



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, NOVEMBER 8, 2016

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

Present: Councilmembers - Carrasco, Jones, Herrera, Kalra, 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 9:38 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 (Claim Filed) in four (4) matters; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 with respect to anticipated litigation (Claim Not Filed) in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: Claim of Ingram v. Berget, et al.; Names Of Partie(s) Involved: Felicia Ingram, Scott Berget, Individually and as an Officer of the San Joe Police Department, and Does 1-10; Court: U.S. District Court, Northern Division; Case No. 15-CV—05554-psg; Amount of Money or Other Relief Sought: Damages according to proof; (2) 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; (3) IAFF Local 230 v. City of San José; Names of Partie(s) Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public

CLOSED SESSION (Cont'd.)

Employees Relations Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (4) IFPTE Local 21 v. City of San José; Names of 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, 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 Partie(s) Involved: The People of the State of California ex rel.

CLOSED SESSION (Cont'd.)

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 Partie(s) 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 Partie(s) 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; (16) SJJC Aviation Services, LLC v. City of San José , et al; Names Of Partie(s) Involved: SJJC Aviation Services, LLC, City of San José , City Council of the City of San José and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV246057; H041946; Amount of Money or Other Relief Sought: Damages according to proof; (17) Shahrivar, Farid v. City, et al.; Names Of Partie(s) Involved: Farid Shahrivar, City of San José , a municipality; Rodney Rapson, an individual; David Sykes, an individual; Harry Freitas, an individual; Katherine Jensen, an individual; David Printy, an individual; Danny Tsao, an individual; Katrina Allen, an individual; Doug Baker, an individual; Alex Gurza, an individual; Sarah Nunes, an individual; Les White, an individual; Allen Demers, an individual; Rajiv Das, an individual; Adam Stempel, an individual; Steve Pagan, an individual; Angela Chen, an individual; Mark Danaj, an individual; Robert Fabela, an individual; Susan Lacy, and Does 1 through 45; Court: U.S. District Court, Oakland Division; Case No.: CV-10-01029 PSG; Amount of Money or Other Relief Sought: Damages according to proof; (18) Great Oaks Water, Inc. v. City, et al.; Names Of Partie(s) Involved: Great Oaks Water Company, Inc., John W.S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and Betty B. Roeder, Trustees of the Walter S. Roeder Trust B, the City of San José , the San José Redevelopment Agency, South Bay Water Recycling, Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-04-CV012008; Amount of Money or Other Relief Sought: Damages according to proof; (19) Sharks Sports & Entertainment LLC v. City of San José, et al.; Names Of Partie(s) Involved: Sharks Sports & Entertainment LLC, City of San José , San José City Council, and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; (20) County of Alameda, et al. v. AMBAC Financial, et al; Names Of Partie(s) Involved: County of Alameda; City and County of San Francisco; City of Los Angeles; Los Angeles Department of Water and Power; Los Angeles World Airports; City of Oakland; City of Richmond; Redwood City; East Bay Municipal Utility District; City of Sacramento;

CLOSED SESSION (Cont'd.)

