



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 5, 2016

The Council of the City of San José convened in Regular Session at 1:31 p.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - Oliverio. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 1:56 p.m. to a Closed Session in Room W133; (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) IAFF Local 230 v. City of San José; Names of Partie(s) Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (2) IFPTE Local 21 v. City of San José; Names of 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; (3) 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; (4) 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-

CLOSED SESSION (Cont'd.)

900-M; (5) 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; (6) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of 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. (7) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (8) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: 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. (10) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B; (11) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s) 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; (12) 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; (C) 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

CLOSED SESSION (Cont'd.)

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 2:20 p.m. and reconvened to Regular Session at 2:22 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

Arlene Biala – Poet Laureate of Santa Clara County recited a poem, “It will be more beautiful than you can ever imagine,” which she dedicated to the late Bay Area artist Susan O’Malley.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera seconded by Councilmember Magdalena Carrasco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with notice that Council would briefly adjourn to Closed Session and reconvene immediately thereafter. Item 9.1 was deferred to April 26, 2016. (10-0-1. Absent: Oliverio.)

CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation for National Donate Life Month to honor those who have given the extraordinary gift of life through organ, eye, and tissue donations. (Kalra)**

Mayor Liccardo and Councilmember Ash Kalra presented a proclamation for National Donate Life Month to honor those who have given the extraordinary gift of life through organ, eye, and tissue donations.

- 1.2 Presentation of a commendation to Stephanie Black and Erin Vokey for their dedication in running the after school program at Starbird Youth Center for at-risk youth. (Jones)**

Mayor Liccardo and Councilmember Chappie Jones Commended Stephanie Black and Erin Vokey for their dedication in running the after school program at Starbird Youth Center for at-risk youth.

- 1.3 Presentation of a commendation to Sangam Arts for their artistic contributions to our East San José community. (Carrasco)**

Mayor Sam Liccardo and Councilmember Magdalena Carrasco commended Sangam Arts for their artistic contributions to our East San José Community.

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Carrasco, Kalra.)

2.1 Approval of minutes:

(a) **Regular Minutes of January 26, 2016.**

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

Documents Filed: Regular minutes of the Council dated January 26, 2016.

Action: The Council Minutes were approved. (9-0-2. Absent: Carrasco, Kalra.)

2.2 Final adoption of ordinances.

(a) **ORD. NO. 29711 – An ordinance of the City of San José rezoning certain real property of approximately 43.0 gross acres situated on the east side of Almaden Expressway, 1320 feet south of Winfield Boulevard (6082 Almaden Expressway), from the A Agricultural Zoning District to the A(PD) Planned Development Zoning District. CEQA: Mazzone Property Planned Development Rezoning Revised Initial Study/Mitigated Negative Declaration, File No. PDC13-025.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29711 executed on March 25, 2016, submitted by the City Clerk.

Action: Ordinance No. 29711 was adopted. (9-0-2. Absent: Carrasco, Kalra.)

(b) **ORD. NO. 29712 – An ordinance of the City of San José rezoning certain real property east of the northerly terminus of America Center Court, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. CEQA: Addendum to the Legacy Terrace Development Planned Development Rezoning and Prezoning Final EIR (Resolution No. 69392), File No. PDC15-016.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29712 executed on March 25, 2016, submitted by the City Clerk.

Action: Ordinance No. 29712 was adopted. (9-0-2. Absent: Carrasco, Kalra.)

(c) **ORD. NO. 29713 – An ordinance of the City of San José rezoning certain real property of approximately 8.33 gross acre site situated on the south side of Silver Creek Valley Road, approximately 320 feet southeast of Beaumont Canyon Drive (5601-5667 Silver Creek Valley Road), from the A(PD) Planned Development Zoning District to the CG(PD) Planned Development Zoning District. CEQA: Canyon Creek Plaza Retail/Commercial Building Initial Study/Mitigated Negative Declaration, File No. PDC15-022.**

2.2 (c) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29713 executed on March 25, 2016, submitted by the City Clerk.

Action: Ordinance No. 29713 was adopted. (9-0-2. Absent: Carrasco, Kalra.)

