



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 26, 2016

The Council of the City of San José convened in Regular Session at 9:31 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Carrasco, Herrera, Jones, 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 9:35 a.m. to a Closed Session in Room W133(A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to anticipated litigation in three (3) matters; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: Claim of Johnson; Amount of Money or Other Relief Sought: Administrative Appeal; (2) 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; (3) 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; (4) 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:

CLOSED SESSION (Cont'd.)

State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (5) 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; (6) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (7) 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; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (8) 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. (9) 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. (10) 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. (11) 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; (12) 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; (13) San José Retired Employees Association, et al. v. City of San José, et al; Names of Partie(s) Involved: San José Retired Employees Association,

CLOSED SESSION (Cont'd.)

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; (B) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: Property Street Address, Parcel Number or Other Unique Reference of Property: 200 Edenvale Avenue, San José, California; Negotiating Parties: Nanci Klein for the City of San José and Adrian Glover from Global Bancorp Commodities and Investments; Under Negotiation: Direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (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 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.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:45 p.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

INVOCATION

Andy Gridley, Campus Pastor, WestGate Church, South Hills Campus, presented the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved unanimously, with Item 7.1 heard before Item 3.4. (11-0.)

INVOCATION

Rabbi Josh Berkenwald of Congregation Sinai – San José, presented the Invocation.

PLEDGE OF ALLEGIANCE

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

CEREMONIAL ITEMS

1.1 Presentation of a proclamation in honor of International Holocaust Remembrance Day. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera presented a proclamation in honor of International Holocaust Remembrance Day.

1.2 Presentation of a commendation to Integrated Device Technology for supporting San José's Zero Waste goal through its leadership in recycling and diversion efforts. (Kalra)

Mayor Sam Liccardo and Councilmember Ash Kalra presented a commendation to Integrated Device Technology for supporting San José's Zero Waste goal through its leadership in recycling and diversion efforts.

1.3 Presentation of a commendation recognizing Jake McCluskey for his efforts to raise money for youth, as part of his personal battle for health. (Mayor)

Mayor Sam Liccardo recognized Jake McCluskey for his efforts to raise money for youth as part of his personal battle for health.

CONSENT CALENDAR

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

2.1 Approval of minutes.

- (a) **Regular Minutes of September 1, 2015.**
- (b) **Regular Minutes of September 15, 2015.**
- (c) **Regular Minutes of September 22, 2015.**
- (d) **Regular Minutes of September 29, 2015.**

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

Documents Filed: The Regular Minutes dated September 1, 15, 22 and 29, 2015.

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

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29678 – An ordinance of the City of San José amending Section 20.30.100 of Chapter 20.30 and Sections 20.80.810 and 20.80.820 of Chapter 20.80 of Title 20 of the San José Municipal Code to expand the number of hours and range of sites with Public/Quasi-Public uses on which outdoor vending of fresh fruits and vegetables may be allowed as a permitted use (without an administrative permit); and to reduce the restrictions on outdoor vending of fresh fruits and vegetables as a permitted use (without an administrative permit); and to make other technical, formatting or other non-substantive changes within Title 20.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29678 executed on January 18, 2016, submitted by the City Clerk.

Action: Ordinance No. 29678 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

- (a) **Rules and Open Government Committee Minutes of December 2, 2015. (Mayor)**
- (b) **Transportation and Environment Committee Minutes of December 7, 2015. (Kalra)**
- (c) **Rules and Open Government Committee Minutes of December 9, 2015. (Mayor)**
- (d) **Neighborhood Services and Education Committee Minutes of December 10, 2015. (Rocha)**
- (e) **Public Safety, Finance, and Strategic Support Services Minutes of December 10, 2015. (Oliverio)**

Documents Filed: (1) The Rules and Open Government Committee Reports dated December 2 and 9, 2015. (2) The Transportation and Environment Committee Report dated December 7, 2015. (3) The Neighborhood Services and Education Committee Minutes dated December 10, 2015. (4) Public Safety, Finance, and Strategic Support Services Minutes dated December 10, 2015.

Public Comment: David Wall addressed Water Treatment Control Plant issues as addressed during the Rules and Open Government Committee meeting of December 2, 2015.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis, and carried unanimously, the Council Committee Reports were approved. (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.

None provided.

2.7 Adopt a resolution authorizing the City Manager to execute the Third Amendment to the existing Agreement with Corona Solutions for crime analytic software and services to extend the term for six months through June 30, 2016 and increase compensation by \$24,300 for a revised maximum compensation of \$548,957, in order to allow additional time to complete the implementation and transition to a new Crime and Mobile Predictive Analytics System as previously approved by Council. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for professional services with no change in the physical environment. (Finance)

2.7 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated January 14, 2016, recommending adoption of a resolution.

Action: Resolution No. 77643, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Third Amendment to the Existing Agreement with Corona Solutions, Inc. for Crime Analytic Software and Services, Extending the Term Six Months Through June 30, 2016 and Increasing Compensation by \$24,300 for a Revised Maximum Compensation of \$548,957", was adopted. (11-0.)

2.8 As recommended by the Rules and Open Government Committee on January 13, 2016:

- (a) Retroactively approve the Fire Station 21 Grand Opening and Dedication Celebration scheduled on January 23, 2016 as a City Council sponsored Special Event and retroactively approve the expenditure of funds; and**
- (b) Retroactively 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. (Herrera)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 14, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Fire Station 21 Grand Opening and Dedication Celebration as a City Council Sponsored Special Event was retroactively approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was retroactively approved. (11-0.)

