



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 14, 2017

The Council of the City of San José convened in Regular Session at 9:32 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 9:35 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 existing litigation; (1) City of San José v. City of Santa Clara; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-02303; Amount of Money or Other Relief Sought: Petition for Writ of Mandate and Complaint for Declaratory Relief; (2) City of Santa Clara v. City of San José, et al.; Names Of Partie(s) Involved: City of Santa Clara, City of San José, City of San José Council, Does I through X; Federal Realty and Investment Trust, and Does 1-20; Court: Superior Court of California, County of San Mateo; Case No.: 16-CIV-00547; Amount of Money or Other Relief Sought: Writ of Mandate and Complaint for Declaratory Relief; (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:

CLOSED SESSION (Cont'd.)

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: 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

CLOSED SESSION REPORT (Cont'd.)

Silicon Valley Taxpayers' Association v. Superior Court; Names Of Partie(s) Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, a California non-profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, the People of the State of California ex. Rel. San José Police Officers Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No.: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or, In the Alternative, Supersedeas, or Other Appropriate Relief; (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; (B) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8; (1) Property Street Address, Parcel Number, or other Unique Reference of Property: 200 Edenvale Avenue, San Joe, California; Negotiating Parties: Nanci Klein for the City of San José and Mark Felipe from Asha Companies, Inc.; Under Negotiation: The 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;

CLOSED SESSION REPORT (Cont'd.)

(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 11:20 p.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, Peralez, Rocha; Liccardo (2:02 p.m.).

Absent: Councilmembers - All Present.

INVOCATION

Jane Kovac and Jason Trees from the San José Digital Arts Program provided the Invocation.

PLEDGE OF ALLEGIANCE

Vice Mayor Magdalena Carrasco led the Pledge of Allegiance.

CEREMONIAL ITEMS

1.2 Presentation of a proclamation proclaiming the month of March 2017 as Multiple Myeloma Awareness Month in the City of San José. (Davis)

Mayor Sam Liccardo and Councilmember Dev Davis presented a proclamation proclaiming the month of March 2017 as Multiple Myeloma Awareness Month in the City of San José.

ORDERS OF THE DAY

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-1. Absent: Liccardo.)

CLOSED SESSION REPORT

None provided.

CONSENT CALENDAR

Upon motion by Councilmember Donald Rocha, seconded by Councilmember Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-1. Absent: Liccardo.)

2.1 Approval of Council Minutes:

None provided.

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Minutes.

**(a) Rules and Open Government Committee Minutes of February 22, 2017.
(Mayor)**

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

Documents Filed: Rules and Open Government Committee Minutes dated February 22, 2017.

Action: The Council Committee Minutes were accepted. (10-1. Absent: Liccardo.)

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 As recommended by the Rules and Open Government Committee on March 8, 2017:

(a) Approve the Rainbow Flag and Transgender Pride Flag Raising Ceremony scheduled on Tuesday, June 6, 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.

2.7 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 10, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Rainbow Flag and Transgender Pride Flag Raising 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. (10-1. Absent: Liccardo.)

2.8 As recommended by the Rules and Open Government Committee on March 8, 2017, approve a \$5,000 grant to Willow Glen Elementary for their 8th Annual Willow Glen 5K Run/Walk on May 13, 2017 to support after-school student programs and activities. CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Davis)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 10, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Action: A \$5,000 grant to Willow Glen Elementary for their 8th Annual Willow Glen 5K Run/Walk on May 13, 2017 to support after-school student programs and activities was approved. (10-1. Absent: Liccardo.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.3 Accept the Semi-Annual Capital Improvement Program Report. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Staff Reports that involve no approvals of City Actions. (Public Works) (Deferred from 2/28/17 – Item 3.6)

Note: Items 3.3 and 3.4 were heard together.

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated February 6, 2017, recommending acceptance of the status report.

Director of Public Works Barry Ng; Director of Transportation Jim Ortbal; and Parks, Recreation and Neighborhood Services Deputy Director, Marybeth Harasz, provided a presentation and responded to questions.

Action: See Item 3.4 for action taken.

