



## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 10, 2015

The Council of the City of San José convened in Regular Session at 9:06 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - All Present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

Documents Filed: Memorandum from Councilmember Rocha, dated March 6, 2015, providing a proposal for a Measure B negotiating position in Closed Session.

There was no report.

Public Comments: Gregg Adam (San José Police Officer's Association), Christopher Platten (San José Firefighters Local 230) and Carlos Barralos (Operating Engineers Local Union No. 3) offered support to Councilmember Rocha's memorandum and appealed to the Council to return to the table to resolve the tough issues.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:08 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to anticipated litigation in 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 Dekock; Amount of Money or Other Relief Sought: Administrative Appeal; (2) IAFF Local 230 v. City of San José; Names of Partie(s) Involved: International Association of Firefighters Local 230, City of San José; Court:

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/city> or <http://www.sanjoseca.gov/civiccenter>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

## **CLOSED SESSION (Cont'd.)**

State of California Public Employees Relations Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (3) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (4) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: 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) 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-972-M; Amount of Money or Other Relief Sought: Damages According to Proof; (6) OE#3 v. City of San José; Names of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (7) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official 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;

## CLOSED SESSION (Cont'd.)

Case: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (13) Citizens Against Airport Pollution v. City, et al.; Names of Parties Involved: Citizens Against Airport Pollution, an Unincorporated Association, and Does 1 to 5, City of San José, City Council of the City of San José, and Does 6 to 10, Does 10 to 30; Real Parties in Interest; (14) SJJC Aviation Services, LLC v. City of San José, et al.; Names of Parties Involved: SJJC Aviation Services, LLC v. City of San José; City Council of the City of San José and Does 1 through 25; Court: Superior Court of California, County of Santa Clara.; Sixth Appellate District, San José Division; Case No: 1-13-CV-246057; H041946; Amount of Money or Other Relief Sought: Damages According to Proof; (15) Shahrivar, Farid v. City, et al.; Names of Parties Involved: Farid Shahrivar, City of San José, a municipality; Rodney Rapson, and individual; David Sykes, an individual; Harry Freitas, an individual; Katherine Jensen, and individual; David Printy, an individual; Danny Tsao, an individual; Katrina Allen, an individual; Dough Baker, an individual; Alex Gurza, an individual; Sarah Nunes, an individual; Les White, an individual; Allen Demers, an individual; Rajiv Das, an individual; Adam Stempel, an individual; Steve Pagan, an individual; Angela Chen, an individual; Mark Danaj, an individual; Robert Fabela, an individual; Susan Lacy and Does 1 through 45; Court: U.S. District Court, Oakland Division; Case No.: CV-10-01029 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (16) Great Oaks Water, Inc. v. City, et al.; Names of Parties Involved: Great Oaks Water Company, Inc., John W.S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and Betty B. Roeder, Trustees of the Walter S. Roeder Trust B, the City of San José, the San José Redevelopment Agency, Southbay Water Recycling Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-04-CV-012008; Amount of Money or Other Relief Sought: Damages According to Proof; (17) San Francisco Baykeeper v. City, et al.; Names of Parties Involved: San Francisco Baykeeper; City of San José, San José Department of Transportation; San José Public Works Department; San José Environmental Services Department; United States District Court, Northern District of California; Case No.: 15-CV-00642-HRL; Amount of Money or Other Relief Sought: Damages According to Proof; Declaratory Relief, Injunctive Relief; (18) County of Alameda, et al. v. AMBAC Financial, et al.; Names of Parties Involved: County of Alameda; City and County of San Francisco; City of Los Angeles; Los Angeles Department of water and Power Los Angeles World Airports; City of Oakland; City of Richmond; Redwood City; East Bay Municipal Utility District; City of Sacramento; Sacramento Suburban Water District; Sacramento Municipal Utility District; City of San José; City of Stockton; the Redevelopment Agency of the City of Stockton; the Public Financing Authority of the City of Stockton; County of Tulare; the Regents of the University of California; the Redevelopment Agency of the City of San José; AMBAC Financial Group, Inc.; AMBAC Assurance Corporation; MBIA, Inc.; MBIA Insurance

## CLOSED SESSION (Cont'd.)

Corporation; MBIA Insurance Corporation of Illinois, a/k/a Natinoal Public Finance Guarantee Corporation; Syncora Guarantee, Inc., f/k/a XL Capital Assurance, Inc.; Financial Guaranty Insurance Company; Financial Security Assurance, Inc.; CIFG Assurance North America, Inc.; Assured Guaranty Corp.; Jason Kissane; Does 1 through 50; Court: Superior Court of California, in and for the City and County of San Francisco; Case No: CJC-08-004555; Amount of Money or Other Relief Sought: Damages According to Proof; (19) RDA/City vs. Bank of America, N.A., et al; Names of Partie(s) Involved: City of San José; the San José Redevelopment Agency, Bank of America, N.A. Merrill Lynch & Co., Inc., UBS AG, UBS Financial Services, Inc., UBS Securities, LLC, MBIA, Inc., Citibank, N.A., Citigroup Financial Products Inc., Citigroup Global Markets Holdings Inc., Morgan Stanley, Rabobank Group, Bayerische, Landesbank Gironzentrale, Piper Jaffray & Co., Societe Generale SA Financial Security Assurance, Inc., Assured Guaranty US Holdings Inc., Dexia S.A., National Westminster Bank, PLC, Natixis Funding Corp., Natixis S.A., the Goldman Sachs Group, Inc., Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs Bank USA, CDR Financial Products, Winters & Co., Advisors, LLC, George IK. Baum & Co., Sound Capital Management, Inc., Investment Management Advisory Group, Inc., First Southwest Company, PFM Investment, LLC., PFM Asset Management LLC; United States District Court, Northern District of California; Case No. CV 10 2199; Amount of Money or Other Relief Sought: Damages According to Proof; (20) Sipple, et al. v. City of Alameda, et al.; Names of Partie(s) Involved: Donald Sipple, John Simon, Karl Simonsen, Christopher Jacobs, Settlement Class Representatives, New Cingular Wireless PCS LLC, City of Alameda, County of Alameda, City of Albany, City of Alhambra, City of Arcadia, City of Baldwin Park, City of Beaumont, City of Bell, City of Bellflower, City of Benecia, City of Berkeley, City of Burbank, City of Calabasas, City of Cathedral, City of Ceres, City of Chico, City of Chula Vista, City of Citrus Heights, City of Claremont, City of Colton, City of Compton, City of Covina, City of Cudahy, City of Culver City, City of Cupertino, City of Daly City, City of Desert Hot Springs, City of Dinuba, City of Downey, City of East Palo Alto, City of El Cerrito, City of El Monte, City of El Segundo, City of Emeryville, City of Eureka, City of Exeter, City of Fairfax, City of Fairfield, City of Gardena, City of Gilroy, City of Glendale, City of Gonzales, City of Greenfield, City of Grover Beach, City of Guadalupe, City of Gustine, City of Hawthorne, City of Hayward, City of Hercules, City of Hermosa Beach, City of Holtville, City of Huntington Beach, City of Huron, City of Indio, City of Inglewood, City of Irwindale, City of La Habra, City of Lakewood, City of La Palma, City of La Verne, City of Lawndale, City of Lindsey, City of Long Beach, City of Los Alamitos, City of Los Altos: City of Los Angeles, Los Angeles County, City of Lynwood, City of Malibu, City of Mammoth Lakes, City of Maywood, City of Menlo Park, City of Modesto, City of Montclair, City of Monterey, City of Monterey Park, City of Moreno Valley, City of Mountain View, City of Norwalk, City of Oakland, City of Orange Grove, City of Oroville, City of Pacific Grove, City of Palm Springs, City of Palo Alto, City of Paramount, City of Pasadena, City of Pico Rivera, City of Piedmont, City of Pinol, City of Placentia, City of Pleasant Hill, City of Pomona, City of Port Hueneme, City of Porterville, City of Rancho Palos Verde, City of Redondo Beach, City of Redwood City, City of Rialto, Richmond, City of Riverside, City of Sacramento, City of Salinas, City of San Bernardino, City of

