



## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 19, 2015

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

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

Absent: Councilmembers - All Present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 with respect to potential litigation in one (1) matter; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(b) with respect to anticipated litigation (Claim Not Filed) in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) 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; (2) 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; (3) 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;

## CLOSED SESSION (Cont'd.)

(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-972-M; Amount of Money or Other Relief Sought: Damages According to Proof; (5) OE#3 v. City of San José; Names of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (6) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (7) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (8) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: 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. (11) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (D) 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);

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

Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:35 p.m. and reconvened to Regular Session at 1:35 p.m. in the Council Chambers.

Present: Councilmembers - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio (1:45), Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

## **INVOCATION**

Bishop Noel Sanchez of the Apostolic Catholic Church of our Lady of Hope Parish provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Johnny Khamis, seconded by Council Member Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Item 4.5(a) dropped and Item 4.5(b) to be heard concurrently with Item 4.7. (10-0-1. Absent: Oliverio.)

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation declaring the week of May 15 – 22, 2015 as “Affordable Housing Week” in the City of San José. (Rocha)**

Mayor Liccardo and Councilmember Rocha recognized the week of May 15 – 22, 2015 as “Affordable Housing Week” in the City of San José.

### **1.2 Presentation of a commendation to Match and Code Program for their exemplary achievements in Math and Code technology. (Carrasco)**

Mayor Liccardo and Councilmember Carrasco commended Match and Code Program for their exemplary achievements in Math and Code technology.

### **1.3 Presentation of a commendation to Enrique Tovar and German Felipe Gonzalez for winning the 2015 Inaugural Arena Soccer World Championship for Team USA. (Carrasco)**

Mayor Liccardo and Councilmember Carrasco commended Enrique Tovar and German Felipe Gonzalez for winning the 2015 Inaugural Arena Soccer World Championship for Team USA.

## **CONSENT CALENDAR**

Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Kalra.)

### **2.1 Approval of Minutes.**

None provided.

## 2.2 Final adoption of ordinances

- (a) **ORD. NO. 29560 – Renewing the grant of a potable water franchise to Great Oaks Water Company. CEQA: Exempt, File No. PP10-066, Agreements and Contracts. (Environmental Services).**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29560 executed on May 8, 2015, submitted by the City Clerk.

Action: Ordinance No. 29560 was adopted. (10-0-1. Absent: Kalra.)

- (b) **ORD. NO. 29561 – Adding Section 9.10.525 and amending Section 9.10.1610 of Chapter 9.10 of Title 9 of the San José Municipal Code to clarify commercial solid waste collection requirements. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (Environmental Services).**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29561 executed on May 8, 2015, submitted by the City Clerk.

Action: Ordinance No. 29561 was adopted. (10-0-1. Absent: Kalra.)

- (c) **ORD. NO. 29562 – Amending Chapter 9.10 Of Title 9 of the San José Municipal Code to add an alternate procedure for the billing and collection of fees for solid waste collection service by placing such charges on the Santa Clara County secured property tax roll. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making. (Environmental Services/Finance).**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29562 executed on May 8, 2015, submitted by the City Clerk.

Action: Ordinance No. 29562 was adopted. (10-0-1. Absent: Kalra.)

- (d) **ORD. NO. 29566– Rezoning certain real property of approximately 0.47 acre situated at the northwest corner of Olinder Court and Story Road (1299 Story Road) from the IP Industrial Park Zoning District to the CIC Combined Industrial/ Commercial Zoning District. CEQA: Negative Declaration, Resolution No. 77343. C14-069**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29566 executed on May 15, 2015, submitted by the City Clerk.

Action: Ordinance No. 29566 was adopted. (10-0-1. Absent: Kalra.)

**2.3 Approval of Council Committee Reports.**

**(a) Community and Economic Development Committee Report of April 27, 2015. (Khamis)**

**(b) Rules and Open Government Committee Report of April 29, 2015. (Mayor)  
CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.**

Documents Filed: (1) Community and Economic Development Committee Report dated April 27, 2015; (2) Rules and Open Government Committee Report dated April 29, 2015.

Public Comment: David Wall addressed issues raised at both Council Committees.

Action: The Council Committee Reports were accepted. (10-0-1. Absent: Kalra.)

**2.4 Mayor and Council Excused Absence Requests.**

None provided.

**2.5 City Council Travel Reports.**

None provided.

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

None provided.

**2.7 Approve the First Amendment to Lease of Airport Premises with Jet Center Property Services, LLC to extend the term to June 30, 2020, with total annual revenue to the City of approximately \$131,000. CEQA: Not a Project, File No. PP10-066(f), Lease of equipment or existing space for the same use. (Airport)**

Documents Filed: Memorandum from Director of Aviation Kimberly J. Becker, dated April 27, 2015, recommending approval of a First Amendment.

Action: The First Amendment to Lease of Airport Premises with Jet Center Property Services, LLC to extend the term to June 30, 2020, with total annual revenue to the City of approximately \$131,000, was approved. (10-0-1. Absent: Kalra.)

**2.8 Authorize travel for City Attorney Richard Doyle to Kansas City, MO on June 12-14, 2015 to attend the International Municipal Lawyers Association (IMLA) Top 50 Meeting. Source of Funds: City Attorney's Office Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 6, 2015, requesting authorization to travel to Kansas City, MO on June 12-14, 2015.

Action: Travel to a to Kansas City, MO on June 12-14, 2015 to attend an International Municipal Lawyers Association was authorized. (10-0-1. Absent: Kalra.)

- 2.9 Approve a First Amendment to the legal services contract with Hawkins, Delafield & Wood LLP, to increase the amount of compensation for the initial one-year term in the amount of \$220,000 for a total initial term amount not to exceed \$400,000 and to increase the amount of compensation for each of the two one-year option terms from \$160,000 to \$300,000, subject to appropriation of funds by City Council, for a total contract amount not to exceed \$1,000,000 to support the San José-Santa Clara Regional Wastewater Facility capital improvement program. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical change to the environment. (City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated May 5, 2015, recommending approval of a First Amendment to a legal service contract.

