almaden Urban Village Plan and SPUR's recommendation of a minimum density of 45 unit/acre were tentatively approved. The implementation factor was dropped per Orders of the Day, to be renoticed and to return to Council in 2017.

END OF CONSENT CALENDAR

- 10.2 (a) Adopt a resolution approving the Evergreen Valley Community College General Plan Amendment Negative Declaration (File No. GP16-007).**
- (b) Tentative approval of the General Plan Land Use/Transportation Diagram Amendment from the Public-Quasi-Public designation to the Neighborhood Community Commercial designation on a 27 gross acre site, located at/on the northeasterly corner of Yerba Buena Road and San Felipe Road (San Jose Evergreen Community College District, Owner).**

CEQA: Evergreen Valley Community College General Plan Amendment Negative Declaration (File No. GP16-007). Planning Commission recommends approval (5-2-0) (Commissioners Pham and Yesney opposed). (Planning, Building and Code Enforcement) GP16-007 – Council District 8

Documents Filed: (1) Joint memorandum from Vice Mayor Rose Herrera, Councilmember Raul Peralez and Councilmember Donald Rocha, dated December 9, 2016, affirming support to the amendment with additional comments. (2) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on File No. GP16-007, dated September 19, 2016. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated October 24, 2016, transmitting the Planning Commission recommendation. (4) Supplemental memorandum from Planning, Building and Code Enforcement Director, Harry Freitas, dated December 8, 2016, identifying a technical error in the findings of the initial study. (5) Proof of Publication of Notice of Public Hearing, executed on August 22, 2016, submitted by the City Clerk. (6) Letters/email correspondence from the public offering opposition: Nancy Solis, LULAC; Greg Lytle, and EvergreenFriends.org, each dated December 9, 2016, and Grace Church of Evergreen, dated November 17, 2016,

10.2 (Cont'd.)

Offering additional feedback regarding the resolution: Sandra Randles, All4Education, dated December 8, 2016; Yolanda Reynolds, dated December 2, 2016; Manjunath Arkalgud; and Larry and Susan Shoemaker; Kelly Erardi; and Nick Leon, December 12, 2016; Email from Indrajit Banerjee, asking the Mayor and certain councilmembers recuse themselves from voting on this issue. (7) “Public Education Inequality: More public school land is needed in San José”, dated December 13, 2016.

Planning, Building and Code Enforcement Supervising Planner, Jared Hart, provided the report.

Mayor Sam Liccardo offered meeting disclosures.

Mayor Sam Liccardo opened the floor for public comment.

Public Comment: Jim Eller, representing the San José Community College District, offered merits to approving a general plan amendment. Dr. Deborah Budd asked that Council consider the full 27 acres for the general plan amendment. Steve and Michel Bennette, representing “Save Evergreen Valley College”, spoke in opposition. Offering varied comments and opinions were: Gina Gates, Sid Singh, Nasreen Rahim, Henry Truong, Brenda Serpa, Lauren Serpa, Sherry Gilmore; Aaron Fritz and Drew (Cushman & Wakefield); Philip Crawford, José Cabrera, Nancy Creveling, Wendy Ho, José Garcia, Mayra Cruz, Craig Mann, Jeff Lease, Rudy Nasol, Paul Fong, Pastor John Goldstein, Kathrin, Natalie Lopez, Robin Hanh, S. Randles, Robert Reese, Chantu Lee, Elizabeth Lee, Wesley Lee, Angie Chen, Camille, Jim Zito, Manju, Indrajit Banerjee, Jurgen Menge, Daniel Reyes, Erik Reyes, Robert Aguirre, Jason Reyer, Debbie Mendez, Terry Schriver, Charlie Wasser, Luc Ha Thi Le, Rashi Kashop, Glen Wetzel, Svetlana Jabari, Marilyn Rodgers and John Brueck.

