

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 14, 2015

The Council of the City of San José convened in Regular Session at 9:02 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - Oliverio. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:08 a.m. to a Closed Session in Room W133 (A) Public Employment/Public Employee Evaluation Pursuant to Government Code Section 54957: Title: Independent Police Auditor; Name: LaDoris Cordell; (B) to confer with Legal Counsel – anticipated litigation pursuant to subsection (b) of Section 54956.9 of the Government Code (claim not filed): Number of matters to be discussed: 1; (C) 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: San José Arena 525 W. Santa Clara Street, San José, California; Negotiating Partners: Nanci Klein, Jim Shannon, Bill Hughes, Patricia Deignan for the City of San José and Jim Goddard, Sean Morely, Lucy LoFrumento for San José Arena Management; Under Negotiation: the direction will concern price and terms of payment; Likely range of value of property: Negotiated price based on comparable rental values; (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) 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

CLOSED SESSION (Cont'd.)

Does 51-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV-212623; Amount of Money or Other Relief Sought: Injunctive relief; (2) Organización Comunidad de Alviso v. City of San José; Names of Partie(s) Involved: Organización Comunidad de Alviso v. City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268130; Amount of Money or Other Relief Sought: Petition for Writ of Mandate; (3) IAFF Local 230 v. City of San José; Names of Partie(s) Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof; (4) 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; (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-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (6) 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; (7) 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; (8) 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. (9) 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. (10) 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. (11) 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

CLOSED SESSION (Cont'd.)

Relief Sought: Challenge to Measure B. (12) 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; Case: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) 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; (B) 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, 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: Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:45 p.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

Present: Councilmembers - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio (1:49 p.m.), Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

INVOCATION

Jose N. Guerra III, representing San Jose Conservation Corps and Charter School, presented 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 Carrasco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 11.3, the Land Use and General Plan Annual Review, to end at 10 p.m. and continued to the May 12, 2015 evening Council meeting. (10-0-1. Absent: Oliverio.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the San José Earthquakes Stadium Project Team. (City Manager)

Mayor Liccardo and Interim City Manager Norberto Dueñas commended the San José Earthquakes Stadium Project Team for their collaborative efforts on a one-of-a-kind major league soccer stadium, the new home of the San José Earthquakes.

1.3 Presentation of a proclamation recognizing the Week of April 12-18, 2015 as “National Public Safety Telecommunicators Week” in the City of San José (Police/Fire)

Mayor Liccardo, Interim Fire Chief Curtis Jacobson, and Chief of Police Larry Esquivel presented a proclamation recognizing the Week of April 12-18, 2015 as “National Public Safety Telecommunicators Week” in the City of San José in honor of the San José Police and Fire Public Safety Dispatchers who serve 24 hours a day, 365 days a year, helping those in need of emergency assistance.

CONSENT CALENDAR

Upon motion by Vice Mayor Herrera, seconded by Council Member Khamis 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.

None provided.

2.3 Approval of Council Committee Reports.

- (a) **Neighborhood Services and Education Committee Report of March 12, 2015. (Rocha)**
[Deferred from 4/7/15 – Item 2.3(b)]
- (b) **Community and Economic Development Committee Report of March 23, 2015. (Khamis)**
- (c) **Rules and Open Government Committee Report of March 25, 2015. (Mayor)**
- (d) **Public Safety, Finance, and Strategic Support Committee Report of March 19, 2015. (Oliverio)**

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

Documents Filed: (1) Neighborhood Services and Education Committee Report dated March 12, 2015; (2) Community and Economic Development Committee Report dated March 23, 2015; (3) Rules and Open Government Committee Report dated March 25, 2015; (4) Public Safety, Finance, and Strategic Support Committee Report dated March 19, 2015.

Action: The Council Committee Reports were accepted. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

Vice Mayor Herrera reported on her trip to Ontario where she chaired the League of Cities Transportation Communications Public Works Policy Committee. Mayor Liccardo reported on his trip to Washington D.C. for the Silicon Valley Leadership Group and Metropolitan Transportation Commission to advocate funding for BART and reauthorization of National Highway Trust Funding.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Senior Commission Appointment.

