



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JANUARY 24, 2017

The Council of the City of San José convened in Regular Session at 9:30 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, 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 9:33 p.m. to a Closed Session in Room W133; (A) to confer with Legal Counsel pursuant to subsection (c) of Section 54956.9 of the Government Code with respect to anticipated litigation in one (1) matter; (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 Wedding, Linda v. Super Micro Computer, Inc., City of San José, et al.; Names Of Partie(s) Involved: Linda Wedding, Super Micro Computer, City of San José, Does 1-30; Court: Superior Court of California, County of Santa Clara; Case No.: 2015-1-CV-280332; Amount of Money or Other Relief Sought: Damages according to proof; (2) City of San José v. City of Santa Clara.; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of Santa Clara; Case No: 16-CV-298317; Amount of Money or Other Relief Sought: Damages according to proof; (3) 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

CLOSED SESSION (Cont'd.)

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: 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) 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; (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; H040979; H042074; 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) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court;

CLOSED SESSION (Cont'd.)

Names Of Partie(s) Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, a California non-profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, the People of the State of California ex. Rel. San José Police Officers Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No.: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or, In the Alternative, Supersedeas, or Other Appropriate Relief; (14) 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) Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: (1) Japantown Corporation Yard; 5.25 gross acres in size, bounded by Sixth Street, Seventh Street, Jackson Street and Taylor Street (696 North 6th Street and 675 North ;6th Street); Negotiating Parties: Nanci Klein for the City of San José and Christopher Longinetti for Williams Dame; Susan Smartt for Related California Urban Residential; and Charles Thornton for Paul Hastings LLP; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on comparable rental values; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of 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

CLOSED SESSION (Cont'd.)

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 11:45 p.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

INVOCATION

Rabbi Josh Berkenwald, Congregation Sinai, provided the Invocation.

PLEDGE OF ALLEGIANCE

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

CEREMONIAL ITEMS

1.1 Administer Oath of Office for Councilmember Diep. (City Clerk)

The Oath of Office was administered to Councilmember Diep by City Clerk Toni J. Taber.

1.4 Presentation of a proclamation to survivor Tamara Noten in honor of International Holocaust Remembrance Day. (Jones/Jimenez)

Mayor Sam Liccardo and Councilmembers Chappie Jones and Sergio Jimenez honored survivor Tamara Noten in honor of International Holocaust Remembrance Day.

ORDERS OF THE DAY

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, including deferral of Item 3.4, with questions and public comment to be allowed; with addition of Item 2.14, modification of Item 3.5, Item 6.2 to be deferred to February 14, 2017, and with Item 8.1 to be dropped and re-noticed as a Study Session. (11-0.)

CONSENT CALENDAR

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Arenas, Carrasco.)

2.1 Approval of Council Minutes:

None provided

2.2 Final Adoption of Ordinances.

- (a) **ORD. NO. 29858** – An ordinance of the City of San José rezoning certain real property of approximately 10.6 gross acres situated on the southwest corner of North Capitol Avenue and Gimelli Way (641 North Capitol Avenue) from the RM Multi-Family Residence Zoning District to the CP(PD) Planned Development Zoning District. CEQA: 641 North Capitol Avenue Mixed-Use Project Mitigated Negative Declaration. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29858 executed on January 13, 2017, submitted by the City Clerk.

Action: Ordinance No. 29858 was adopted. (9-0-2. Absent: Arenas, Carrasco.)

- (b) **ORD. NO. 29859** – An ordinance of the City of San José rezoning certain real property of approximately 0.90 gross acre situated on the northeasterly side of Portola Avenue and the Alameda (2188 The Alameda) from the A(PD) Planned Development Zoning District to the CP Commercial Pedestrian Zoning District. CEQA: Exempt per CEQA Guidelines 15301(a), for Existing Facilities. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29859 executed on January 13, 2017, submitted by the City Clerk.

Action: Ordinance No. 29859 was adopted. (9-0-2. Absent: Arenas, Carrasco.)

2.2 Final Adoption of Ordinances (Cont'd.)

- (c) **ORD. NO. 29860** – An ordinance of the City of San José rezoning certain real property of approximately 0.35 gross acre situated on the easterly side of North 2nd Street, approximately 130 feet south of East Julian Street (278 North 2nd Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District. CEQA: Addendum to the Downtown Strategy 2000 Final Program EIR (Resolution No. 72767), the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), and the Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29860 executed on January 13, 2017, submitted by the City Clerk.

Action: Ordinance No. 29860 was adopted. (9-0-2. Absent: Arenas, Carrasco.)

2.3 Approval of Council Committee Minutes.

- (a) **Rules and Open Government Committee Minutes of November 30, 2016.**
(Mayor)
- (b) **Rules and Open Government Committee Minutes of December 7, 2016.**
(Mayor)
- (c) **Rules and Open Government Committee Minutes of December 14, 2016.**
(Mayor)
- (d) **Public Safety, Finance & Strategic Support Committee Minutes of December 15, 2016.** (Peralez)

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

Documents Filed: (1) Rules and Open Government Committee Minutes dated November 30, December 7 and December 14, 2016; (2) Public Safety, Finance, and Strategic Support Committee Minutes dated December 15, 2016.