## CLOSED SESSION (Cont'd.)

Buenaventura (Ventura), City of San Francisco, City of San Gabriel, City of San José, City of San Leandro, City of San Luis Obispo, City of San Marino, City of San Pablo, City of Sanger, City of Santa Ana, City of Santa Monica, City of Seal Beach, City of Seaside, City of Sierra Madre, City of Soledad, City of South Pasadena, City of Stanton, City of Stockton, City of Sunnyvale, City of Torrance, City of Tulare, City of Waterford, City of Watsonville, City of Westminster, City of Whittier, City of Winters, City of Woodlake, Does 1-50; Court: Superior Court of California, County of Los Angeles; Case No: BC462270; Amount of Money or Other Relief Sought: Damages According to Proof; (21) Seibert v. City of San José; Names of Partie(s) Involved: Grant Seibert, City of San José, San José Civil Service Commission, Debra Figone as San José City Manager, Alex Gurza as San José Director of Employee Relations, William McDonald as Fire Chief for San José Fire Department, Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-204096; Amount of Money or Other Relief Sought: Damages According to Proof; (22) Ward, Debra and Patricia Tapia v. City, Fire Chief William McDonald, et al.; Names of Partie(s) Involved: Debra Ward; Patricia Tapia; City of San José; Fire Chief William McDonald; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-203561; Amount of Money or Other Relief Sought: Damages According to Proof; (23) California Building Industry Association v. City, et al.; Names of Partie(s) Involved: California Building Industry Association, a California Nonprofit Corporation, City of San José, a California Municipal Corporation, City Council and Mayor of the City of San José, Does 1-200; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-167289; Amount of Money or Other Relief Sought: Damages Declaratory and injunctive relief; (24) Nguyen, Cu Thanh v. City of San José; Names of Partie(s) Involved: Cu Thanh Nguyen, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268209; Amount of Money or Other Relief Sought: Damages According to Proof; (25) Heather Seacrist v. City, et al.; Names of Partie(s) Involved: Heather Seacrist; City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-264010; Amount of Money or Other Relief Sought: Damages According to Proof; (26) Zewoldemariam, Fetsum K. v. City; Names of Partie(s) Involved: Fetsum Zewoldemariam, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-258237; Amount of Money or Other Relief Sought: Damages According to Proof; (27) Andy's BP, Inc. et al, v. City of San José, et al; Names of Partie(s) Involved: Andy's BP, Inc., a California corporation, Sabek, Inc., a California corporation and Andy Saberi, an individual, the City of San José, Joseph Horwedel, individually, and Amir Shirazi, individually and dba Moe's Stop, and Amir Shirazi, as Trustee for the Mohammad M. Shirazi Living Trust, and Does 1-25; Court: U.S. District Court, San José Division; Case No.: 12-CV-01631 LHK; Amount of Money or Other Relief Sought: Damages According to Proof; (28) Berg & Berg Enterprises, LLC v. City, et al.; Names of Partie(s) Involved: Berg & Berg Enterprises, LLC, City of San José; San José City Council, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-091955; (29) California Clean Energy Committee v. City, et al.; Names of Partie(s) Involved: California Clean Energy Committee, City of San José; Does 1-50; FWSH Partners II, LLC; Edward D. Storm; and Does 51-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-212623; Amount of