Sacramento Suburban Water District; Sacramento Municipal Utility District; City of San José; City of Stockton; Redevelopment Agency of the City of Stockton; County of Tulare; the Regents of the University of California; Redevelopment Agency of the City of San José; AMBAC Financial Group, Inc.; AMBAC Assurance Corporation; MBIA Inc.; MBIA Insurance Corporation; MBIA Insurance Corp. of Illinois, A/k/a National Public Finance Guarantee Corporation; Syncora Guarantee, Inc., f/k/a XL Capital Assurance Inc.; Financial Guaranty Insurance Company; Financial Security Assurance, Inc.; CIFG Assurance North America, Inc.; Assured Guaranty Corp.; Jason Kissane; Does 1 through 50; Court: Superior Court of California, in and for the City and County of San Francisco; Case No.: CJC-08-004555; Amount of Money or Other Relief Sought: Damages according to proof; (21) RDA/City vs Bank of America, N.A., et al; Names Of Partie(s) Involved: City of San José, the San José Redevelopment Agency, Bank of America, N.A. Merrill Lynch & Co., Inc., UBS AG, UBS Financial Services, Inc., UBS Securities, LLC, MBIA, Inc., Citibank, N.A., Citigroup Financial Products Inc., Citigroup Global Markets Holdings Inc., Morgan Stanley, Rabobank Group, Bayerische, Landesbank Gironzentrale, Piper Jaffrey & Co., Societe Generale SA, Financial Security Assurance, Inc., Assured Guaranty US Holdings Inc., Dexia S.A. National Westminster Bank, PLC, Natixis Funding Corp., Natixis S.A., Goldman Sachs Group, Inc., Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs Bank USA, CDR Financial Projects, Winters & Co., Advisors, LLC, George K. Baum & Co., Sound Capital Management, Inc., Investment Management Advisory Group, Inc., First Southwest Company, PFM Investment, LLC., PFM Asset Management LLC; Court: United States District Court, Northern District of California, San José Division; Case No.: CV 10-2199; Amount of Money or Other Relief Sought: Damages according to proof; (22) Seibert v. City of San José; Names Of Partie(s) Involved: Grant Seibert, City of San José, San José Civil Service Commission, Debra Figone as San José City manager, Alex Gurza as San José Director of Employee Relations, William McDonald as Fire Chief for San José Fire Department, Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-204096;; Amount of Money or Other Relief Sought: Damages according to proof; (23) Ward, Debra and Patricia Tapia v. City, Fire Chief William McDonald, et al; Names Of Partie(s) Involved: Debra Ward; Patricia Tapia; City of San José; Fire Chief William McDonald; Court: Superior Court of California, County of Santa Clara; Case No.: 1-11-CV203561; Amount of Money or Other Relief Sought: Damages according to proof; (24) Lee, Ivan v. City of San José; Names Of Partie(s) Involved: Ivan Lee, City of San José and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-15-CV-287181; Amount of Money or Other Relief Sought: Damages according to proof; (25) Anderson, et al v. City of San José & San José City Council; Names Of Partie(s) Involved: Sarah Anderson, Joana Cruz, Urban Habitat Program and Housing California, City of San José, a Government Entity, San José City Council, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 16-CV-297950; Amount of Money or Other Relief Sought: Damages according to proof; (26) Cali-Arioto, LLC v. City of San José; Names Of Partie(s) Involved: Cali-Arioto, LLC, the City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No.: 16-CV-296549; Amount of Money or Other Relief Sought: Damages according to proof; (27) Nguyen, Cu Thanh v. City of San José; Names