2.9 As recommended by the Rules and Open Government Committee on January 13, 2016:

- (a) Retroactively approve the Evergreen Village Square Lighting Ceremony scheduled on January 15, 2016 as a City Council sponsored Special Event and retroactively approve the expenditure of funds; and**
- (b) Retroactively 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. (Herrera/Khamis)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 14, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Evergreen Village Square Lighting Ceremony as a City Council Sponsored Special Event was retroactively approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was retroactively approved. (11-0.)

2.10 As recommended by the Rules and Open Government Committee on January 13, 2016:

- (a) Approve the African American History Month Flag Raising Ceremony and Reception scheduled on February 5, 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 January 14, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The African American History Month Flag Raising Ceremony and Reception as a City Council Sponsored Special Event was retroactively approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was retroactively approved. (11-0.)

2.11 As recommended by the Rules and Open Government Committee on January 13, 2016:

- (a) Approve the Vinci Park Community Dumpster Day scheduled on January 9, 2016 as City Council sponsored Special Event and retroactively approve the expenditure of funds;**
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Exempt, File No. PP13-056, Activities associated with citywide litter clean-up activities. (Mayor/M. Nguyen)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 14, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Vinci Park Community Dumpster Day as a City Council Sponsored Special Event was retroactively approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was retroactively approved. (11-0.)

2.12 Adopt a resolution authorizing the City Manager to negotiate and execute a Cooperative Agreement with the Santa Clara Valley Transportation Authority to allow for construction, maintenance and operation of the Coyote Creek Trail upon its property, generally between Highway 237 Bikeway and Tasman Drive, at no additional cost to the City. CEQA: Exempt, Guidelines Section 15304 Minor Alterations to Land, File No. PP03-230. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services, Angel Rios, dated January 26, 2016, recommending adoption of a resolution.

2.12 (Cont'd.)

Action: Resolution No. 77644, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cooperative Agreement with Santa Clara Valley Transportation Authority to Allow for Construction, Maintenance and Operation of the Coyote Creek Trail Upon Its Property, Generally Between Highway 237 Bikeway and Tasman Drive", was adopted. (11-0.)

2.13 Ratify and approve the City Manager's execution of an Agreement with Knight Foundation for receipt of grant funds to create a Parks Activation and Prototyping Fund for the period of November 10, 2015, to September 30, 2016, in an amount of \$150,000. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts that involve no physical changes to the environment. Council District 3. Approved.

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services, Angel Rios, dated January 26, 2016, recommending approval of an agreement.

Councilmember Raul Peralez pulled Item 2.13 to ask questions regarding the investment of grant funds. Staff responded to questions from Council.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio and carried unanimously, the ratification and approval of the City Manager's execution of an Agreement with Knight Foundation for receipt of grant funds to create a Parks Activation and Prototyping Fund for the period of November 10, 2015, to September 30, 2016, in an amount of \$150,000, was approved. (11-0.)

2.14 Adopt a resolution:

- (a) **Authorizing the Director of Housing, or designee, to submit grant applications in an aggregate amount up to \$600,000 to the California Department of Housing and Community Development under the Housing-Related Parks Program for the development of parkland on the Alum Rock & 31st Street property; and**
- (b) **Authorizing the Director of Housing, or designee, to accept Housing-Related Parks Program grant awards and conduct all negotiations, execute and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection with these grants, provided that the Director is not authorized to expend funds on these projects prior to receiving specific California Environmental Quality Act approval for each project.**

CEQA: Not a Project, File No. PP10-068(a), Grant Application. Council District 5. (Parks, Recreation and Neighborhood Services/Housing)

Documents Filed: Joint memorandum from Director of Housing Jacky Morales-Ferrand, and Director of Parks, Recreation and Neighborhood Services, Angel Rios, dated January 12, 2016, recommending adoption of a resolution.

2.14 (Cont'd.)

Action: Resolution No. 77645, entitled: "A Resolution of the Council of the City of San José Authorizing Applications for Housing-Related Parks Grant in an Aggregate Amount Not to Exceed \$600,000", was adopted. (11-0.)

- 2.15 Approve the Second Amendment to the Master Agreement with CH2M Hill, Inc. for various City Trail Projects extending the expiration of the agreement from January 31, 2016 to January 31, 2017 in order to provide services for the Penitencia Creek Trail Reach 1B project, at no additional cost to the City. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for professional services with no change in the physical environment. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated January 26, 2016, recommending approval a Second Amendment to a Master Agreement.

Action: The Second Amendment to the Master Agreement with CH2M Hill, Inc. for various City Trail Projects extending the expiration of the agreement from January 31, 2016 to January 31, 2017 in order to provide services for the Penitencia Creek Trail Reach 1B project, at no additional cost to the City, was approved. (11-0.)

- 2.16 As recommended by the Rules and Open Government Committee on January 6, 2016:**

- (a) **Approve the Celebrate Cambrian Festival scheduled on August 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. (Rocha)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 14, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Celebrate Cambrian 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. (11-0.)

- 2.17 As recommended by the Rules and Open Government Committee on January 13, 2016, approve a council grant for Branham High School in the amount of \$1,500.00 to support a school improvement project (tree planting program) to be paid by Council District 9's Office Appropriation. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Rocha)**

2.17 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 14, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: A Council grant for Branham High School in the amount of \$1,500.00 to support a school improvement project (tree planting program) to be paid by Council District 9's Office Appropriation, was approved. (11-0.)

2.18 As recommended by the Rules and Open Government Committee on January 20, 2016:

- (a) **Approve the Rainbow Flag Raising Ceremony scheduled on June 7, 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. (Oliverio)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 21, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Rainbow Flag Raising Ceremony 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.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas provided an update on storm preparedness measures taking place in Alviso in anticipation of El Niño.