## CLOSED SESSION (Cont'd.)

Money or Other Relief Sought: Injunctive relief; (30) City of Milpitas v. City, et al.; Names of Partie(s) Involved: City of Milpitas, a public entity, City of San José, a public entity and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233069; Amount of Money or Other Relief Sought: Petition for writ of mandate; (31) Stand for San José, et al. v. City, et al.; Names of Partie(s) Involved: Stand for San José and Eileen Hannan; City of San José; City Council of the City of San José; Redevelopment Agency of the City of San José; Diridon Development Authority; Court: Santa Clara County Superior Court; Case No.: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive relief; (32) Stand for San José, et al. v. City, et al.; Names of Partie(s) Involved: Stand for San José; Eileen Hannan; Michelle Brenot; Robert Brown and Robert Shields; City of San José; City Council of the City of San José; Successor Agency to the Redevelopment Agency of the City of San José; Successor Agency Oversight Board; Diridon Development Authority; Does 1 through 10, inclusive; Athletics Investment Group, LLC; Does 1 through 20, inclusive; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-250372; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorney's Fees; (33) Stand for San José, et al. v. City, et al.; Names of Partie(s) Involved: Stand for San José; Eileen Hannan; Michelle Brenot; Robert Brown, Karen Shirey; Fred Shirey; and Robert Shields, City of San José; City Council of the City of San José; Successor Agency to the Redevelopment Agency of the City of San José; Successor Agency Oversight Board; Diridon Development Authority; Does 1 through 10; Court: Superior Court for the State of California In and For the County of Sacramento; Case No: 34-2014-80001905-CU-WM-GDS; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorney's Fees; (34) Friends of the Willow Glen Trestle, an unincorporated association; City of San José and City Council of the City of San José; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-14-CV-260436; Amount of Money or Other Relief Sought: Damages According to Proof; (35) Alemayehu v. City of San José, et al.; Names of Partie(s) Involved: Dawit Alemayehu; the City of San José and the City of San José Police Department, a municipal corporation; Officer Jorge Garibay #4218; a sworn San José police officer and as an individual; Sgt. D. Tran Badge #3269k, a San José police officer and as an individual; and Does 1 through 40; United States District Court, Northern Division; Case No.: C14-1738 EJD; Amount of Money or Other Relief Sought: Damages According to Proof; (36) Binkovich v. Barthelmy, et al.; Names of Partie(s) Involved: Aleksandr Binkovich, City of San José, Officer Barthelmy, Officer Grondahl, Officer Panighetti, Officer Craig, Officer Jacob and Officer Bollendorf; United States District Court, Northern District of California; Case No.: C-11-03774 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (37) Correa v. City of San José, et al.; Names of Partie(s) Involved: Thomas Correa, the City of San José, the San José Police Department (SJPD); Michael Sullivan, individually and in his official capacity as Lieutenant, SJPD.; Kimberly Hudson, individually and in her official capacity as Sergeant, SJPD; Court: U.S. District Court, San José Division; Case No.: CV-12-05436 HRL; Amount of Money or Other Relief Sought: Damages According to Proof; (38) Fujikawa, Michael v. City, Chief Chris Moore, et al.; Names of Partie(s) Involved: Michael Fujikawa, the City of San José

## **CLOSED SESSION (Cont'd.)**

Police Chief Chris Moore, Officers Payne (Badge No. 3971), Officer Pfiefer (Badge No. 3951), Officer Jeffrey (Badge No. 3926), Officer Burke (Badge No. 3949), Officer Akery (Badge No. 3495) and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-219612; Amount of Money or Other Relief Sought: Damages According to Proof; (39) Gonzales v. City of San José, et al; Names of Partie(s) Involved: Mary Lou Gonzales, City of San José, as a Municipal Corporation, SJPD Detective Yvonne Delacruz in her official and individual capacity; SJPD Sgt. Archer, in his official and individual capacity; SJPD Homicide Detective Jamie (last name unknown) in his individual and official capacity; SJPD Officers Doe 1 to Doe 7 in their individual and official capacities; SJPD Officers and Detectives and Employees 8-50 in their individual and official capacities; United States District Court, Northern District of California; Case No.: 13-CV-00695-BLF (PSG); Amount of Money or Other Relief Sought: Damages According to Proof; (40) Hernandez, Luis & Cindy Calderon v. City of San José, et al.; Names of Partie(s) Involved: Luis Hernandez, Cindy Calderon, City of San José, Ernie Alcantar individually and in his official capacity as Captain, SJPD; and James Werkema, individually and in his official capacity as Lieutenant, SJPD; Court: U.S. District Court, San José Division; Case No. CV-12-02952 HRL; Amount of Money or Other Relief Sought: Damages According to Proof; (41) Hernandez, Yanira v. City, Geoffrey Evatt Graves, et al.; Names of Partie(s) Involved: City of San José, Geoffrey Evatt Graves, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-270467; Amount of Money or Other Relief Sought: Damages According to Proof; (42) Kerkeles v. City of San José, et al.; Names of Partie(s) Involved: Michael Kerkeles, a.k.a. Michael Kerk, City of San José, Matthew Christian, and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-103523; Amount of Money or Other Relief Sought: Damages According to Proof; (43) Hung Lam v. City of San José, et al.; Hung Lam, individually, through his next friend, Kathy Lam; City of San José, a municipal corporation, Larry Esquivel, in his capacity of Chief of Police for the City of San José; Officer Dondi West, individually and in her official position; United States District Court, Northern District of California; Case No.: 14-CV-00877 PSG; Amount of Money or Other Relief Sought: Damages According to Proof; (44) Rice, JoAnn, America Savin, et al. v. City, et al.; JoAnn Rice, America Savin, Perry Nelson and W.N. a minor by and through his Guardian ad Litem, American Savin, City of San José, San José Police Department, Does 1-10; Court: U.S. District Court; Case No.: 2:13-CV-00334-KJM-CKDk Amount of Money or Other Relief Sought: Damages According to Proof; (45) Rodriguez, Lori v. City of San José; Names of Partie(s) Involved: Lori Rodriguez, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-241669; Amount of Money or Other Relief Sought: Damages According to Proof; (46) Sutter's Place, Inc. dba Bay 101 v. City of San José; Names of Partie(s) Involved: Sutter's Place, Inc.. dba Bay 101; City of San José; the Division of Gaming Control; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-258057; Amount of Money or Other Relief Sought: Damages According to Proof; (47) Vasquez v. City. Et al.; Names of Partie(s) Involved: Ramon José Vasquez, Brian Ferrante, Individually and as an Officer of the San José Police Department and Tom Morales, individually as an Officer of the San José Police Department, Does 1 through 50; United States District Court, Northern District of California; Case No. CV10-00948