2.3 Approval of Council Committee Minutes.

- (a) **Rules and Open Government Committee Minutes of March 9, 2016. (Mayor)**
- (b) **Neighborhood Services and Education Committee Minutes of March 10, 2016. (Rocha)**

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

Documents Filed: (1) Rules and Open Government Committee Minutes dated March 9, 2016. (2) Neighborhood Services and Education Committee Minutes dated March 10, 2016.

Action: The Council Committee Minutes were approved. (9-0-2. Absent: Carrasco, Kalra.)

2.4 Mayor and Council Excused Absence Requests.

- (a) **Retroactively excuse Councilmember Carrasco's absence from the Regular City Council Meeting on March 22, 2016 due to illness. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Carrasco)**

Documents Filed: Memorandum from Councilmember Magdalena Carrasco, dated March 28, 2016 requesting an excused absence due to illness.

Action: The absence was retroactively excused. (9-0-2. Absent: Carrasco, Kalra.)

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 Mexican Flag Raising and Reception scheduled on September 16, 2016 as a City Council Sponsored Special Event and approve the expenditure of funds; and**
- (b) **Approve and accept donations from various individuals, businesses or community groups to support the event.**
(Carrasco/Peralez)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 24, 2016, transmitting the recommendations of the Rules and Open Government Committee.

2.7 (Cont'd.)

Action: The Mexican Flag Raising and Reception 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. (9-0-2. Absent: Carrasco, Kalra.)

2.8 **Authorize City Attorney Richard Doyle's travel to Dublin, Ireland on April 22-28, 2016, to attend the City of San José Sister City Delegation. Source of Funds: City Attorney's Office Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 21, 2016, requesting authorization to travel.

Action: The travel request was approved. (9-0-2. Absent: Carrasco, Kalra.)

2.9 **Adopt a resolution authorizing the City Manager to execute an Agreement with Leyla Naderjah, an individual dba Rosies and Posies Downtown Florist, for the lease of real property located at 98 Paseo de Antonio for the purpose of operating a retail/floral store with the following rent: December 1, 2015 to December 31, 2015 is \$0. Year 1 - \$25,110; Year 2 - \$25,110; Year 3 - \$25,675; Year 4- \$26,253; Year 5 - \$26,844; for a total compensation to City of approximately \$128,992. CEQA: Not a Project, File No. PP10-066(f), Agreements and Contracts for lease of existing space for the same use. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated March 24, 2016, recommending adoption of a resolution.

Action: Resolution No. 77707, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Leyla Naderjah, an Individual DBA Rosies and Posies Downtown Florist, for the Lease of Real Property Located at 98 Paseo De Antonia for the Purpose of Operating a Retail/Floral Store", was adopted. (9-0-2. Absent: Carrasco, Kalra.)

2.10 **Adopt a resolution authorizing the City Manager to Amend Open Purchase Order 52068 with Red Wave Communications, Inc. (Fresno, CA) to increase compensation by \$226,820 for a revised total amount not to exceed \$500,000, to continue upgrading the City Hall Audiovisual System. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for services that involve no physical changes to the environment. (Finance)**

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated April 5, 2016, recommending adoption of a resolution.

2.10 (Cont'd.)

Action: Resolution No. 77707, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Amend Open Purchase Order 52068 with Red Wave Communications, Inc. to Increase Compensation by \$226,820 for a Revised Total Amount Not to Exceed \$500,000 to Continue Upgrading the City Hall Audiovisual System", was adopted. (9-0-2. Absent: Carrasco, Kalra.)

- 2.11 (a) Approve travel by Vice Mayor Herrera to London, England on May 4 to May 8, 2016 as part of the Inaugural Flight from San José to London with British Airways to promote the San José International Airport. Source of Funds: Mayor/Council Travel Fund.**
- (b) Request for an excused absence for Vice Mayor Herrera from all City Meetings from May 4 to May 8, 2016, due to Authorized City Business: Inaugural Flight from San José to London with British Airways.**

Documents Filed: Memorandum from Vice Mayor Rose Herrera, dated March 16, 2016, requesting authorizing to travel and for an excused absence.

Action: The travel request and authorization for an excused absence were approved. (9-0-2. Absent: Carrasco, Kalra.)