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Of Partie(s) Involved: Cu Thanh Nguyen; City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-268209; Amount of Money or Other Relief Sought: Damages according to proof; (28) Berg & Berg Enterprises, LLC v. City, et al.; Names Of Partie(s) Involved: Berg & Berg Enterprises, LLC, City of San José; San José City Council and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV-091955; Amount of Money or Other Relief Sought: Damages according to proof; (29) Stand for San José, et al. v. City, et al.; Names Of Partie(s) Involved: Stand for San José and Eileen Hannan; City of San José; City Council of the City of San José; Redevelopment Agency of the City of San José; Diridon Development Authority; Court: Superior Court of California, County of Santa Clara; Case No.: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive Relief; (30) Stand for San José, et al. v. City, et al.; Names Of Partie(s) Involved: Stand for San José and Eileen Hannan; Michelle Brenot; Robert Brown; and Robert Shields; City of San José; City Council of the City of San José; Redevelopment Agency of the City of San José; Successor Agency to the Redevelopment Agency of the City of San José; Successor Agency Oversight Board; Diridon Development Authority; Does 1 through 10 inclusive; Athletics Investment Group, LLC; Does 1 through 20, inclusive; Court: Superior Court of California, In and for the County of Santa Clara; Case No.: 1-13-CV-250372; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorney's Fees; (31) Friends of the Willow Glen Trestle v. City of San José, et al.; Names Of Partie(s) Involved: Friends of the Willow Glen Trestle, and unincorporated association; City of San José and City Council of the City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-260439; Amount of Money or Other Relief Sought: Damages according to proof; (32) Alemayehu v. City of San José, et al.; Names Of Partie(s) Involved: Dawit Alemayehu; City of San José and the City of San José Police Department, a municipal corporation; Officer Jorge Garibay #4218; a sworn San José Police Officer and as an individual; Sgt. D. Tran Badge #3262, a San José Police Officer and as an individual; and Does 1 through 40; Court: U.S. District Court, Northern Division; Case No. C14-1738 EJD; Amount of Money or Other Relief Sought: Damages according to proof; (33) Armstrong, David v. City of San José, Alexander Keller, et al.; Names Of Partie(s) Involved: David Armstrong, City of San José, San José Police Officer Alexander Keller, San José Police Officer Baldwin, San José Police Officer Arate, and San José Police Officer Bortolotti; Court: U.S. District Court, Northern Division; Case No.: 16-CV-02938 EJD; Amount of Money or Other Relief Sought: Damages according to proof; (34) Binkovich v. Barthelmy, et al.; Names Of Partie(s) Involved: Aleksandr Binkovich, City of San José, Officer Barthelemy, Officer Grondahl, Officer Panighetti, Officer Craig, Officer Jacob and Officer Bollendorf; Court: U.S. District Court, Northern Division; Case No. C11-03744 PSG; Amount of Money or Other Relief Sought: Damages according to proof; (35) Burt v. City of San José Names Of Partie(s) Involved: Shauncey Burt, the City of San José, the San José Police Department, Unidentified San José Police Officers Numbered 1 through 6 and Does 7 through 50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-15-CV-28121; Amount of Money or Other Relief Sought: Damages according to proof; (36) Chavez-Alvarez v. City of San José Names Of Partie(s) Involved: Rafael Chavez-Alvarez, San José Police

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Department, Court: U.S. District Court, Northern Division; Case No. 16-CV-02796-EJD; Amount of Money or Other Relief Sought: Damages according to proof; (38) Fujikawa, Michael v. City, Chief Chris Moore, et al.; Names Of Partie(s) Involved: Michael Fujikawa, the City of San José; Police Chief Chris Moore, Officers Payne (Badge No. 3971), Officer Pfeifer (Badge No. 3951), Officer Jeffrey (Badge No. 3926), Officer Burke (Badge No. 3949), Officer Akery (Badge No. 3495) and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV-219612; Amount of Money or Other Relief Sought: Damages according to proof; (39) Gonzales v. City of San José, et al.; Names Of Partie(s) Involved: Mary Lou Gonzales, City of San José as a municipal corporation, SJPD Detective Yvonne Delacruz in her official an individual capacity, SJPD Sgt. Archer in his official and individual capacity; SJPD Homicide Detective Jamie (last name unknown) in his individual and official capacity; SJPD Officers Doe 1 to Doe 7 in their individual and official capacities; SJPD Officers and Detectives and Employees Doe 8-50 in their individual and official capacities; Court: U.S. District Court, Northern Division; Case No. 13-CV-00695-BLF (PSG); Amount of Money or Other Relief Sought: Damages according to proof; (40) Hernandez, Juan, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Juan Hernandez, an individual; Nathan Velasquez, and individual; Frank Velasquez, and individual; Rachel Casey, an individual; Mark Doering, an individual; Mary Doering, an individual; Barbara Arigoni, an individual; Dustin Haines-Scrodin, an individual; Andrew Zambetti, an individual; Christina Wong, an individual; Craig Parsons, an individual; I.P., a minor individual; Greg Hyver, an individual; and Todd Broome, an individual, on behalf of themselves and all others similarly situated, City of San José, a municipal corporation; Sam Liccardo, sued in his individual capacity; Edgardo Garcia, sued in his individual capacity; Anthony Yi, an individual; H.A., a minor individual; S.M., a minor individual; and Does 1-38; Court: U.S. District Court, Northern Division; Case No. 5:16-CV-03957 LHK; Amount of Money or Other Relief Sought: Damages according to proof; (41) Hernandez, Luis & Cindy Calderon v. City of San José, et al.; Names Of Partie(s) Involved: Luis Hernandez, Cindy Calderon, City of San José, Ernie Alcantar individually and in his official capacity as Captain, SJPD; and James Werkema, individually and in his official capacity as Lieutenant, SJPD; Court: U.S. District Court, San José Division; Case No.: CV12-02952 HRL; Amount of Money or Other Relief Sought: Damages according to proof; (42) Hernandez, Yanira v. City, Geoffrey Evatt Graves, et al.; City of San José, Geoffrey Evatt Graves and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 114CV270467; Amount of Money or Other Relief Sought: Damages according to proof; (42) Kerkeles v. City of San José, et al.; Names Of Partie(s) Involved: Michael Kerkeles, a.k.a. Michael Kerk, City of San José, Matthew Christian and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV103523; Amount of Money or Other Relief Sought: Damages according to proof; (44) Hung Lam v. City of San José, et al.; Names Of Partie(s) Involved: Hung Lam, individually, through his next friend Kathy Lam; City of San José, a municipal corporation, Larry Esquivel, in his capacity of Chief of Police for the City of San José; Officer Dondi West, individually and in her official position; Court: U.S. District Court, Northern Division; Case No. 14-CV-0087 PSG; Amount of Money or Other Relief Sought: Damages according to proof; (45) Paulino, Eliel