## CLOSED SESSION (Cont'd.)

LKH; Amount of Money or Other Relief Sought: Damages According to Proof; (48) Watson – Stalker, et al. v. City, et al.; Names of Partie(s) Involved: Tracy Watson, Renee Stalker, Olivia Stalker, Shafer Watson, Riley Watson, County of Santa Clara, County of Santa Clara Department of Family and Children Services, County of Santa Clara Department of County Counsel; County of Santa Clara District Attorney's Office; Santa Clara Valley Medical Center; Evergreen School District; City of San José, San José Police Department; Norma Sparks, Yazmina Letona; Sharon Burgan; Jewels Ramirez; Vu Tran; Ann Miller Ravel, Rima Singh; Aaron West; George Kennedy; Clifton Black; Rose Real; Robert Pruitt; Cheryl Harms; Claudia Blodgett; Gary Kishimoto; John Hamilton, Anita Noble, Janet Kahle, Mary Ritter, David Kearns, Rajul Kazi; Rob Davis; William Hoyt; Craig Blank; United States District Court, Northern District of California; Case No. C06-04029 RMW; Amount of Money or Other Relief Sought: Damages According to Proof; (49) City v. Rossdruiscesenbery Architecture, Inc., et al; Names of Partie(s) Involved: City of San José, Rossdruiscesenbery Architecture, Inc., aka Micheal Ross Charles Drulis Architects & Planners a purported California corporation; and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-237767; Amount of Money or Other Relief Sought: Damages According to Proof; (50) Camacho v. CSJ, et al.; Names of Partie(s) Involved: Carolina Camacho, individually, and as Successor in interest to Jessenia Camacho-Torres, deceased; the City of San José, Amy M. Dorr, Sarah R. Cox; Court: Court of Appeal of the State of California, Sixth Appellate District; Case No.: NO. H041762; Amount of Money or Other Relief Sought: Damages According to Proof; (51) Longtin, Joseph v. City of San José, et al.; Names of Partie(s) Involved: Joseph Longtin; City of San José, and Does 1-10; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-14-CV-269410; Amount of Money or Other Relief Sought: Damages According to Proof; (52) Herrera, et al. v. City, et al.; Names of Partie(s) Involved: Martha Herrera, Michelle Rodriguez, Jessica Rodriguez, Minors, by and through their Guardian ad Litem Martha Herrera; City of San José, John Doe and John Doe Company, et al.; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-10-CV-165689; Amount of Money or Other Relief Sought: Damages According to Proof; (53) Smith, Deanna and Johnny Garcia v. City of San José, Santa Clara Valley Transportation Authority, et al.; Names of Partie(s) Involved: Deanna Smith and Johnny Garcia, City of San José, a public entity; Santa Clara Valley Transportation Authority, a public entity; Union Pacific Railroad Company, and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-271771; Amount of Money or Other Relief Sought: Damages According to Proof; (54) Avila, Ilidio, Angelina Avila; Sonny Avila, a minor; Dominic Avila, a minor; Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, and City of San José; Names of Partie(s) Involved: Ilidio Avila, Angelina Avila, Sonny Avila, a minor, Dominic Avila, a minor and Jovina Avila, a minor, Oscar Chacon, Mayra Ortega, and Blanca Martinez and the City of San José and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245894; Amount of Money or Other Relief Sought: Damages According to Proof; (55) Blevins, Lisa v. City of San José; Names of Partie(s) Involved: Lisa Blevins, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-270060; Amount of Money or Other Relief Sought: Damages According to Proof; (56)

## **CLOSED SESSION (Cont'd.)**

City of San José v. County of Santa Clara; Names of Partie(s) Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, individually, and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara; Court: Superior Court of California, County of Sacramento; Case No: 34-2012-80001190; (57) Ted Smith v. City, et al.; Names of Partie(s) Involved: Ted Smith, City of San José, a municipal entity; San José Redevelopment Agency, a municipal entity; Harry Mavrogenes, in his official capacity as Executive Director of the San José Redevelopment Agency; Mayor Chuck Reed, in his official capacity as Mayor of the City of San José, Pete Constant, in his official capacity as a Councilmember for the City of San José; Ash Kalra, in his official capacity as a Councilmember for the City of San José; Sam Liccardo in his official capacity as a Councilmember for the City of San José; Pierluigi Oliverio, in his official capacity as a Councilmember for the City of San José; Madison Nguyen, in her official capacity as a Councilmember for the City of San José; Rose Herrera, in her official capacity as a Councilmember for the City of San José; Judy Chirco, in her official capacity as a Councilmember for the City of San José; Kansen Chu in his official capacity as a Councilmember for the City of San José; Nora Campos, in her official capacity as a Councilmember for the City of San José; Nancy Pyle, in her official capacity as a Councilmember for the City of San José; and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-150427; Amount of Money or Other Relief Sought: Damages According to Proof; (58) Vietnamese-American Community of Northern California v. City, et al.; Names of Partie(s) Involved: Vietnamese-American Community of Northern California; City of San José City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-107082; Amount of Money or Other Relief Sought: for declaratory and injunctive relief according to proof; (59) Plata, Raymond and Michelle v. City of San José; Names of Partie(s) Involved: Raymond and Michelle Plata, individually and on behalf of other members of a class of similarly situated residents and taxpayers, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-258879; Amount of Money or Other Relief Sought: for declaratory and injunctive relief according to proof; (C) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Interim 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,

## **CLOSED SESSION (Cont'd.)**

Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 12:20 p.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

## **INVOCATION**

Calpulli Tonalehqueh provided a ceremonial performance for the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Herrera, seconded by Councilmember Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 4.4 to be heard directly following the Consent Calendar. (11-0.)

## CEREMONIAL ITEMS

### 1.1 Presentation of a proclamation recognizing the Week of March 9<sup>th</sup> as “Science Fair Week” in the City of San José. (Herrera)

Mayor Liccardo and Vice Mayor Herrera presented the proclamation to former Councilmember Forrest Williams, recognizing the Week of March 9<sup>th</sup> as “Science Fair Week” in the City of San José.

### 1.2 Presentation of a commendation to Tully Community Library for 10 years of exceptional service, outstanding leadership and commitment to excellence. (Nguyen)

Mayor Liccardo and Councilmember Nguyen commended Tully Community Library for 10 years of exceptional service, outstanding leadership and commitment to excellence for the residents of San José.

## CONSENT CALENDAR

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

### 2.1 Approval of Minutes.

None provided.

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29539** – Rezoning certain real property of approximately 0.11 gross acre situated at the southerly side of San Salvador Street, approximately 175 feet easterly of South Fourth Street (168 & 170 East San Salvador Street) from the CG-Commercial General and R-M Multiple-Residence Zoning Districts to the R-M(PD) Planned Development Zoning District. **PDC14-050**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29539 executed on February 27, 2015, submitted by the City Clerk.