- 2.12 Approve an Agreement with Caltrans for trail development, operation and maintenance beneath Highway 280 from Story Road to Selma Olinder Park. CEQA: Coyote Creek Trail Master Plan (Story Road to US 101) Mitigated Negative Declaration, File No. PP08-014. Council District 7. (Parks, Recreation and Neighborhood Services)**

Documents Filed: City Council Action Request from Interim Assistant Director of Parks, Recreation and Neighborhood Services Matt Cano, dated April 5, 2016, recommending approval of an agreement.

Action: An Agreement with Caltrans for trail development, operation and maintenance beneath Highway 280 from Story Road to Selma Olinder Park was approved. (9-0-2. Absent: Carrasco, Kalra.)

- 2.13 Approve the Contract Change Order No. 2 for the 6896 – Sanitary Structures Cover Plate Repair project with JMB Construction, Inc. in the amount of \$138,411 for a total contract amount of \$1,185,157. CEQA: Exempt, Section 15301(d) Existing Facilities, File No. PP15-004. Council District 4. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated April 5, 2016, recommending approval of a contract change order.

Action: The Contract Change Order No. 2 for the 6896 – Sanitary Structures Cover Plate Repair project with JMB Construction, Inc. in the amount of \$138,411 for a total contract amount of \$1,185,157, was approved. (9-0-2. Absent: Carrasco, Kalra.)

- 2.14 Approve Master Agreements with Callander Associates Landscape Architecture, Inc., PGAdesign, Inc., PlaceWorks, and MIG for landscape architectural design services from the date of execution through December 31, 2019 in an amount not to exceed \$1,000,000 for each agreement. CEQA: Not a Project, File No. PP10-066(d), Consultant Services for design services to determine the feasibility of a project with no commitment to future action. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated April 5, 2016, recommending approval of a contract change order.

Action: The Master Agreements with Callander Associates Landscape Architecture, Inc., PGAdesign, Inc., PlaceWorks, and MIG for landscape architectural design services from the date of execution through December 31, 2019 in an amount not to exceed \$1,000,000 for each agreement, was approved. (9-0-2. Absent: Carrasco, Kalra.)

- 2.15 (a) Report on bids and award of a construction contract for 7530 - Shady Oaks Park Enhancements to the low bidder, Suarez & Munoz Construction, Inc., for the base bid and Add Alternate Nos. 1, 2, and 3 in the total amount of \$780,500 and approval of a five percent contingency in the amount of \$39,025.**
- (b) Adopt the following 2015-2016 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:**
- (1) Increase the Shady Oaks Park Improvements Appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$90,000, and**
 - (2) Decrease the Shady Oaks Park Reserve by \$90,000.**

CEQA: Exempt, Section 15304 Minor Alterations to Land and 15303 New Construction or Conversion of Small Structures, File No. PP15-125. Council District 2. (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 and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated March 24, 2016, recommending acceptance of a report on bids and adoption of appropriation ordinance amendments.

Action: The Report on bids and award of a construction contract for 7530 - Shady Oaks Park Enhancements to the low bidder, Suarez & Munoz Construction, Inc., for the base bid and Add Alternate Nos. 1, 2, and 3 in the total amount of \$780,500, with related contingencies was accepted; and Ordinance No. 29717, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Subdivision Park Trust Fund for the Shady Oaks Park Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (9-0-2. Absent: Carrasco, Kalra.)

- 2.16 Approve the Cooperative Agreement with the California Department of Transportation (Caltrans) for the development of the project initiation document, project approval and environmental documentation for the US 101/Blossom Hill Road Interchange Improvement project in the amount of \$414,000. The term of the Cooperative Agreement is from the date of execution to October 31, 2017. CEQA: Exempt, Section 15262 Feasibility and Planning Studies, File No. PP16-012. Council District 2. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Jim Ortbal, dated March 23, 2016, recommending approval of a cooperative agreement.

Action: The Cooperative Agreement with the California Department of Transportation (Caltrans) for the development of the project initiation document, project approval and environmental documentation for the US 101/Blossom Hill Road Interchange Improvement project in the amount of \$414,000, was approved. (9-0-2. Absent: Carrasco, Kalra.)