Action: The First Amendment to the legal services contract with Hawkins, Delafield & Wood LLP, to increase the amount of compensation for the initial one-year term in the amount of \$220,000 for a total initial term amount not to exceed \$400,000, with related contingencies, was approved. (10-0-1. Absent: Kalra.)

- 2.10 (a) Adopt a resolution authorizing the City Manager to execute a First Amendment to the Agreement with Bartel Associates, LLC, for actuarial consulting services in connection with labor matters related to various retirement benefits for both pension and retiree healthcare, extending the term to June 30, 2017 and increasing the total compensation to an amount not to exceed \$300,000, subject to the appropriation of funds as recommended below.**
- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:**
- (1) Increase the City-wide Expenses appropriation to the City Manager's Office for Retirement Actuarial Services in the amount of \$150,000; and**
  - (2) Decrease the Fiscal Reform Plan Implementation Reserve in the amount of \$150,000.**

**CEQA: Not a Project, File No. PP10-069(e), Services that involve no physical change to the environment. (City Manager)**

Documents Filed: Joint memorandum from Office of Employee Relations Senior Executive Analyst, Jennifer Schembri and Senior Deputy City Manager Jennifer Maguire, dated May 6, 2015, recommending adoption of a resolution and appropriation ordinance amendments.

Action: Resolution No. 77346 entitled: “A Resolution of the Council of the City of San José, Authorizing the City Manager to Negotiate and Execute a First Amendment to the Agreement with Bartel Associates LLC for Actuarial Consulting Services in Connection with Labor Matters”; and Ordinance No. 29569, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to appropriate Monies in the General Fund for Retirement Actuarial Studies; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Kalra.)

- 2.11 As recommended by the Rules and Open Government Committee on May 6, 2015, adopt a resolution of support for Administrative activities necessary to coordinate the planning host City responsibilities for the 2015 League of California Cities Annual Conference. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Manager)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated May 7, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: Resolution No. 77347, entitled: “A Resolution of the Council of the City of San José Supporting Administration Activities Necessary to coordinate the Planning and Hosting of the 2015 League of California Cities Annual Conference”, was adopted. (10-0-1. Absent: Kalra.)

- 2.12 Approve the Second Amendment to the Sublease Agreement between the City of San José and the County of Santa Clara for the use of City Property for the Household Hazardous Waste Collection Program. CEQA: Mitigated Negative Declaration, File No. PP09-138. Council District 3. (Environmental Services)**

Action: Deferred to June 2, 2015 per Administration.

- 2.13 Adopt the following 2014-2015 Appropriation Ordinance and Funding Sources Resolution amendments in the Gift Trust Fund:**

- (a) Increase the estimate for Earned Revenue in the amount of \$5,361; and
- (b) Increase the appropriation to the Office of the Independent Police Auditor for the IPA’s Teen Leadership Council in the amount of \$5,361.

**CEQA: Not a Project, File No. PP10-066(g), Grant Agreements and MOUs. (Independent Police Auditor/City Manager)**

Documents Filed: Joint memorandum from Independent Police Auditor, Judge LaDoris Cordell and Senior Deputy City Manager Jennifer Maguire, dated April 28, 2015, recommending adoption of an appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 77348, 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 Gift Trust Fund”; and Ordinance No. 29570, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the Gift Trust Fund for the IPA’s Teen Leadership Council; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1. Absent: Kalra.)

- 2.14 As recommended by the Rules and Open Government Committee on May 6, 2015:**
- (a) Retroactively approve the Vietnamese Heritage Flag Raising at half-mast as a City Council sponsored Special Event on April 30, 2015 and approving the expenditure of funds;**
  - (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**
- CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated May 7, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Vietnamese Heritage Flag Raising at half-mast as a City Council Sponsored Special Event, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, were retroactively approved. (10-0-1. Absent: Kalra.)

- 2.15 As recommended by the Rules and Open Government Committee on May 6, 2015, appoint the following to the Santa Clara Valley Habitat Agency:**
- (a) Councilmember Kalra to the Santa Clara Valley Habitat Agency Governing Board; and**
  - (b) Councilmember Matthews as an alternative to the Santa Clara Valley Habitat Agency Governing Board and Implementation Board.**
- CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated May 7, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: Appointments of Councilmember Ash Kalra to the Santa Clara Valley Habitat Agency Governing Board, and Councilmember Matthews as an alternative to the Santa Clara Valley Habitat Agency Governing Board and Implementation Board, were approved. (10-0-1. Absent: Kalra.)

- 2.16 Accept the 2013-2014 Park Trust Fund Annual Report. CEQA: Not a Project, File No. PP10-069(a), Annual Reports and Assessments. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Interim Director of Parks, Recreation and Neighborhood Services, Angel Rios, dated April 27, 2015, recommending acceptance of the Park Trust Fund Annual Report.

Action: The Park Trust Fund Annual Report was accepted. (10-0-1. Absent: Kalra.)

- 2.17 Adopt a resolution of intention to vacate a portion of Elester Court, reserving a public service easement over the area proposed for vacation, and setting a public hearing on June 9, 2015 at 1:30 p.m. CEQA: Exempt, File No. PP15-021. Council District 9. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated April 27, 2015, recommending adoption of a resolution.

Action: Resolution No. 77349, entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Elester Court and Reserving a Public Service Easement Over the Entire Area Being Vacated”, was adopted. (10-0-1. Absent: Kalra.)

- 2.18 Approve the proposed Fiscal Year 2014/15- 2019/20 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program and the Fiscal Year 2013-2014 Rule 20B (In-Lieu Fee) Undergrounding Master Plan. CEQA: Exempt, File No. PP15-003. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated April 27, 2015, recommending approval of the proposed Fiscal Year Workplan and Master Plan.

Action: The proposed Fiscal Year 2014/15- 2019/20 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program and the Fiscal Year 2013-2014 Rule 20B (In-Lieu Fee) Undergrounding Master Plan, were approved. (10-0-1. Absent: Kalra.)

