



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 11, 2015

The Council of the City of San José convened in Regular Session at 9:03 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, 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 9:34 a.m. to a Closed Session in Room W133(A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to anticipated litigation in two (2) matters; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) Catacutan v. Womack, City, et al.; Names of Partie(s) Involved: Aaron Vincent Arde Catacutan, Mark Womack, individually and as an employee of the City of San José Police Department; City of San José; Chief Chris Moore, individually and in his capacity as former Chief of Police for the San José Police Department, and Does 1-10, inclusive; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-13-CV-254501; Amount of Money or Other Relief Sought: Damages According to Proof; (2) SJJC Aviation Services, LLC v. City of San José, et al.; Names of Partie(s) Involved: SJJC Aviation Services, LLC; City of San José and City Council of the City of San José; Court: Superior Court of California, County of Santa Clara, Court of Appeal of the State of California, Sixth Appellate District; Case No: 1-13-CV-246057; Case No.: H041946; Amount of Money or Other Relief Sought:

CLOSED SESSION (Cont'd.)

Damages According to Proof; (3) Fedor v. City, et al.; Names of Partie(s) Involved: Denelle Fedor, City of San José, Pierluigi Oliverio and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-271291; Amount of Money or Other Relief Sought: Damages According to Proof; (4) 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; (5) 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; (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-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 capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (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 capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (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

CLOSED SESSION (Cont'd.)

official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (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; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B; (C) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:45 p.m. and reconvened to Regular Session at 1:35 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

INVOCATION

Yurong Li of the Firebird Youth Chinese Orchestra provided a musical performance for the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 1.3 dropped per Councilmember Magdalena Carrasco. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the Youth Connection Foundation for the PRNS FIT Camp Program. (Parks, Recreation and Neighborhood/Carrasco)

Mayor Sam Liccardo and Councilmember Magdalena Carrasco offered a commendation to the Youth Connection Foundation for the PRNS FIT Camp Program.

1.2 Presentation of a commendation to Almaden Valley Counseling Service for their exemplary work in promoting the psychological health and well-being of San José residents. (Khamis)

Mayor Sam Liccardo and Councilmember Khamis offered a commendation to the Almaden Valley Counseling Service for their exemplary work in promoting the psychological health and well-being of San José residents.

1.3 Presentation of a commendation to the San José Peace and Justice Center to celebrate their 100 years of service to the City of San José in the pursuit of a more equitable and peaceful world. (Carrasco)

Action: Dropped per Councilmember Magdalena Carrasco.

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny 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.

- (a) **ORD. NO. 29596** – Rezoning certain real property of approximately 0.84 acre situated approximately at the southwest corner of Aborn Road and Lyter Way (2860 and 2868 Lyter Way) from the A Agricultural Zoning District to the CP Commercial Pedestrian Zoning District. CEQA: Section 15168. Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041, adopted November 1, 2011. C14-054
[Deferred from 8/4/15 – Item 2.2(a)]

Documents Filed: Proof of Publication of the Title of Ordinance No. 29596 executed on August 4, 2015, submitted by the City Clerk.

Action: Ordinance No. 29596 was adopted. (11-0.)

- (b) **ORD. NO. 29597** – Rezoning certain real property of approximately 0.53 acre situated at the southerly corner of Park Avenue Road and Newhall Street (2095 Park Avenue) from the R-M Multiple Residence Zoning District to the CP Commercial Pedestrian Zoning District. CEQA: Section 15168. Determination of Consistency. Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041, adopted November 1, 2011. C15-004
[Deferred from 8/4/15 – Item 2.2(b)]

Documents Filed: Proof of Publication of the Title of Ordinance No. 29597 executed on August 4, 2015, submitted by the City Clerk.

Action: Ordinance No. 29597 was adopted. (11-0.)

- (c) **ORD. NO. 29598** – Rezoning certain real property of approximately 2.0 acres on the southerly side of Quinn Avenue, approximately 1,027 east of Senter Road, (650 Quinn Avenue) from the A(PD) Planned Development Zoning District to the LI Light Industrial Zoning District. CEQA: Section 15168. Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR. C15-007
[Deferred from 8/4/15 – Item 2.2(c)]

2.2 Final adoption of ordinances (Cont'd.)

- (c) Documents Filed: Proof of Publication of the Title of Ordinance No. 29597 executed on August 4, 2015, submitted by the City Clerk.