- 2.17 Adopt a resolution authorizing the City Attorney to negotiate and execute a First Amendment to Agreement for Services between the City of San José and Hanson Bridgett LLP to provide legal and investigative services as the Evaluator to the San José Ethics Commission, increasing compensation by \$50,000 for a total amount of compensation not to exceed a total amount for FY 2015-2016 to \$110,000 without increasing the total compensation under the agreement. CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney)**

Documents Filed: Joint memorandum from City Attorney Richard Doyle, and City Clerk Toni J. Taber, dated March 24, 2016, recommending adoption of a resolution.

Action: Resolution No. 77709, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a First Amendment to the Agreement with Hanson Bridgett LLP for Legal and Investigative Services as the Evaluator to the San José Ethics Commission", was adopted. (9-0-2. Absent: Carrasco, Kalra.)

- 2.18 Approve travel payments and authorize travel for Mayor's staff, Khanh Russo, Director of Strategic Support Partnership, to New York from April 18, 2016 to April 20, 2016 for the What Works Cities Summit on Transforming Data Into Action. Source of Funds: Bloomberg Philanthropies. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, requesting travel payments and authorization to travel for the Mayor's staff.

Action: Travel payments and authorize travel for Mayor's staff, Khanh Russo, Director of Strategic Support Partnership, to New York from April 18, 2016 to April 20, 2016 for the What Works Cities Summit on Transforming Data Into Action, were approved. (9-0-2. Absent: Carrasco, Kalra.)

- 2.19 (a) Approve the Asian American Heritage Future Roots Festival scheduled on May 28, 2016 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (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)

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

Action: The Asian American Heritage Future Roots Festival 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. (9-0-2. Absent: Carrasco, Kalra.)

- 2.20 (a) Retroactively approve the Seven Trees Neighborhood Clean Up on Saturday, March 26, 2016 and the Bellevue Park Clean Up on April 2, 2016 as City Council sponsored Special Events and approve the expenditure of funds;
- (b) Approve the Spring Fling Youth Mixer on April 16, 2016; Seven Trees Neighborhood Clean Up on April 30, 2016; District 7 Community Budget Townhall on May 2, 2016; International Ai Music Festival on May 5, 2016; Seven Trees Dumpster Day on June 18, 2016; West Evergreen Dumpster Day on August 27, 2016; Mid-Autumn Festival and Job Fair on September 17, 2016; International Festival Faire on October 22, 2016; Halloween Family Night at Alma on October 31, 2016; and Halloween Family Night at Santee on October 31, 2016 as City Council sponsored Special Events and approve the expenditure of funds; and
- (c) Approve and accept donations from various individuals, businesses or community groups to support the events.

CEQA: Exempt, File No. PP13-056, Activities associated with citywide litter clean-up activities; and Not a Project, File No. PP15-077, Temporary Special Events.

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

Action: The Seven Trees Neighborhood Clean Up as a City Council Sponsored Special Event was retroactively approved; the Spring Fling Youth Mixer on April 16, 2016; Seven Trees Neighborhood Clean Up on April 30, 2016; District 7 Community Budget Townhall on May 2, 2016; International Ai Music Festival on May 5, 2016; Seven Trees Dumpster Day on June 18, 2016; West Evergreen Dumpster Day on August 27, 2016; Mid-Autumn Festival and Job Fair on September 17, 2016; International Festival Faire on October 22, 2016; Halloween Family Night at Alma on October 31, 2016; and Halloween Family Night at Santee as City Council Sponsored Special events were approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support these events, was approved. (9-0-2. Absent: Carrasco, Kalra.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 As recommended by the Rules and Open Government Committee on February 10, 2016, adopt a resolution establishing City Council Policy 0-43, "Open Data Policy." CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making that involves no changes to the physical environment. (Information Technology)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Councilmembers Chappie Jones, Raul Peralez and Johnny Khamis, dated April 1, 2016, recommending adoption of a resolution. (2) Memorandum from City Clerk Toni Taber, dated March 24, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Manager's Office Senior Executive Analyst, Kevin Miller and Budget Office Deputy Director, Jim Shannon, provided an informational report, and Director of Information Technology Vijay Sameta responded to questions from Council.