3.3 As recommended by the Salary Setting Commission, approve an ordinance establishing the following salaries and benefits for the Mayor and City Council for the next two Fiscal Years, the period July 1, 2015 through June 30, 2017:

- (a) **For the Mayor, increase the authorized salary from \$114,000 annually to \$125,000 annually.**
- (b) **For each Councilmember, increase the authorized salary from \$81,000 annually to \$92,000 annually.**
- (c) **Retain the levels of health, dental, life insurance and other benefits in accordance with the benefits provided to management employees in Unit 99.**
- (d) **Retain the current retirement benefits offered under the CalPERS Tier 2 Plan and the PTC 457 Defined Contribution Plan.**
- (e) **Increase the vehicle allowance from \$350 per month to \$500 per month for the Mayor and each member of the City Council.**

3.3 (Cont'd.)

- (f) Continue to require Councilmembers to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407.**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approvals of any City actions. (City Clerk)

Documents Filed: (1) Joint memorandum from City Clerk Toni J. Taber, CMC, and City Attorney Richard Doyle, dated May 4, 2015, providing recommendations from the Salary Setting Commission. (2) Supplemental memorandum from Director of the Office of Employee Relations, Jennifer Schembri, dated January 20, 2016, providing information regarding the extent of City workforce pay increases.

Director of the Office of Employee Relations, Jennifer Schembri responded to questions regarding pay increases for City employees.

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

Councilmember Ash Kalra indicated that he would be more comfortable waiting until City employees' pay has been restored before increasing the Council and Mayor's salaries, adding that future decisions regarding salary setting issues should be taken out of Councils' hands. Councilmember Manh Nguyen also expressed what he perceives as a conflict of interest and cannot support the motion on the floor.

Councilmember Tam Nguyen requested an amendment to the motion, referring the issue to Staff to poll for a Charter Amendment which would potentially remove any future Council salary setting decisions from Council. Councilmember Magdalena Carrasco and Vice Mayor Rose Herrera approved the amendment to the motion.

Action: On a call for the question, the motion carried, and Ordinance No. 29679, entitled: "An Ordinance of the City of San José Adopting Salaries and Other Compensation for the Mayor and Councilmembers Recommended by the Salary Setting Commission Pursuant to City Charter Section 407", was passed for publication, with a referral to Staff to poll for a Charter Amendment which would potentially remove any future Council salary setting decisions from Council. (8-3. Noes: Kalra, M. Nguyen, Oliverio.)

3.4 Interview applicants and consider appointments to fill two (2) Members-at-Large with terms ending November 30, 2019 on the Civil Service Commission. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no physical changes to the environment. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated December 4, 2015, recommending considering appointments to fill two seats on the Civil Service Commission. (2) Supplemental memorandum from City Clerk Toni J. Taber,

3.4 (Cont'd.)

CMC, dated December 11, 2015, transmitting updated information regarding one applicant unable to attend the original December 15, 2015 interview, including two Council Appointment Advisory Commission interview worksheets.

Public Comment: David Wall offered criticism of the Civil Service Commission.

Incumbent Commissioners, Joan Smith and Roy Truitt were interviewed for positions on the Civil Service Commission.

Action: Joan Smith and Roy Truitt were reappointed to the Civil Service Commission for terms ending November 30, 2019. (Absent: Oliverio.)

3.5 Adopt a resolution authorizing the City Manager to:

- (a) **Execute a Master Services Agreement (“MSA”) with Intergraph Corporation (Madison, AL) for the purchase of software maintenance and support, and as-required software upgrades and related professional services for the Computer Aided Dispatch System (CAD), for an initial five-year term ending on December 31, 2020, with a maximum compensation not-to-exceed amount of \$5,000,000 for the initial five-year term, subject to the annual appropriation of funds;**
- (b) **Execute amendments to the MSA to increase or decrease the maximum compensation during the initial term as may be required, subject to the annual appropriation of funds; and**
- (c) **Execute up to five additional one-year options to extend the term of the Agreement under the same terms and conditions after the initial five-year term through December 31, 2025, subject to the annual appropriation of funds.**

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts for professional services with no change in the physical environment. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated January 14, 2016, recommending adoption of a resolution.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77646, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute a Master Services Agreement with Intergraph Corporation for the Purchase of Software Maintenance and Support for the Computer Aided Dispatch System for an Initial Five-Year Term Ending on December 31, 2010 with a Maximum Compensation Not-To-Exceed Amount of \$5,000,000 for the Initial Five-Year Term; (2) Execute Amendments to Increase or Decrease the Maximum Compensation During the Initial Term as May be Required, and (3) Execute Up to Five Additional One-Year Options to Extend the Term of the Agreement Under the Same Terms and Conditions After the Initial Five-Year Term Trough December 31, 2025, Subject to the Annual Appropriation of Funds”, was adopted. (11-0.)

- 3.6 Adopt a resolution to authorize the City Manager to:**
- (a) Execute open purchase orders for library books, reference and resource materials, and related services with Baker & Taylor (Charlotte, NC) and Ingram (La Vergne, TN) for the term February 1, 2016 through January 31, 2017, inclusive, for a total combined compensation of \$3,000,000 for the initial term;**
 - (b) Approve a contingency for a total combined amount of \$500,000 in the event that there are additional requirements for library resources; and**
 - (c) Exercise options to extend the term with Baker & Taylor and Ingram for up to six additional one-year periods, with the final term ending January 31, 2023, subject to the appropriation of funds.**