Action: Ordinance No. 29598 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

- (a) **Community and Economic Development Committee Minutes of June 22, 2015. (Khamis)**

[Deferred from 8/4/15 – Item 2.2(f)]

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

Documents Filed: Community and Economic Development Committee Minutes dated June 22, 2015.

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

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 Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (a) **Increase the estimate for Revenue from Local Agencies by \$196,250; and**
(b) **Establish the City-wide appropriation, San José Watershed Community Stewardship and Engagement Project, to the Environmental Services Department in the amount of \$196,250.**

CEQA: Exempt, Section 15301(h) Existing Facilities, Maintenance, File No. PP13-056, Citywide Litter Clean-up Activities (including water bodies and homeless encampments). (Environmental Services/City Manager)

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow and Senior Deputy City Manager Jennifer Maguire, dated July 20, 2015, recommending adoption of recommending adoption of an appropriation ordinance and funding sources resolution amendments.

2.7 (Cont'd.)

Action: Ordinance No. 29600, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for the San José Watershed Community Stewardship and Engagement Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 77487, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

2.8 **Adopt a resolution appointing Jason Rogers, Division Manager in the Planning Division, to serve as the non-elected City member on the Implementation Board of the Santa Clara Valley Habitat Agency and appointing Meenaxi Panakkal, Supervising Planner of Environmental Review in the Planning Division, to serve as the non-elected alternate member on the Implementation Board. CEQA: Not a Project, File No. PP10-069(c), Organizational and Administrative Activities. (Planning, Building and Code Enforcement)**

Documents Filed: City Council Action Request from Director of Planning, Building and Code Enforcement, Harry Freitas, dated August 11, 2015, recommending adoption of a resolution.

Action: Resolution No. 77488, entitled: “A Resolution of the Council of the City of San José Appointing Non-Elected Representatives to the Santa Clara Valley Habitat Agency Implementation Board”, was adopted. (11-0.)

2.9 **Approve an ordinance amending Title 17 of the San José Municipal Code to implement Assembly Bill 2188 by creating an expedited, streamlined permitting process for small residential rooftop solar systems. CEQA: Exempt, Section 15268, Ministerial Projects, File No. PP15-073. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated July 20, 2015, recommending approval of an ordinance.

Action: Ordinance No. 29601, entitled: “An Ordinance of the City of San José Amending Title 17 of the San José Municipal Code by Adding Chapter 17.86 to Specify Requirements for Solar Energy Systems and to Provide an Expedited, Streamlined Permitting Process for Small Residential Rooftop Solar Systems”, was passed for publication. (11-0.)

- 2.10 (a) Approving the Willow Glen Community Benefit and Improvement District Annual Report for Fiscal Year 2015-2016 as filed or modified by Council;
- (b) Confirming the individual assessments as proposed, or modified by Council;
- (c) Directing the City to pay the assessment on City-owned property within the district in the amount of approximately \$9,792; and
- (d) Directing the Director of Public Works to deliver the assessment role to the County for collection with the property taxes.

CEQA: Exempt, Section 15301(h) Existing Facilities Maintenance, File No. PP13-057, Landscape maintenance in the public right-of-way and public facilities. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated July 20, 2015, recommending adoption of a resolution.

Action: Resolution No. 77489, entitled: "A Resolution of the Council of the City of San José Approving the Willow Glen Community Benefit and Improvement District Annual Report for Fiscal Year 2015-2016 as Filed, or Modified by the City Council; Confirming the Individual Assessments as Proposed or Modified by the City Council, Including the Assessment on City-Owned Property of Approximately \$9,792; Directing that the City Assessment Payment be Made; and Directing the Director of Public Works to Deliver the Assessment Roll to the County of Santa Clara for Collection with the Property Taxes", was adopted. (11-0.)

- 2.11 Approve the Reimbursement Agreement between the City of San José and the Santa Clara Valley Transportation Authority for the I-280/I-880/Stevens Creek Boulevard Interchange Improvement Project in the amount of \$2,632,690. CEQA: Improvements at SR-17/I-280/I-880 Interchange and I-880/Stevens Creek Boulevard Interchange Final Environment Impact Report/Environmental Assessment under Resolution No. 76398 adopted August 21, 2012. Council District 6. (Transportation)

Documents Filed: Memorandum from Interim Director of Transportation Jim Ortbal, dated July 20, 2015 recommending approval of a reimbursement agreement.

Mayor Sam Liccardo pulled item 2.11 to offer appreciation to the Department of Transportation staff for their work on this project.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Magdalena Carrasco and carried unanimously, the Reimbursement Agreement between the City of San José and the Santa Clara Valley Transportation Authority for the I-280/I-880/Stevens Creek Boulevard Interchange Improvement Project in the amount of \$2,632,690, was approved. (11-0.)