Public Comment: Offering support to an open data policy were Code for San José members: Vivek Bansal, Andrew Hernandez, Yan-Yin Choy, Emily Ann Ramos and Charlie Maza.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 77710, entitled: "A Resolution of the Council of the City of San José Approving a New Council Policy No. 0-43 Entitled "Open Data Policy", was adopted, with staff directed to provide a report to Council on an annual basis. (11-0.)

- 3.4 As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2016, accept the audit report on Technology Deployments: Additional Resources Needed to Shorten Deployment Timelines. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments, and Annual Reports that involve no approvals of any City Actions. (City Auditor)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Councilmembers Chappie Jones, Magdalena Carrasco and Johnny Khamis, dated April 1, 2016, recommending acceptance of recommendations. (2) Memorandum from City Clerk Toni Taber, dated March 24, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon Erickson provided a presentation, and Director of Information Technology Vijay Sameta offered administrative response to technology issues.

Motion: Councilmember Chappie Jones moved acceptance of the audit report including recommendations as outlined in the memorandum he cosigned with Mayor Sam Liccardo, Councilmember Magdalena Carrasco and Councilmember Johnny Khamis, dated April 1, 2016, as amended, striking the words "by the end of the year", and requiring a report back in the Fall to review the status and set a timeline. Councilmember Manh Nguyen seconded the motion.

3.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and the audit report on Technology Deployments: "Additional Resources Needed to Shorten Deployment Timelines" was accepted, including direction as outlined in the joint memorandum from Mayor Sam Liccardo and Councilmembers Jones, Carrasco and Khamis, dated April 1, 2016, to (a) Develop a Master Information Communications Technology (ICT) plan and digital strategy for the City to be presented to the Council ~~by the end of the year~~, including: (i) Estimated base-level funding requirements for replacing systems and hardware for staff as well as forecasted project costs for future system upgrades over the next five years. (ii) Assessment and proposed approach to IT department's organizational structure, as well as IT staffing in other departments, to minimize duplication while preserving departmental business-line expertise and bringing project management skills back into the IT department. (iii) Form an Information Technology Planning Board for strategic planning, in compliance with City Policy 5.19, that includes both cross-departmental staff as well as select external advisors (e.g., academics or enterprise systems experts) to prioritize large-scale projects, and provide guidance and oversight to the Master ICT plan. (b) Update and streamline IT procurement for purchasing of software and basic IT equipment including PCs, mobile devices and monitors, as well as including an update to the RFP manual in the work plan for the Smart City Vision and report progress through the newly-formed City Council Committee on Smart City and Continuous Improvement. (c) In the Statement of Policy for the hiring of the new IT Director, questions should address experience in development a Master ICT plan and development a digital strategy for an organization, experience with large enterprise software upgrades, user-centric design, and organizational design for IT resources and oversight. Staff was directed to provide a report in Fall of 2016 to review status and set a timeline, rather than "by the end of the year" as indicated in the above noted memorandum. (11-0.)

3.5 Review the following actuarial valuation reports:

- (a) **Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2015; and**
- (b) **Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation (Pension) as of June 30, 2015; and**
- (c) **Federated City Employees' Retirement System Actuarial Valuation (Pension) as of June 30, 2015; and**
- (d) **Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2015.**

CEQA: Not a project, File No. PP10-069(a) Annual Reports the involve no approvals of any City Actions. (Retirement Services)

Documents Filed: Memorandum from Chief Executive Officer, Office of Retirement Services, Roberto Peña, dated March 14, 2016, recommending review and approval of actuarial valuation reports.

3.5 (Cont'd.)

Chief Executive Officer, Office of Retirement Services, Roberto Peña, Deputy Director Donna Bussee and Assistant Director of Finance, Arn Andrews, offered a presentation and responded to questions.

Public Comment: Brian Darby asked that more simplistic presentations and charts be presented when providing such detailed information.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis and carried unanimously, the Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2015; Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation (Pension) as of June 30, 2015; the Federated City Employees' Retirement System Actuarial Valuation (Pension) as of June 30, 2015; and the Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation Reports were accepted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution approving a City Council Policy for disposing of surplus property that includes provisions relating to affordable housing. CEQA: Not a Project, File No. PP10-068(c), Code or Policy change that involve no changes in the physical environment. (Economic Development/Housing)**

Action: Deferred to April 12, 2016 per Administration.