- 2.19 Adopt a resolution:**

- (a) Authorizing the City Manager or designee to submit a request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2015-16 Transportation Development Act, Article 3 State grant funding in the amount of \$1,486,009 for bicycle and pedestrian projects;**
- (b) Making the certifications and assurances required under the grant program as explained in this memorandum; and**
- (c) Authorizing the City Manager or designee to accept any grant funding awarded from MTC and to negotiate and execute any grant documents to effectuate the grant.**

**CEQA: Exempt, File Nos. PP13-037 and PP09-189. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Hans Larsen, dated April 27, 2015, recommending adoption of a resolution.

**2.19 (Cont'd.)**

Action: Resolution No. 77350, entitled: “A Resolution of the Council of the City of San José (1) Authorizing the City Manager or Designee to Submit a Request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2015-16 Transportation Development Act, Article 3 (TDA3) State Grant Funding in the Amount of \$1,486,009 for Citywide Bicycle and pedestrian Projects; (2) Making the Certifications and Assurances Required Under the Grant Program; and (3) Authorizing the City Manager or Designee to Accept any Grant Funding Awarded from MTC and to Negotiate and Execute any Grant Documents Necessary to Effectuate the Grant”, was adopted. (10-0-1. Absent: Kalra.)

**2.20 As recommended by the Rules and Open Government Committee on May 13, 2015, adopt a position of support for ACA 4 (Frazier) – Local Government Transportation Projects: Special Taxes: Voter Approval. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Transportation)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated May 15, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Councilmember Johnny Khamis pulled Item 2.20 to register his opposition to this bill, citing that it is pro-tax and unnecessary. Vice Mayor Rose Herrera countered, offering her support to the bill, indicating that it is an opportunity for local government to put aside money for transportation projects, and will still require voters’ approval.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Charles “Chappie” Jones, and carried, a position of support for ACA 4 (Frazier) – Local Government Transportation Projects: Special Taxes: Voter Approval, was approved. (10-1. Noes: Khamis.)

**2.21 As recommended by the Rules and Open Government Committee on May 13, 2015, reaffirm a position of support of SB 16 (Beall). CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Transportation)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated May 15, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: A Position of Support for SB 16 (Beall) was reaffirmed. (11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

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

Assistant City Manager Dave Sykes reported on a Summit hosted by the City of San José on May 18, 2015 relating to the complex issue of immigration affairs.

### 3.3 (a) As recommended by the Salary Setting Commission, approve the following recommendations:

- (1) **Approve an ordinance establishing the following salaries and benefits for the Mayor and City Council for the next two Fiscal Years, the period July 1, 2015 through June 30, 2017:**
  - (a) **For the Mayor, increase the authorized salary from \$114,000 annually to \$125,000 annually;**
  - (b) **For each Councilmember, increase the authorized salary from \$81,000 annually to \$92,000 annually.**
  - (c) **Retain the levels of health, dental, life insurance and other benefits in accordance with the benefits provided to management employees in Unit 99.**
  - (d) **Retain the current retirement benefits offered under the CalPERS Tier 2 Plan and the PTC 457 Defined Contribution Plan.**
  - (e) **Increase the vehicle allowance from \$350 per month to \$500 per month for the Mayor and each member of the City Council.**
  - (f) **Continue to require Councilmembers to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407.**

**Note: Item 3.3 (a) was bifurcated from 3.3 (a)(2) and 3.3(b).**

Documents Filed: Joint memorandum from Mayor Sam Liccardo, and Councilmembers Kalra, Carrasco and Rocha, dated May 15, 2015, recommending deferral of action regarding recommendations from the Salary Setting Commission until negotiations with the bargaining units are concluded.

Motion: Councilmember Ash Kalra moved approval of the memorandum he cosigned with Mayor Sam Liccardo and Councilmembers Carrasco and Rocha, dated May 15, 2015, recommending deferral of Item 3.3(a), indicating the labor negotiations should first be settled before establishing the salaries and benefits for the Mayor and City Council. The motion was seconded by Councilmember Pierluigi Oliverio.

Action: On a call for the question, the motion carried unanimously, with Item 3.3(a) deferred, pending results of the City's bargaining units' negotiations regarding wages and benefits, and tentatively calendared for June 23, 2015 to return to full Council for serious consideration. (11-0.)

### 3.3 (Cont'd.)

- (a) **As recommended by the Salary Setting Commission, approve the following recommendations:**
- (2) **Adopt a resolution increasing the stipend for non-City employee members of the retirement boards from \$150 to \$225 per monthly board meeting.**
- (b) **Approve an ordinance amending Chapter 2.08 of Title 2 of the San José Municipal Code to provide a process for the City Council to set stipends for Non-City Employee Members of the Retirement Boards.**  
**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, and City Attorney Richard Doyle, dated May 4, 2015, transmitting the Salary Setting Commission Report. (2) Memorandum from City Attorney Richard Doyle, dated May 6, 2015, recommending approval of an ordinance allowing the City Council to set stipends for non-City employee members of the retirement boards. (3) Letter from the Salary Setting Commission, dated April 22, 2015, regarding recommendations for authorization of salaries and benefits of the Mayor and City Council for two Fiscal Years.

City Clerk Toni J. Taber, CMC, provided an overview of the task the Salary Setting Commission has completed to arrive at their recommendations.

Action: Upon motion by Councilmember Ash Kalra, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 77481, entitled: “A Resolution of the Council of the City of San José Setting the Stipend for Non-City Employee Members of the Boards of Administration for the Federated City Employees Retirement System and the Police and Fire Retirement Plan, as Recommended by the Salary Setting Commission”, was adopted; and Ordinance No. 29574, entitled: “An Ordinance of the City of San José Amending Section 2.08.1065 and Section 2.08.1270 of Chapter 2.08 of Title 2 of the San José Municipal Code to Provide that the Stipend for Non-City Employee Members of the Boards of Administration for the Federated City Employees Retirement System and the Police and Fire Retirement Plan Shall be Set by the City Council by Resolution”, was passed for publication. (11-0.)