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

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

Mayor Sam Liccardo offered highlights of his trip to Washington D.C. for the U.S. Conference of Mayors, discussions regarding the expansion of the AmeriCorps and with incoming Senator Kamala Harris regarding transportation funding.

2.6 Report from the Council Liaison to the Retirement Boards.

Councilmembers Dev Davis and Johnny Khamis reported out on the December meeting of the Federated Board.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, the Report from the Council Liaison to the Retirement Boards was accepted. (9-0-2. Absent: Arenas, Carrasco.)

2.7 Adopt a resolution amending the Conflict of Interest Code for the City of San José. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy Change that involves no changes in the physical environment. (City Clerk)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated January 13, 2017, recommending adoption of a resolution.

Action: Resolution No. 78059, entitled: “A Resolution of the Council of the City of San José Authorizing Amending the Conflict of Interest Code for the City of San José, was adopted. (9-0-2. Absent: Arenas, Carrasco.)

2.8 Adopt a resolution authorizing the City Manager to:

- (a) Amend Purchase Orders 53054 and 52678 with Ciari Plumbing & Heating Inc. (San José, CA) and Burr Plumbing & Pumping Inc. (San José, CA), respectively, to increase the amount of total compensation for each purchase order by \$125,000, from \$270,000 to \$395,000, for the remainder of the current term, ending on June 30, 2017;
- (b) Amend the Purchase Orders to increase the compensation if there is a need for additional plumbing services, subject to the appropriation of funds; and
- (c) Execute the remaining three annual options to renew the purchase orders through June 2020, subject to the same terms and conditions, and the annual appropriation of funds. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts, Purchase Order. (Finance)

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated January 24, 2017, recommending adoption of a resolution.

Action: Resolution No. 78060, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Amend Purchase Orders 53054 and 52678 with Ciari Plumbing & Heating Inc., and Burr Plumbing & Pumping Inc., Respectively, to Increase the Amount of Total Compensation for Each Purchase Order by \$125,000, from \$270,000 to \$395,000 for the Remainder of the Current Term, Ending on June 30, 2017; (2) Amend the Purchase Orders to Increase the Compensation if there is a Need for Additional Plumbing Services, Subject to the Appropriation of Funds; and (3) Execute the Remaining Three Annual Options to Renew the Purchase Orders Through June 2020, Subject to the Same Terms and Conditions, and the Annual Appropriation of Funds”, was adopted. (9-0-2. Absent: Arenas, Carrasco.)

- 2.9 Adopt a resolution authorizing the City Manager to execute a Purchase and Sale Agreement for the City's purchase of 530 square feet of land from the Santa Clara Valley Water District (SCVWD) in the amount of \$2,300 to support the installation of a new sidewalk and the relocation of a traffic signal with SCVWD retaining easement rights to maintain the water channel under the roadway. CEQA: Exempt, File No. PP16-021, CEQA Guidelines Section 15061(b)(3), No potential for causing a significant effect on the environment and Section 15301(c), Existing Facilities. Council District 3. (Economic Development)**

Documents Filed: City Council Action Request from Deputy City Manager/Director of Economic Development Kim Welsh, dated January 24, 2017, recommending adoption of a resolution.

Action: Resolution No. 78061, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Purchase and Sale Agreement with the Santa Clara Valley Water District for the City's Purchase of 530 Square Feet of Land at McKee and King Roads in the Amount of \$2,300", was adopted. (9-0-2. Absent: Arenas, Carrasco.)

2.10 Adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a 1,061 square foot portion of a public utility easement ("PUE") at 1520 Santa Maria Avenue;**
- (b) Summarily vacating a portion of the PUE which is excess and no longer necessary for public purposes; and**
- (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.**

**CEQA: Exempt, File No. PP16-108, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations. Council District 6. (Public Works)
Resolution No. 78062 adopted.**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated January 3, 2017, recommending adoption of a resolution.

Action: Resolution No. 78062, entitled: "A Resolution of the Council of the City of San José Summarily Vacating a 1,061 Square Foot Portion of a Public Service Easement at 1520 Santa Maria Avenue", was adopted. (9-0-2. Absent: Arenas, Carrasco.)

- 2.11 (a) Report on bids and award of contract for the 7534 - Silver Leaf Park Renovation Project to the lowest responsive bidder, Integra Construction Services, Inc., for the base bid and Bid Alternate No. 1 in the amount of \$761,544 and approval of a five percent contingency in the amount of \$38,078.**
- (b) Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 2:**
- (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Silver Leaf Park Renovation Project by \$138,000; and**

2.11 (Cont'd.)

(b) (2) Decrease the Ending Fund Balance by \$138,000.