- 4.2 Adopt a resolution authorizing the Director of Housing to negotiate and execute the necessary documents for assignment to the City of the homebuyer loans made by Neighborhood Housing Services Silicon Valley with City grant funds. CEQA: Not a Project, File No. PP10-069, PP10-066, Agreements and Contracts. Procedures for dissolution of an agreement. (Housing)**

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated March 23, 2016, recommending adoption of a resolution.

Staff provided an overview and responded to questions.

Action: Upon motion by Councilmember Ash Kalra, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77711, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute the Necessary Documents for Assignment to the City of San José of the Homebuyer Loans Made by Neighborhood Housing Services Silicon Valley", was adopted. (11-0.)

- 4.3 (a) **Conduct a Public Hearing on the Draft FY 2016-2017 Annual Action Plan, as required by the U.S. Department of Housing and Urban Development; and**
(b) **Provide Housing Department staff with input on the FY 2016-2017 Annual Action Plan and funding priorities.**

CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involve no approvals of any City Actions. Specific development projects that are funded as a result of the Consolidated Annual Action Plan are subject to project-specific CEQA clearance. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand, dated March 25, 2016, recommending conducting a public hearing and providing staff with input on the Annual Action Plan. (2) Proof of Publication of Notices of Public Hearing executed on February 25, 2016, submitted by the City Clerk.

Interim Assistant Director of Housing Dave Bopf provided an overview.

Mayor Liccardo opened the public hearing.

Public Comment: Brian Darby stressed the importance of the program but stated more input should be allowed from the public.

Mayor Liccardo closed the public hearing.

Action: No action required.

NEIGHBORHOOD SERVICES

- 5.1 **As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2016, accept the 2014-2015 Annual Report on the San José Bringing Everyone's Strengths Together and the Mayor's Gang Prevention Task Force Programs. CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involve no approvals of any City Actions.**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Councilmember Chappie Jones and Councilmember Raul Peralez, dated April 1, 2016, offering approval to the annual report with additional direction to staff. (2) Memorandum from City Clerk Toni Taber, dated March 24, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services, Angel Rios, dated April 4, 2016, providing response to questions from Council.

Deputy Director of Parks, Recreation and Neighborhood Services, Suzanne Wolfe provided a report and included a correction to the original report regarding the Center for Training and Careers. Division Manager, Mayor's Gang Prevention Task Force, Mario Maciel, continued the presentation.

5.1 (Cont'd.)

Motion: Councilmember Raul Peralez moved acceptance of the Annual Report, including direction as outlined in the memorandum he coauthored with Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmember Chappie Jones, dated April 1, 2016. The motion was seconded by Vice Mayor Rose Herrera.

Action: On a call for the question, the motion carried unanimously, and the 2014-2015 Annual Report on the San José Bringing Everyone's Strengths Together and the Mayor's Gang Prevention Task Force Program Annual Report were accepted, including the joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmembers Jones and Peralez memorandum dated April 1, 2016, directing the City Manager to: (a) Evaluate and incorporate additional methods for collecting and sharing objective data, such that the City can better understand the direct impact that the BEST and MGPTF services are providing; (b) Incorporate the additional direct impact metrics with objective data into the annual reports as presented to the Public Safety, Finance and Strategic Support Committee and Council as soon as that data becomes available; (c) Consider data-sharing requirements as part of future BEST Services contract and funding awards beginning in FY 2018-19 and consider utilizing performance based awards in future years; and (d) Incorporate an overview of lessons learned in the Key Findings Summary section of the annual report, so that Council and the public understand which aspects of the BEST service model succeed, and which require improvements. (10-0-1. Absent: Rocha.)

5.2 **As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2016, accept the 2014-2015 Annual Report on the Anti-Graffiti and Anti-Litter Programs. CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involve no approvals of any City Actions. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated March 24, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: Deferred to April 26, 2016 per Rules Committee.

ENVIRONMENTAL & UTILITY SERVICES

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

Action: Deferred to April 26, 2016 per Administration.