- (a) **Appoint Robert Winsor to the District 9 Seat on the Senior Commission to an unexpired term ending June 30, 2017; and**
- (b) **Appoint Jess Jacques to the District 3 Seat on the Senior Commission to an unexpired term ending June 30, 2017.**

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

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated April 2, 2015, recommending an appointment to the District 9 Seat on the Senior Commission. (2) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated April 9, 2015, updating the recommendation of April 2, 2015.

Action: The appointments of Robert Winsor to the District 9 Seat on the Senior Commission to an unexpired term ending June 30, 2017, and Jess Jacques to the District 3 Seat on the Senior Commission to an unexpired term ending June 30, 2017, were approved. (11-0.)

2.8 Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund:

- (a) **Increase the estimate for Earned Revenue by \$165,000; and**
- (b) **Establish an appropriation to the Office of Economic Development for the Ready to Work Partnership Initiative Grant Project in the amount of \$165,000.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager)

Documents Filed: Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Senior Deputy City Manager Jennifer Maguire, dated March 23, 2015, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29548, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Workforce Investment Act Fund for the Ready to Work Partnership Initiative Grant Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 77313, entitled: “A Resolution of the Council of the City of San José, Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the Workforce Investment Act Fund”, were adopted. (11-0.)

2.9 Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund:

- (a) Increase the estimate for the Workforce Investment Act Earned Revenue by \$312,000; and**
- (b) Establish an appropriation to the Office of Economic Development for the County of Santa Clara Youth Summer Employment Program grant award in the amount of \$312,000.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Economic Development/City Manager)

Documents Filed: Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Senior Deputy City Manager Jennifer Maguire, dated March 23, 2015, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 29549, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Workforce Investment Act Fund for the Youth Summer Employment Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 77314, Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the Workforce Investment Act Fund”, were adopted. (11-0.)

2.10 Approve the Second Amendment to the Master Agreement with CDM Smith, for engineering services for the San José-Santa Clara Regional Wastewater Facility, increasing the amount of compensation by \$75,000, for a total agreement amount not to exceed \$1,575,000, and extending the term from June 30, 2015 to December 31, 2016. CEQA: Not a project, File No. PP10-066(d), Consultant Services. (Environmental Services)

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated March 12, 2015, recommending approval of a Second Amendment to an Agreement. (2) Letter from Secretary to the Treatment Plant Advisory Committee, Kerrie Romanow, dated April 9, 2015, stating concurrence with the Staff recommendation.

Action: The Second Amendment to the Master Agreement with CDM Smith, for engineering services for the San José-Santa Clara Regional Wastewater Facility, increasing the amount of compensation by \$75,000, for a total agreement amount not to exceed \$1,575,000, and extending the term from June 30, 2015 to December 31, 2016, was approved. (11-0.)

2.11 Adopt a resolution to:

- (a) **Amend the City of San José Pay Plan effective April 26, 2015, to create the following classifications:**
 - (1) **Electrician I (3151)**
 - (2) **Instrument Control Technician II (3764)**
 - (3) **Instrument Control Technician IV (3765)**
 - (4) **Instrument Control Supervisor II (3766)**
 - (5) **Wastewater Facility Operations Manager (3615)**
- (b) **Amend the City of San José Pay Plan effective April 26, 2015, to change the salary range and title for the following classifications:**
 - (1) **Electrician II (3153) (formerly Electrician)**
 - (2) **Instrument Control Technician I (3761) formerly Instrument Control Technician)**
 - (3) **Instrument Control Technician III (3763) (formerly Senior Instrument Control Technician)**
 - (4) **Instrument Control Supervisor I (3762) (formerly Instrument Control Supervisor)**
- (c) **Amend the City of San José Pay Plan effective April 26, 2015, to change the salary range for the following classifications:**
 - (1) **Senior Electrician (3154)**
 - (2) **Electrician Supervisor (3155)**

CEQA: Not a project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources, Joe Angelo, dated March 23, 2015, recommending adoption of a resolution.

Action: Resolution No. 77315, 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.)

2.12 As recommended by the Rules and Open Government Committee on April 1, 2015, approve grant funds for American Leadership Forum, Silicon Valley for \$250 to assist with their scholarship program. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated April 3, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: Grant funds for American Leadership Forum, Silicon Valley, for \$250 to assist with their scholarship program, was approved. (11-0.)