- 2.12 As recommended by the Rules and Open Government Committee on July 29, 2015:**
- (a) Approve the Indian Independence Day Flag Raising scheduled on August 12, 2015 as City Council sponsored Special Event and approve the expenditure of funds; and**
 - (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**
- CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Kalra)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated July 30, 2015, transmitting the recommendations of the Rules and Open Government Committee.

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

- 2.13 As recommended by the Rules and Open Government Committee on August 5, 2015, adopt a support position for AB 448 (Brown) – Local Government Finance: Property Tax Revenue Allocations: Vehicle License Fee Adjustments. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Manager) [Rules Committee referral 8/5/15 – Item G(2)]**

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

Action: A Position of support for AB 448 (Brown) – Local Government Finance: Property Tax Revenue Allocations: Vehicle License Fee Adjustments, was adopted. (11-0.)

STRATEGIC SUPPORT SERVICES

3.2 Labor Negotiations Update.

Action: None provided.

- 3.3 Discuss the policy alternatives for amending Council Policy 2-1, as set forth in the memorandum to Council, to establish guidelines for the permanent display of the POW/MIA (Prisoner-of-War/Missing-in-Action) flag at City Hall’s West Plaza, and direct City staff to amend the policy based on the selected alternative. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (Public Works)**

Action: Deferred August 25, 2015 per Administration.

- 3.4 (a) Adopt a resolution to:
- (1) Approve the terms of the Alternative Pension Reform Settlement Framework Agreement between the City and the San José Police Officers' Association (SJPOA) and San José Fire Fighters, International Association of Fire Fighters, Local 230 (IAFF, Local 230); and
 - (2) Authorize the City Manager to negotiate and execute a Tripartite Retirement Memorandum Agreement between the City, the SJPOA, and IAFF, Local 230.
- (b) Adopt the following 2015-2016 Appropriation Ordinance amendments in the General Fund:
- (1) Establish a City-Wide Measure B Settlement appropriation to the City Manager's Office in the amount of \$1,500,000; and
 - (2) Decrease the Fiscal Reform Plan Implementation Reserve in the amount of \$1,500,000.

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)

Action: Deferred to August 18, 2015 per Administration.

- 3.5 As recommended by the Salary Setting Commission, 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.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk) (Deferred from 5/19/15 – Item 3.3 and 6/23/15 – Item 3.21)

Action: Deferred per Rules and Open Government Committee.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Adopt a resolution directing the Interim Director of Housing to pursue steps necessary to acquire the Plaza Hotel located in San José at 96 South Almaden Boulevard (“Plaza Hotel”) from the Successor Agency to the Redevelopment Agency of the City of San José (SARA), for housing the homeless, and return to City Council to obtain authorization to acquire. CEQA: Exempt, Section 15301, Existing Facility. (Housing).
(Deferred from 6/16/15 – Item 4.2, 6/9/15 – Item 4.2, and 6/23/15 – Item 4.5)

Action: Deferred to August 25, 2015 per Administration.

- 4.2 Consideration of a Conditional Use Permit to allow a drinking establishment (for more than 250 people) and late night use until 2:00 a.m. in an existing 8,684 square foot public eating establishment in the DC Downtown Primary Commercial Zoning District on an approximately 0.15 gross acre site, located on the east side of South 1st Street, approximately 400 feet southerly of East Santa Clara Street (58 South 1st Street). CEQA: Exempt, Section 15303(c), New Construction or Conversion of Small Structures. Planning Commission recommends approval (4-1-1-1) (Kline opposed, Abelite absent, and Yob recused). (Planning, Building and Code Enforcement)
CP15-016 – District 3

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmembers Raul Peralez and Magdalena Carrasco, dated August 7, 2015, recommending denial of the Conditional Use Permit. (2) Memorandum from Councilmember Donald Rocha, dated August 10, 2015 recommending approval. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP15-016, dated May 5, 2015. (4) Memorandum from Planning Commission Secretary Harry Freitas, dated May 27, 2015, transmitting the Planning Commission recommendation. (5) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated July 23, 2015, providing information regarding changes to the proposed project. (6) Letter from Jeffrey Essner, Hopkins & Carley Law Corporation, dated August 6, 2015, recommending denial of the Conditional Use Permit. (7) Letter from Jenny Wolfes, 1st Street SJ Enterprise, dated August 11, 2015, asking for consideration of the proposed project, Vanity SJ.