Action: Ordinance No. 29539 was adopted. (11-0.)

- (b) **ORD. NO. 29540** - Pre-Rezoning certain real property of approximately 0.52 gross acre situated on the north side of East Hills Drive approximately 250 feet easterly of Dale Drive (3450 East Hills Drive) from unincorporated to the R-1-8 Single-Family Residence Zoning District. **C14-028**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29540 executed on March 6, 2015, submitted by the City Clerk.

Action: Ordinance No. 29540 was adopted. (11-0.)

- (c) **ORD. NO. 29541 - Rezoning certain real property of approximately 0.92 acre situated on the west side of Hamilton Avenue, approximately 100 feet south of Hamilton Way from the R-1-8 Single Family Residence Zoning District to the CN Commercial Neighborhood Zoning District. C14-036 Ordinance No. 29541 passed for publication.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29541 executed on March 6, 2015, submitted by the City Clerk.

Public Comment: Wilma Gardner, Karen Hammer and Tiralisa Kennedy Kaplow expressed concerns regarding traffic congestion as a result of the Primrose project.

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Khamis and carried unanimously, Ordinance No. 29541 was adopted. (11-0.)

### **2.3 Approval of Council Committee Reports.**

- (a) **Neighborhood Services and Education Committee Report of February 12, 2015. (Rocha)**  
[Deferred from 3/3/10 – Item 2.3(b)]
- (b) **Rules and Open Government Committee Report of February 18, 2015. (Mayor)**

Documents Filed: (1) Neighborhood Services and Education Committee Report dated February 12, 2015. (2) Rules and Open Government Committee Report dated February 18, 2015.

Public Comment: David Wall spoke on an issue addressed during the February 18, 2015 Rules Committee meeting regarding the Athens Administration contract.

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Khamis and carried unanimously, the Council Committee Reports were approved. (11-0.)

### **2.4 Request for an excused absence for Councilmember Peralez from the Regular Meeting of the Public Safety, Finance, and Strategic Support Committee on February 19, 2015 due to the birth of his niece. (Peralez)**

Documents Filed: Memorandum from Councilmember Peralez, dated February 24, 2015, requesting an excused absence.

Action: The absence for Councilmember Peralez was excused. (11-0.)

### **2.5 City Council Travel Reports.**

None provided.

**2.6 Report from the Council Liaison to the Retirement Boards.**

None provided.

**2.7 Approve the following Agreements with the County of Santa Clara:**

- (a) **Agreement for Household Hazardous Waste Collection Program for 2015-2016 through 2017-2018, for \$200,000 each year, subject to the appropriation of funds, contingent upon the County's extension of the current Sublease between the City of San José and the County of Santa Clara for use of City property for the Household Hazardous Waste Collection Program; and**
- (b) **Agreement for Countywide Assembly Bill (AB) 939 Implementation Fee for 2015-2016 through 2017-2018.**

**CEQA: Mitigated Negative Declaration, File No. PP09-138, San José Environmental Innovation Center, adopted December 1, 2009. (Environmental Services)**

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated February 17, 2015, recommending approval of Agreements.

Councilmember Nguyen pulled Item 2.7 to request Staff's clarification of the agreement.

Public Comment: David Wall questioned the formulation used for these restricted use funds.

Action: Upon motion by Councilmember Nguyen, seconded by Councilmember Jones and carried unanimously, an Agreement for Household Hazardous Waste Collection Program for 2015-2016 through 2017-2018, for \$200,000 each year, subject to the appropriation of funds, contingent upon the County's extension of the current Sublease between the City of San José and the County of Santa Clara for use of City property for the Household Hazardous Waste Collection Program; and an Agreement for Countywide Assembly Bill (AB) 939 Implementation Fee for 2015-2016 through 2017-2018, were approved. (11-0.)

**2.8 Adopt a resolution to:**

- (a) **Amend the City of San José Pay Plan effective March 10, 2015, to create the following classifications:**
  - (1) **Industrial Process Control Specialist III (1364)**
  - (2) **Industrial Process Control Senior Specialist II (1368)**
- (b) **Amend the City of San José Pay Plan effective March 10, 2015, to change the salary range and title for the following classifications:**
  - (1) **Industrial Process Control Supervisor (1365) (formerly Systems Control Supervisor)**
  - (2) **Industrial Process Control Senior Specialist I (1367) (formerly Senior Process & Systems Specialist)**
- (c) **Amend the City of San José Pay Plan effective March 10, 2015, to change the title for the following classification:**
  - (1) **Industrial Process Control Specialist I/II (1361/1363) (formerly Process & Systems Specialist I/II)**

- 2.8 (d) **Amend the City of San José Pay Plan effective March 10, 2015, to change the salary range for the following classification:**  
(1) **Amusement Park Supervisor (7121)**
- (e) **Amend the City of San José Pay Plan effective March 10, 2015, to delete the following obsolete classifications:**  
(1) **Section Manager, CAE (1641)**  
(2) **Deputy Director, Aviation (3547)**
- CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)**

Documents Filed: Memorandum from Director of the Human Resources Joseph Angelo, dated February 17, 2015, recommending adoption of a resolution.

Action: Resolution No. 77298, entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications”, was adopted. (11-0.)

- 2.9 **Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Second Amendment to the Agreement with Alum Rock Union School District for the development and operation of a soccer field and running track at Sheppard Middle School, increasing the City of San José’s contribution to the project by \$53,000 for a total contribution of \$2,053,000, and updating the insurance requirements. CEQA: Exempt, File No. PP15-023. (Parks, Recreation and Neighborhood Services)**

Documents Filed: City Council Action Request from Parks, Recreation and Neighborhood Services Interim Assistant Director Matt Cano, dated March 10, 2015, recommending adoption of a resolution.

Public Comment: Ernesto Bejarano spoke in support of the resolution.

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Khamis and carried unanimously, Resolution No. 77299, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Negotiate and Execute a Second Amendment to the Agreement with Alum Rock Union Elementary School District for the Development and Operation of a Soccer Field and Running Track at Sheppard Middle School, to Increase the City Contribution by \$53,000 and to Update the Insurance Requirements”, was adopted. (11-0.)