CEQA: Exempt, File No. PP16-081, CEQA Guidelines Section 15302 Replacement or Reconstruction and Section 15301, Existing Facilities. 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, Jr., and Senior Deputy City Manager Jennifer Maguire, dated January 11, 2017, recommending acceptance of the report and adoption of Appropriation Ordinance Amendments.

Action: The Report on bids and award of contract for the 7534 - Silver Leaf Park Renovation Project to the lowest responsive bidder, Integra Construction Services, Inc., was accepted, and Ordinance No. 29861, entitled "An Ordinance of the City of San José to Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 2, to (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Silver Leaf Park Renovation Project by \$138,000; and (2) Decrease the Ending Fund Balance by \$138,000", was adopted. (9-0-2. Absent: Arenas, Carrasco.)

2.12 As recommended by the Rules and Open Government Committee on January 11, 2017:

(a) Retroactively approve the East Side Leadership Luncheon scheduled on January 13, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 12, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Retroactive approval of the East Side Leadership Luncheon was approved. (9-0-2. Absent: Arenas, Carrasco.)

2.13 Recommendation: As recommended by the Rules and Open Government Committee on January 11, 2017:

(a) Approve District 5 Community Pancake Breakfast scheduled on January 28, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 12, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Retroactive approval of the District 5 Community Pancake Breakfast was approved. (9-0-2. Absent: Arenas, Carrasco.)

- 2.14 Direct the City Attorney to join the County of Santa Clara in filing a Friend of the Court brief with the United States Supreme Court in *Jennings v. Rodriguez* to support a challenge to the constitutionality of certain provisions of the immigration laws that permit prolonged detention of various categories of non-citizens without bond hearings. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated January 20, 2017, recommending submission of an *amicus curiae* brief.

Action: The City Attorney was granted approval to join the County of Santa Clara in filing a Friend of the Court brief with the United States Supreme Court in *Jennings v. Rodriguez* to support a challenge to the constitutionality of certain provisions of the immigration laws that permit prolonged detention of various categories of non-citizens without bond hearings. (9-0-2. Absent: Arenas, Carrasco.)

- 2.15 (a) Approve Councilmember Sylvia Arenas' Inauguration scheduled on January 28, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 20, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: Councilmember Sylvia Arenas' Inauguration scheduled on January 28, 2017 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: Arenas, Carrasco.)

- 2.16 As referred to City Council, without recommendation, by the two councilmembers present at the Rules and Open Government Committee on January 18, 2017, pursuant to the City's streamlined bill process for responding quickly to legislative proposals, re-affirm a position on SB 1 and AB 1 so that the City's legislative representatives can continue to advocate the City's position in Sacramento. CEQA: Not a Project, File No. PP10-069(d), City Administrative Activities, Legislative Position. (Transportation)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 20, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: Blair Beekman offered comments on road and payment repairs.

Action: Pursuant to the City's streamlined bill process for responding quickly to legislative proposals, a position on SB 1 and AB 1 so that the City's legislative representatives can continue to advocate the City's position in Sacramento, was re-affirmed. (9-0-2. Absent: Arenas, Carrasco.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas offered accolades to City staff for managing the historic turnout of 25,000 participants in the Women's March held over the weekend and the invaluable use of the City Plaza as a civic forum.

3.3 Consider the audit on Mobile Devices. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approval of any City Actions. (City Auditor) [Public Safety, Finance, and Strategic Support Committee referral 12/15/17 – Item (d)(2)]

Action: Deferred to February 7, 2017 per Administration.

- 3.4 (a) Accept the report and analysis regarding the Innovative LED Streetlight Replacement Request for Proposals.
- (b) With respect to the proposals received for installation of streetlights and smart controller units, direct the City Manager either to:
- (1) Negotiate a contract with the top-scoring proposer Siemens for conversion of approximately 39,285 streetlights to LED luminaires with smart controllers, including a pilot installation of at least 1,000 controller units from proposal partner anyCOMM, other necessary testing and appropriate guarantees, and return to Council for final contract execution.

OR

- (2) Reject all bids and issue new separate procurements for the following items:
- (i) Conversion of approximately 39,285 streetlights to LED luminaires;
- (ii) Installation and commissioning of approximately 64,400 smart controller units, including an evaluation of emerging smart city technologies and capabilities; and
- (iii) Management and marketing of City infrastructure for telecommunications purposes.
- (c) With respect to the in-lieu proposal received from Allvision/Outfront Media and the outdoor kiosks and banners proposed by Black & Veatch, direct the City Manager to continue the work currently in-process regarding electronic billboards, the General Plan, and the City Sign Code. If the Council chooses to amend the General Plan, Code and Council Policy regarding electronic billboards in the future, the City Manager is directed to come forward with recommendations on issuing an RFP for such signage and interactive media on City property.