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated January 14, 2016, recommending executing open purchase orders with related contingencies and options.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77647, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Open Purchase Orders with Baker & Taylor and Ingram for Library Books, Reference and Resource Materials and Related Services for a Total Combined Compensation of \$3,000,000 for the Initial Term Beginning February 1, 2016 through January 31, 2017, Approve a Contingency for a Total Combined Amount of \$500,000, and Exercise up to Six One-Year Options to Extend the Term with Baker & Taylor, and Ingram, Subject to Appropriation of Funds", was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1**
- (a) Receive an update on the community-based Levitt Pavilion San José Steering Committee regarding its business planning, entity formation, and fundraising efforts; and**
 - (b) Authorize the City Manager's continued support of the development of this prospective project including environmental analysis for a pavilion in St. James Park.**

CEQA: Not a Project, File No. PP10-069(a), Steering Committee assessments that involve no approvals of any City actions. Environmental clearance limited to the update of the Steering Committee described above and authorized support of the potential project. Any further actions require additional environmental review. Council District 3. (Economic Development/Parks, Recreation and Neighborhood Services)

4.1 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmember Magdalena Carrasco, Councilmember Raul Peralez and Councilmember Johnny Khamis, dated January 22, 2016, recommending acceptance of Staff recommendations, including ensuring completion of a full EIR. (2) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Director of Parks, Recreation and Neighborhood Services, Angel Rios, dated January 13, 2016, providing an update from the Levitt Pavilion San José Steering Committee. (3) Presentation on the Levitt Pavilion/St. James Park project, dated January 25, 2016. (4) Email correspondence from Rudy Flores, Jr., Joshua Burroughs and Rudy A. Flores, Jr., each dated January 25, 2016, offering support to the Levitt Pavilion project.

Director of Cultural Affairs Kerry Adams Hapner and Steering Committee Chair Rick Holden offered a presentation before Council.

Public Comment: Roma Dawson, Parks Foundation; Josh Burroughs, Barry Swenson Builder; Brian Grayson and Jack Sardegnia, Levitt Pavilion Steering Committee; and Fil Mareca, Friends of Levitt Pavilion offered support to the project with inclusion of a full EIR. Dana Grove and David Wall offered a critical viewpoint.

Motion: Councilmember Raul Peralez moved approval of the Staff recommendations including the memorandum he coauthored with Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmember Magdalena Carrasco and Councilmember Johnny Khamis, dated January 22, 2016. Councilmember Magdalena Carrasco seconded the motion.

Action: On a call for the question, the motion carried unanimously, the update on the community-based Levitt Pavilion San José Steering Committee regarding its business planning, entity formation, and fundraising efforts, was accepted; the City Manager's continued support of the development of this prospective project including environmental analysis for a pavilion in St. James Park, was approved, including the memorandum coauthored by Mayor Sam Liccardo, Vice Mayor Rose Herrera, and Councilmembers Carrasco, Peralez and Khamis, dated January 22, 2016, directing the City Manager to ensure that a full Environmental Impact Report (EIR) is completed for this project. (11-0.)

4.2 Conduct a Public Hearing and adopt a resolution:

- (a) **Overruling any and all objections to the 2016-2017 Hazardous Vegetation Commencement Report (Report); and**
- (b) **Directing the Santa Clara County Consumer and Environmental Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

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

4.2 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated January 13, 2016, recommending adoption of a resolution.

Mayor Liccardo opened the public hearing.

Public Comment: David Wall suggested that fines be increased to create a dedicated fund for weed abatement.

Mayor Liccardo closed the public hearing.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77648, entitled: "A Resolution of the Council of the City of San José Overruling Objections to the 2016-2017 Hazardous Vegetation Commencement Report and Directing the Santa Clara County Department of Agriculture and Environmental Management to Abate the Seasonal and/or Recurrent Public Nuisances on Those Properties Identified in the Report Pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement Between the City of San José and the County of Santa Clara", was adopted. (10-0-1. Absent: Kalra.)

4.3 **As recommended by the Rules and Open Government Committee on January 20, 2016, direct the City Manager to return to Council by June 2016 with recommendations relating to prior Council direction in 2009-2010 to allow temporary Large Banner Signs/Supergraphics in the Downtown Sign Zone. CEQA: Not a Project, PP10-068(d), Preliminary direction to staff when eventual action requires Council approval. (Mayor)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 21, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Public Comment: Scott Knies, representing the San José Downtown Association, offered support to the project. David Wall pointed out potential violators of the sign code policy.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio and carried unanimously, the City Manager was directed to return to Council by June 2016 with recommendations relating to prior Council direction in 2009-2010 to allow temporary Large Banner Signs/Supergraphics in the Downtown Sign Zone, with additional direction to Staff to provide an update including a timeline of other items returning to Council and direction to issue an information memorandum to provide a sign code update. (11-0.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Report on bids and award of construction contract for 6717 – Iron Salt Feed Station Project to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$5,205,000 and approve a 15 percent construction contingency in the amount of \$780,750.
- (b) Adopt a resolution authorizing the Director of Public Works to execute one or more change orders in excess of \$100,000 for the remaining duration of the Project, not to exceed the total contingency amount approved for the Project.
- (c) Adopt the following 2015-2016 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund:
- (1) Decrease the East Primary Rehabilitation, Seismic Retrofit, and Odor Control appropriation to the Environmental Services Department in the amount of \$1,500,000;
 - (2) Decrease the Tunnel Rehabilitation appropriation to the Environmental Services Department in the amount of \$300,000; and
 - (3) Increase the Iron Salt Feed Station appropriation to the Environmental Services Department in the amount of \$1,800,000.