- 2.10 Approve the Fifth Amendment to the Agreement with MRF Geosystems Corporation of Calgary, Alberta, Canada, for GIS consultant services for the Storm GIS Data Improvement Project to extend the term of the agreement to March 31, 2016, at no cost to the City. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)**

Documents Filed: City Council Action Request from Interim Director of Public Works Barry Ng, dated March 10, 2015, recommending adoption of a resolution.

Action: The Fifth Amendment to the Agreement with MRF Geosystems Corporation of Calgary, Alberta, Canada, for GIS consultant services for the Storm GIS Data Improvement Project to extend the term of the agreement to March 31, 2016, at no cost to the City. (11-0.)

- 2.11 (a) Approve the Celebrate Cambrian Festival scheduled on August 23, 2015 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. (Rocha)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated February 26, 2015, transmitting the recommendations of the Rules and Open Government Committee.

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

- 2.12 Approve an agreement with Adhara Systems, Inc. for engineering consultant services to perform pavement condition assessments on the City's street network, for a one-year term in an amount not to exceed \$300,000, and three one-year options to extend in a total contract amount not to exceed \$1,000,000. CEQA: Exempt, File No. PP14-069. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated February 17, 2015, recommending approval of an agreement.

Councilmember Peralez pulled Item 2.12 for further clarification. Deputy Director Department of Transportation Kevin O'Connor explained the importance of a conditional assessment.

Public Comment: Ross Signorino stressed the importance of maintaining street striping.

Action: Upon motion by Councilmember Peralez, seconded by Councilmember Oliverio and carried unanimously, an agreement with Adhara Systems, Inc. for engineering consultant services to perform pavement condition assessments on the City's street network, with related contingencies, was approved. (11-0.)

- 2.13 Consideration of adoption of a resolution approving a Conditional Use Permit to allow the operation of a two story, 13,545 square foot day care for up to 196 children on a 0.92 acre site on the west side of Hamilton Avenue approximately 100 feet south of Hamilton Way. Council District 6. CEQA: Mitigated Negative Declaration, Resolution No. 77294, on March 3, 2015. (Planning, Building and Code Enforcement)**

*Note: Item 2.13 was Renumbered from Item 4.2*

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-036 and CP14-039, dated January 21, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated February 10, 2015, transmitting the Planning Commission recommendation. (3) Supplemental memorandum from Planning Commission Secretary Harry Freitas, dated March 10, 2015, providing additional information and responses from the public.

Action: Resolution No. 77300, entitled: “A Resolution of the Council of the City of San José Approving a Conditional Use Permit, Subject to Conditions, to Allow the Construction of a 13,545 Square Foot Child Day Care Center (Primrose Preschool) for up to 196 Children on an Approximately 0.92 Gross Acre Site Located on the West Side of Hamilton Avenue, Approximately 100 Feet South of Hamilton Way (0 Hamilton Avenue”, was adopted. (11-0.)

- 2.14 (a) Approve Assyrian New (Assyrian Flag Raising) as a City Council sponsored Special Event; and**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**  
**CEQA: Not a Project. (Khamis)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 6, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Assyrian 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. (11-0.)

- 2.15 (a) Approve Annual Greek Flag Raising as a City Council sponsored Special Event;**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**  
**CEQA: Not a Project. (Khamis)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 6, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Greek 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. (11-0.)

- 2.16 (a) Approve Shakespeare in the Park as a City Council sponsored Special Event;**  
**(b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project. (Oliverio)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated March 6, 2015, transmitting the recommendations of the Rules and Open Government Committee.

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

## **END OF CONSENT CALENDAR**

## **COMMUNITY AND ECONOMIC DEVELOPMENT**

*Item 4.4 was heard directly following Consent Calendar*

- 4.4 (a) Approve and provide direction on an alternative for addressing the request to increase by \$919,482 the City's contribution for improvements being made to the City Hall Tower and Wing to accommodate City employees being displaced by the tenant improvements being made to accommodate the United States Patent and Trademark Office.**
- (b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute a First Amendment to the contract between the City and Turner Construction for the design and construction of the United States Patent and Trademark Office Project as necessary to implement the entire project not to exceed the following amounts:**
- (1) \$3,045,628 for construction needed to accommodate the United States Patent and Trademark Office; and**
  - (2) The amount set forth in the direction provided by the City Council in Recommendation A for construction needed to accommodate relocated City employees.**
- (c) Approve an increase in the City-controlled project contingency, which is currently \$1,267,926 by 10% of the amount set forth in the direction provided by the City Council in Recommendation A for construction needed to accommodate relocated City employees.**

**CEQA: Exempt, File No. PP14-031. (Public Works)**

Documents Filed: (1) Memorandum from Mayor Liccardo, dated March 10, 2015, recommending approval of the amendment to the agreement. (2) Joint memorandum from Interim Director of Public Works Barry Ng and Interim Senior Deputy City Manager/Budget Director Jennifer Maguire, dated February 20, 2015, recommending approval of the first amendment to a construction contract. (3) Supplemental memorandum from Interim Director of Public Works Barry Ng, dated March 10, 2015, providing additional information.

#### 4.4 (Cont'd.)

Interim Assistant City Manager David Sykes offered an update regarding the cost estimate and time schedule for completion of the construction project.

Public Comment: David Wall and Ross Signorino offered input on the plan to move City Hall staff.

Motion: Councilmember Kalra moved approval of Mayor Liccardo's memorandum dated March 10, 2015, with a commitment to the timeline to be included as part of the recommendation. Vice Mayor Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and an alternative for addressing the request to increase by \$919,482 the City's contribution for improvements being made to the City Hall Tower and Wing to accommodate City employees being displaced by the tenant improvements being made to accommodate the United States Patent and Trademark Office; and an increase in the City-controlled project contingency, which is currently \$1,267,926 by 10% of the amount set forth in the direction provided by the City Council in Recommendation A for construction needed to accommodate relocated City employees, was approved; and Resolution No. 77303, entitled: "A Resolution of the Council of the City of San José Delegating to the Director of Public Works the Authority to Execute the First Amendment to the Construction Contract for the United States Patent and Trademark Office Project Between the City Of San José and Turner Construction Company", was adopted. (11-0.)