CEQA: Exempt, File No. PP11-002, Street Lighting Design Guidelines, CEQA Guidelines Section 15301, Existing Facilities. (City Manager)

3.4 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated January 24, 2017, offering direction to the City Manager to provide information at the next Council hearing. (2) Memorandum from Councilmember Donald Rocha, dated January 23, 2017, offering recommendations to defer consideration of responses to the RFP. (3) Memorandum from the Assistant to City Manager, Michele McGurk, dated January 11, 2017, offering recommendations. (4) Supplemental memorandum from the Assistant to City Manager, Michele McGurk, dated January 23, 2017, regarding a protest received from Philips Lighting of North America.

Per Orders of the Day, questions and public comment on Item 3.4 was allowed, with Council discussion and action to be deferred.

Public Comments: Offering support to the Innovative LED Streetlight Replacement Request for Proposals, were Josh Scharfberg (Allvision/Outfront Media), Rob Praske (anyCOMM), and Scott Meinzen (Siemens Industry, Inc.). Blair Beekman warned of microwave frequency reading of LED lights.

Staff responded to questions from Council.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Magdalena Carrasco and carried unanimously, action on this item was deferred, including acceptance of the memoranda from Mayor Sam Liccardo, dated January 24, 2017 and Councilmember Donald Rocha, dated January 23, 2017, requesting deferral of consideration of responses to the LED streetlight RFP and with direction to staff to return with answers to questions as presented. (11-0.)

- 3.5 (a) **Approve the appointment of Councilmember Magdalena Carrasco as Vice Mayor.**
- (b) **Apprise the Council of the Mayor's modifications to standing committees:**
- (1) **Appoint Councilmember Dev Davis to the Rules and Open Government Committee.**
 - (2) **Appoint Councilmember Chappie Jones as Chair of the Smart Cities and Service Improvements Committee.**
- (c) **Appoint Councilmember Dev Davis as "Alternate" to the Santa Clara County Valley Transportation Authority.**

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

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated January 20, 2017, recommending approval of appointments with final changes to assignments. (2) Memorandum from City Clerk Toni J. Taber, dated January 13, 2017, regarding appointment of the Vice Mayor.

Public Comments: Offering support to the appointment of Councilmember Magdalena Carrasco to Vice Mayor, were: Mimi Hernandez (Hispanic Chamber of Commerce), Jesus Flores (Alum Rock Santa Clara Business Association), Peter Ortiz, Camile and Angela Tirado.

3.5 (Cont'd.)

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Chappie Jones, and carried unanimously, the appointment of Vice Mayor Magdalena Carrasco, Councilmember Dev Davis' appointment to the Rules and Open Government Committee, and Councilmember Chappie Jones appointment as Chair of the Smart Cities and Service Improvements Committee were approved. Additionally, Councilmember Dev Davis was appointed as an "Alternate" to the Santa Clara County Valley Transportation Authority. (11-0.)

- 3.6 **As recommended by the Rules and Open Government Committee on January 11, 2017, adopt a resolution amending the Council's Rules for the Conduct of Its Meetings, superseding Resolution No. 77919, to modify the schedule and time of Council meetings, including but not limited to, scheduling evening sessions to commence at 6:00 p.m., with the proviso that there will be a thirty (30) minute recess between the afternoon and evening session that may result in delaying the commencement of the evening session to a time later than 6:00 p.m. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (City Clerk)**

Documents Filed: (1) Memoranda from City Clerk Toni J. Taber, dated January 12, 2017, and January 18, 2107, transmitting the recommendations of the Rules and Open Government Committee and recommending adoption of a resolution.

Action: Upon motion by Councilmember Donald Rocha, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Resolution No. 78063, entitled: "A Resolution of the Council of the City of San José Amending the Rules for the Conduct of its Meeting, Superseding Resolution No. 77486, was adopted. (11-0.)

- 3.7 **As recommended by the Rules and Open Government Committee on January 11, 2017:**

- (a) **Direct the City Manager to work with the Round 1 winners of the District 2 Participatory Budgeting Project on implementation.**
 - (b) **Direct the City Manager to transfer \$75,000 from the Council District #02 appropriation to City Council District #02 Participatory Budgeting – Calpine Settlement appropriation as part of the 2016-2017 Mid-Year Budget Review.**
- CEQA: Not a Project, File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. (Jimenez)**

Documents Filed: (1) Memorandum from Councilmember Sergio Jimenez, dated January 24, 2017, recommending D2 Participatory Budgeting Actions. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated January 12, 2017, providing recommendations from the Rules and Open Government Committee.

Motion: Councilmember Sergio Jimenez moved approval of his memorandum dated January 24, 2017, with corrections as noted. The motion was seconded by Vice Mayor Magdalena Carrasco.

3.7 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and the City Manager was directed to work with the Round 1 winners of the District 2 Participatory Budgeting Project on implementation, with direction to transfer \$75,000 from the Council District #02 appropriation to City Council District #02 Participatory Budgeting – Calpine Settlement appropriation as part of the 2016-2017 Mid-Year Budget Review. (11-0.)

3.8 **As recommended by the Rules and Open Government Committee on January 11, 2017, adopt a resolution reaffirming prior recognition of the Vietnamese Heritage and Freedom Flag as the official flag of the Vietnamese-American community in San José and opposing the display of Flag of the Socialist Republic of Vietnam on city-owned flag poles. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (City Attorney) [Rules Committee referral 1/11/17 – Item G.4.]**

Heard in the evening after Consent.