- 3.4 As recommended by the Transportation and Environment Committee on February 6, 2017, accept the status report on the City’s Deferred Maintenance and Infrastructure Backlog. CEQA: Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Staff Reports that involve no approvals of City Actions. (Public Works)**
[Transportation and Environment Committee referral 2/6/17 – Item (d)(2)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated February 16, 2017, transmitting the recommendations of the Transportation and Environment Committee.

Director of Public Works Barry Ng continued with a presentation and responded to questions.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, the Semi-Annual Capital Improvement Program Report and the status report on the City’s Deferred Maintenance and Infrastructure Backlog were accepted. (11-0.)

- 3.5 (a) Hold a TEFRA (“Tax Equity and Fiscal Responsibility Act”) hearing with respect to the proposed issuance by the City of airport revenue refunding bonds in an aggregate principal amount not to exceed \$750,000,000 pursuant to a plan of finance in order to provide proceeds to finance or refinance all or a portion of the costs of acquisition, construction, equipping, financing, reconstruction, development, and modification of airport facilities that are included in or are consistent with the Airport Master Plan for the Airport.**
- (b) Adopt the Twentieth Supplemental Resolution of the City Council:**
- (1) Authorizing the issuance of City of San José Airport Revenue Refunding Bonds in two or more series, including Series 2017A and Series 2017B, in an aggregate principal amount of not to exceed \$750,000,000 to be sold through negotiated sale;**
 - (2) Approving substantially final forms of Eleventh Supplemental Trust Agreement, Preliminary Official Statement, Final Official Statement, Bond Purchase Agreement, and Continuing Disclosure Certificate; authorizing the distribution of one or more Preliminary Official Statements and Final Official Statements; and**
 - (3) Authorizing the City’s Authorized Representative to take other necessary actions in connection therewith.**
- (c) Adopt a resolution authorizing the City Attorney to negotiate and execute an Agreement with Orrick, Herrington & Sutcliff LLP for bond and disclosure counsel services in an amount not to exceed \$315,000 in connection with the issuance of the Series 2017 City of San José Airport Refunding Bonds.**
- (d) Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement with Public Resources Advisory Group and Public Financial Management for financial advisory services in an amount not to exceed \$308,500 in connection with the issuance of the Series 2017 City of San José Airport Refunding Bonds.**

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

3.5 (Cont'd.)

Documents Filed: Joint memorandum from Director of Aviation Services Kimberly J. Becker and Director of Finance Julia H. Cooper, dated February 21, 2017, recommending holding a TEFRA hearing and adoption of resolutions.

Director of Finance Julia H. Cooper introduced the topic, and Assistant Director of Finance Derek Hansel provided a presentation, and they responded to questions from Council.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78103, entitled “A Twentieth Supplemental Resolution of the Council of the City of San Jose Approving the Forms of Eleventh Supplemental Trust Agreement, Preliminary Official Statement, Final Official Statement, Bond Purchase Agreement and Continuing Disclosure Certificate; Providing For the Issuance of City of San Jose Airport Revenue Refunding Bonds, In Two or More Series, in an Aggregate Principal Amount Not To Exceed \$750,000,000; Prescribing the Terms, Conditions and Form of Said Series of Bonds; and Authorizing and Approving Other Related Actions”; and Resolution No. 78105, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney To Negotiate and Execute an Agreement With Orrick, Herrington & Sutcliffe LLP For Bond and Disclosure Counsel Services in Connection With the Issuance of City of San José Airport Revenue Refunding Bonds Series 2017A and Series 2017B in an Amount Not To Exceed \$315,000”; and Resolution No. 78106, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Public Resources Advisory Group and Public Financial Management for Financial Advisory Services in Connection with the Issuance of City of San José Airport Revenue Refunding Bonds Series 2017A and Series 2017B in an Amount Not To Exceed \$308,500”, were adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 (a) **Report on bids and award of the construction contract for the 7673 – Agnews Demolition Project to the low bidder, AMPCO Contracting, Inc., for the base bid and Bid Alternate Nos. 1 and 2 in the amount of \$3,278,508, and approval of a contingency in the amount of \$656,000.**
- (b) **Adopt the following appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4:**
- (1) **Increase the Agnews Property Development appropriation to the Parks, Recreation and Neighborhood Services Department by \$1,299,000;**
 - (2) **Decrease the Agnews Property Development Reserve by \$2,650,000; and**
 - (3) **Increase Council District #4 Ending Fund Balance by \$1,351,000.**

CEQA: Addendum to the North San José Development Policies Update EIR, File No. PP14-033. Council District 4. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

4.2 (Cont'd.)