Jim Eller and Michael from Republic Urban Properties responded to questions, and Planning, Building and Code Enforcement Supervising Planner, Jared Hart responded to questions about the extent of community outreach done.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum she coauthored with Councilmember Raul Peralez, dated November 10, 2016, with change as indicated in “Action”, and the memorandum she coauthored with Council Member Raul Peralez and Council Member Donald Rocha dated December 9, 2016. Councilmember Raul Peralez seconded the motion.

Substitute Motion: Councilmember Tam Nguyen moved deferral of this item until further outreach has been done. Councilmember Pierluigi Oliverio seconded the motion for the purpose of discussion.

The substitute motion failed. (1-10. Noes: Carrasco, Herrera, Jones, Jimenez, Khamis, M. Nguyen, Oliverio, Peralez, Rocha; Liccardo.)

10.2 (Cont'd.)

Action: On a call for the question, the superseding motion passed, and the General Plan Text Amendment was tentatively approved. Resolution No. 78047, entitled: “A Resolution of the Council of the City of San José Adopting the Evergreen Valley Community College General Plan Amendment Negative Declaration, for which an Initial Study was Prepared, all in Accordance with California Environmental Quality Act, as Amended, was adopted, and the memorandum from Vice Mayor Rose Herrera and Council Member Raul Peralez, dated November 10, 2016, was tentatively approved as follows:

- (1) Support the Planning Department’s recommendation to approve the Evergreen Valley Community College General Plan Amendment Negative Declaration.
- (2) Support of Planning Commission’s recommendation to approve the General Plan Land Use/Transportation Diagram Amendment from the Public-Quasi/ Public designation to the Neighborhood Community Commercial designation for the entire surplus 27-acre site.
- (3) ~~Direct Staff to work with applicant on a development agreement which must include conditions on the prohibition of housing. *Not approved.*~~
- (4) If additional City services from Planning and Public Works have to be used, the developer will agree to pay additional fees to recover costs.
- (5) Conduct extensive community outreach with the greater District 8 community during the Planned Development Zoning and Planned Development Permit process.

The memorandum from Vice Mayor Rose Herrera, Council Member Raul Peralez and Council Member Donald Rocha dated December 9, 2016, was tentatively approved as follows:

- (1) Reaffirm support of the Planning Department’s recommendation to approve the Evergreen Valley Community College General Plan Amendment Negative Declaration.
- (2) Support the Planning Commission’s recommendation to change the Land Use/Transportation Diagram Land Use Designation from Public/Quasi-Public to Neighborhood/Community Commercial on the entire 27 acre site.
- (3) The College District is not asking for residential housing and there will be no support for housing when the Planned Development Zoning comes back to Council.
- (4) *Condition for the Applicant:* Conduct a master planning process for the entire 27 acre site which will include significant community engagement.

(10-1. Noes: T. Nguyen.)

- 10.3 (a) Adopt a resolution adopting the TopGolf @ Terra Project Mitigated Negative Declaration, 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) Tentative approval of the General Plan Text Amendment to the Alviso Master Plan to modify the height restriction for a portion of area within the “Village Area” from 45 feet to 65 feet for buildings and allow non-structural uses such as energy saving devices, wireless communication antennae, net poles, and other associated structures to a maximum height of 170 feet. CEQA: Mitigated Negative Declaration for the “Topgolf at Terra Project”. Planning Commission recommended approval (5-0-2). (Commissioners Bit-Badal and Vora absent). (PBCE) GPT16-001 – Council District 4**

10.3/11.4 (Cont'd.)