**3.4 Approve an ordinance to amend Chapter 6.88 of Title 6 of the San José Municipal Code to:**

- (a) Extend the deadline for Medical Marijuana Collectives that meet certain criteria to obtain a Notice of Completed Registration from the City Manager;**
- (b) Require the City Manager Regulations for Medical Marijuana to be posted on the City's website to become effective;**
- (c) Clarify when Medical Marijuana Collectives are required to submit a new or amended Application for Registration as a Medical Marijuana Collective;**
- (d) Replace language requiring the use of specific security mechanisms to prevent unauthorized entry into a Medical Marijuana Collective with language that requires the use of appropriate security mechanisms to prevent unauthorized entry into a Medical Marijuana Collective;**
- (e) Allow Medical Marijuana Collectives to maintain records required under Chapter 6.88 of Title 6 in electronic format;**
- (f) Change the date by when a Medical Marijuana Collective must file an audit of its financial operations for the previous calendar year; and**
- (g) Make other technical, non-substantive, or typographical changes to Chapter 6.88 of Title 6.**

**CEQA: Negative Declaration, File No. PP11-039, adopted on June 15, 2011 and addenda thereto (File Nos. PP11-076 and PP14-030). (City Manager)**

Documents Filed: (1) Joint memorandum from Councilmembers Kalra, Peralez and Jones, dated May 15, 2015, offering recommendations related to the Amendment to the Ordinance. (2) Memorandum from Assistant to the City Manager, Angelique Gaeta, dated May 7, 2015, recommending approval of an ordinance. (3) Supplemental memorandum from Assistant to the City Manager, Angelique Gaeta, dated May 15, 2015, responding to concerns from Councilmember Donald Rocha, regarding the City's regulation of Collectives.

Public Comment: Offering revisions to certain staff recommendations and support to the City offering extensions to existing deadlines, were: Mark Matulich (South Bay Healing Center), Susan Landry, Scott Lane and John Lee.

Assistant to the City Manager, Angelique Gaeta provided a brief presentation regarding amendments to Chapter 6.88 of Title 6 of the San José Municipal Code.

Motion: Councilmember Ash Kalra moved approval of the Staff recommendations, with the inclusion of the memorandum he coauthored with Councilmembers Peralez and Jones, dated May 15, 2015. Council Member Peralez seconded the motion.

Vice Mayor Rose Herrera requested an amendment to the motion, asking that Staff determine some mechanism for evaluation and reporting, possibly to the Police Chief, and similar to that used by the Division of Gaming. Councilmember Donald Rocha requested an additional amendment, asking that Staff return at some later date with recommendations for limitations on the square footage of 'back yard grows' and bringing those options back to Council. Councilmembers Kalra and Peralez accepted the amendments to their motion.

### 3.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29575, entitled: “An Ordinance of the City of San José Amending Chapter 6.88 of Title 6 of the San José Municipal Code as Follows: To Amend Section 6.88.300 to Extend the Deadline for Medical Marijuana Collectives Who Meet Certain Criteria to Obtain a Notice of Completed Registration; to Amend Section 6.88.315 to Allow the City Manager Regulations to Become Effective Upon Publication on the City’s Website; to Amend Section 6.88.360 to Clarify When Collectives are Required to Submit a New or Amended Application for Registration; to Amend Section 6.88.420 to Authorize Additional Security Mechanisms to Prevent Unauthorized Entry; to Amend Section 6.88.500 to Authorize Collectives to Maintain Records Required Under Chapter 6.88 of Title 6 in #Electronic Format; to Amend Section 6.88.600 to Increase the Time for a Collective to File an Audit of its Financial Operations with the City; and to Make Other Technical, Nonsubstantive, or Typographical Changes to Chapter 6.88 of Title 6 of the San José Municipal Code”, was passed for publication, with direction as outlined in the joint memorandum from Councilmember Kalra, Peralez and Jones, dated May 15, 2015: (1) That Council approve the creation of a Division of Marijuana Control headed by an Administrator to be appointed by and report to the City Manager; (2) That Council direct the City Manager to look closely at the Division of Gaming Control and the organizational structure in creating the Division of Marijuana Control; (3) That Council direct the City Manager to create a zero cost to the General Fund to operate the Division of Marijuana Control; and (4) That Council direct the City Manager, in coordination with the City Attorney, to return to the Council for final adoption prior to October 2015. Additionally, for Staff to return at some later date with recommendations for limitations on the square footage of ‘back yard grows’ and bringing those options back to Council; and with Staff to determine some mechanism for evaluation and reporting, possibly to the Police Chief, and similar to that used by the Division of Gaming. (11-0.)

### 3.5 **Approve a five-year lease with 4th Street San José Partners, LLC for the use of approximately 3,320 square feet of office space located at 210 North 4th Street, Suite 202 in San José, at a rental rate of \$69,720 for the first year, \$71,812 for the second year, \$73,966 for the third year, \$76,185 for the fourth year, and \$78,471 for the fifth year. The total rental cost for the five-year term of this lease is \$370,154. CEQA: Not a Project, File No. PP10-066, Lease of equipment of existing space. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated May 5, 2015, recommending approval of a lease.

Economic Development Deputy Director Nanci Klein and Director of Public Works Barry Ng responded to questions from Council, and Assistant City Manager Dave Sykes provided clarification regarding the location of the Gaming unit.

Councilmember Ash Kalra offered reluctant support to the recommendation, explaining a better plan should be in place.

**3.5 (Cont'd.)**

Action: Upon motion by Councilmember Ash Kalra, seconded by Vice Mayor Rose Herrera and carried unanimously, a five-year lease with 4th Street San José Partners, LLC for the use of approximately 3,320 square feet of office space located at 210 North 4th Street, Suite 202 in San José, at a rental rate of \$69,720 for the first year, \$71,812 for the second year, \$73,966 for the third year, \$76,185 for the fourth year, and \$78,471 for the fifth year, with related contingencies”, was approved. (11-0.)