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated January 6, 2017, transmitting the December 19, 2016, memorandum from Councilmembers Tam Nguyen, Manh Nguyen, Sergio Jimenez and Magdalena Carrasco, recommending a resolution regarding the flag of the Socialist Republic of Vietnam. (2) Memorandum from City Clerk Toni J. Taber, dated January 12, 2017, transmitting Memorandum from City Clerk Toni J. Taber, dated January 12, 2017, transmitting the recommendations of the Rules and Open Government Committee. (3) Letter from City Attorney Richard Doyle, dated January 12, 2017, providing a proposed resolution reaffirming prior recognition of the Vietnamese Heritage and Freedom Flag as the official flag of the Vietnamese-American community in San José. (4) Letter from Assemblymember Ash Kalra, dated January 23, 2017, opposing display of the Flag of the Socialist Republic of Vietnam. (5) Letter from Senator Janet Nguyen, dated January 23, 2017, offering support to the resolution. (6) Letter from Hildan Truong, President, Vietnamese Community of Southern California, undated, offering support to the resolution. (7) Email correspondence from Robert Imhoff, representing the Libertarian Party of Santa Clara County, received January 24, 2017, providing opposition to the proposed resolution.

Public Comments: Fifty-four members of the public spoke in support of the proposed resolution to Vietnamese Heritage and Freedom Flag as the official flag of the Vietnamese-American community in San José and opposing the display of the flag of the Socialist Republic of Vietnam on city-owned flagpoles. Six members of the public offered opposition to the proposed resolution, citing ban of the Socialist Republic flag as counter to the First Amendment of the Constitution, and as setting a bad precedent.

Extensive Council discussion followed.

3.8 (Cont'd.)

Action: Upon motion by Councilmember Tam Nguyen, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Resolution No. 78064, entitled: "A Resolution of the Council of the City of San José Reaffirming Prior Recognition of the Flag of the Former Republic of Vietnam as the Official Flag of the Vietnamese-American Community in San José and Opposing the Display of the Flag of the Socialist Republic of Vietnam on City-Owned Flag Poles", was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution initiating proceedings and setting February 28, 2017, at 7:00 6:00 p.m. for City Council consideration of the reorganization of territory designated as Story No. 66, which involves the annexation to the City of San José of approximately 0.78-gross acre of land located on the north side of Story Road, approximately 100 feet west of Roehampton Avenue, and the detachment of the same from the appropriate special districts, including the Central Fire Protection District, County Sanitation District 2-3, Santa Clara County Lighting Service Area, and Santa Clara County Library Services (Area No. 1). CEQA: Determination of consistency with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: City Council Action Request from Director, Planning, Building and Code Enforcement Harry Freitas, dated January 24, 2017, recommending adoption of a resolution.

Motion: Vice Mayor Magdalena Carrasco moved approval of the staff recommendations, with the time change as indicated below in "Action". Councilmember Sylvia Arenas seconded the motion.

Action: On a call for the question, the motion carried unanimously, Resolution No. 78065, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Story No. 66, Described More Particularly Herein, and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted, with correction to time of proceedings to 6:00 p.m. (11-0.)

- 4.2 Report on bids and award of contract for the 7756 – Chynoweth Avenue Green Street Project to the low bidder, Granite Rock Company, for the base bid and Add Alternate No. 1 in the total amount of \$1,804,373, and approve a contingency in the amount of \$180,437. CEQA: Exempt, File No. PP14-041, CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures. Council District 10. (Public Works)**

4.2 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated January 3, 2017 recommending acceptance of a report on bids and award of a contract.

Public Comments: Manuel Perez offered support to Marshall Cottle Park but highlighted safety issues with speeding vehicles and the need for traffic control.

Director of Transportation Jim Ortbal responded to questions and concerns.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the report on bids and award of contract for the 7756 – Chynoweth Avenue Green Street Project to the low bidder, Granite Rock Company, for the base bid and Add Alternate No. 1 in the total amount of \$1,804,373, with a related contingency, was approved. (11-0.)

- 4.3 (a) **Report on bids and take appropriate action based on the evaluation of bids for the 8062 –Convention Center Exhibit Hall Lighting and Ceiling Upgrades Project, and approval of a 13 percent contingency if City Council awards a construction contract.**
- (b) **Adopt a resolution authorizing the Director of Public Works to issue any change orders up to the amount of the contingency if the City Council awards a construction contract.**

CEQA: Exempt, File No. PP16-053, CEQA Guidelines Section 15301(a), Existing Facilities. Council District 3. (Public Works)

Action: Deferred to January 31, 2017 per Administration.