Item 10.3 was heard concurrently with Item 11.4

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Councilmember Chappie Jones and Councilmember Manh Nguyen, dated December 9, 2016, offering approval of the staff recommendation with direction. (2) Joint memorandum from Vice Mayor Rose Herrera and Councilmember Raul Peralez, dated November 10, 2016, offering recommendations. (3) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on File No. PDC16-001 and PDC16-013, dated November 9, 2016. (4) Memorandum from Planning Commission Secretary Harry Freitas, dated December 1, 2016, transmitting the Planning Commission recommendation. (5) Supplemental memorandum from Planning, Building and Code Enforcement Director, Harry Freitas, dated November 14, 2016, requesting deferral of the item to December 13, 2016. (6) Proof of Publication of Notice of Public Hearings, executed on October 3, 2016, submitted by the City Clerk. (7) Letter from the President of the Board of Supervisors, Dave Cortese, dated November 15, 2016, requesting postponing consideration of this item. (8) Email correspondence from the following: Jane Panico, dated December 5, 2016; Jean Marlowe and Mike Bertram, representing River Oaks Neighborhood Association, dated December 7, 2016; Mitch Pennings, Chris MacIntosh, Carolyn Straub and Steve McHenry, Ann Cardwell, Brian Carr, Penny Pollock, Sammarye Lewis, Al Stojanovich, Devang Sha, Jonah Probell, Mark Espinoza, Gloria McClain, Leslie Erganian, Christine Slocomb, Joanne Lewis, Margaret Hinebaugh, Phillip Higgins, Adam Hunt, Bob Hirt, Donald B. Moody, Shani Kleinhaus, Karl Lisle, Mehedi Chowdhury, Jaime Rivera, Damaris Llamas, Richard Ruiz, Joshua Carman and Annette Herz.

Director of Planning, Building and Code Enforcement Harry Freitas offered an introduction, and Project Manager, Planning, Building and Code Enforcement Sylvia Do, provided a presentation.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Michael Hueck, representing the applicant, TopGolf, spoke to the merits of the project. Addressing the issue of the TopGolf @ Terra Project Mitigated Negative Declaration, were: Jeff Cristina and Michael Gross (Zanker Recycling), Tony Santos, Savianna Carillo, Marisa Quarrato, Gabriella Bedrossian; Gabrielle Feldman (Environmental Policy Solutions, LLC); Viri Santayo, Charles Hsiae, Rachael, Ben, Jessica Pon, Mehdi Chowdhury, Priyanka Srinivasan, Marissa Mathiesen, James Eggers, Robert Hirt, Mackenzie Mossing, Michele Healy, Richard Ruiz, Mark Espinoza, Marios Espinoza, Steven Espinoza; Eileen McLaughlin (Citizens Committee to Complete the Refuge); Ada Marquez, Jonah Probell, Shani (Santa Clara Valley Audubon); Lourdes Rivera and Mark Dobson.

Motion: Councilmember Manh Nguyen moved approval of the memorandum he authored with Mayor Sam Liccardo and Councilmember Chappie Jones. Councilmember Chappie Jones seconded the motion.

10.3/11.4 (Continued)

Councilmember Magdalena Carrasco and Councilmember Raul Peralez expressed concerns regarding the project, and indicated it may not be a good fit for Alviso. Mayor Sam Liccardo indicated the opportunity to create jobs.

Staff responded to questions, and Council discussion continued.

Action: On a call for the question, the motion carried, the General Plan Text Amendment was tentatively approved, and Resolution No. 78046, entitled: “A Resolution of the Council of the City of San José Adopting the TopGolf @ Terra Project Mitigated Negative Declaration, 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”, was adopted, including the memorandum from Mayor Sam Liccardo, Council Member Manh Nguyen and Council Member Chappie Jones, dated December 9, 2016, approving the Staff recommendations with the following direction to the City Manager:

- (1) Revise the General Plan Amendment to the text of the Alviso Master Plan as follows: Modify the height allowed for a portion of the “Village Area” from 40 feet in height to 65 feet in height for buildings and to allow a maximum height of 170 feet for non-building structures, such as ~~energy saving devices, wireless communication antennae~~, net poles and safety netting only ~~and other associated structures~~.
- (2) Ensure that the hours of operation do not exceed midnight on Sunday through Thursday and work towards adjusting the hours of operation from Friday and Saturday that meet the demands of the operator and the community, during the Planned Development permit process.

(9-2. Noes: Carrasco, Peralez.)