Director of Planning, Building and Code Enforcement, Harry Freitas provided an overview of the proposed project and responded to questions from Council.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Project Applicant, Sandra Escobar, Escobar Legacy Consulting discussed merits of the project. Jenny Wolfes (1st Street San José Enterprises), Bill Carlson, Gizelle Lamb and David Silberstein offered enthusiastic support to the Vanity SJ project. Offering opposition were: Jeffrey Essner (Hopkins & Carley), Mandy Brown (Barry Swenson Builder) and Janis Schneider (R&J Jewelry and Loan).

4.2 (Cont'd.)

Mayor Sam Liccardo closed the public hearing.

Motion: Councilmember Raul Peralez moved approval for denial of the Conditional Use Permit as indicated in the memorandum he coauthored with Mayor Sam Liccardo and Councilmember Magdalena Carrasco, dated August 7, 2015. The motion was seconded by Councilmember Magdalena Carrasco.

Substitute Motion: Councilmember Johnny Khamis moved approval of Councilmember Donald Rocha's memorandum dated August 10, 2015 to approve the Conditional Use Permit, including Staff's recommendations as outlined in the July 23, 2015 supplemental memorandum. Councilmember Donald Rocha seconded the motion.

Vice Unit Sergeant Todd Trayer responded to questions regarding crowd control and drinking establishments in downtown San José.

Councilmember Raul Peralez requested an amendment to the substitute motion, that this establishment not be leased out or combined into a larger club. The amendment to the substitute motion was accepted by Councilmembers Khamis and Rocha.

Councilmember Donald Rocha recommended withdrawing the substitute motion, replacing it with a substitute motion to defer this item to allow the applicant further time to work out problem areas. Councilmember Johnny Khamis agreed to the withdrawal of the original substitute motion and to instead move for a deferral.

On a call for the question, the replacement substitute motion failed. (4-7. Noes: Carrasco, Herrera, Kalra, Liccardo, M. Nguyen, T. Nguyen, Peralez.)

Action: On a call for the question, the original motion carried, Resolution No. 77642, entitled: "A Resolution of the Council of the City of San José Denying a Conditional Use Permit For a Public Drinking Establishment With a Maximum Occupancy Load of Over 250 Persons and After-Midnight Use Until 2:00 a.m. on the First Floor Of An Approximately 0.15 Gross Acre Site, Located on the East Side Of South 1st Street, Approximately 400 Feet South of East Santa Clara Street (58 South First Street) in the DC Downtown Primary Commercial Zoning District was adopted. (9-2. Noes: Khamis, Rocha.)

- 4.3 **As recommended by the Community and Economic Development Committee on June 22, 2015, accept the report and provide direction on staff's proposed work plan for updating the Envision San José 2040 General Plan (General Plan) text and the provisions of Title 20 of the San José Municipal Code (the Zoning Code) to further the preservation of mobilehome parks. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments, and Annual Reports. (Planning, Building, and Code Enforcement/Housing)**
[Community and Economic Development Committee referral 6/22/15 – Item D(5)]

4.3 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmember Chappie Jones, Councilmember Tam Nguyen and Councilmember Manh Nguyen, dated August 7, 2015, recommending acceptance of staff's report and work plan including additional direction to staff. (2) Memorandum from Councilmember Johnny Khamis, dated August 10, 2015, recommending acceptance of staff's recommendations including additional direction. (3) Supplemental memorandum from City Attorney Richard Doyle, dated August 6, 2015, regarding the required change of use process. (4) Memorandum from City Clerk Toni J. Taber, CMC, dated July 30, 2015 providing recommendations of the Community and Economic Development (CED) Committee from the meeting of June 22, 2015. (5) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas and Interim Director of Housing Jacky Morales-Ferrand, dated July 30, 2015, summarizing the referral from the CED Committee and providing a status report on stakeholder's input. (6) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas and Assistant Director of Housing Jacky Morales-Ferrand, dated August 10, 2015, providing notes from focus group meetings held July 30 and August 6, 2015. (7) Correspondence offering input regarding the Mobilehome Conversion Ordinance, asking that a preservation policy be considered, from Diana Castillo, Fair Housing Project; Bruce Nicholson, the Nicholson Family Partnership; Beatrice Beckley, Lenora and Gordon Nelson, Warren Gannon and Kent Greathouse.

Director of Planning, Building and Code Enforcement, Harry Freitas and Interim Director of Housing Jacky Morales-Ferrand provided an overview and responded to questions.