NEIGHBORHOOD SERVICES

- 5.1 **As recommended by the Public Safety, Finance, and Strategic Support Committee on December 15, 2016, accept the 2015-2016 Annual Report on the Anti-Graffiti and Anti-Litter Programs. CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involve no approval of any City Actions. (Parks, Recreation and Neighborhood Services)**
[Public Safety, Finance, and Strategic Support Committee referral 12/15/17 – Item (d)(3)]

Action: Deferred to February 14, 2017 per Administration.

TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to the Airport Staffing Plan.

- (a) Approve the addition of the ongoing positions in the Airport Department:

Job Classification	FTE
Analyst II	1.0
Maintenance Worker II	3.0
Senior Maintenance Worker	1.0
Maintenance Superintendent	1.0
Senior Airport Operations Specialist I/II/III	6.0
Airport Operations Supervisor I/II/III	1.0
Aviation Security & Permit Specialist	1.0
Associate Engineer	1.0
Senior Property Manager I/II	1.0
Public Information Representative I/II	1.0
<i>Total Airport Department Positions</i>	<i>17.0</i>

- (b) Adopt a resolution to authorize the City Manager to negotiate and execute the First Amendment to the Agreement with GCA Services Group, Inc. for janitorial services at the Norman Y. Mineta San José International Airport (SJC) to:
- (1) Increase compensation by \$628,000 from \$2,980,003 to \$3,608,003 through October 31, 2017;
 - (2) Align all labor rates, benefits and contractual provisions for janitorial services at the Airport with other City facilities, subject to appropriation of funds; and
 - (3) Exercise options to extend the term through October 31, 2019 based on the City Living Wage Policy (Resolution No. 76653) and fluctuations in consumables usage, subject to the appropriation of funds.
- (c) Adopt the following 2016-2017 Appropriation Ordinance amendments in the Airport Maintenance and Operation Fund:
- (1) Increase the Airport Department Personal Services appropriation in the amount of \$390,000;
 - (2) Increase the Transfer to the General Fund for Police Services in the amount of \$361,000;
 - (3) Increase the Overhead appropriation in the amount of \$72,600; and
 - (4) Decrease the Operations Contingency appropriation in the amount of \$823,600.
- (d) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Increase the Police Department Personal Services appropriation in the amount of \$361,000; and
 - (2) Increase the Transfers and Reimbursements Revenue estimate by \$361,000 to recognize the transfer from the Airport Maintenance and Operation Fund.

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

6.1 (Cont'd.)

Documents Filed: Joint memorandum from Director of Aviation Services Kimberly J. Becker and Senior Deputy City Manager Jennifer Maguire, dated January 11, 2017, regarding Airport Staffing Plan and related appropriation actions.

Director of Aviation Services Kimberly J. Becker responded to questions from Council.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Dev Davis and carried unanimously, the addition of the ongoing positions in the Airport Department were approved; Resolution No. 78066, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Agreement for Janitorial Services at the Airport with GCA Services Group, Inc., in Order to (1) Increase Compensation to \$3,608,003 through October 31, 2017; (2) Align All Labor Rates, Benefits and Contractual Provisions with Other City Facilities, Subject to Appropriation of Funds; and (3) Exercise Options to Extend the Term Through October 31, 2019 Based on the City Living Wage Policy (Resolution No. 76653) and Fluctuations in Consumables Usage, Subject to Appropriation of Funds"; Ordinance No. 29862, entitled "An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Airport Maintenance and Operation Fund for the Airport Department Personal Services, Transfer to the General Fund for Police Services, and Overhead Appropriations; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Ordinance No. 29863, entitled "An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the General Fund for Police Department Personal Services; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 78067 were adopted. (11-0.)

- 6.2 (a) **Approve the Sixth Amendment to the Airport Retail Concession Agreement with AMS-SJC-JV dba The Hudson Group (Hudson) (the "Hudson Agreement") to add the Airport retail concession areas currently operated by WDFG North America LLC (WDFG) and expiring in 2020 on the same terms and conditions as provided in the Airport Retail Concession Agreement with WDFG ("WDFG Agreement"), provide Hudson with storage space to support its concession operations and extend the term of the Hudson Agreement from June 30, 2020, to June 30, 2026.**
- (b) **Approve the Fifth Amendment to the WDFG Agreement to terminate the WDFG Agreement upon incorporation of the Airport retail concession areas currently operated by WDFG into the Hudson Agreement on the same terms and conditions as the WDFG Agreement.**
- (c) **Adopt a resolution authorizing the Director of Aviation to negotiate and execute amendments to the Hudson Agreement at any time prior to its expiration to rebalance the two retail concession packages by revising those concession areas that will expire on either June 30, 2024, or June 30, 2026 and to revise the Minimum Annual Guaranteed Concession Fee to reflect any such revisions, to maximize revenue and customer service and to provide for an equitable bidding opportunity for the future retail solicitations.**

6.2 (Cont'd.)

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

Documents Filed: (1) Memorandum from Director of Aviation Services Kimberly J. Becker, dated January 3, 2017, providing recommendations. (2) Supplemental Joint memorandum from SARA Chief Financial Officer, Julia H. Cooper and Successor Agency Managing Director Richard A. Keit, dated January 11, 2017.