Documents Filed: Joint memorandum from Director of Public Works Barry Ng, Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated February 21, 2017, recommending accepting the report on bids and award of a contract and adoption of appropriation actions.

Action: Upon motion by Councilmember Lan Diep, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, the report on bids and award of the construction contract for the 7673 – Agnews Demolition Project to the low bidder, AMPCO Contracting, Inc., for the base bid and Bid Alternate Nos. 1 and 2 in the amount of \$3,278,508, with related contingency, was accepted; and Ordinance No. 29886, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys In the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 for the Agnews Property Development; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

- 4.3 (a) **Adopt a resolution declaring the existence of a shelter crisis in the City of San José pursuant to and in accordance with the provisions of California Government Code section 8698 et seq. and designating the Seven Trees Community Center (3590 Cas Drive) as a temporary shelter to be used by flood victims, as well as other City facilities that may be deemed necessary by the Director of Housing to provide emergency shelter to flood victims through May 31, 2017.**
- (b) **Adopt a resolution authorizing the Director of Housing to negotiate and execute an Agreement with HomeFirst without conducting a competitive procurement, to serve as the administrator of the Seven Trees Shelter and provide other shelter and services for homeless individuals including individuals made homeless by the flood retroactive from March 6, 2017 through April 5, 2017, at a cost of \$247,200, plus \$50,000 in contingency, for a total amount not to exceed \$297,200, with the option to extend the Agreement for two additional one-month term(s) at a cost of \$247,200 per each month, with a total not to exceed amount of \$791,600.**

CEQA: Exempt, CEQA Section 15269(c), Emergency Projects, Specific actions necessary to prevent or mitigate an emergency. Council Districts 3 and 7. (Housing)

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated February 9, 2017, recommending adoption of a resolution. (2) Memorandum from Director of Housing Jacky Morales-Ferrand, dated March 7, 2017, regarding emergency shelter to victims of the flood. (3) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated March 13, 2017, regarding additional information on housing for flood-displaced residents.

Mayor Sam Liccardo provided opening comments.

Public Comments: Blair Beekman spoke to the needs of the homeless community. Christine Fitzgerald, community advocate for Silicon Valley Independent Living, spoke on the needs of disabled people in this process.

4.3 (Cont'd.)

Director of Housing Jacky Morales-Ferrand responded to questions from Council and clarified issues around the flood's impact on the homeless community.

Ray Bramson, Homelessness Response Manager, offered additional clarification on safety and privacy issues of shelter occupants.

Councilmember Raul Peralez moved approval of the staff recommendations, including Councilmember Tam Nguyen's inclusion that case managers carefully evaluate each case and alert these individuals to their options for housing. Vice Mayor Magdalena Carrasco seconded the motion.

Action: On a call for the question, the motion carried unanimously, Resolution No. 78109, entitled: "A Resolution of the Council of the City of San José Declaring a Shelter Crisis in the City of San José for Victims of the 2017 Floods in the City of San José and Designating the Seven Trees Community Center as a Temporary Shelter"; and Resolution No. 78110, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute an Agreement with HomeFirst", were adopted. Staff was also directed to work with hotel/motel vouchers to allow victims to get some privacy outside of the shelter system that case managers carefully evaluate each case and alert these individuals to their options for housing. (11-0.)

NEIGHBORHOOD SERVICES

- 5.1 **As recommended by the Neighborhood Services and Education Committee on February 9, 2017, accept the Department of Parks, Recreation and Neighborhood Services' report on Sustainable Park Maintenance. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Staff Reports. (Parks, Recreation, and Neighborhood Services)**

Action: Deferred to 3/21/17 per Rules Committee.