### STRATEGIC SUPPORT SERVICES

#### 3.3 Interview and select a candidate for the public member vacancy on the Board of Administration for the Federated City Employees' Retirement System Retirement Board to a term ending November 30, 2016. (City Clerk)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated February 26, 2015, providing recommendation for a candidate for a vacancy on the Board.

Action: Bettina Rounds was selected to fill the position on the Board of Administration for the Federated City Employees' Retirement System Retirement Board to a term ending November 30, 2016.

*Mayor Liccardo left the meeting at 3:29 p.m., and Vice Mayor Herrera continued the meeting.*

**3.4 Accept the staff background and analysis regarding SB 3 (Leno) Minimum Wage: Adjustment. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (City Manager)**

Documents Filed: (1) Memorandum from Councilmember Jones, dated March 3, 2015, providing support to SB3 with exemptions. (2) Memorandum from Councilmember Khamis, dated March 6, 2015, providing support to SB3 with certain conditions. (3) Memorandum from Councilmember Rocha, dated March 9, 2015, providing support to SB3. (4) Memorandum from Councilmember Peralez, dated March 10, 2015, providing support to SB3. (5) Memorandum from Director, Intergovernmental Relations Betsy Shotwell, dated February 23, 2015, recommending acceptance of staff's analysis.

Public Comment: Offering comments regarding SB 3 (Leno) "Minimum Wage: Adjustment", asking that disparity in Silicon Valley and a realistic cost of living be addressed and offering further consideration, were: Salvador Bustamante and Omar Vasquez (Latinos United for a New America); Louie Rocha (Communications Workers of America Local 9423), Richard Konda (Asian Law Alliance), Jeremy Barousse (SIREN), Dennis Raj (South Bay Labor Council), Brian Wheatley (Evergreen Teachers), Yaveth Gomez (SEIU Local 521), Maria Noel Fernandez (Working Partnerships USA), Ray Perez, Ross Signorino, and Claudia Shope. Enrique Navarro-Donnellan offered that increasing minimum wage does not guarantee jobs, and David Wall criticized the bill for promoting entitlement.

Department of Public Works Director of Equality Assurance, Nina Grayson responded to questions from the Council, and discussion ensued.

Motion: Councilmember Peralez moved approval of staff's background and analysis without any exemptions, accepting comments as provided in his memorandum of March 10, 2015 and Councilmember Rocha's memorandum of March 9, 2015, with direction to staff to add this item to its list of Key Legislative Items for 2015, and to provide an information memorandum providing quarterly updates on implementation and enforcement. Councilmember Rocha seconded the motion.

Substitute Motion: Councilmember Khamis moved approval of the staff's recommendations, including conditions as outlined in his memorandum of March 6, 2015 and Councilmember Jones' memorandum of March 3, 2015. Councilmember Jones seconded the motion.

Councilmember Peralez opined that the State has already incorporated adequate exemptions within this Bill.

Action: On a call for the question, the substitute motion failed. (6-3-2. Noes: Carrasco, Herrera, Kalra, Matthews, Peralez, Rocha. Absent: Liccardo, Oliverio.)

*Councilmember Oliverio left the meeting at approximately 4:00 p.m.*

### 3.4 (Cont'd.)

Action: On a call for the question, the original motion carried, and staff's background and analysis regarding SB 3 (Leno) Minimum Wage: Adjustment was accepted, with the City to add this item to its list of Key Legislative Items for 2015, and with Staff to provide an information memorandum providing quarterly updates on implementation and enforcement. (8-1-2. Noes: Khamis. Absent: Liccardo, Oliverio.)

- 3.5 (a) **Hold a Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing for the issuance of up to \$4,605,000 of tax-exempt 501(c)(3) revenue bonds by the California Enterprise Development Authority (CEDA) for the acquisition, rehabilitation and equipping of the real property located at 1291 Oakland Road in San José by KJH Properties, a California Limited Liability Corporation.**
- (b) **Consider a resolution approving the issuance of revenue bonds, by CEDA, on behalf of KJH Properties, in a principal amount not to exceed \$4,605,000, to finance the acquisition, rehabilitation and equipping of the facility located at 1291 Oakland Road in San José; pay certain expenses incurred in connection with the issuance of the Bonds; and fund all or a portion of a reserve fund deposit and capitalized interest.**

**CEQA: Not a Project, File No. PP10-069(c), Organizational and Administrative Activities. Council District 3. (Finance/Economic Development)**

Documents Filed: (1) Joint memorandum from Director of Finance Julia H. Cooper and Deputy City Manager/Director of Economic Development Kim Walesh, dated February 17, 2015, recommending holding a public hearing and adoption of a resolution. (2) Memorandum from Director of Finance Julia H. Cooper, dated February 26, 2015, regarding the TEFRA Public Hearing held on February 23, 2015.

Public Comment: David Wall offered criticism of the project.

Action: Upon motion by Councilmember Rocha, seconded by Councilmember Khamis and carried unanimously, Resolution No. 77301, entitled: "A Resolution of the Council of the City of San José Approving the Issuance by the California Enterprise Development Authority of its Revenue Bonds for the Benefit of KJH Properties, LLC and/or a Related or Successor Entity in an Aggregate Amount not to Exceed \$4,605,000 for the Purpose of Financing and Refinancing the Cost of the Acquisition, Rehabilitation and Equipping of Certain Property and Other Matters Relating Thereto", was adopted. (9-0-2. Absent: Liccardo, Oliverio.)

*Mayor Liccardo returned at 5:10 p.m.*

- 3.6 As recommended by the Rules and Open Government Committee on February 25, 2015, direct the City Attorney to join the efforts of the National League of Cities and the U.S. Conference of Mayors in filing an amicus brief in the appeal of the *Texas vs. United States* lawsuit, to support President Obama's recent executive action on immigration. CEQA: Not a Project, File No. PP10-069, City Organization & Administrative Activities. (Mayor/Peralez)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated February 26, 2015, transmitting the recommendations of the Rules and Open Government Committee. (2) Memorandum from City Attorney Richard Doyle, dated March 6, 2015, regarding support to an amicus brief. (3) Email correspondence from Priya Murthy, Policy and Organizing Program Director; Services, Immigration Rights, and Education Network (SIREN), urging Council to support the City's joining the amicus brief.