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v. Marco Cruz, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Eliel Paulino, Marco Cruz, individually and as an Officer of the San José Police Department, Gerardo Silva, individually and as an Officer of the San José Police Department, Gurbaksh Sohal, individually and as an Officer of the San José Police Department, and Does 1-10; Court: U.S. District Court, Northern Division; Case No. CV 16-2642 NC; Amount of Money or Other Relief Sought: Damages according to proof; (46) Rice JoAnn, America Savin, et al. v. City, et al.; Names Of Partie(s) Involved: JoAnn Rice, American Savin, Perry Nelson and W.N., a minor by and through his Guardian ad Litem, America Savin, City of San José, San José Police Department, Does 1-10; Court: U.S. District Court; Case No.: 2:13-CV-00334-KJM-CKD; Amount of Money or Other Relief Sought: Damages according to proof; (47) Rodríguez, Lori v. City of San José; Lori Rodríguez, City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-13-CV-241669; Amount of Money or Other Relief Sought: Damages according to proof; (48) Sutter's place, Inc. dba Bay 101 v. City of San José; Names Of Partie(s) Involved: Sutter's Place Inc. dba Bay 101; City of San José; the Division of Gaming Control; Court: Superior Court of California, County of Santa Clara; Case No.: 1-13-CV-258057; Amount of Money or Other Relief Sought: Damages according to proof; (49) Watkins, Sharon, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Sharon Watkins; Sylvia Buchanan, and Deviny Buchanan on her own behalf and on behalf of her minor child, Laniyah Watkins, the City of San José; San José Police Officer Ryan Dote; and San José Police Officer James Soh; Court: U.S. District Court, Northern Division; Case No. 15-CV-05786-LHK; Amount of Money or Other Relief Sought: Damages according to proof; (50) Watson, Lee Darnell v. City of San José; Matthew Brackett; Ryan Hansen; Ronald Hughes, et al.; Names Of Partie(s) Involved: Watson, Lee Darnell, City of San José; Matthew Brackett; Ryan Hansen; Ronald Hughes and Does 1-10; Court: U.S. District Court, Northern Division; Case No. 15-CV-04054-NC; Amount of Money or Other Relief Sought: Damages according to proof; (51) Camacho v. CSJ, et al.; Names Of Partie(s) Involved: Carolina Camacho, individually and as Successor in interest to Jessenia Camacho-Torres, deceased; the City of San José, Amy M. Dorr, Sarah R. Cox; Court: Court of Appeal of the State of California, Sixth Appellate District; Case No.: H041762; Amount of Money or Other Relief Sought: Damages according to proof; (52) Herrera, et al. v. City, et al.; Names Of Partie(s) Involved: Martha Herrera, Michelle Rodriguez, Jessica Rodriguez, Minors, by and through their Guardian ad litem Martha Herrera; City of San José, John Doe and John Doe Company, et al.; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 1-10-CV-165689; Amount of Money or Other Relief Sought: Damages according to proof; (53) City of San José v. CSAA Insurance Exchange; Names Of Partie(s) Involved: City of San José, CSAA Insurance Exchange and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No.: 1-15-CV-284966; Amount of Money or Other Relief Sought: Damages according to proof; (54) Smith, Deanna and Johnny Garcia v. City of San José, Santa Clara Valley Transportation Authority, et al.; Names Of Partie(s) Involved: Deanna Smith and Johnny Garcia, City of San José, a public entity; Santa Clara Valley Transportation Authority, a public entity; Union Pacific Railroad Company, and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-271771; Amount of Money or Other Relief Sought: Damages according to proof; (55)