- 5.2 (a) **Adopt a resolution authorizing the City Manager or his designee to:**
- (1) **Negotiate and execute a Purchase and Sale Agreement with the Prince of Peace Evangelical Lutheran Church, in an amount not-to-exceed \$5,000,000, for the purchase of land and improvements located along the northern side of Payne Avenue approximately 200 feet west of Eden Avenue, Assessor Parcel Number 299-03-117, for the future construction of a Public Park at 3257 Payne Avenue.**
 - (2) **Negotiate and execute leases, pursuant to Section 1700 of the San José City Charter, with the existing tenant(s) and/or land owners as may be necessary to maintain interim uses on site until such time that a park can be fully planned and developed.**
 - (3) **Negotiate and execute all other documents and take such further actions as are necessary to complete these transactions.**

5.2 (Cont'd.)

- (b) **Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:**
 - (1) **Establish an appropriation to the Parks, Recreation, and Neighborhood Services Department for Council District 1 Land Acquisition in the amount of \$1,065,000; and**
 - (2) **Decrease the Council District 1 Land Acquisition Reserve by \$1,065,000.**
- (c) **Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #1:**
 - (1) **Establish an appropriation to the Parks, Recreation, and Neighborhood Services Department for Council District 1 Land Acquisition in the amount of \$4,000,000; and**
 - (2) **Decrease the Council District 1 Land Acquisition Reserve by \$4,000,000.**

CEQA: Exempt, File No. PP16-128, CEQA Section 15061(b)(3), No potential for causing a significant effect on the environment. Council District 1. (Economic Development/Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: (1) Memorandum from Councilmember Chappie Jones, dated March 13, 2017, recommending approval of the staff recommendation. (2) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., and Senior Deputy City Manager/Budget Director Jennifer Maguire, dated February 21, 2017, recommending adoption of a resolution and appropriation ordinances. (3) Letter from the Kirk Vartan, Winchester Neighborhood Action Coalition, dated March 13, 2017, endorsing recommendations as outlined in the staff memorandum.

Public Comments: Ken Pyle, representing Winchester Neighborhood Action Coalition (WNAC), offered support to the project.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. responded to questions.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No 78111, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or His Designee to (1) Negotiate and Execute a Purchase and Sale Agreement with the Prince Of Peace Evangelical Lutheran Church in an Amount Not To Exceed \$5,000,000, for the Purchase of Land and Improvements Located Along the Northern Side of Payne Avenue Approximately 200 Feet West Of Eden Avenue, Assessor Parcel Number 299-03-117 for the Future Construction of a Public Park At 3257 Payne Avenue; (2) Negotiate and Execute Leases, Pursuant to Section 1700 of the San José City Charter, with the Existing Tenant(s) and/or Land Owners as May Be Necessary to Maintain Interim Uses on Site Until Such Time that a Park Can Be Fully Planned and Developed; and (3) Negotiate and Execute All

5.2 (Cont'd.)

Other Documents and Take Such Further Actions as are Necessary to Complete These Transactions”; Ordinance No. 29887, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Subdivision Park Trust Fund for the Council District 1 Land Acquisition; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Ordinance No. 29888, entitled “An Ordinance of the City of San José, Amending Ordinance No. 29762 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #1 for the Council District 1 Land Acquisition; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

OPEN FORUM

Blair Beekman asked that the City adhere to a transparent process when rolling out the automatic speed enforcement program.

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 6:00 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

1.1 Presentation of a commendation to the Santa Clara County Alliance of Black Educators. (Jones)

Mayor Sam Liccardo and Councilmember Chappie Jones provided a commendation to the Santa Clara County Alliance of Black Educators.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Conduct a Public Hearing and adopt a resolution ordering the reorganization of territory designated as Story No. 66, which involves the annexation to the City of San José approximately 0.78 gross acres of land generally located 100 feet west of Roehampton Avenue, and the detachment of the same from the appropriate special districts including the Central Fire Protection District, the County Sanitation District 2-3, the Santa Clara County Lighting Service Area, and the 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), File No. C15-012. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated February 9, 2017, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on February 3, 2017, submitted by the City Clerk. (3) Renotice of Proof of Publication of Notice of Public Hearing, executed on March 3, 2017, submitted by the City Clerk.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Offering support to the annexation were Thienngoc Thich, Jenny Do and Lillian Dang (Huen Khong Monastery), and Douglas Nguyen. Debbie Mendez expressed concerns of the neighborhood.