- 2.13 (a) **Approve the Amendment to a Turnkey Parkland Agreement and a Maintenance Agreement between the City of San José and Brookfield Brookside LLC, a Delaware Limited Liability Company, regarding Tentative Map No. PT10-31 (Final Tract Map, Tract No. 10102) for the development of a trail and dedicated easement through the housing project per City’s Park Dedication Ordinance (San José Municipal Code Section 19.38).**
- (b) **Approve a Right-of-Entry and Maintenance Agreement for the Brookside Estates trail site between the City of San José and Brookside Estates Owners Association, a California nonprofit mutual benefit corporation.**
- (c) **Adopt the following 2014-2015 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:**
- (1) **Increase the Developer Refunds appropriation by \$18,000;**
 - (2) **Establish the Brookside Design Review and Inspection appropriation for \$12,000, and**
 - (3) **Decrease the Future PDO/PIO Projects Reserve by \$30,000.**
- CEQA: Mitigated Negative Declaration, File No. PDC10-005. (Parks, Recreation and Neighborhood Services/City Manager)**

Documents Filed: Joint memorandum from Interim Assistant Director of Parks, Recreation and Neighborhood Services, Angel Rios, and Senior Deputy City Manager Jennifer Maguire dated March 23, 2015, recommending approval of an amendment agreement and adoption of appropriation ordinance amendments.

Action: An Amendment to a Turnkey Parkland Agreement and a Maintenance Agreement between the City of San José and Brookfield Brookside LLC, a Delaware Limited Liability Company, regarding Tentative Map No. PT10-31 (Final Tract Map, Tract No. 10102) for the development of a trail and dedicated easement through the housing project per City’s Park Dedication Ordinance, including a Right-of-Entry and Maintenance Agreement for the Brookside Estates trail site between the City of San José and Brookside Estates Owners Association, a California nonprofit mutual benefit corporation, was approved; and Ordinance No. 29550 entitled: “An Ordinance of the City of San José, Amending Ordinance No. 29431 to Appropriate Monies in the Subdivision Park Trust Fund for the Brookside Design Review and Inspection; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

- 2.14 (a) **Approve travel by Councilmember Peralez to Portland, OR on May 4 – 5, 2015 to attend the Portland Study Tour: The Ecology of Local Business and Public Space. Source of Funds: Knight Foundation, 880 Cities and any remaining expenses will be sourced from Council District 3 Office budget.**
- (b) **Request for an excused absence for Councilmember Peralez from the Regular Meeting of City Council on May 5, 2015 due to Authorized City Business: Portland Study Tour: The Ecology of Local Business and Public Space.**

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

2.14 (Cont'd.)

Documents Filed: Memoranda from Councilmember Perez, both dated March 27, 2015, requesting authorization to travel to attend the Portland Study Tour and requesting an excused absence due to Authorized City Business.

Action: Travel by Councilmember Perez to Portland, OR on May 4 – 5, 2015 to attend the Portland Study Tour: The Ecology of Local Business and Public Space, and an excused absence for Councilmember Perez from the Regular Meeting of City Council on May 5, 2015 due to Authorized City Business, were approved. (11-0.)

- 2.15 (a) Approve the proposed 2014-2016 Spending Plan for the Supplemental Law Enforcement Services (SLES) Grant for \$1,580,053, and authorize the Chief of Police to amend the Spending Plan in conformity to the budget priorities set out in the memorandum to Council in the event State SLES Grant payments are less or more than expected.**
- (b) Approve the revised 2013-2015 Spending Plan for the Supplemental Law Enforcement Services Grant reallocating funds from Project #2 and Project #3 to Project #1 to purchase Mobile Data Computers.**
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Supplemental Law Enforcement Services Fund:**
- (1) Increase the Earned Revenue estimate by \$667,806; and**
 - (2) Establish an appropriation to the Police Department for the SLES Grant 2014-2016 for \$667,806.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Police/City Manager)

Action: Deferred to April 28, 2015 per Administration.