- 3.6 (a) Adopt a resolution authorizing the City Manager to negotiate and execute:**
- (1) A Second Amended and Restated Arena Management Agreement (Management Agreement) for the management of the SAP Center between the City of San José and Sharks Sports and Entertainment extending the term of the Management Agreement and amending other lease terms, and consistent with the attached Term Sheet; and**
  - (2) A Fourth Amendment to the Amended and Restated Lease and Management Agreement for the Ice Centre reducing lease payments consistent with the attached Term Sheet.**
- (b) Adopt the following 2014-2015 Appropriation Ordinance amendments in the General Purpose Parking Fund:**
- (1) Establish a Transfer to the San José Arena Capital Reserve Fund in the amount of \$3,514,000;**
  - (2) Reduce the Debt Service Payments Reserve by \$3,514,000.**
- (c) Adopt the following 2014-2015 Appropriation Ordinance and funding Sources Resolution amendments in the San José Arena Capital Reserve Fund:**
- (1) Increase the estimate for Transfers by \$3,514,000;**
  - (2) Increase the appropriation to the Office of Economic Development for Structures Repairs by \$2,750,000; and**
  - (3) Increase the appropriation to the Office of Economic Development for Electrical Repairs by \$764,000.**

**CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Economic Development/City Manager)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmembers Peralez, Carrasco, Oliverio and Rocha, dated May 15, 2015, recommending approval of the staff recommendations. (2) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Welsh and Senior Deputy City Manager Jennifer Maguire, dated May 8, 2015, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Economic Development Deputy Director Nanci Klein and staff provided a presentation and responded to questions from Council.

Public Comment: Offering comments and support and asking for further research into innovative parking and transportation solutions, were: John Tortora, Scott Lane, Michele Beasley (Greenbelt Alliance) and Richard Zappelli. Expressing concerns and questioning the financial wisdom of this project, were Marc Morris, Tom Sawyer and Ed Rast.

### 3.6 (Cont'd.)

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Ordinance No. 29571, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Purpose Parking Fund for the Transfer to the San José Arena Capital Reserve Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 77352, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amended Agreements with Sharks Sports and Entertainment Related to the Extension of the Terms of the Leases of the SAP Center and Ice Centre at San José”; Ordinance No. 29572, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the San José Arena Capital Reserve Fund for Structures Repairs and Electrical Repairs, and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 77353, 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 20114-2015 to Adjust Revenues in the San José Arena Capital Reserve Fund”, were adopted. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

**4.4 The project being considered is located at the Three Creeks Trail Pedestrian Bridge Project is situated between a residential neighborhood and a commercial/industrial area on a crossing over Los Gatos Creek, between Lonus Street and Coe Avenue in San José.**

**(a) Accept Environmental Impact Report for a Public Project to replace an existing wood railroad trestle with a pre-fabricated, 210-foot-long, single-span steel truss bridge with a poured concrete deck. The new bridge would be on the same alignment as the existing bridge. The wood abutments would be replaced with new concrete abutments. (Planning, Building and Code Enforcement)**

**PP13-085 – District 6**

Documents Filed: Proof of Publication of Notice of Public Hearing executed on May 8, 2015, submitted by the City Clerk.

Action: Dropped per Administration – Item addressed in Item 4.5(b).

*Note: Item 4.7 was heard jointly with item 4.5, with each item voted on separately.*

- 4.7 Conduct a Public Hearing on the Historic Landmark Commission nomination of the Los Gatos Creek Trestle, located on the former Western Pacific right-of-way between Coe Avenue and Lonus Street, for designation as a historic landmark of special historic, architectural, aesthetic or engineering interest, or value of a historic nature; and adopt a resolution disapproving the proposed designation of the Los Gatos Creek Trestle as a historic landmark. CEQA: The Landmark designation is not considered a project under CEQA. Pursuant to CEQA Guidelines Section 15378, a project means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The designation of the Los Gatos Creek Trestle as a City Landmark in itself would not result in any physical changes to the structure; therefore, would not have any direct or indirect physical change on the environment. The Historic Landmarks Commission recommends that the City Council approve the proposed Landmark Designation for the Los Gatos Creek Trestle, located on the former Western Pacific right-of-way between Coe Avenue and Lonus Street (6-0-1, Schultz absent). (Planning, Building, and Code Enforcement) HL15-216 – District 6**

Documents Filed: (1) Memorandum from Councilmember Donald Rocha, dated May 18, 2015, recommending continuing the Council’s consideration of designating the Trestle as a historic landmark until additional information received. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. HL15-216, dated April 28, 2015. (3) Memorandum from Planning Commission Secretary Harry Freitas, dated May 13, 2015, transmitting the Planning Commission recommendation. (4) Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated May 13, 2015, recommending conducting a Public Hearing on the Historical Landmark Commission nomination. (5) Proof of Publication of Notice of Public Hearing executed on May 8, 2015, submitted by the City Clerk.

Motion: Councilmember Pierluigi Oliverio moved to deny the designation of the Los Gatos Creek Trestle as a historic landmark. The motion was seconded by Councilmember Margie Matthews.

Substitute Motion: Councilmember Donald Rocha moved acceptance of his memorandum dated May 18, 2015, asking that both items be deferred. Councilmember Raul Peralez seconded the motion.

Interim Assistant Director of Parks, Recreation and Neighborhood Services Matt Cano responded to questions regarding the State Grant funding extensions.

Extensive discussion followed.

Councilmembers Rocha and Peralez withdrew the substitute motion from the floor.

**4.7 (Cont'd.)**

Action: On a call for the question, the motion was carried, and Resolution No. 77362, entitled: “A Resolution of the Council of the City of San José Disapproving the Designation, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Los Gatos Creek Trestle as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest of Value of a Historic Nature”, was adopted. (7-2-2. Noes: Peralez, Rocha. Absent: Herrera, Kalra.)