Mayor Sam Liccardo closed the public hearing.

Director, Planning, Building and Code Enforcement Harry Freitas responded to questions from Council.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Resolution No. 78107, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited and Unincorporated Territory Designated as Story No. 66, Subject to Liability for General Indebtedness of the City", was adopted. (11-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Donald Rocha and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

- 11.1 (a) Conforming Rezoning of a Real Property Located at 3550 San Felipe Road.**

11.1 (Cont'd.)

- (a) (1) **Adopt a resolution adopting the Oakmont of Evergreen Assisted Living Mitigated Negative Declaration, for which an Initial Study was prepared for the rezoning of the 4.9 gross acre site from the A Agricultural and R-1-5 Single-Family Residence Zoning Districts to the CN Commercial Neighborhood Zoning District and the onsite relocation of a Historic City Landmark (Smith House), to allow the construction of a 91,714 square foot, 94-unit Residential Care Facility, all in accordance with the California Environmental Quality Act, as amended, and adopting a related mitigation monitoring and reporting program, which would allow for the consideration of a Historic Preservation Permit by the Director of Planning for the relocation of the Smith House, a Historic City Landmark, and an associated tank house, pump house, and aviary.**
- (2) **Consideration of an ordinance of the City of San José rezoning certain real property on a 4.9 gross acre site, located at 3550 San Felipe Road from the A Agricultural and R-1-5 Single-Family Residence Zoning Districts to the CN Commercial Neighborhood Zoning District (Shirley A. Poston Trustee, Owner).**

CEQA: Mitigated Negative Declaration for Oakmont of Evergreen Assisted Living Facility. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)

C16-029 – Council District 8

- (b) **Consideration of an ordinance of the City of San José rezoning certain real property on a 0.55 gross acre site, located on the east side of Aiello Drive, approximately 950 feet southerly of Umbarger Road (2744 Aiello Drive) from the IP Industrial Park Zoning District to the LI Light Industrial Zoning District (Norberto Martinez, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)**

C16-044 – Council District 7

- (c) **Consideration of an ordinance of the City of San José rezoning certain real property on an approximately .42 gross acre site, located at 1645 Tully Road from the CP Commercial Pedestrian Zoning District to the CG Commercial General Zoning (Stella A. Rakonitz Trustee, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). Planning, Building and Code Enforcement director recommends approval. (Planning, Building and Code Enforcement)**

C16-047 – Council District 7

Documents Filed: (1) City Council Staff Reports, dated February 28, 2017, February 3, 2017 and February 21, 2017, for File No.'s: C16-044, C16-029 and C16-047. (2) Proof of Publications of Notice of Public Hearings, executed on January 20, 2017, February 3, 2017, February 24, 2017, and March 3, 2017, submitted by the City Clerk.

11.1 (Cont'd.)

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

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 78104, entitled: “A Resolution of the Council of the City of San José Adopting the Oakmont of Evergreen Assisted Living Facility 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. 29889, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 4.9 Acres, Situated on the Northeast Side of San Felipe Road (3550 San Felipe Road) from the A Agricultural and R-1-5 Single Family Residence Zoning District to the CN Commercial Neighborhood Zoning District”; Ordinance No. 29890, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.55 Acre, Situated on the East Side of Aiello Drive, Approximately 950 Feet Southerly of Umberger Road (2744 Aiello Drive) from the IP Industrial Park Zoning District to the LI Light Industrial Zoning District”; and Ordinance No. 29891, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.42 Acre, Situated on the Northwest Corner of Seacliff Way and Tully Road (1645 Tully Road), from the CP Commercial Pedestrian Zoning District to the CG Commercial General Zoning District”, were passed for publication. (11-0.)