PUBLIC SAFETY SERVICES

- 8.1 As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2016, accept the report on the Fire Department Organizational Review conducted by Citygate Associates, LLC., including an evaluation of Fire Department service delivery, response time performance, technological improvements, and operational efficiencies. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approval of any City Actions. (Fire)
[Public Safety, Finance and Strategic Support referral from 3/17/16 – Item (d)(1)]

Action: Deferred to April 26, 2016 per Rules Committee.

- 8.2 (a) Approve an ordinance amending the City of San José 1.08.040 of Chapter 1.08 of Title 1 related to enforcement of the San José Municipal Code or other City Ordinance, adding a new Chapter 10.17 to Title 10, and repealing Section 17.12.940 of Chapter 17.12 of title 17 of the San José Municipal Code to prohibit the sale, use, possession and storage of fireworks and to provide for civil liability under certain circumstances for persons responsible for minors who violate the prohibition in Chapter 10.17 related to fireworks.
- (b) Adopt a resolution amending the Administrative Citation Schedule of Fines to establish administrative fines for violations related to Fireworks, and repealing Resolution No. 77570.

Action: Deferred to April 26, 2016 per Administration.

- 8.3 As recommended by the Public Safety, Finance and Strategic Support Committee on March 17, 2016, accept the report on the results of an evaluation of the possible over-concentration of massage parlors in neighborhoods and whether the City can prohibit the opening of a massage parlor in the same location as one that has been closed due to human trafficking/prostitution activity, including the merits of additional amendments to Chapter 6.44 (Massage Ordinance) of the San José Municipal Code. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approval of any City Actions. (Police)

Documents Filed: Memorandum from City Clerk Toni Taber, dated March 24, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Public Comment: Brian Keith Goodwin Longcor provided insight regarding massage practitioner certification requirements.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, the report on the results of an evaluation of the possible over-concentration of massage parlors in neighborhoods and whether the City can prohibit the opening of a massage parlor in the same location as one that has been closed due to human trafficking/prostitution activity, including the merits of additional amendments to Chapter 6.44 (Massage Ordinance) of the San José Municipal Code was accepted. (10-0-1. Absent: Rocha.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) City Council adopt a resolution:
- (1) Authorizing the Director of Housing, on behalf of the City, to negotiate and execute: (i) a Purchase and Sale Agreement to acquire that certain real property located at 5647 Gallup and 1171 Mesa in San José from the Successor Agency to the Redevelopment Agency (SARA) of the City of San José for \$1,170,000 from the Community Development Block Grant (CDBG) Fund for a future affordable housing development; and (ii) such other documents as necessary to close escrow to acquire the properties; and
 - (2) Authorizing the Director of Housing to issue a Request for Proposal (RFP) for development of a future affordable housing community located at 5647 Gallup and 1171 Mesa, if the City is successful in acquiring the properties.
- (b) Successor Agency adopt a resolution authorizing the Managing Director to negotiate and execute (i) a Purchase and Sale Agreement to sell that certain real property located at 5647 Gallup and 1171 Mesa in San José to the City of San José for a purchase price of \$1,170,000; and (ii) such other documents as necessary to close escrow to acquire the properties.
- (c) City Council adopt the following Appropriation Ordinance amendments in the Community Development Block Grant Fund:
- (1) Increase the appropriation to the Housing Department for Property Acquisition in the amount of \$510,000; and
 - (2) Decrease the Land Acquisition Reserve appropriation in the amount of \$510,000.

CEQA: Exempt, File No. PP16-007. Council District 10. (City Manager)

Documents Filed: Memorandum from Assistant City Manager Dave Sykes, dated March 25, 2016 recommending adoption of resolutions and appropriation ordinance and amendments.

Action: Deferred to April 26, 2016 per Orders of the Day.

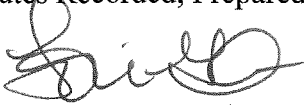
OPEN FORUM

- (1) Naveed cited First Amendment rights in regard to police patrolling private properties, such as shopping plazas, asserting that basic liberties are violated.
- (2) Brian Darby offered that those with disabilities should be accommodated by bringing electronic devices to the podium in chambers.
- (3) Randy Rodriguez offered personal observations.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:23 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/4-5-16MIN