*Note: Item 4.5 was heard jointly with item 4.7, with each item voted on separately.*

- 4.5 (a) Adopt a resolution to repeal Resolution No. 76904, which was adopted on January 14, 2014, approving the mitigated negative declaration and the mitigation monitoring and reporting plan for the Three Creeks Trail Pedestrian Bridge Project, and withdraw approval of the Project based on the mitigated negative declaration.**

Action: Item 4.5(a) was dropped per Orders of the Day.

- 4.5 (b) If the Council confirms that the Three Creeks Trestle Bridge is not a historic landmark, then:**
- (1) Adopt a resolution certifying the final environmental impact report for the Three Creeks Pedestrian Bridge Project and making findings related to significant impacts, mitigation measures and alternatives, and adopting a mitigation monitoring and reporting program identified in the final environmental impact report for the preferred alternative of replacing the existing structure with a new pedestrian bridge, all in accordance with the California Environmental Quality Act (CEQA);**
  - (2) Affirm the Three Creeks Trail Pedestrian Bridge construction contract with Gordon N Ball and proceed with implementing the project contingent upon the Superior Court’s determination that the City has complied with CEQA.**

**CEQA: Environmental Impact Report to be adopted. Council District 6. (Planning, Building and Code Enforcement/Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Councilmember Donald Rocha, dated May 18, 2015, recommending exploration of a retrofit project. (2) Joint memorandum from Director of Public Works Barry Ng, Director of Planning, Building and Code Enforcement, Harry Freitas and Interim Director of Parks, Recreation and Neighborhood Services, Angel Rios, dated May 12, 2015, offering recommended actions related to the Three Creeks Trail Pedestrian Bridge Project. (3) Letter from County of Santa Clara Supervisor, David Cortese, supporting the Historical Landmarks Commission recommendation that the trestle be recognized as a historic structure. (4) Petition to Save the Willow Glen Trestle with 43 signatures.

#### 4.5 (Cont'd.)

City Manager Norberto Dueñas provided opening comments. Historic Preservationist, Steven Mycel provided a presentation on trestle bridges, and offered his opinion that the Three Creeks Trestle Bridge does not meet the criteria for a historical landmark.

Vice Mayor Rose Herrera requested the incorporation of some elements of the design into the new project.

Vice Mayor Rose Herrera left the meeting at 6:00 p.m.

Public Comments: Offering objection to the Three Creeks Pedestrian Bridge Project, citing the Trestle's historical value, were Taisia McMahon, Nancy Kops, Susan Landry, Jack Nadeau, Dave Poeschel, Bill Halleck, Scott Lane, David Ginsborg, Richard Scott, Larry Ames, Martha Heinriche, Steve Cohen, Whitney Heinriche, Heather Lerner, Sylvia Carroll, Gayle Frank, Kathleen Pimentel, Carol Hack, Diane Solomon, Brian Grayson, Helen Chapman; Mike Donohoe, representing Supervisor Dave Cortese; Jim Carter, Joan Bohnett, Marcus Salomon, Severn Edmonds, Bruce Tichinin, Bill Rankin, Marie Arnold, Roma Dawson, Jean Dresden, Bud Beede, Scott Knies, Dick Silva, Chris Schumb and John Leyba. Encouraging replacement of the bridge and citing it as a fire hazard, were Richard Zappelli, Terence Fox and Patrick Coleman.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Charles "Chappie" Jones, the motion carried, and Resolution No. 77359, entitled: "A Resolution of the Council of the City of San José Certifying the Environmental Impact Report, Making Certain Findings Concerning Mitigation Measures, and Adopting a Mitigation Monitoring and Reporting Program, All in Accordance with the California Environmental Quality Act (CEQA), as Amended, for the Three Creeks Trail Pedestrian Bridge Project (SCH# 2013112050)", was adopted, with the original design of the trestle incorporated into the new structure where possible. (7-2-2. Noes: Peralez, Rocha. Absent: Herrera, Kalra.)

### STRATEGIC SUPPORT SERVICES

- 3.7 (a) **Accept the report on the Request for Proposal for Fee Study and Liability Analysis Consulting Services and adopt a resolution authorizing the City Manager to execute an Agreement with Management Partners (San José, CA) for the procurement of Fee Study and Liability Analysis Consulting services, for a two-year term ending May 31, 2017, with a maximum compensation not-to-exceed \$412,737;**
- (b) **Adopt the following Appropriation Ordinance amendments in the General Fund:**
- (1) **Increase an appropriation to the Planning, Building and Code Enforcement Department for the Building Development Fee Program – Non-Personal/Equipment in the amount of \$135,000;**
  - (2) **Decrease the Building Development Fee Program Reserve by \$135,000;**

### 3.7 (Cont'd.)

- (b) (3) **Increase an appropriation to the Public Works Department for the Public Works Development Fee Program – Non-Personal/Equipment in the amount of \$76,000; and**
- (4) **Decrease the Public Works Development Fee Program Reserve by \$76,000.**

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

Documents Filed: Joint memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, Senior Deputy City Manager Jennifer Maguire and Director of Finance Julia H. Cooper, dated April 28, 2015, recommending acceptance of a report and adoption of Appropriation Ordinance Amendments.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Donald Rocha and carried unanimously, the report on the Request for Proposal for Fee Study and Liability Analysis Consulting Services was accepted, and Resolution No. 77354, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Execute an Agreement with Management Partners, Inc. for the Procurement of Fee Study and Liability Analysis Consulting Services, for a Two-Year Term Ending May 31, 2017, with a Maximum Compensation not to Exceed \$412,737”; and Ordinance No. 29573, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Fund for the Building Development Fee Program – Non-Personal/Equipment and the Public Works Development Fee Program – Non-Personal/Equipment; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (8-0-3. Absent: Carrasco, Kalra, Herrera.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Conduct a Public Hearing regarding an economic subsidy in connection with a Capital Equipment and Assistance Agreement with ABB Inc., pursuant to California Government Code Section 53083;**
- (b) **Adopt a resolution authorizing the City Manager or his designee to execute a Capital Equipment and Assistance Agreement with ABB Inc., in which the City will provide an amount not to exceed \$100,000 for the acquisition of production and assembly equipment at ABB Inc.’s manufacturing and production facilities in San José.**

**CEQA: Not a Project, File No. PP10-066(a), Purchase of Equipment with no changes in the physical environment. Council District 4. (Economic Development)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmember Margie Matthews, dated May 15, 2015, recommending approval of the staff report. (2) Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated April 29, 2015, recommending adoption of a resolution.