CLOSED SESSION (Cont'd.)

Avila, Ilido; Angelina Avila; Sonny Avila, a minor; Dominic Avila, a minor; Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, and City of San José; Names Of Partie(s) Involved: Avila, Ilido; Angelina Avila; Sonny Avila, a minor; Dominic Avila, a minor; Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, and City of San José and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-13-CV-245894; Amount of Money or Other Relief Sought: Damages according to proof; (56) Blevins, Lisa v. City of San José; Names Of Partie(s) Involved: Lisa Blevins, City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV270069; Amount of Money or Other Relief Sought: Damages according to proof; (57) City of San José v. County of Santa Clara; Names Of Partie(s) Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, individually and in his official capacity as Santa Clara County Director of Finance, Santa Clara County; Court: Superior Court of California, County of Sacramento; Case No.: CIV536836; Amount of Money or Other Relief Sought: Damages according to proof; (58) City of San José v. First Serve Productions; Names Of Partie(s) Involved: City of San José, First Serve Productions, Inc.; Court: Superior Court of California, County of San Mateo; Case No.: CIV536836; Amount of Money or Other Relief Sought: Damages according to proof; (59) Ted Smith v. City, 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; Pete Constant, in his official capacity as a Councilmember for the City of San José; Ash Kalra, in his official capacity as a 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; 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; Judy Chirco, 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'; Nancy Pyle, in her official capacity as a Councilmember for the City of San José; and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-09-CV-150427; Amount of Money or Other Relief Sought: Damages according to proof; (60) Vietnamese-American Community of Northern California v. City, et al.; Vietnamese-American Community of Northern California; City of San José; City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-107082; Amount of Money or Other Relief Sought: for declaratory and injunctive relief according to proof; (61) Plata, Raymond and Michelle v. City of San José; Names Of Partie(s) Involved: Raymond and Michelle Plata, individual and on behalf of other members of a class of similarly situated residents and taxpayers, City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-258879; Amount of Money or Other Relief Sought: Declaratory Relief, Injunctive Relief; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1)

CLOSED SESSION (Cont'd.)

Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and 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 12:15 p.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

INVOCATION

The Reverend Shelley Booth Denney, Rector, The Episcopal Church in Almaden, provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by students from De Vargas Elementary School.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CONSENT CALENDAR

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

2.1 Approval of Council Minutes:

None provided

2.2 Final Adoption of Ordinances.

None provided

2.3 Approval of Council Committee Minutes.

- (a) Ad Hoc Committee on Development Services Minutes of September 29, 2016. (Mayor)**
- (b) Rules and Open Government Committee Minutes of October 19, 2016. (Mayor)**
- (c) Public Safety, Finance, and Strategic Support Committee Minutes of October 20, 2016. (Oliverio)**

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

Documents Filed: (1) Ad Hoc Committee on Development Services Minutes dated September 29, 2016; (2) Rules and Open Government Committee Minutes dated October 19, 2016; (3) Public Safety, Finance, and Strategic Support Committee Minutes dated October 20, 2016.

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

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.

Councilmember Johnny Khamis provided an overview of the Police and Fire Retirement Board Meeting held November 3, 2016. It was noted that the Fiscal Year 2015-2016 Retirement Plan Investments Annual Report is agendaized for discussion at the November 15, 2016 meeting of the San José City Council.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis and carried unanimously, the Report from the Council Liaison to the Retirement Boards was accepted. (11-0.)