- 2.16 (a) Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and Conroy & Associates, Inc. for financial background investigation services for the Division of Gaming Control, in an amount not to exceed \$352,500 retroactive for the period of April 1, 2015 through June 30, 2016.**
- (b) Adopt a resolution authorizing the City Manager to execute four additional annual renewal options with the total amount of compensation for the entire contract not to exceed \$1,480,500.**
- (c) Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) Increase the estimate for Other Revenue in the amount of \$352,500;**
 - (2) Increase the Police Department's Non-Personal/Equipment appropriation in the amount of \$352,500.**

CEQA: Not a Project, File No. PP10-066(e); Services that involve no physical changes to the environment. (Police/City Manager)

2.16 (Cont'd.)

Documents Filed: Joint memorandum from Chief of Police Larry Esquivel and Senior Deputy City Manager Jennifer Maguire, dated March 23, 2015, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 77316, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Conroy & Associates, Inc. for Financial Background Investigating Services for the Division of Gaming Control in the Amount of \$352,500 for the Period of April 1, 2015 through June 30, 2016”; Ordinance No. 29551, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Fund for the Police Department’s Non-Personal/Equipment Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 77317, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

- 2.17 (a) Adopt a resolution preliminarily approving the Engineer’s Report for Annexation Area No. 2 to Maintenance District 15 (Silver Creek Valley).**
(b) Set the Public Meeting to be held on May 19, 2015 at 1:30 p.m.
(c) Set the Public Hearing and tabulation of property owner ballots for June 23, 2015 at 1:30 p.m.
(d) Direct the notice of said meeting, hearing and ballots be mailed to the property owners in district.

CEQA: Mitigated Negative Declaration, File No. PDC09-007 and Exempt, File No. PD10-019. Council District 8. (Public Works)

Documents Filed: Memorandum from Interim Director of Public Works Barry Ng, dated March 23, 2015, recommending adoption of a resolution and to set a Public Hearing date.

Action: Resolution No. 77318, entitled: “A Resolution of the Council of the City of San José Preliminarily Approving the Engineer’s Report for the Proposed Annexation of New Territory into Maintenance District 15 (Silver Creek Valley) and Taking Certain Other Actions Preliminary to the Approval of Such Annexation of New Territory into Maintenance District 15”, was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 As recommended by the Public Safety, Finance, and Strategic Support Committee on March 19, 2015, accept the Audit on Fund Balance and Reserves. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (City Auditor)
[Public Safety, Finance, and Strategic Support Committee referral 3/19/15 – Item D(5)]**

Documents Filed: (1) Memorandum from Councilmember Peralez, dated April 14, 2015, recommending further consideration and direction to Staff. (2) Memorandum from City Clerk Toni Taber, dated March 25, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Supplemental memorandum from Senior Deputy City Manager Jennifer Maguire dated April 6, 2015, providing additional information regarding the City's General Fund Earmarked Reserves.

City Auditor Sharon Erickson provided an overview of the Audit of Fund Balances and Reserves. Assistant Budget Director, Margaret McCahan continued with additional recommendations, and Senior Deputy City Manager Jennifer Maguire responded to questions from Council.

Public Comment: Reverend Jethroe Moore II offered support to Councilmember Peralez' memorandum. Elly Matsumura, representing Working Partnerships, USA, urged continued transparency.

Councilmember Peralez moved approval of the Auditor's report, including items 1(a) and 1(b) from his memorandum dated April 14, 2015, with Item (2) Directing staff to develop a pilot process as indicated below in "Action" to be included in the June budget deliberations. The motion was seconded by Vice Mayor Herrera.

Action: On a call for the question, the motion carried unanimously, with direction to Staff, per recommendation #1 from Councilmember Peralez' memorandum dated April 14, 2015, that the following information be provided to the City Council in May 2015 for consideration in the current and future budget cycles: (a) A document indicating which fund balances and reserves can lawfully be transferred to the City's General Fund at the time the proposed budget is released. This information has been provided for 2015 in the April 14, 2015 supplemental memo for the agenda item on the Auditor's report and should serve as a model for future budget cycles; (b) A document indicating the total amount of funds available in excess to the amounts already allocated in proposed budget at least three business days prior to the June budget public hearings, and a supplemental memo to the full Council if any additional funds are identified after the release of that message. This would formalize the Budget Director's regular practice of bringing forward any Manager's Budget Addendums that have material impact. Staff was further directed to explicitly include recommendation #2 from Councilmember Peralez' April 14, 2015 memorandum in the May 2015 Study Session, which recommends developing a pilot process for Council to include a "contingency budget" in the June budget deliberations through which Council adopts appropriations for public services to be paid out of the excess fund balance. (11-0.)