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

#### 4.1 (Cont'd.)

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 77355, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Capital Equipment and Assistance Agreement with ABB Inc. in which the City Will Provide an Amount Not to Exceed \$100,000 for Reimbursement of the Cost of Production and Assembly Equipment at ABB Inc. Manufacturing and Production Facilities in San José”, was adopted. (8-0-3. Absent: Carrasco, Kalra, Herrera.)

#### 4.2 Adopt a resolution:

- (a) **Authorizing the Interim Director of Housing to: (i) negotiate and execute an amendment, if necessary, to that certain Option Agreement and Agreement to Ground Lease (“Option Agreement”) dated May 1, 2013 (“Option Agreement”) to allow for less than 90 days’ notice to exercise the option to acquire the real property located at 1535 West San Carlos Street (“Property”) from San Carlos Willard Associates, L.P. (“Developer”), an affiliate of Core Development Corporation, for the San Carlos Seniors Apartments (“Development”), (ii) exercise the option to acquire the Property from Developer for \$1, and (iii) negotiate and execute such documents and take such actions, including acceptance of the grant deed, to effectuate the City’s acquisition of the Property;**
- (b) **Accepting the summary of costs and findings of the Summary Report Pursuant to Section 33433 of the California Health and Safety Code for the disposition of the Property to Developer under the terms and conditions of the proposed Ground Lease and approving the Ground Lease; and**
- (c) **Authorizing the Interim Director of Housing to: (i) enter into a ground lease with Developer for 85 years for a nominal rent payment of \$1 per year payable in advance at closing (“Ground Lease”), and (ii) negotiate and execute such documents and take such actions, including execution of the Ground Lease, to effectuate the ground lease of the Property to Developer.**

**CEQA: Mitigated Negative Declaration, File No. PDC02-102. Council District 6. (Housing)**

Documents Filed: Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated April 28, 2015 recommending adoption of a resolution.

Interim Director of Housing Jacky Morales-Ferrand responded to questions from Council.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 77356, entitled: “A Resolution of the Council of the City of San José Authorizing the Interim Director of Housing to Exercise an Option to Purchase Property and to Ground Lease the Property to the San Carlos Seniors Apartments”, was adopted. (8-0-3. Absent: Carrasco, Kalra, Herrera.)

- 4.3 (a) **Adopt a resolution authorizing the Interim Director of Housing to negotiate and execute an amendment to the existing grant agreement between the City and HomeFirst to increase federal Emergency Solutions Grant (ESG) ESG funding by \$146,287, from \$85,319 to \$231,606, to pay for an increased number of shelter beds at the Boccardo Reception Center and to extend the term of the agreement to August 1, 2015;**
- (b) **Adopt a resolution authorizing the Interim Director of Housing to negotiate and execute a separate grant agreement between the City and HomeFirst, providing \$25,000 of new funding from the City’s Housing Trust Fund to support financial management improvements, and allowing funds previously advanced under a prior grant in the amount of \$138,300 to be reallocated and retroactively applied to costs previously expended for general shelter operations from October 1, 2013 through December 31, 2014. CEQA: Not a Project, File No. PP10-066(a), Purchase Order/Cooperative Purchase of Supplies, Equipment and Professional Services with no changes to the physical environment. (Housing)**

Documents Filed: Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated May 1, 2015 recommending adoption of a resolution.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 77357, entitled: “A Resolution of the Council of the City of San José Authorizing the Interim Director of Housing to Negotiate and Execute an Amendment to an Existing Emergency Solutions Grant with HomeFirst Services of Santa Clara County for the Boccardo Reception Center”; and Resolution No. 77358, entitled: “A Resolution of the Council of the City of San José Authorizing the Interim Director of Housing to Negotiate and Execute a Grant Agreement with HomeFirst to Support Financial Management Improvements and to Allow Funds Previously Advanced to be Reallocated to Provide General Shelter Operations”, were adopted. (8-0-3. Absent: Carrasco, Kalra, Herrera.)

- 4.6 **Conduct a public meeting to receive public comment on a proposal to annex Annexation Area No. 2 into Zone C of Maintenance District 15 (Silver Creek Valley). CEQA: Mitigated Negative Declaration, File No. PDC09-007, Exempt, File No. PD10-019. Council District 8. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated April 27, 2015, recommending conducting a public meeting.

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

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Charles “Chappie” Jones and carried unanimously, a public meeting to receive public comment on a proposal to annex Annexation Area No. 2 into Zone C of Maintenance District 15 (Silver Creek Valley), was approved. (9-0-2. Absent: Herrera, Kalra.)

## **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) (Deferred from 4/14/15 – Item 6.1)**

Action: Deferred to June 2, 2015 per Administration.

- 6.2 Report on bids and award of contract for the 7714 - Mineta San José International Airport - Airfield Improvements 2015 Project to the low bidder, Granite Rock Company, to include the base bid in the amount of \$2,700,170, and approval of a contingency in the amount of \$270,017. CEQA: Resolution Nos. 67380 and 71451, File No. PP14-066. (Airport/Public Works)**

Action: Deferred to June 2, 2015 per Council.