- 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:**
- (1) Increase the estimate for Revenue from the Federal Government by \$223,351; and**
 - (2) Establish an appropriation to the Police Department for the 2016 Justice Assistance Grant in the amount of \$223,351.**

Action: Deferred to November 29, 2016 per Administration.

- 2.8 Adopt a resolution of intention to vacate a portion of Meridian Avenue, south of Fruitdale Avenue with the reservation of a public service easement over the entire area being vacated, and set a Public Hearing on November 29, 2016 at 1:30 p.m. CEQA: Exempt, Section 15305 Minor Alterations in Land Use Limitations, File No. PP16-052. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated October 17, 2016, recommending adoption of a resolution.

Action: Resolution No. 77965, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Meridian Avenue, South of Fruitdale Avenue, and Reserve a Public Service Easement Over the Area Vacated", was adopted. (11-0.)

- 2.9 (a) Approve the San José Gun Buy Back scheduled on December 3, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated October 27, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The San José Gun Buy Back scheduled on December 3, 2016 as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.10 Accept travel payments and authorize travel for Mayor's staff, Shireen Santosham, to Las Vegas, NV from November 14, 2016 to November 16, 2016 for the Andreessen Horowitz a16z Summit. Source of Funds: Andreessen Horowitz (lodging and food); Mayor's Office budget (flight). CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities, Travel. (Mayor)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated September 30, 2016, recommending accepting travel payments and authorization travel for Mayor's staff.

Action: Travel payments and travel authorization for Mayor's staff, Shireen Santosham, to Las Vegas, NV from November 14, 2016 to November 16, 2016 for the Andreessen Horowitz a16z Summit, was accepted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 Establish the Self-Insured Medical Fund and Related Appropriation Ordinance and Funding Sources Resolution Amendments.

- (a) Approve an Ordinance amending Sections 4.80.2010 and 4.80.2020 of Chapter 4.80 of Title 4 of the San José Municipal Code to establish the Self-Insured Medical Fund.
- (b) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the Self-Insured Medical Fund, effective on the date on which the ordinance establishing the Self-Insured Medical Fund becomes effective:
- (1) Establish an estimate for Other Revenue in the amount of \$1,752,000;
 - (2) Establish an estimate for Transfers and Reimbursements in the amount of \$6,789,000;

3.3 Establish the Self-Insured Medical Fund and Related Appropriation Ordinance and Funding Sources Resolution Amendments (Cont'd.)

- (b)
 - (3) Establish an estimate for Revenue from the Use of Money/Property in the amount of \$5,000;
 - (4) Establish a Personal Services appropriation to the Human Resources Department in the amount of \$96,000;
 - (5) Establish a Non-Personal/Equipment appropriation to the Human Resources Department in the amount of \$7,500;
 - (6) Establish a Provider Administration Fee appropriation to the Human Resources Department in the amount of \$157,000;
 - (7) Establish a Stop Loss Premium appropriation to the Human Resources Department in the amount of \$558,000;
 - (8) Establish a Health Plans appropriation to the Human Resources Department in the amount of \$7,104,000;
 - (9) Establish a Self-Insured Medical Claim Reserve in the amount of \$550,000; and
 - (10) Establish an Unrestricted Ending Fund Balance in the amount of \$73,500.
- (c) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the Benefit Fund, effective on the date on which the ordinance establishing the Self-Insured Medical Fund becomes effective:
 - (1) Decrease the estimate for Transfers and Reimbursements by \$1,718,000;
 - (2) Decrease the Health Plans appropriation to the Human Resources Department by \$1,718,000;
 - (3) Decrease the Personal Services appropriation to the Human Resources Department by \$96,000; and
 - (4) Increase the Unrestricted Ending Fund Balance by \$96,000.Ordinance No. 29816 passed for publication.

CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy Making that involves not changes to the physical environment; and Not a Project, File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. (Human Resources/City Manager)

Documents Filed: (1) Joint memorandum from Director of Human Resources, Joe Angelo and Senior Deputy City Manager Jennifer Maguire, dated October 26, 2016, recommending adoption of ordinances and resolutions. (2) Conflict of Interest form from Councilmember Johnny Khamis, dated November 7, 2016, indicating his economic interest in Benefits Experts, Inc., from which he receives income.