CEQA: San José/Santa Clara Regional Wastewater Facility Iron Salt Feed Station Mitigated Negative Declaration, File No. PP14-098. (Environmental Services/City Manager)

Documents Filed: (1) Joint memorandum from Environmental Services Director Kerrie Romanow and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated January 4, 2016, recommending approval of an amendment to the Master Agreement. (2) Memorandum from Chair of the Treatment Plant Advisory Committee, Jamie L. Matthews, dated March 12, 2015, expressing concurrence with the Staff recommendations.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77649, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Issue Any Single and/or Multiple Change Orders for the 6717 - Iron Salt Feed Station Project up to the Contingency Amount of \$780,750”, and Ordinance No. 29680, entitled: “An Ordinance of the City of San José to Appropriate Monies in the San Jose-Santa Clara Treatment Plant Capital Fund for the Iron Salt Feed Station; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

| <u>Tract</u> | <u>Location</u> | <u>Council District</u> | <u>Developer</u> | <u>Lots/Units</u> | <u>Type</u> |
|--------------|--------------------|-------------------------|------------------|-------------------|-------------|
| 10348 | 2482 Almaden Expy. | 6 | Pulte Home Corp. | 1/24 | MFA |

OPEN FORUM

1. Blair Beekman asked that homeless encampment sweeps of downtown be tempered and commented on technology used to advance national security.
2. David Wall addressed the graffiti problem in San José and offered that there should be greater security at the City's committee meetings.

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon session of the Council of the City of San José at 4:33 p.m.

RECESS/RECONVENE

The City Council recessed at 4:33 p.m. from the afternoon Council Session and reconvened at 7:07 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - All Present.

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

CEREMONIAL ITEMS

1.4 Presentation of a commendation to Simon Koski for accomplishments in the National Mathnasium TriMathlon. (Rocha)

Mayor Sam Liccardo and Councilmember Donald Rocha recognized Simon Koski for accomplishments in the National Mathnasium TriMathlon.

1.5 Presentation of a proclamation recognizing January 2016 as Human Trafficking Awareness Month in the City of San José. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized January 2016 as Human Trafficking Awareness Month in the City of San José.

1.6 Presentation of a commendation to Doña Irma Gallardo for her contributions for a stronger and healthier East San José community. (Carrasco)

Mayor Sam Liccardo and Councilmember Magdalena Carrasco commended Doña Irma Gallardo for her contributions for a stronger and healthier East San José community.

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of a resolution for a Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol at an approximately 1,147 square foot existing grocery store (T&L Market) on an approximately 0.14 gross acre site in the CN Neighborhood Commercial Zoning District located on the northeast corner of North 10th Street and East Julian Street (451 East Julian) (Joe Amarlou, Owner). CEQA: Exempt, Guidelines Section 15301(a) Existing Facilities. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)**
CP15-008/ABC15-003 – Council District 3

Item 11.1(a) was dropped – to be Renoticed.

- (b) (1) Adopt a resolution approving the Mitigated Negative Declaration for the Fourth Street Residential Project and related Mitigation Monitoring and Reporting Program.**
- (2) Consideration of an ordinance rezoning the real property located at the southeast corner of North 4th Street and Julian Street (298 North 4th Street) from the CG Commercial General District to RM (PD) Planned Development Zoning District to allow up to 12 residential units and approximately 1,403 square feet of commercial space on an approximately 0.43 acre site (Green Valley Corporation, Owner). CEQA: Fourth Street Residential Project Mitigated Negative Declaration. Planning Commission recommends approval (5-0-2) (Ballard and Bit-Badal absent). (Planning, Building and Code Enforcement)**

PDC14-064 – Council District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-008 & ABC15-003, dated November 23, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated January 25, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing executed on January 8, 2016, submitted by the City Clerk.

11.1(b)(Cont'd.)

Item 11.1 (b) was pulled by Mayor Sam Liccardo.

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

Director of Planning, Building and Code Enforcement, Harry Freitas responded to questions regarding the Fourth Street Residential Project.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77650, entitled: "A Resolution of the Council of the City of San José Adopting the Fourth Street Residential Project Mitigated Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program", was adopted; and Ordinance No. 29681, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.43 Gross Acre Situated on the Southeast Corner of East Julian Street and North 4th Street (2984 North 4th Street) from CG Commercial General to RM(PD) Planned Development Zoning District", was passed for publication. (9-0-2. Absent: Carrasco, Kalra.)

- 11.1 (c) (1) **Adopt a resolution approving the Mitigated Negative Declaration for the 780 Winchester Boulevard Mixed Use Project and related Mitigation Monitoring and Reporting Program.**
- (2) **Consideration of an ordinance rezoning the real property located at the east side of South Winchester Boulevard, approximately 180 feet north of Magliocco Drive (780 S. Winchester Boulevard) from the CP-Commercial Pedestrian and CG-Commercial General Districts to the CP(PD) Planned Development Zoning District, to allow a 4-story building with approximately 10,511 square feet of commercial uses and 82,036 square feet of mini storage on a 1.17 gross acre site (Dan Hudson, Owner). CEQA: 780 Winchester Boulevard Mixed Use Project Mitigated Negative Declaration. Planning Commission recommends approval (5-0-2) (Bit-Badal and Ballard absent). (Planning, Building and Code Enforcement)**

PDC14-056 – Council District 1

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC14-056, dated December 1, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated January 5, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing executed on January 8, 2016, submitted by the City Clerk.

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

11.1(c) (Cont'd.)

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77651, entitled: "A Resolution of the Council of the City of San José Adopting the 780 Winchester Boulevard Mixed Use Project Mitigated Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program", was adopted; and Ordinance No. 29682, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.17 Gross Acres Situated on the East Side of South Winchester Boulevard Approximately 180 Feet North of Magliocco Drive (780 South Winchester Boulevard) from CP Commercial Pedestrian and CG Commercial General Zoning Districts to the CP(PD) Planned Development Zoning District", was passed for publication. (9-0-2. Absent: Carrasco, Kalra.)