- 3.4 (a) **Accept the report on the Request for Proposal for the purchase and implementation of Human Resources, Payroll, Timekeeping, and Budget systems;**
- (b) **Adopt a resolution authorizing the City Manager to negotiate an Agreement with CherryRoad Technologies, Inc. (Morris Plains, NJ) for the purchase, implementation, training, hosting and maintenance and support of Human Resources, Payroll, Timekeeping, and Budget systems for a term commencing on or about July 1, 2015 and ending on or about September 30, 2021, with a maximum compensation not-to-exceed \$7,520,363 exclusive of any negotiated project contingency, subject to the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance/Human Resources/Information Technology/City Manager)

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper, Senior Deputy City Manager Jennifer Maguire, Director of Human Resources, Joe Angelo and Director of Information Technology Vijay Sameta, dated March 25, 2015, recommending acceptance of a Request for Proposal for purchase and implementation of a new payroll system.

Staff provided a presentation on the Human Resources, Payroll, Timekeeping, and Budget systems and the need for an upgrade and responded to questions from Council.

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Khamis and carried unanimously, the report on the Request for Proposal for the purchase and implementation of Human Resources, Payroll, Timekeeping, and Budget systems was accepted, and Resolution No. 77319, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate an Agreement with Cherryroad Technologies, Inc. for the Purchase, Implementation and Training, Hosting and Maintenance and Support of Human Resources, Payroll, Timekeeping and Budget Systems”, was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **“Butt Out of Our Bars” Tobacco Product Sampling Regulation, as recommended for consideration by the Rules and Open Government Committee on March 11, 2015. Accept the report and provide direction to staff. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Attorney/City Manager)**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated April 3, 2015, transmitting the recommendations of the Rules and Open Government Committee. (2) Petition from “Butt Out of Our Bars” dated April 14, 2015, with 1675 signatures calling for approval of the proposed regulation.

City Attorney Richard Doyle provided an introduction. Deputy Director of Code Enforcement, Diane Buchanan, responded to questions, and Council discussion followed.

4.1 (Cont'd.)

Public Comment: Speaking in support of the proposed regulations against tobacco product sampling were: Cody Sampson; Brian Davis and Devin Wakefield (Butt Out of Our Town Coalition); Muoi Chung, Curtis Ferea, Gabrielle Antolovich (Voices United and Billy DeFrank Center), Rosemary McCarthy, Reverend Jethroe Moore II, Vanessa Marvin (American Lung Association), Tim Rogers and Hewitt Joyner (Tobacco Coalition of Santa Clara County). Shane Patrick Connolly advised that this is a free choice issue and the City should not regulate choices.

Mayor Liccardo offered that there are other safety issues that should be prioritized, and this item in particular will be difficult to enforce. Councilmembers Oliverio and Khamis opined that adults should be free to make their own choices.

Motion: Councilmember Peralez moved approval of the Tobacco Product Sampling Regulation with Staff to return with the substance of the ordinance for future consideration by the Council, and the motion was seconded by Vice Mayor Herrera.

Action: On a call for the question, the motion carried, and the “Butt Out of Our Bars” Tobacco Product Sampling Regulation report, was accepted, with direction to Staff to return with the substance of the ordinance for further action. (8-3. Noes: Khamis, Liccardo, Oliverio.)

4.2 Adopt a resolution:

- (a) **Consenting to the use of the SAP Center as a regular home game facility by the American Hockey League (AHL) affiliated team as provided in the Amended and Restated Arena Management Agreement by and between the City of San José and San José Arena Management LLC.**
- (b) **Approving an Agreement for the Third Expansion of the Ice Centre of San José by and between the City of San José and San José Sharks, LLC providing for the construction of a two-story expansion to the Ice Centre by 6,800 square feet for a private locker room and related facilities for the AHL team, at no cost to the City.**
- (c) **Approving the Third Amendment to the Amended and Restated Lease and Management Agreement for the Ice Centre to add the expansion area to the lease and to allow the AHL team use of the private locker room and related facilities for its training and practice sessions including use of the Ice Centre's ice rinks.**

CEQA: Exempt, File No. PP15-033. (Economic Development)

Documents Filed: (1) Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated March 23, 2015, recommending adoption of a resolution. (2) Supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated April 13, 2015, updating information included in the Agreement for the restated lease and management agreement.