Director of Human Resources, Joe Angelo and Division Manager Emily Hendon responded to questions from Council.

Councilmember Johnny Khamis indicated a conflict of interest due to his position as Council Liaison to the Retirement Boards.

3.3 Establish the Self-Insured Medical Fund and Related Appropriation Ordinance and Funding Sources Resolution Amendments (Cont'd.)

Motion: Vice Mayor Rose Herrera moved approval of staff's recommendations with direction to return in one year for an evaluation of the Self-Insured Medical Fund. Councilmember Donald Rocha seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29816, entitled "An Ordinance of the City of San José Amending Sections 4.80.2010 and 4.80.2020 of Chapter 4.80 of Title 4 of the San José Municipal Code to Establish a Fund for the City-Funded Medical Program", was passed for publication. Resolution No. 77971, Ordinance No. 29817, Ordinance No. 29818 and Resolution No. 77972, were adopted, with direction to return in one year for an evaluation of the Self-Insured Medical Fund. (10-0-0-1. Abstain: Khamis.)

3.4 Accept the Annual Status Report on the Citywide Capital Improvement Program. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Annual Reports. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated October 17, 2016, recommending acceptance of the Annual Status Report.

Director of Public Works Barry Ng provided an Annual Status Report on the Citywide Capital Improvement Program, Director of Public Works, Michael O'Connell, covered the Multi-Agency CIP Benchmarking Study, and staff responded to questions.

Council discussion followed. Mayor Sam Liccardo recommended that both CIP studies be heard at the same time, preferably in the February 2017 timeframe. Director of Public Works Barry Ng concurred to the practicality of this schedule.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen, and carried unanimously, the Annual Status Report on the Citywide Capital Improvement Program was accepted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Consideration of an ordinance to approve the First Amendment to the Development Agreement between Jackson Taylor Partners, LLC, et. al. and the City of San José to vest previously approved Planned Development Zoning (File No. PDC15-018) and Planned Development Permit (File No. PD15-055) for the subject property located at 696 North 6th Street (City of San José, Owner). The First Amendment to the Development Agreement would vest the Zoning District designation of R-M(PD) Planned Development and the development standards set forth in the rezoning and also authorize the construction of 520 residential units and 19,191 square feet of commercial space as further set forth in the Planned Development Permit. CEQA: Determination of Consistency with the Japantown Corporation Yard Redevelopment Project Environmental Impact Report and addendum thereto, File No. DA16-001. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)**

DA16-001 – Council District 3

[Deferred from 9/20/16 – Item 11.1(b) and 10/18/16 – Item 11.3]

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated September 8, 2016, providing the Planning Commission Staff Report dated September 21, 2016, regarding File No. DA16-001. (2) Supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated September 16, 2016, recommending consideration of an ordinance. (3) Proof of Publication of Notice of Public Hearing, executed on August 26, 2016, submitted by the City Clerk.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Roy Hirabayashi, representing Japantown Community Congress, offered support to the proposal.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No 29819, entitled “An Ordinance of the City of San José Approving a First Amendment to Development Agreement with Jackson-Taylor Partners, LLC, Relative to the Development of the Japantown Corporation Yard Redevelopment Project on Certain Real Property Located at 696 North Sixth Street and Authorizing the City Clerk to Execute the First Amendment to the Development Agreement and Cause the Same to be Recorded with the Santa Clara County Recorder’s Office”, was passed for publication. (11-0.)

4.2 Approve an ordinance amending Title 4 (Revenue, Finance, and Business Taxes) of the San José Municipal Code to add a new Chapter 4.88 to create an urban agriculture tax incentive zone (UAIZ) consisting of parcels that are vacant, unimproved, or blighted and improved only with paving at grade, or with legal minor structures for the urban agriculture use), that are at least 0.10 acre and less than 1.0 acre in size, located in incorporated areas of the City of San José, and that meet other specified eligibility criteria consistent with State law governing the adoption UAIZ ordinances. 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) Land Company Planned Development Rezoning, Downtown Strategy 2000 FPEIR, Envision 2040 General Plan FPEDIR and SEIR. (Economic Development)

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated October 25, 2016, recommending approval of an ordinance. (2) Letters and correspondence from a diverse group of La Mesa Verde members from 25 local organizations, and including correspondence from members of the San José Garden Club, SPUR, Santa Clara Valley Open Space Authority, Garden to Table and Santa Clara Food System Alliance, urging creation of Urban Agriculture Incentive Zones.