END OF CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 (a) Adopt a resolution approving the 1707 Ringwood Avenue Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program.**
- (b) Consideration of an ordinance rezoning the real property located at 1707 Ringwood Avenue from the A Agricultural Zoning District to the A(PD) Planned Development Zoning District to allow four residential units (two attached units and two detached units) on an approximately 0.29 gross acre site (JWC Investments, Inc., Owner).**

CEQA: 1707 Ringwood Avenue Mitigated Negative Declaration. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC14-038 – Council District 4

(Deferred from 12/8/15 – Item 11.5)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC14-038, dated November 23, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated January 5, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing executed on January 8, 2016, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement, Harry Freitas provided an overview.

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

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 77652, entitled: "A Resolution of the Council of the City of San José Adopting the 1707 Ringwood Avenue

11.2 (Cont'd.)

Rezoning Project Mitigated Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was adopted; and Ordinance No. 29683, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.29 Gross Acre Situated on the West Side of Ringwood Avenue, Approximately 735 Feet South of McKay Drive (1707 Ringwood Avenue), from the A Agricultural Zoning District to the A(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

Note: Item 11.3 heard jointly with Item 11.4.

- 11.3 (a) Consider the Addendum to the North San José Policies Update Program EIR, Envision San José 2040 Program EIR and BEA Development Project EIR for the Orchard Parkway Properties Project, and adopt a revised Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act.
- (b) Consideration of an ordinance rezoning the real property located on both sides of Component Drive, between North First Street and Orchard Parkway from the IP(PD) Planned Development Zoning District to the IP(PD) Planned Development Zoning District for the purposes of amending the development standards to eliminate the 105-foot height requirement on North First Street, for up to 2.8 million square feet of industrial uses (Apple, Inc., Owner).
- (c) Consideration of a resolution for a Master Planned Development Permit to effectuate the Planned Development Zoning (File No. PDC15-056) for up to 2.8 million square feet of industrial uses. If Council approves the rezoning ordinance in subsection (b), continue the Master Planned Development Permit for approval on the same date as the final adoption of the rezoning ordinance in accordance with Title 20 of the Municipal Code.

CEQA: Addendum to the North San José Development Policies EIR (Resolution No. 72768), Envision San José 2040 General Plan EIR (Resolution No. 76041), and BEA Development Project EIR (Resolution No. 72169). Planning Commission recommends approval 5-0-2 (Ballard and Yesney abstain). (Planning, Building and Code Enforcement) PDC15-056/PD15-052 – Council District 4

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Councilmember Manh Nguyen, Vice Mayor Rose Herrera, Councilmember Raul Peralez and Councilmember Johnny Khamis, dated January 22, 2016, recommending approval of recommendations from Staff. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated January 22, 2016, addressing minor text changes to one section of the Addendum prepared for the Orchard Parkway Properties Project. (3) Proof of Publication of Notice of Public Hearing executed on December 18, 2015, submitted by the City Clerk.

Assistant Director of Economic Development, Nanci J. Klein and Sylvia Do offered a presentation.

11.3 (Cont'd.)

Mayor Liccardo opened the public hearing.

Public Comment: Kristina Raspe, Senior Director of Real Estate and Development for Apple offered comments and responded to questions. Brian Darby offered enthusiastic support for Apple products.

Mayor Liccardo closed the public hearing.

Action: Upon motion by Councilmember Manh Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29684, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 43.0 Gross Acres Situated on the West Side of North First Street on Both Sides of Component Drive, From the IP(PD) Planned Development Zoning District to the (IP(PD) Planned Development Zoning District", was passed for publication. (11-0.)

Adoption of Resolution 77653 continued to February 2, 2016.

Note: Item 11.4 heard jointly with Item 11.3.

- 11.4 (a) Consider the Addendum to the North San José Policies Update Program EIR, Envision San José 2040 Program EIR and BEA Development Project EIR for the Orchard Parkway Properties Project, and adopt a revised Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act.
- (b) Consideration of an ordinance to approve an amended and restated Development Agreement between Apple Inc. and the City of San José to amend and restate a Development Agreement previously entered into between BEA Systems, Inc. and the City of San José and to incorporate additional adjacent sites of approximately 43.35 acres within the scope of the Development Agreement. The Development Agreement will vest entitlements for 15 years to develop up to 4,151,350 square feet of industrial development, including office, research and development, manufacturing, and other related and supporting uses consistent with the North San José Area Development Policy, San José 2020 General Plan, and Envision San José 2040 General Plan on an approximately 86.35 gross acre site located west of Orchard Parkway on both sides of Atmel Way and east of Orchard Parkway on both sides of Component Drive The Development Agreement
- (b) includes findings to recognize that the extraordinary benefit to be provided by the project includes the creation of job opportunities for existing residents and a stronger municipal tax base, the expansion into North San José of a superior local business presence whose business is particularly suited to the area, improvement of the City's jobs/housing balance, and the provision of a water well site to serve the North San José area.

11.4 (Cont'd.)

- (c) Consideration of a resolution for a Site Development Permit Amendment to allow a permit extension for up to 15 years for Site Development Permit File No. H12-008, consistent with the term of Development Agreement File No. DA15-002; on an approximately 12.9 gross acre site located at the southwest terminus at Atmel Way, approximately 930 feet east of Orchard Parkway (Apple, Inc., Owner). If Council approves the ordinance in subsection (b), continue the Site Development Permit Amendment for approval on the same date as the final adoption of the ordinance.
- (d) Consideration of a resolution for a Tentative Map to allow an extension for up to 15 years for Tentative Map File No. PT13-061, consistent with the term of Development Agreement File No. DA15-002, on an approximately 43 gross acre site located on the west side of North First Street on both sides of Component Drive. If Council approves the ordinance in subsection (b), continue the Tentative Map for approval on the same date as the final adoption of the ordinance.