4.2 (Cont'd.)

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Peralez and carried unanimously, Resolution No. 77320, entitled: “A Resolution of the Council of the City of San José (1) Consenting to the Use of the SAP Center as a Regular Home Game Facility by the American Hockey League Team as Provided by the Amended and Restated Arena Management Agreement by and Between the City and San José Arena Management LLC; (2) Approving an Agreement for the Third Expansion of the Ice Centre of San José by and Between the City and San José Arena Management; and (3) Approving the Third Amendment to the Amended and Restated Lease and Management Agreement for the Ice Centre”, was adopted. (11-0.)

4.3 **Consideration of an ordinance rezoning the real property located on the southwesterly corner of St. John Street and North Almaden Boulevard (APNs 259-36-036, -037, -038, -039, and -067) from the Commercial General (CG) and Light Industrial (LI) Zoning Districts to the Downtown Primary Commercial (DC) Zoning District of five Little Italy properties (Green Valley Corp, Ray Shir, Owners). CEQA: Addendum to San José Downtown Strategy EIR, Resolution no. 64273. Planning Commission recommends approval (5-0-1). (Planning, Building and Code Enforcement)** **C14-071 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-071, dated January 16, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated March 23, 2015, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing executed on March 27, 2015, submitted by the City Clerk.

Public Comment: G. John Galvan asserted that the water supply will not meet the demands for water that this expansion will require.

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Khamis and carried unanimously, Ordinance No. 29552, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.45 Acre Situated at the Southwesterly Corner of St. John Street and North Almaden Boulevard from the CG Commercial General and LI Light Industrial Zoning Districts to the DC Downtown Primary Commercial Zoning District”, was passed for publication. (11-0.)

4.4 **Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity to allow a drinking establishment (tasting room) and the off-sale of wine incidental to a winery on a 0.25 gross acre site, located at 885 West Julian Street (Elise M. Pond Trustee, Owner). CEQA: Exempt. Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)** **CP15-005/ABC15-004 – District 6**

4.4 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-005 and ABC15-004, dated March 16, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated March 27, 2015, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing executed on March 6, 2015, submitted by the City Clerk.

Public Comment: Laura Winter, on behalf of the Shasta Hanchett Park Neighborhood Association, offered support to the project.

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Carrasco and carried unanimously, Resolution No. 77321, entitled: “A Resolution of the Council of the City of San José Approving, Subject to Conditions, a Conditional Use Permit and Granting a Determination of Public Convenience or Necessity to Allow a Public Drinking Establishment and the Off-Sale of Wine Incidental to a Winery on a 0.25 Gross Acre Site Located at the North Side of West Julian Street Approximately 120 Feet Northwest of Rhodes Court (885 West Julian Street), was adopted. (11-0.)

4.5 **Adopt a resolution to name four new private streets to Neleigh Place, Lee Place, Vendre Place, and Murasky Place, and rename an existing public street named Eagle Lane to Eagle Way, located south of Shore Drive, north of Mercado Way. CEQA: Exempt. (Planning, Building and Code Enforcement) ST14-003 – District 4**

Documents Filed: (1) City Council Action Request from Director of Planning, Building and Code Enforcement, Harry Freitas, dated April 14, 2015, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing executed on March 31, 2015, submitted by the City Clerk.

Action: Upon motion by Vice Mayor Herrera, seconded by Councilmember Khamis and carried unanimously, Resolution No. 77322, entitled: “A Resolution of the Council of the City of San José Renaming the Public Street Known as Eagle Lane, Located Between Mercado Way and Shore Drive, to Eagle Way, and Naming the Private Streets Located Between Mercado Way and Shore Drive to Neleigh Place, Lee Place, Vendre Place, and Murasky Place”, was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Approve a Management and Operating Plan for Transportation Network Companies that meet all requirements necessary to issue a Ground Transportation Permit at the Norman Y. Mineta San José International Airport. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)**

Action: Deferred to May 2015 per Administration.