Public Comment: Richard Konda (Asian Law Alliance), Sameena Usman (Council on American-Islamic Relations), Mayela Razo and Jeremy Barousse (SIREN), and Maria Blum-Sullivan (Sacred Heart Community Service) expressed support for an amicus brief in the appeal of the *Texas vs. United States* lawsuit. David Wall spoke in opposition.

City Attorney Richard Doyle offered clarification to the action considered, and Council discussion followed.

Motion: Vice Mayor Herrera moved approval of the amicus brief, and Councilmember Kalra seconded the motion.

Councilmember Khamis indicated that he could not support the motion on the floor, citing that he does not have enough background on the issue.

Action: On a call for the question, the motion carried, and the City Attorney was directed to join the efforts of the National League of Cities and the U.S. Conference of Mayors in filing an amicus brief in the appeal of the *Texas vs. United States* lawsuit, to support President Obama's recent executive action on immigration. (8-1-2. Noes: Khamis. Absent: Oliverio, Rocha.)

- 3.7 As recommended by the Public Safety, Finance, and Strategic Support Committee on February 19, 2015, accept the following Second Quarter Financial Reports for Fiscal Year 2014-2015 for the following programs:**

- (a) **Debt Management Report;**
- (b) **Investment Report; and**
- (c) **Revenue Collection Report.**

**CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Finance)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated February 26, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

### 3.7 (Cont'd.)

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Carrasco and carried unanimously, the Second Quarter Financial Reports for Fiscal Year 2014-2015, (a) Debt Management Report; (b) Investment Report, and (c) Revenue Collection Report, were accepted. (9-0-2. Absent: Oliverio, Rocha.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Consideration of an ordinance rezoning the real property located at the southwest corner of West San Carlos Street and Sunol Street (860 West San Carlos Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for specific changes to previously approved Development Standards, most notably: eliminating the minimum building height, lowering the minimum amount of commercial square footage from 24,000 to 14,000, and requiring standard conformance with the City's parkland dedication requirements, for the subject 8.0 gross acre site (Santa Clara County Transit District, Owner). CEQA: Ohlone Mixed Use EIR Resolution No. 09064, File No. PDC08-061. Planning Commission recommends approval (5-0-1). (Planning, Building and Code Enforcement)**

**PDC13-004 – District 6 (Deferred from 2/24/15 – Item 11.5)**

Action: Deferred to March 17, 2015 per Administration

- 4.2 Consideration of adoption of a resolution approving a Conditional Use Permit to allow the operation of a two story, 13,545 square foot day care for up to 196 children on a 0.92 acre site on the west side of Hamilton Avenue approximately 100 feet south of Hamilton Way. Council District 6. CEQA: Mitigated Negative Declaration, Resolution No. 77294, on March 3, 2015. (Planning, Building and Code Enforcement)**

*Note: Item Renumbered to Item 2.13- See Item 2.13 for action taken.*

**4.3 Adopt a resolution:**

- (a) Approving an increase to the construction/permanent loan commitment of up to \$2,164,000, to a total of up to \$15,045,000 during construction and up to \$15,145,000 during permanent, to reflect both the reallocation of existing debt between phases and up to \$100,000 in capitalized construction period interest if needed, to 2112 Monterey Road Apartments, L.P., a legal entity related to Charities Housing Development Corporation, for the development of the North Phase of the Metropolitan Apartments (“Development”) located at 2112 Monterey Road.**

#### 4.3 (Cont'd.)

- (b) **Authorizing the Director of Housing to negotiate and execute all necessary loan- and subdivision-related documents for the Development, including all documents necessary to reallocate the existing debt between the new North and South Phase parcels and to effectuate the North Phase transaction and the transfer of the South Phase parcel to 2112 Monterey Road South, L.P. as described in the staff report including any loan and subdivision-related documents and any subordinations, amendments, reconveyances, and consents; and**
- (c) **Authorizing a Loan to Value amount in excess of 100%.  
CEQA: Mitigated Negative Declaration, File Nos. GP08-07-04 and PDC09-015.  
Council District 7. (Housing)**

Documents Filed: Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated February 23, 2015, recommending adoption of a resolution.

Public Comment: David Wall questioned the need for the increase.

Division Manager, Housing, Kristen Clements, responded to questions from Council.

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Kalra and carried unanimously, Resolution No. 77302, entitled: “A Resolution of the Council of the City of San José Approving an Increase to the Construction/Permanent Loan Commitment for the Metropolitan Apartments North Phase”, was adopted. (9-0-2. Oliverio, Rocha.)

## PUBLIC SAFETY SERVICES

- 8.1 **As recommended by the Public Safety, Finance, and Strategic Support Committee on February 19, 2015, accept the report on cardroom compliance with Title 16 of the San José Municipal Code (Gaming Control Regulatory Program). CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Police)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated March 6, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Council Member Matthews expressed her unfamiliarity with the cardroom issue and therefore would be registering a “no” vote.

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Jones, the motion carried, and the report on cardroom compliance with Title 16 of the San José Municipal Code (Gaming Control Regulatory Program), was accepted. (8-1-2. Noes: Matthews. Absent: Oliverio, Rocha.)

## NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council</u>		<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
		<u>District</u>				
10297	Southside of Great Oaks Boulevard. North of Route 85.	2		FWSH Partners II, LLC	11 Lots	Mixed Use
10249	Southside of St. James Street. West of Terraine Street.	3		Full Power Properties, LLC	1 Condo Lot / 643 MFA Units	MFA

### OPEN FORUM

1. Blair Beekman advised open, public discussion on the issue of government surveillance.
2. Matt Lucero, representing Buddy's Cannabis, urged extension of implementation of the Operational Regulations Ordinance, Title 6, for Medical Cannabis.
3. David Wall expressed concerns regarding the City's 'revolving door policy'.

### ADJOURNMENT

The Council of the City of San José was adjourned at 5:38 p.m. in memory of Kiran Pabla, who passed away on January 26, 2015 at the age of 24. She was a graduate of Silver Creek High School, a former Page at San José Public Library, and an avid jogger who was deeply dedicated to her family and community. (Herrera)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

rmk/03-10-2015MIN