CEQA: Addendum to the North San José Development Policies EIR (Resolution No. 72768), Envision San José 2040 General Plan EIR (Resolution No. 76041), and BEA Development Project EIR (Resolution No. 72169). Planning Commission recommends approval 5-0-2 (Ballard and Yesney abstain). (Planning, Building, and Code Enforcement)

DA15-002/HA12-008-02/PT15-066 – Council District 4

Note: Item 11.4 heard jointly with Item 11.3.

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Councilmember Manh Nguyen, Vice Mayor Rose Herrera, Councilmember Raul Peralez and Councilmember Johnny Khamis, dated January 22, 2016, recommending approval of recommendations from Staff. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated January 22, 2016, addressing minor text changes to one section of the Addendum prepared for the Orchard Parkway Properties Project. (3) Proof of Publication of Notice of Public Hearing executed on December 18, 2015, submitted by the City Clerk.

Action: Upon motion by Councilmember Manh Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29685, entitled: "An Ordinance of the City of San José Approving an Amended and Restated Development Agreement with Apple Inc. Relative to the Development of Certain Real Property in North San José and Authorizing the City Clerk to Execute the Development Agreement and Cause the Same to be Recorded with the Santa Clara County Recorder's Office", was passed for publication. (11-0.)

Adoption of Resolutions 77654 and 77655 continued to February 2, 2016.

- 11.5 (a) **Certify the Environmental Impact Report for The Reserve Apartments Mixed Use Project and adopt a resolution making certain findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation monitoring and reporting program, and adopting a statement of overriding considerations, all in accordance with the California Environmental Quality Act (CEQA).**
- (b) **Consideration of an ordinance rezoning the real property located at the northwest corner of South Winchester Boulevard and Williams Road (881 South Winchester Boulevard) from R-M Residential Zoning District to the R-M (PD) Planned Development Zoning District to allow for the demolition of the existing 216 unit apartment complex and the development of up to 641 multi-family residential units and 8,000 square feet of commercial space on a 7.68 gross acre site (Reserve Reit, Owner).**

CEQA: Reserve Residential Project EIR to be considered for certification by City Council. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC14-040 – Council District 1

Action: Deferred to February 23, 2016 per Rules and Open Government Committee.

- 11.6 **Conduct an Administrative Hearing and make a determination on the appeal of the Planning Commission's denial of a Conditional Use Permit to allow a public drinking establishment with a maximum occupancy of 250 people, and late night use until 2:00 a.m. for that drinking establishment and for a banquet facility with a maximum capacity of 549 people in an existing 8,684 square foot tenant space located on the east side of South 1st Street, approximately 400 feet southerly of East Santa Clara Street (58 So. 1st Street) in the DC Downtown Primary Commercial Zoning District. There are two separate conditional uses proposed in this application: (1) the operation of a public drinking establishment with a maximum occupancy of 250 people; and (2) the late night operation of a public drinking establishment and a banquet facility between the hours of midnight and 2:00 a.m. (Martin Family Properties, Owner). CEQA: Exempt, Guidelines Section 15303(c) New Construction or Conversion of Small Structures. Planning Commission voted 5-0-2 (Yob and Pham absent) that the CEQA exemption is in accordance with CEQA; Planning Commission motion to deny the conditional use permit failed 3-2-2 (Ballard and Yesney opposed; Yob and Pham absent. Motions require an affirmative vote of 4 members for approval); Planning Commission voted 5-0-2 (Yo and Pham absent) to Reconsider the conditional use permit; Planning Commission voted 4-1-2 (Ballard opposed; Yob and Pham absent. Yesney changed vote from approval to denial in order to allow appeal to move forward to Council) to deny the conditional use permit. (Planning, Building and Code Enforcement) CP15-057 – Council District 3**

11.6 (Cont'd.)

Documents Filed: (1) Joint memorandum from Councilmember Raul Peralez, Councilmember Magdalena Carrasco and Mayor Sam Liccardo, dated January 22, 2016, recommending denial of the appeal. (2) Joint memorandum from Councilmember Donald Rocha and Councilmember Johnny Khamis, dated January 22, 2016, recommending approval of the proposed project. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-057, dated October 13, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated January 8, 2016, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing executed on January 8, 2016, submitted by the City Clerk. (5) Letter from Jeffrey E. Essner, Hopkins & Carley, dated January 26, 2016, requesting denial of the Conditional Use Permit. (6) Letter from Otto O. Lee, Managing Partner, Intellectual Property Law Group LLP, dated January 22, 2016, requesting approval of the Conditional Use Permit (CUP). (7) Letter from Matthew Mahood, President & CEO, Silicon Valley Chamber of Commerce, dated January 25, 2016, expression opposition to the CUP. (8) Letter from 1st Street SJ Enterprise, dated January 22, 2016, recommending approval of the CUP. (9) Letter from David Silberstein, Vice President, Meacham/Oppenheimer, Inc., dated December 8, 2015, recommending approval of the CUP. (10) Letters from Ellen Prandi, Martin Family Properties, dated June 22, 2015 and October 19, 2015, recommending approval of the CUP. (11) Email from William Carlson, received June 28, 2015, offering support to the CUP. (12) Letter from Peter Aguilar, former San José police sergeant, dated January 15, 2016, offering support to the proposed CUP. (13) Email correspondence from Tin Le, Co-owner of Temple Bar & Lounge suggesting denial of the proposed CUP. (14) Letter from Tom McEnery, The Farmers Union, urging denial of a CUP for the proposed project.