PUBLIC SAFETY SERVICES

- 8.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on March 19, 2015, accept the status report on the implementation of the Body Worn Cameras Pilot Program. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (Police)**

Documents Filed: (1) Joint memorandum from Mayor Liccardo, Vice Mayor Herrera and Councilmembers Peralez and Jones, dated April 10, 2015, recommending acceptance of the status report with additional direction. (2) Memorandum from City Clerk Toni Taber, dated April 3, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Memorandum from Chief of Police Larry Esquivel, dated April 8, 2015, providing the Council with responses to questions raised by the Public Safety, Finance and Strategic Support Committee.

Public Comment: Ross Signorino offered support to the pilot program.

Motion: Councilmember Peralez moved approval of the status report on the implementation of the Body-Worn Cameras Pilot Program with directions to the Staff as outlined in the April 10, 2015 joint memorandum he coauthored with Mayor Liccardo, Vice Mayor Herrera and Councilmember Jones, as indicated in "Action". Councilmember Jones seconded the motion.

Action: On a call for the question the motion carried unanimously, the status report on the implementation of the Body Worn Cameras Pilot Program, was accepted, with direction to the City Manager as outlined in the memorandum coauthored with Mayor Liccardo, Vice Mayor Herrera and Councilmember Peralez and Jones, dated April 10, 2015, to (1) Identify potential sources of funding for on-person cameras for SJPD officers, including grants from the U.S. Department of Justice that have been repeatedly utilized by other police departments and the State of California; and (2) Continue discussions with the San José Police Officers' Association (POA), through the meet and confer process, to implement the use of body-worn cameras. (11-0.)

OPEN FORUM

Ross Signorino suggested that, given the importance of the Pledge of Allegiance, the Mayor's voice should be amplified when reciting it at the opening of Council meetings.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:17 p.m.

RECESS/RECONVENE

The City Council recessed at 4:17 p.m. from the afternoon Council Session and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio (7:40 p.m.), 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 Council Member Khamis, seconded by Vice Mayor Herrera and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0-1. Absent: Oliverio.)

CEREMONIAL ITEMS

1.2 Presentation of a commendation to Tom Huynh, Principal of Yerba Buena High School. (Nguyen)

Mayor Liccardo and Councilmember Nguyen commended Tom Huynh for his commitment and dedication to the staff and students at Yerba Buena High School.

1.4 Presentation of a proclamation recognizing April as "Black April Remembrance Month" in the City of San José. (Kalra)

Mayor Liccardo and Councilmembers Kalra and Nguyen recognized April as "Black April Remembrance Month" in the City of San José, commemorating the fall of Saigon and those who left Vietnam opposing the communist rule and seeking refuge in neighboring and Western countries.

1.5 Presentation of a commendation to Corinne Winter, outgoing Executive Director of the Silicon Valley Bicycle Coalition. (Mayor)

Mayor Liccardo commended Corinne Winter, outgoing Executive Director of the Silicon Valley Bicycle Coalition, for her passionate advocacy for bicycling, transportation, and the environment in Silicon Valley.

PUBLIC HEARINGS

- 11.2 (a) Adopt a resolution adopting the Mitigated Negative Declaration for the Branham Lane Residential Planned Development Zoning Project and the related Mitigation Monitoring and Reporting Program;**
- (b) Consider an ordinance rezoning the real property located on the north side of Branham Lane, approximately 250 feet east of Glenmont Drive (955 Branham Lane) from A Agricultural to A(PD) Planned Development Zoning District to allow up to 24 multi-family units on an approximately 1.19 gross acre site (Ulla 1997 Fmly Ltd Ptsp I, Ltd Ptsp, Owner).**

CEQA: Mitigated Negative Declaration (MND) to be adopted. Planning Commission recommends approval (5-1-0). (Planning, Building and Code Enforcement)

PDC14-042 – District 9

Documents Filed: (1) Memorandum from Councilmember Rocha, dated March 24, 2015, recommending approval of Staffs' recommendations. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC14-042, dated February 18, 2015. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated February 27 2015, transmitting the Planning Commission recommendation. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated March 24, 2015, providing updated project plans. (5) Proof of Publication of Notice of Public Hearing executed on February 6, 2015, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement, Harry Freitas presented the Staff report.