Action: Dropped and Renoticed per Orders of the Day.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **As recommended by the Transportation and Environment Committee on December 5, 2016, accept a status report on the City's illegal dumping mitigation efforts. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Status Report. (Environmental Services)**
[Transportation and Environment Committee referral 12/5/16 – Item (d)(4)]

Action: Deferred to February 14, 2017 per Administration.

- 7.2 **Approve a Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. to provide engineering and architectural services for the 7944-Support Building Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2024, in an initial total amount not to exceed \$4,800,000, subject to the appropriation of funds. CEQA: Exempt, File No. PP10-066(d), Section 15262, Feasibility and Planning Studies with respect to the scope of work that is limited to this action. Any future activities resulting in a change to the physical environment would require approval of CEQA review. (Environmental Services)**

Documents Filed: (1) Memorandum from Director, Environmental Services, Kerrie Romanow, dated January 5, 2017, recommending approval of an agreement. (2) Letter from Patrick Kolstad, Vice Chair, for Sam Liccardo, Vice Chair, Treatment Plant Advisory Committee, dated January 17, 2017, providing recommendations.

Action: Upon motion by Councilmember Donald Rocha, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, a Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. to provide engineering and architectural services for the 7944-Support Building Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2024, in an initial total amount not to exceed \$4,800,000, subject to the appropriation of funds, was approved. (11-0.)

PUBLIC SAFETY SERVICES

- 8.1 Review and discuss the Independent Police Auditor's 2014 Annual Report Recommendation #2(b) that would require independent civilian oversight of all Police Department-Initiated Investigations. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports. (Independent Police Auditor/Police)
(Deferred from 10/25/16 – Item 8.1, 11/15/16 – Item 8.1, 12/6/16 – Item 8.1)**

Action: Dropped and Re-Noticed as a Study Session per Orders of the Day.

- 8.2 Accept the staff report regarding Automated License Plate Readers and invite public comment in concurrence with California Civil Code Section 1798.90.55. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Staff Reports that involve no approvals of City actions. (Police)
(Deferred from 1/10/17 – Item 8.2)**

Documents Filed: (1) Memorandum from Chief of Police Edgardo Garcia, dated December 14, 2016, recommending acceptance of the staff report. (2) Memorandum from Chief of Police Edgardo Garcia, dated November 4, 2016, providing background information on Senate Bill 34.

Police Chief Edgardo Garcia responded to questions.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, the staff report regarding Automated License Plate Readers and invite public comment in concurrence with California Civil Code Section 1798.90.55, was accepted. (11-0.)

OPEN FORUM

1. Dave Cabaczech, Libertarian Party of Santa Clara County, referenced Item 3.8 on the evening agenda, and offered opposition to the resolution reaffirming recognition of the Vietnamese Heritage and Freedom Flag as the official flag of the Vietnamese-American community in San José.
2. Blair Beekman discussed surveillance camera systems and suggested use in minimalist form.

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon Council Meeting session at 4:17 p.m.

RECESS/RECONVENE

The City Council recessed at 4:17 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chamber, City Hall.

Present: Council Members - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, 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 Magdalena Carrasco, seconded by Council Member Johnny Khamis and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

CEREMONIAL ITEMS

1.2 Presentation of a commendation to Ve Nguon Vietnamese Language School. (Nguyen)

Mayor Liccardo and Councilmember Tam Nguyen offered a commendation to Ve Nguon Vietnamese Language School for its unwavering efforts to supporting and improving the quality of life and education for Vietnamese American youth in the City of San José.

1.3 Presentation of a commendation to the Santa Clara Valley Science and Engineering Fair Association honorees. (Carrasco)

Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and former Councilmember Forrest Williams presented a commendation to the Santa Clara Valley Science and Engineering Fair Association honoring participants of the 2016 Synopsys Championship Science Fair in San José.

1.5 Presentation of a commendation for Robert Sandoval, outgoing President of the West Evergreen Neighborhood Association. (Nguyen)

Mayor Sam Liccardo and Councilmember Tam Nguyen presented a commendation for Robert Sandoval, outgoing President of the West Evergreen Neighborhood Association for his dedicated service to the community and his many accomplishments spanning more than 14 years of service to the City of San José.