Motion: Councilmember Raul Peralez moved approval of the staff recommendations, with agricultural use to be established within 90 days of the contract, and with the cumulative cap to be raised to \$250,000. Councilmember Donald Rocha seconded the motion.

Council discussion ensued, and staff responded to questions.

Public Comments: Offering support to creation of Urban Agriculture Incentive Zones, offering additional recommendations and speaking to the importance of community gardens, were: Pam Oliverio, Martha Barahona, Brent Carvalho, Tori Truscheit, Veronica Orozco, Marla Jiminez, Jim Azevedo, Madeline Owen, Jamie Chen, Erin Healy, Alan Fanning, Diego Ortiz, Mathew Reed, Dave Thompson, Regina Jones, Eunice Hernandez, Diana Salazar, Leslie Gray, John Olson, Azra Caus, Raul Lozano, Socorro Morales, Eileen Hunter, Lorinda FarFan, Beverly Bachoo, Spencer Bachoo, Jumana Latif, Jessica Schweiger, Ryan Sebastian, Gia Lewis, Clarissa Magoo Cua, Sandi Taylor, Moria Merriweather and Jacky Rivera.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29820, entitled “An Ordinance of the City of San José Amending Title 4 of the San José Municipal Code to Add a New Chapter 4.88 to Create an Urban Agriculture Tax Incentive Zone Consisting of Vacant, Unimproved and Minimally Improved Blighted Property Parcels that are at Least 0.10 Acre and Less than 1.0 Acre in Size, Located in Incorporated Areas of the City of San José, and Meeting Other Specified Eligibility Criteria Consistent with State Law Governing the Adoption of Urban Agriculture Incentive Zone Ordinances”, was passed for publication, with agricultural use to be established within 90 days of the contract, and with the cumulative cap to be raised to \$250,000. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Report on bids and award of an on-call contract for the “8306 – 2016 DOT General Engineering Contract” to the lowest responsive bidder, Pacific Electric Contracting, Inc., in an amount not to exceed \$1,500,000, with no individual task order for the construction of a public works project to exceed \$100,000. CEQA: Exempt, Section 15301 Existing Facilities, File No. PP14-017. (Transportation/Public Works)**

Documents Filed: Joint memorandum from Director of Transportation Jim Ortbal and Director of Public Works Barry Ng, dated October 17, 2016, recommending award of a general engineering contract.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera, and carried unanimously, the report on bids and award of an on-call contract for the “8306 – 2016 DOT General Engineering Contract” to the lowest responsive bidder, Pacific Electric Contracting, Inc., in an amount not to exceed \$1,500,000, with no individual task order for the construction of a public works project to exceed \$100,000, was accepted. (9-0-2. Absent: Kalra, Oliverio.)

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

Documents Filed: Memorandum from Director of Transportation Jim Ortbal, dated October 11, 2016, recommending acceptance of a status report.

Director of Transportation Jim Ortbal provided a presentation.

Public Comments: Karolyn Kirchgesler, representing Team San José, spoke in support of the contract.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera, and carried unanimously, the status report regarding a potential amendment to the Team San José Agreement to include management and operations oversight of the City’s Convention Center Parking Garage, was accepted. (9-0-2. Absent: Kalra, Oliverio.)

OPEN FORUM

- (1) Harjinder expressed traffic concerns in a residential area.
- (2) Natalie Nguyen suggested community service hours for high school students.
- (3) Geraldine Castrence complained of faulty parking meters in the downtown area.
- (4) Moria Merriweather discussed bicycle use and traffic issues in the City.
- (5) Carl Guaradino invited participation in the Turkey Trot on Thanksgiving Day.

ADJOURNMENT

The Council of the City of San José adjourned at 4:09 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/11-08-16 MIN