Mayor Liccardo opened the public meeting.

Kelly Snyder, Applicant/Developer, spoke to the merits of the project.

Public Comments: The following speakers offered comments regarding a lack of open space and a lack of parking in the proposed area: David Noel, Jerry Lane, Sabuhi Siddique, Leah Verhoeven, Pamela Parrish, Kelly Katsuyama, Duane Verhaege, Joyce Katsuyama and Gary Prideaux.

Kelly Snyder, Applicant/Developer offered a rebuttal to the speakers' comments.

Mayor Liccardo closed the Public Hearing.

11.2 (Cont'd.)

Director of Transportation Hans Larsen and Director of Planning, Building and Code Enforcement, Harry Freitas responded to questions from the Council.

Motion: Councilmember Rocha moved approval of the Planning Commission's recommendation, including direction as outlined in his memorandum dated March 24, 2015. Councilmember Oliverio seconded the motion.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77323, entitled: "A Resolution of the Council of the City of San José Adopting the Branham Lane Rezoning Project Mitigated Negative Declaration, for which an Initial Study was Prepared, All in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program", was adopted, and Ordinance No. 29553, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.34 Acres Situated on the Northerly Side of Branham Lane, Approximately 250 Feet East of Glenmont Drive, (955 Branham Lane) from the A Agricultural Zoning District to the A(PD) Planned Development Zoning District", was passed for publication, and additional items as shown on the revised conceptual site plan attached to the supplemental staff report dated March 24, 2015 be implemented at the planned development permit stage, be included as well as direction to staff as outlined in Councilmember Rocha's memorandum dated March 24, 2015, that staff work with the developer to determine whether there may be an opportunity for the developer to assist with funding a "road diet" on Branham Lane, which would involve reduction of Branham from six lanes to four lanes between Almaden Expressway and Vistapark Drive, consistent with the plan for Branham in the 2040 General Plan. (11-0.)

11.3 **Study Session Presentation: Land Use and General Plan Annual Review. (Envision 2040, Land Use Conversion Review, Fiscal Impacts): Accept the staff presentation on the history of employment land conversions to residential uses in San José, the fiscal impact of different land uses, and an overview of the purpose and process for the General Plan Annual Review and Four-Year Major Review. CEQA: Not a Project. (Economic Development/Planning, Building and Code Enforcement)**

Deputy City Manager/Director of Economic Development Kim Walesh provided a presentation, including the fiscal impact of land use, and the Envision 2040 Plan was presented by Director of Planning, Building and Code Enforcement, Harry Freitas. Assistant Director, Code Enforcement, Rosalynn Hughey, offered the General Plan Annual Review.

11.3 (Cont'.d)

Public Comment: Offering recommendations and support regarding land conversions, urban villages and development in the City of San José were: Michael Tsai, Kirk Vartan, Larry Ames, Pat Sausedo, Steve Landau, Laura Tolkoff (SPUR San José) and Chris Giangreco.

Motion: Councilmember Jones moved approval of the Land Use and General Plan Annual Review and Urban Village Implementation, including direction as outlined in the memorandum he coauthored with Mayor Liccardo and Councilmembers Carrasco dated April 10, 2015, and including items 2-8 from the joint memorandum from Councilmembers Rocha and Peralez, dated April 10, 2015. Councilmember Carrasco seconded the motion.

Council discussion ensued. Mayor Liccardo recommended that the Study Session be continued to the evening Council Meeting of May 12, 2015.

Action: Upon motion by Councilmember Jones, seconded by Councilmember Carrasco and carried unanimously, the Study Session was continued to the evening Council Meeting of May 12, 2015

OPEN FORUM

Blair Beekman provided observations on the drone use program.

ADJOURNMENT

The Council of the City of San José adjourned at 10:03 p.m. in memory of Sofia Mendoza, an influential community organizer who passed away on March 14, 2015. (Mayor)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/4-14-15MIN