11.1 (d) **Planned Development Rezoning of Real Property Located on the West Side of South King Road, Approximately 840 feet North of Aborn Road (2905 South King Road). *RENUMBERED***

- (1) **Adopt a resolution adopting the 2905 South King Road Ministorage & Light Industrial Project Mitigated Negative Declaration, for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopt a related Mitigation Monitoring and Reporting Program.**
- (2) **Consideration of an ordinance of the City of San José rezoning certain real property on a 9.9-gross acre site, located on the west side of South King Road, approximately 840 feet north of Aborn Road (2905 South King Road) from the A(PD) Planned Development Zoning District to the LI(PD) Planned Development Zoning District for miniwarehouse/ministorage and light industrial uses on (Principle Broadcasting Network, Owner).**

CEQA: Mitigated Negative Declaration for the “2905 South King Road Ministorage & Light Industrial Project”. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)

PDC16-037 – Council District 7

Note: Renumbered to Item 11.3.

END OF CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance of the City of San José rezoning certain real property on a 0.34-gross acre site at the west terminus of Sharon Drive, approximately 990 feet east of South De Anza Boulevard (7169 Sharon Drive) from the R-2 Two-Family Residential Zoning District to the R-M(PD) Planned Development Zoning District to allow up to six single-family attached residences (Seven Hills LLC., Owner). CEQA: Exempt, File No. PDC16-014, CEQA Section 15303(b), New Construction or Conversion of Small Structure. Planning Commission recommends approval (5-0-2, Chair Abelite and Vice Chair Pham absent). (Planning, Building and Code Enforcement)**

PDC16-014 – Council District 1

Note: Due to an incorrectly posted time on the Hearing Notice, the action on this item was heard at 7 p.m.

Documents Filed: (1) Memorandum from Planning Commission Secretary, Harry Freitas, dated February 21, 2017, transmitting the Planning Commission recommendations. (2) City Council Staff Report, dated January 30, 2017, for File No. PDC16-014. (3) Proof of Publication of Notice of Public Hearing, executed on January 20, 2017, submitted by the City Clerk.

Director, Planning, Building and Code Enforcement Harry Freitas provided a brief overview.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Prasad Nallamothe and Alan Wood asked that the City work with the developers to have a safety chain moved for the emergency vehicle access.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Raul Peralez and carried unanimously Ordinance No. 29892, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.34 Gross Acre Situated on the West Terminus of Sharon Drive, Approximately 990 Feet East of South DeAnza Boulevard (7169 Sharon Drive), from the R-2 Two Residence Zoning District to the R-M(PD) Planned Development Zoning District”, was passed for publication. (10-1. Absent: Liccardo.)

- 11.3 (a) Adopt a resolution adopting the 2905 South King Road Ministorage & Light Industrial Project Mitigated Negative Declaration, for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopt a related Mitigation Monitoring and Reporting Program.**

11.3 (Cont'd.)

- (b) **Consideration of an ordinance of the City of San José rezoning certain real property on a 9.9-gross acre site, located on the west side of South King Road, approximately 840 feet north of Aborn Road (2905 South King Road) from the A(PD) Planned Development Zoning District to the LI(PD) Planned Development Zoning District for miniwarehouse/ministorage and light industrial uses on (Principle Broadcasting Network, Owner).**

CEQA: Mitigated Negative Declaration for the “2905 South King Road Ministorage & Light Industrial Project”. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)

PDC16-037 – Council District 7

Renumbered from 11.1(d)

Documents Filed: (1) City Council Staff Report, dated March 3, 2017, for File No. PDC16-037. (2) “Conceptual Site Plan”, for 2905 South King, undated. (3) Proof of Publication of Notice of Public Hearing, executed on February 24, 2017, submitted by the City Clerk.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 78112, entitled: “A Resolution of the Council of the City of San José Adopting the 2905 South King Road Ministorage & Light Industrial 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. 29893, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 9.9 Gross Acres, Situated on the West Side of South King Road, Approximately 840 Feet North of Aborn Road (2905 South King Road), from the A(PD) Planned Development Zoning District to the LI(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

ADJOURNMENT

The Council of the City of San José adjourned at 7:08 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/03-14-17 MIN