Director of Planning, Building and Code Enforcement, Harry Freitas provided an overview of the Planning Commission's recommendations for a denial of a Conditional Use Permit.

Mayor Liccardo opened the public hearing.

Public Comment: George Mull, representing the applicant, Vanity San José, spoke in favor of the Conditional Use Permit for this property; also recommending support for the permit, citing employment and entertainment opportunities and the applicant's good reputation in the nightclub community were David Silberstein Farland Yu-Bahmanbejad, Kevin Ma, Robert Michael Cortese, Emilie Gatfield, Thai Nguyen and Ronald Pabalate; and Otto Lee, Intellectual Property Law Group.

Recommending denial of this permit due to a perceived negative impact on the neighborhood and impact on nearby businesses, were Jeffrey Essher and Jay Ross, Hopkins & Carley, and Bill Ryan on behalf of Barry Swenson Builder. Brian Darby offered comments.

Mayor Liccardo closed the public hearing.

11.6 (Cont'd.)

Motion: Councilmember Raul Peralez moved for denial of the Conditional Use Permit on the basis that it does not adhere to the thirty percent maximum street frontage requirement for drinking establishments on one street. Councilmember Magdalena Carrasco seconded the motion.

Sergeant Todd Trayer, San José Police Department, spoke to the credentials of Jenny Wolfe, the operator of the proposed nightclub.

Substitute Motion: Councilmember Johnny Khamis moved approval of the proposed project as outlined in the memorandum he coauthored with Councilmember Donald Rocha, dated January 22, 2016. Councilmember Donald Rocha seconded the motion.

On a call for the question, the substitute motion failed. (4-6-1. Noes: Carrasco, Herrera, Jones, Kalra, Peralez; Liccardo. Absent: Oliverio.)

Action: On a call for the question, the original motion carried, and Resolution No. 77656, entitled: "A Resolution of the Council of the City of San José Denying a Conditional Use Permit to Allow Late Night Use Until 2:00 A.M. for a Public Drinking Establishment with a Maximum Occupancy of 250 People, and a Banquet Hall with a Maximum Occupancy of 549 People in an Existing 8,684 Square Foot Tenant Space in the DC Downtown Primary Commercial Zoning District on an Approximately 0.15 Gross Acre Site, Located on the East Side of South 1st Street, Approximately 400 Feet Southerly of East Santa Clara Street (58 South 1st Street", was adopted, denying the Conditional Use Permit, on the basis that it does not adhere to the thirty percent maximum street frontage requirement for drinking establishments on one street. (6-4-1. Noes: Khamis, M. Nguyen, T. Nguyen, Rocha. Absent: Oliverio.)

- 11.7 (a) **Consider the Addendum to the 2500 Senter Road Residential Project Mitigated Negative Declaration, and adopt a revised Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act.**
- (b) **Consideration of an ordinance rezoning the real property located on the easterly side of Senter Road, approximately 560 feet southerly of Tully Road (2500 Senter Road) from the A(PD) Planned Development Zoning District to the PQP Public/Quasi-Public Zoning District on a 2.5 gross acre site (Charities Housing, Applicant).**

CEQA: Addendum to the 2500 Senter Road Residential Project Mitigated Negative Declaration (File No. PDC09-033, Ordinance No. 28815). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building and Code Enforcement)

C15-060 – Council District 7

11.7 (Cont.d')

Documents Filed: (1) Joint memorandum from Councilmember Raul Peralez, Councilmember Manh Nguyen and Councilmember Tam Nguyen, dated January 22, 2016, recommending acceptance of Staff recommendations with approval of revised Mitigated Negative Declaration and rezoning. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-060, dated January 8, 2016. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated January 22, 2016, addressing text changes to the Mitigation Monitoring and Reporting Program measures. (3) Proof of Publication of Notice of Public Hearing executed on January 8, 2016, submitted by the City Clerk. (4) Petition expressing opposition to the currently planned Spot Rezoning with 64 signatures, dated January 23, 2016, presented by the LaRagione/Albanese Circle neighborhood. (5) Email correspondence from the Park Senter Villas Board of Directors and Delbert O. Ng, dated January 21, 2016 and January 23, 2016, offering opposition to the Spot Rezoning.

Mayor Liccardo opened the public hearing.

Public Comment: Kathy Robinson, representing the applicant Charities Housing, thanked the Council and Staff for their support. Offering criticism to the plan were Nikki, Park Senter Villas HOA; Delbert Ng, Carolyn Burton, Van Le, Gabriela Gonzalez-Do and Moises Rivera.

Mayor Liccardo closed the public hearing.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, Ordinance No. 29686, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 2.6 Acres on the Easterly Side of Senter Road Approximately 560 Feet Southerly of Tully Road (2500 Senter Road) from the A(PD) Planned Development Zoning District to the PQP Public/Quasi-Public Zoning District", was passed for publication. (8-0-3. Absent: Kalra, Oliverio, Rocha.)

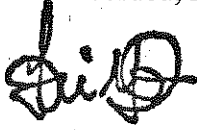
OPEN FORUM

- (1) Brian Darby expressed the concerns of fellow residents of the Winchester Mobile Home Park, and spoke to the issue of homelessness.
- (2) Gilbert Yang asked that greater efforts be made to clean up the Coyote Creek area and cited the danger to nearby residents.
- (3) Wyan Tanu asked that refugees' experiences not be equated with the homeless epidemic.

ADJOURNMENT

The Council of the City of San José was adjourned at 11:19 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

A handwritten signature in black ink, appearing to read 'Toni J. Taber', written in a cursive style.

Toni J. Taber, CMC
City Clerk

rmk/1-26-16rmk