Public Comments: Speaking in support of a moratorium, the preservation of mobilehome parks and displacement of residents, were: Jeff Bedolla, Eric Brandenburg, Bill Baron, Greg O'Hagan, Ruth Greathouse, Kent Greathouse, Madison Nguyen, James Zahradko, Maria Merriweather, Mike Connolly, Mike Graves, Brian Borders, Annie Borders, Martha O'Connell, Katharine Turner, Warren Gannon, Tim Gildersleeve, Davlyn Jones, Joal Osmer, Richard McCoy, Brian Darby, Christina Lemon, Sandra Perry, Shaun Cartright, Diana Castillo, Perry Mistry, Mark Finhill and Roger Whitcomb. Richard Ruckman asked that protection against rents should be for initial owners only, not new owners. Erik Schoennauer offered that Winchester Ranch will close, but agreed that a land use approach must be negotiated.

Councilmember Pierluigi Oliverio requested that staff provide an information memorandum determining the County's response regarding the City's requests for an annual provision of 10 million dollars that may be allocated for affordable housing. Assistant City Manager Dave Sykes offered to provide a report per Councilmember Pierluigi Oliverio's request.

Motion: Councilmember Chappie Jones moved approval of the joint memorandum he coauthored with Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmembers Manh Nguyen and Tam Nguyen. Vice Mayor Rose Herrera seconded the motion.

4.3 (Cont'd.)

Vice Mayor Rose Herrera asked that Item (B) from Councilmember Johnny Khamis' memorandum dated August 10, 2015 be included in the motion. Councilmember Chappie Jones respectfully declined, but asked that Item 4.3 be bifurcated into two motions as indicated on page 14.

Item 4.3 was bifurcated into two motions as follows:

Action: On a call for the question, the staff's report was accepted, including the joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmembers Chappie Jones, Manh Nguyen and Tam Nguyen, dated August 7, 2015, to (1) Accept staff's report and work plan to further the preservation of mobile home parks; and (2) Direct staff to return in two weeks with an urgency ordinance, and if findings cannot be made, with a standard ordinance, to establish a moratorium on mobile home park conversions for six months. (11-0.)

Motion: Vice Mayor Rose Herrera moved approval of Councilmember Johnny Khamis' recommendations as indicated below. Councilmember Donald Rocha seconded the motion.

Action: On a call for the question, Item (B) from Councilmember Johnny Khamis' memorandum dated August 10, 2015 including recommendations to meet with stakeholders, MHP owners, with possible preparation of an "Opt-In; Stay in Business" alternative, including alternative methods of maintaining mobile home inventory, and including review of the 2040 General Plan to examine urban village designations in these locations and implications for MHP residents, was accepted. (9-1-1. Noes: Peralez. Absent: Kalra.)

NEIGHBORHOOD SERVICES

- 5.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on May 21, 2015, accept the 2013-2014 Annual Report on the San José Bringing Everyone's Strengths Together (BEST) and the Mayor's Gang Prevention Task Force (MGPTF) Programs. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (Parks, Recreation and Neighborhood Services)**

[Public Safety, Finance, and Strategic Support Committee referral 5/21/15 – Item D(3)]

(Deferred from 6/23/15 – Item 5.1)

Action: Deferred to August 18, 2015 per Administration.

PUBLIC SAFETY SERVICES

8.1 As recommended by the Public Safety, Finance, and Strategic Support Committee on June 18, 2015:

- (a) Accept the Police Department's (Department) report analyzing the report of the Neighborhoods Commission (Commission) related to a Pilot Program for the Department's Unmanned Aerial System (UAS).
- (b) Accept the Department's recommendations regarding its use of a UAS; proposed UAS Policies and Procedures, including the Commission recommendations, as accepted or modified by the Department; and, the implementation of a UAS Pilot Program.
- (c) Direct the Administration to:
 - (1) Seek approval from the Federal Aviation Administration (FAA) to operate a UAS; and
 - (2) Upon receipt of FAA approval to operate a UAS, conduct a one-year UAS Pilot Program under the Department's adopted UAS Policies and Procedures.

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

Documents Filed: Memorandum from City Clerk Toni Taber, dated July 30, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Public Comment: Larry Ames, San José Neighborhoods Commission, spoke in support of implementation of the program. Blair Beekman spoke in opposition.

Chief of Police Larry Esquivel responded to questions regarding the timeframe.

Motion: Councilmember Donald Rocha moved approval of staff's recommendations. Vice Mayor Rose Herrera seconded the motion.