## **ENVIRONMENTAL & UTILITY SERVICES**

- 7.1 (a) Accept the staff report on the San José-Santa Clara Regional Wastewater Facility (RWF) Ten-Year Funding Strategy.**
- (b) Approve staff recommendation to have all agencies contribute to a 60 day operating reserve beginning in FY 2016-17; direct staff to continue to work with all agencies on optimal reserve levels for operational purposes.**
- (c) Direct staff to pursue State Revolving Fund loans for RWF capital improvement projects to the maximum extent possible.**
- (d) Direct staff to continue to work with City of Santa Clara (Santa Clara) and all tributary agencies to confirm participation in a commercial paper program and/or long term revenue bonds through the Clean Water Financing Authority (CWFA), by August 2015.**
- (e) Direct staff to work with Santa Clara and all tributary agencies to amend the 1983 Master Agreement to incorporate terms related to operating reserve contributions, as well as terms related to financing of the RWF improvements through the CWFA.**

**CEQA: Not a Project, File PP10-069(a), City Organizational & Administrative Activities. (Environmental Services/Finance)  
(Deferred from 4/21/15 – Item 7.1)**

Action: Deferred to June 2, 2015 per Council.

**7.2 Adopt a resolution to amend the current Recycle Plus rate resolution effective July 1, 2015, as follows:**

- (a) Increase rates for single-family households by up to five percent;**
  - (b) Increase rates for multi-family households by five percent;**
  - (c) Increase the rates for large item collection services by 1.35 percent;**
  - (d) Increase the rates for subscription yard trimmings cart services 1.49 percent.**
- CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates & Fares. (Environmental Services)**

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated April 20, 2015, recommending adoption of a resolution.

Action: Dropped per Administration.

- 7.3 (a) Adopt a resolution authorizing the City Manager to negotiate and execute a Third Amendment to the Commercial Solid Waste and Recyclable Material Collection Franchises Agreement with Allied Waste Services of North America, LLC, dba Republic Services, to modify the annual rate adjustment methodology and to include service enhancements;**
- (b) Adopt a resolution setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organic processing services.**

**CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates & Fares. (Environmental Services)**

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated May 1, 2015, recommending negotiation/execution of an amendment to an agreement, and adoption of a resolution.

Deputy Director of Environmental Services Jo Zientek responded to questions from Council.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 77360, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Commercial Solid Waste and Recyclable Material Collection Franchises Agreement with Allied Waste Services of North America, LLC, DBA Republic Services, to Modify the Annual Rate Adjustment Methodology and to Include Service Enhancements”; and Resolution No. 77361, entitled: “A Resolution of the Council of the City of San José Fixing and Determining Maximum Commercial Solid Waste Service Rates in the City of San José Pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC DBA Allied Waste Services of Santa Clara County Including the Total Costs for Organics Processing Services, Effective July 1, 2015”, were adopted. (9-0-2. Absent: Kalra, Herrera.)

## REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) **Adopt a resolution by the Council of the City of San José (the “City”) authorizing the Director of Finance and other authorized officers of the City, who routinely conduct investment management activity on behalf of the City, to order the deposit or withdrawal of monies in the Local Agency Investment Fund on behalf of the City and repealing Resolution No. 76153.**
- (b) **Adopt a resolution by the Board of the Successor Agency to the Redevelopment Agency of the City of San José (the “Successor Agency”) authorizing the Chief Financial Officer of the Successor Agency and the Director of Finance and other authorized officers of the City, as Successor Agency, who routinely conduct investment management activity on behalf of the Successor Agency, to order the deposit or withdrawal of monies in the Local Agency Investment Fund on behalf of the Successor Agency and repealing Successor Agency Resolution No. 7002.**

**CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Finance)**

Action: Deferred to June 2, 2015 per Council.

- 9.2 **Adopt resolutions of the Successor Agency Board to:**
- (a) **Approve the Administrative Budget for July 1 through December 31, 2015; and**
- (b) **Approve the Recognized Obligation Payment Schedule 15-16A and authorize payment of expenditures for items on ROPS 15-16A, which details the obligations of the Successor Agency for the period of July 1, 2015 through December 31, 2015, as revised by the California Department of Finance.**

**CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Successor Agency)**

Action: Deferred to June 2, 2015 per Council.

- 9.3 **Approve a Purchase and Sale Agreement and Escrow Instructions between the Successor Agency to the Redevelopment Agency of the City of San José and SJSC Properties LLC for the real properties located at 167-193 East Santa Clara Street for a purchase price of \$12,800,000. CEQA: Exempt, File No. PP15-047. (Successor Agency)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez and Councilmember Donald Rocha, dated May 15, 2015, recommending approval. (2) Memorandum from Successor Agency Managing Director Richard A. Keit, dated May 7, 2015, recommending approval of a Purchase and Sale Agreement.

**9.3 (Cont'd.)**

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Donald Rocha, and carried unanimously, the Purchase and Sale Agreement and Escrow Instructions between the Successor Agency to the Redevelopment Agency of the City of San José and SJSC Properties LLC for the real properties located at 167-193 East Santa Clara Street for a purchase price of \$12,800,000, was approved. (9-0-2. Absent: Kalra, Herrera.)

**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 pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10191	E. side of San Felipe Rd and W. side of Livery Lane, approx. 650' S. of Running Springs Road	8	T.L. Properties, LP	7 Lots	SFD	Approve
10300	Communications Hill Blvd and Casselino Dr.	7	KB Home, Inc.	177 Lots/ 314 Units	SFD, MFA	Approved

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10307	W side Monterey Rd, N and S of Esfahan Dr.	7	Taylor Homes	9 Lots, 22 Units 2 Comm.	MFA/ Commercial
10308	Bound by Goble Lane, Esfahan Dr., Montecito Vista Dr and Montecito Vista Wy	7	Taylor Homes	23 Lots/ 162 units	MFA

**ADJOURNMENT**

The Council of the City of San José adjourned at 7:10 p.m. in memory of formerly interned San José native, athlete, coach and community leader Chitoshi Akizuki. Chitoshi Akizuki passed April 28, 2015 in San José and is survived by his wife Kim, his sons Dennis, Bruce and Kevin, and grandchildren Leslie and Mark. (Rocha)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

rmk/05-19-15/MIN