10.4 Denial of the General Plan Amendment to the Land Use/ Transportation Diagram from the Open Space, Parklands, and Habitat designation to the Residential Neighborhood designation on a 2.28 gross acre site located at 6100 Winfield Boulevard (Valley Christian Schools, Owner). CEQA: Winfield Boulevard Residential General Plan Amendment Negative Declaration. Planning Commission recommended approval of the Initial Study/Negative Declaration (5-0-2) (Commissioners Bit-Badal and Vora absent) and Denial of the General Plan Amendment (5-0-2) (Commissioners Bit-Badal and Vora absent. (Planning, Building and Code Enforcement) GP16-003 – Council District 10

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. GP16-003, dated October 26, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated November 30, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on October 14, 2016, submitted by the City Clerk.

Action: Dropped per the Applicant Request.

10.5 Adopt a resolution approving all General Plan Amendment actions taken on November 15, 2016, December 6, 2016, and December 13, 2016.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78048, entitled: “A Resolution of the Council of the City of San José Amending Specifying the Council’s Determinations on Proposed Amendments to the Envision San José 2040 General Plan Pursuant to Title 18 of the San José Municipal Code”, was adopted. (11-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 (a) Conforming Rezoning for the Real Property Located at 16455 Almaden Expressway.

**Consideration of an ordinance rezoning a 0.85-gross acre site located at 16455 Almaden Expressway from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District (R.C. Petroleum, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617). Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)
C16-043 – Council District 10**

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. C16-043, dated November 22 2016. (2) Proof of Publication of Notice of Public Hearing, executed on December 2,, submitted by the City Clerk. (3) Letter from Elaine Evans, dated December 9, 2016, offering criticism of the potential rezoning.

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 Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29855, entitled: “A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 0.85 Acre, Situated at the Northwest Corner of Almaden Expressway and Redmond Avenue (16455 Almaden Expressway), from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District”, was passed for publication. (11-0.)

END OF CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 (a) Adopt a resolution adopting the Villas on the Park Project Addendum to the Downtown Strategy 2000 Final Program Environmental Impact Report, and the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Environmental Impact Report, all in accordance with the California Environmental Quality Act, as amended, and adopting a related mitigation monitoring and reporting program.**
- (b) Consideration of an ordinance rezoning certain real property located on a 0.35 gross acre site located at 278 North 2nd Street from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District (Mcmanis, James and Sara W., Owners).**
- (c) Adopt a resolution approving a Conditional Use Permit, subject to conditions, to allow the demolition of an existing building, the construction of a six story, 78-unit residential care facility, and the removal of six ordinance size trees.**
- CEQA: Addendum to the Downtown Strategy 2000 Final Program EIR (Resolution No. 72767), the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), and the Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617). Planning Commission recommends approval (6-0-1) (Commissioner Bit-Badal absent). (Planning, Building and Code Enforcement)**
C16-020 & CP16-014 – Council District 3

Action: Dropped; To Be Renoticed.

- 11.3 Consideration of an ordinance of the City of San José rezoning certain real property on a 0.32-gross acre site located at 1236 Minnesota Avenue from the R-1-8 Single-Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District to allow the development of a single-family residence on a new flag lot behind an existing single family residence (Cyrus and Rebecca Colburn, Owners). CEQA: Exempt under CEQA Guidelines Section 15303(a) for New Construction or Conversion of Small Structures. (Planning, Building and Code Enforcement)**
PDC15-048 – Council District 6

Action: Dropped; To Be Renoticed.

- 11.4 Consideration of an ordinance of the City of San José rezoning certain real property on a 39.9 gross acre site, located at the southeasterly corner of North First Street and Liberty Street (4701 North First Street and 1561 & 1537 Liberty Street) from the CN Commercial Neighborhood and RM Multi-Family Residence Zoning Districts to the CIC(PD) Planned Development Zoning District, to allow up to 72,000 square feet indoor/outdoor recreation and entertainment use (Topgolf), a 200-room hotel, and up to 110,000 square feet of commercial/retail space (Sainte Claire Corp., Owner). CEQA: Mitigated Negative Declaration for the “Topgolf at Terra Project”. Planning Commission recommended approval (3-2-2) (Commissioners Ballard and Yesney opposed, Bit-Badal and Vora absent). (Planning, Building and Code Enforcement)**
PDC16-013 – Council District 4
(Deferred from 12/6/16 – Item 11.5)

11.4 (Cont'd.)