Councilmember Manh Nguyen requested an amendment as indicated below in "Action". The amendment was accepted by Councilmember Donald Rocha and Vice Mayor Rose Herrera.

Action: On a call for the question, the motion carried unanimously, with the Police Department's report analyzing the report of the Neighborhoods Commission related to a Pilot Program for the Department's Unmanned Aerial System (UAS); and the Department's recommendations regarding its use of a UAS; proposed UAS Policies and Procedures, including the Commission recommendations, as accepted or modified by the Department; and, the implementation of a UAS Pilot Program, accepted, and with Administration directed to (1) Seek approval from the Federal Aviation Administration (FAA) to operate a UAS; and (2) Upon receipt of FAA approval to operate a UAS, conduct a one-year UAS Pilot Program under the Department's adopted UAS Policies and Procedures, and including Councilmember Manh Nguyen's recommendations that staff return to Council once final policies & procedures are drafted, but before those policies & procedures are submitted to the FAA for approval; and with the City Attorney

8.1 (Cont'd)

to examine the viability of the Chief of Police notifying the Office of the Independent Police Auditor of the use and the outcome of an Unmanned Aerial System (UAS) used in an "exigent situation", including a verbal report provided to the Public Safety, Finance, & Strategic Support Committee within 30 calendar days of the Department's use of the Unmanned Aerial System (UAS), or during the next bimonthly Department report due to the PSFSS Committee, whichever is sooner. (10-0-1. Absent: Carrasco.)

- 8.2 **As recommended by the Public Safety, Finance, and Strategic Support Committee on June 18, 2015, accept the report on Police Disability Retirement Scenarios. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Auditor)**
[Public Safety, Finance, and Strategic Support referral 6/18/15 – Item D(4)]

Documents Filed: Memorandum from City Clerk Toni Taber, dated July 30, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

City Auditor Sharon Erickson provided an overview of the report.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen and carried unanimously, the report on Police Disability Retirement Scenarios, was accepted. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) **The City Council approve Compensation Agreements by and among the Successor Agency to the Redevelopment Agency of the City of San José, the City of San José, the County of Santa Clara and other affected taxing entities under Health and Safety Code Section 34180(f) for real property necessary for the Autumn Street Extension Phase II and the California Theatre.**
- (b) **The Successor Agency Board approve Compensation Agreements by and among the Successor Agency to the Redevelopment Agency of the City of San José, the City of San José, the County of Santa Clara and other affected taxing entities under Health and Safety Code Section 34180(f) for real property necessary for the Autumn Street Extension Phase II and the California Theatre.**

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

Documents Filed: (1) Memorandum from Successor Agency Managing Director Richard A. Keit, dated July 20, 2015, recommending approval of compensation agreements. (2) Letter from Laura Tolkoff, San José Policy Director, SPUR, dated August 10, 2015, requesting deferral of Item 9.1(b).

9.1 (Cont'd.)

Public Comment: Leah Toeniskoetter, representing SPUR, urged approval of SPUR's participation in this project.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Raul Peralez and carried unanimously, the (a) Compensation Agreements by and among the Successor Agency to the Redevelopment Agency of the City of San José, the City of San José, the County of Santa Clara and other affected taxing entities under Health and Safety Code Section 34180(f) for real property necessary for the Autumn Street Extension Phase II and the California Theatre; and (b) The Successor Agency Board approve Compensation Agreements by and among the Successor Agency to the Redevelopment Agency of the City of San José, the City of San José, the County of Santa Clara and other affected taxing entities under Health and Safety Code Section 34180(f) for real property necessary for the Autumn Street Extension Phase II and the California Theatre, were approved. (9-0-2. Absent: Carrasco, Kalra.)

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>
10313	S/E corner of Almaden Expressway and Timber Crest Drive	10	Timbercrest Venture LLC	8/7	SFD	Approve

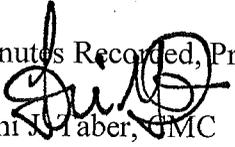
OPEN FORUM

1. Brian Darby asked that disabled participants be allowed to use communication devices during Council meetings.
2. Jeffrey Bedolla suggested encouragement and support of storage businesses.
3. Blair Beekman encouraged transparency when implementing the UAS/Drone program.
4. Tim Gildersleeve expressed religious convictions and urged Council to be stewards of the environment.

ADJOURNMENT

The Council of the City of San José adjourned at 6:51 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,


Toni J. Faber, GMC

City Clerk

rmk/8-11-15MIN