PUBLIC HEARINGS ON CONSENT CALENDAR

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

- 11.1 (a) Consideration of an ordinance of the City of San José rezoning certain real property on an approximately 3.6-gross acre site, located at 1737 North 1st Street from the CO(PD) Planned Development and IP Industrial Park Zoning Districts to the CP Commercial Pedestrian Zoning District (Pacific Resources First American, LLC, Owner). CEQA: Determination of Consistency with Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR for the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning, Building and Code Enforcement Director recommended approval. (Planning, Building and Code Enforcement)
C16-039 – Council District 3
- (b) Consideration of an ordinance of the City of San José rezoning certain real property on an approximately 2.0-gross acre site, located at 320 Race Street from the LI Light Industrial Zoning District to the CIC Combined/Industrial Commercial Zoning District (Stanley A. Cotton, Trustee, Owner). CEQA: Determination of Consistency with Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR for the Envision San José 2040 General Plan (Resolution No. 77617). Planning, Building and Code Enforcement Director recommended approval. (Planning, Building and Code Enforcement)
C16-048 – Council District 6
- (c) (1) Adopt a resolution adopting the Addendum to the Almaden Ranch Retail Center Subsequent Environmental Impact Report, all in accordance with CEQA, as amended.
 (2) Consideration of an ordinance of the City of San José rezoning certain real property on a 43.5-gross acre site, located on the southeast corner of Almaden Expressway and Chynoweth Avenue at the Almaden Ranch Shopping Center to allow changes to the previously approved development standards under Planned Development Zoning File No. PDC14-001, to allow building height increase from 50 feet to 60 feet for future hotel, add a requirement that parking for hotel use shall be provided in accordance the Zoning Ordinance, and add that parking for uses described in Municipal Code Section 20.90.220(G) can be reduced by up to 20% (Almaden Ranch, LLC, owner).
 CEQA: Addendum to the Almaden Ranch Retail Center Subsequent EIR (Resolution No. 76168). Planning, Building and Code Enforcement Director recommended approval. (Planning, Building and Code Enforcement)
PDC16-049 – Council District 9
- (d) Consideration of an ordinance of the City of San José pre-zoning a 0.49-gross acre site, located on the north side of McKee Road, approximately 400 feet east of N. White Road (3301 McKee Road) from unincorporated County (R1-10 One Family Residence), to the CP Commercial Pedestrian Zoning District (Lien Hoa Tu, Owner). CEQA: Determination of consistency with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)
C14-053 – Council District 5

11.1 (Cont'd.)

- (e) **Consideration of an ordinance of the City of San José rezoning a 15.95-gross acre site, located on the northwest corner of San Tomas Expressway and Williams Road (3601 Williams Road) from the A Agricultural Zoning District and the R-1-8 Single Family Residence Zoning District to the PQP Public/Quasi-Public Zoning District. CEQA: Exempt, CEQA Guidelines Section 15303(c), New Construction or Conversion of Small Structures. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)
C16-046 – Council District 1**

Documents Filed: (1) Five reports of the Staff of the Department of Planning, Building and Code Enforcement on Project File Numbers C16-039, dated December 15, 2016; C16-048, dated December 9, 2016; C16-049, dated December 15, 2016; C14-053, dated January 5 2017; and C16-046, dated January 3, 2017. (2) Five Proof of Publication of Notices of Public Hearings, executed December 12, 2016, January 6, 2017, January 7, 2017 and (3) dated January 13, 2017, submitted by the City Clerk.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Kelly Moss and Brianna Luong spoke and provided a petition with 13 signatures protesting the change in zoning in respect to File No. C14-053 due to noise and heavy foot/car traffic.

Mayor Sam Liccardo closed the public hearing.

Director, Planning, Building and Code Enforcement Harry Freitas spoke to the complaints and indicated that no development application is yet on file, and the pre-zoning is still being considered.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Johnny Khamis and carried unanimously, Ordinance No. 29864, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 3.5 Gross Acres Situated on the Southwest Corner of Metro Drive and North 1st Street (1737 North 1st Street) from the CO(PD) Planned Development and IP Industrial Park Zoning Districts to the CP Commercial Pedestrian Zoning District”; Ordinance No. 29865, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 2.0 Gross Acres Situated on the Southeast Corner of Race Street and West San Carlos Street (320 Race Street), from the LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District”; Ordinance No. 29866, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 43.5 Gross Acres Situated on the Southeast Corner of Almaden Expressway and Cherry Avenue (Almaden Ranch Retail Center), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District; Ordinance No. 29867, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.49 Gross Acre Situated on the North Side of McKee Road, Approximately 400 Feet East of North White Road (3301 McKee Rod) from Unincorporated to the CP Commercial Pedestrian Zoning

11.1 (Cont'd.)

District”; Ordinance No. 29868, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 15.95 Acres Situated on the Northwest Corner of San Tomas Expressway and Williams Road (3601 William Road) from the A Agricultural Zoning District and the R-1-8 Single Family Residence Zoning District to the PQP Public/Quasi-Public Zoning District”, were passed for publication; and Resolution No. 78068, entitled: “A Resolution of the Council of the City of San José Adopting the Almaden Ranch Hotel Project Addendum to the Almaden Ranch Retail Center Final Subsequent Environmental Impact Report, in Accordance with the California Environmental Quality Act, as Amended, was adopted. (11-0.)

END OF CONSENT CALENDAR

ADJOURNMENT

The Council of the City of San José adjourned at 9:36 p.m. in memory of Susan Davis, a beloved employee of the City of San José’s City Clerk’s Office for 14 years and a fixture at Committee and Council meetings. Susan is survived by her husband, Phil, her children, Heather and Phillip, and her five grandchildren.

Minute Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/01-24-17 MIN