Note: Heard with Item 10.3 – see Item 10.3 for Action taken.

Action: Upon motion by Councilmember Manh Nguyen, seconded by Councilmember Chappie Jones, and carried, Ordinance No. 29854, entitled: “A Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 39.9 Gross Acres Situated on the Southeasterly Corner of North First Street and Liberty Street (4701 North First Street and 1561, 1537 Liberty Street) from the CN Commercial Neighborhood and R-M Multi-Family Residence Zoning Districts to the CIC(PD) Planned Development Zoning District”, was passed for publication. (9-2. Noes: Carrasco, Peralez.)

OPEN FORUM

- (1) Mark Dobson complained about various societal issues.
- (2) Kevin Larsen thanked the Mayor and Council for their service.
- (3) Blair Beekman presented his thoughts pertaining to the Riparian Corridor, TopGolf and alternatives for the Bollinger Road Cell Phone Tower.

Mayor Sam Liccardo thanked Vice Mayor Rose Herrera, Council Member Pierluigi Oliverio and Council Member Manh Nguyen for their exemplary service and leadership to the City of San José and the community.

ADJOURNMENT

The Council of the City of San José was adjourned at 2:17 a.m. in memory of Mrs. Floarvis I. Douglas, affectionately called “Miss Flo”, a beloved resident of East San José for over 52 years and business owner for over 40 years. (Herrera)

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

Smd-rmk/12-13-16MIN

- **NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS**

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10377	S/E Corner of Sierra Rd. and Mercado Way	4	KB Home California LLC	26/162	SFA	Approval

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>
10390	Area generally bounded by Hwy. 85, Great Oaks Blvd., and Little Ave.	2	iStar San Jose, LLC	20/0	Residential



**JOINT CITY OF SAN JOSE CITY COUNCIL/FINANCING AUTHORITY/
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF
THE CITY OF SAN JOSE AGENDA**

TUESDAY, DECEMBER 13, 2016

The meeting of the Joint City of San José Council/Financing Authority - Successor Agency to the Redevelopment Agency of the City of San José convened at 6:22 p.m.

- 2. City Council, City of San José Financing Authority and City of San José Successor Agency Board take the following actions:**
- (a) Adopt a resolution of the City Council approving the underwriters' syndicate for the issuance of airport revenue refunding bonds and the underwriters' pool for the issuance of City of San José Financing Authority lease revenue refunding bonds;**
 - (b) Adopt a resolution of the Successor Agency Board approving the underwriters' syndicate for the issuance of Successor Agency refunding bonds; and**
 - (c) Adopt a resolution of the City of San José Financing Authority Board approving the underwriters' pool for the issuance of City of San José Financing Authority lease revenue refunding bonds.**

CEQA: Not a Project, PP10-069, City Organizational and Administrative Activities. (Finance)

Documents Filed: Memorandum from Director of Finance, Julia Cooper, dated November 21, 2016, recommending adoption of resolutions.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 78040, entitled: "A Resolution of the Council of the City of San José Approving the Underwriter Syndicate for the Issuance of Airport Revenue Refunding Bonds and the Underwriter Pool for the Issuance of City of San José Financing Authority Lease Revenue Refunding Bonds"; Successor Agency Resolution No. 7056, entitled: "A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Approving the Underwriters' Syndicate for the Issuance of Successor Agency Refunding Bonds"; and San José Financing Authority Resolution No. 131, entitled: "A Resolution of the City of San José Financing Authority Approving the Underwriter Pool for the Issuance of City of San José Financing Authority Lease Revenue Refunding Bonds"; were adopted. (11-0.)

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/civiccenrty>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

**The Joint City Council/San José Financing Authority/Successor Agency to The
Redevelopment Agency was adjourned at 6:23 p.m.**

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

Smd/rmk/12-13-16_SJFA_MIN