



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 4, 2015

The Council of the City of San José convened in Regular Session at 9:30 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 9:34 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 existing litigation; (1) In re: Claim of Alderete; Amount of Money or Other Relief Sought: Administrative Appeal; (2) Friends of the Willow Glen Trestle v. City of San José, et al.; Names of Partie(s) Involved: Friends of the Willow Glen Trestle, an unincorporated association; City of San José and City Council of the City of San José; Court: Superior Court of California, County of Santa Clara, Court of Appeal of the State of California, Sixth Appellate District; Case No: 1-14-CV-260439; Case No.: H041563; Amount of Money or Other Relief Sought: Damages According to Proof; (3) Cutright v. City of San José; Names of Partie(s) Involved: Lori Cutright, City of San José, Torie O'Reilly and Does 1 through 20; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-14-CV-267802; 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:

CLOSED SESSION (Cont'd.)

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 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; 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

CLOSED SESSION (Cont'd.)

Court of California, County of Santa Clara; Case: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B; (B) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, 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

Beshkam Dance Group performed a traditional Persian dance 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. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the Alviso Park Master Plan Task Force (Matthews)

Mayor Sam Liccardo and Councilmember Margie Matthews offered a commendation to the Alviso Park Master Plan Task Force for their diligent work on the future rehabilitation and expansion of Alviso Park and the community.

1.2 Presentation of a commendation to Councilmember Margie Matthews for her service to the residents of the City of San José. (Mayor)

Mayor Sam Liccardo and Assemblymember Kansen Chu honored Councilmember Margie Matthews and presented commendations for her service to the residents of the City of San José.

1.3 Presentation of a commendation to the San José Public Library 2015 Volunteers of the Year Nikita Takru and Katherine Dart. (Library/Oliverio)

Mayor Sam Liccardo and Councilmember Pierluigi Oliverio presented a commendation to the San José Public Library 2015 Volunteers of the Year Nikita Takru and Katherine Dart, for their outstanding leadership and community service.

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: District 4.)

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 EIR, Resolution No. 76041, adopted November 1, 2011. C14-054

Action: Deferred to August 11, 2015 per Administration.

- (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 EIR, Resolution No. 76041, adopted November 1, 2011. C15-004

Action: Deferred to August 11, 2015 per Administration.

- (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 Environmental Impact Report (FPEIR). C15-007

Action: Deferred to August 11, 2015 per Administration.

2.3 Approval of Council Committee Reports.

- (a) **Transportation and Environment Committee Minutes of June 1, 2015. (Kalra)**
- (b) **Rules and Open Government Committee Minutes of June 3, 2015. (Mayor)**
- (c) **Rules and Open Government Committee Minutes of June 10, 2015. (Mayor)**
- (d) **Rules and Open Government Committee Minutes of June 17, 2015. (Mayor)**
- (e) **Public Safety, Finance, and Strategic Support Committee Minutes of June 18, 2015. (Oliverio)**

Documents Filed: (1) Transportation and Environment Committee Minutes dated June 1, 2015. (2) Rules and Open Government Committee Reports dated June 10, and June 17, 2015. (3) Public Safety, Finance, and Strategic Support Committee Minutes dated June 18, 2015.

Action: The Council Committee Reports were accepted. (10-0-1. Absent: District 4.)

2.3 (Cont'd.)

(f) Community and Economic Development Committee Minutes of June 22, 2015. (Khamis)

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

Action: Deferred to August 11, 2015 per Administration.

2.4 (a) Request for an excused absence for Mayor Liccardo from the Regular Meeting of the Rules and Open Government Committee on July 29, 2015. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated July 16, 2015, requesting an excused absence.

Action: The absence was excused. (10-0-1. Absent: District 4.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 (a) Authorizing the Director of Finance to negotiate and execute the following agreements with MuniServices LLC, a Delaware Limited Liability Company ("MuniServices") to provide:

(1) Sales and Use Tax revenue enhancement services and data analysis for the term of July 1, 2015 through June 30, 2018 at a maximum annual compensation not to exceed \$412,000, with two one-year options to extend through June 30, 2020, at the same rate of compensation for each additional optional year subject to the City Council's annual appropriation of funds; and

(2) Telephone Line Tax, Utility Users Tax and Franchise Fee compliance services for the term of July 1, 2015 through June 30, 2018 at a maximum annual compensation not to exceed \$70,000, with two one-year options to extend through June 30, 2020, at the same rate of compensation for each additional optional year subject to the City Council's annual appropriation of funds.

(b) Authorizing MuniServices to examine all Sales and Use Tax records of the California State Board of Equalization for tax collection purposes and other governmental functions of the City of San José.

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

Action: Deferred to August 25, 2015 per Administration.

- 2.8 Adopt a resolution declaring the results of the June 23, 2015 Special Municipal Run-Off Election for Council District 4 pursuant to Elections Code Section 15400. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated July 22, 2015, providing certification of the results of a special municipal run-off election.

Action: Resolution No. 77482, entitled: "A Resolution of the Council of the City of San José Reciting that a Special Municipal Run-Off Election was Held in District 4 in the City of San José on Tuesday, June 23, 2015; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Names of the Persons and Office Voted For, and the Number of Votes Given at Each Precinct to Each Person; and Finding and Declaring that Manh Nguyen Received the Highest Number of Votes of the Votes Cast in District 4", was adopted. (10-0-1. Absent: District 4.)

- 2.9 (a) Approve travel by Councilmember Jones to Denver, CO on September 16-18, 2015 to participate in the San Jose Silicon Valley Chamber of Commerce Annual Study Mission. Source of Funds: Office Budget. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Jones)**
- (b) Request for an excused absence for Councilmember Jones from the Regular Meeting of the Rules and Open Government Committee on September 16, 2015 and the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on September 17, 2015 due to Authorized City Business: 2015 Chamber of Commerce Annual Study Mission to Denver, CO. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Jones)**

Documents Filed: Memoranda from Councilmember Chappie Jones, dated July 10, 2015, requesting authorization to travel to Denver, Colorado and requesting excused absences on September 16 and 17, 2015 due to Authorized City Business.

Action: The travel and excused absences were approved. (10-0-1. Absent: District 4.)

- 2.10 Retroactively approve travel by Mayor Liccardo to Vatican City on July 19 – 22, 2015 for a meeting with Pope Francis and other international leaders as Mayor of the City of San José. Source of Funds: Sponsored by Vatican City State. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated July 15, 2015, requesting retroactive authorization to travel for a meeting with Pope Francis and other international leaders.

Public Comment: Chuck Walther offered comments regarding the nature of retroactive requests for travel.

Mayor Sam Liccardo provided a brief overview of his meeting with Pope Francis and other international leaders to engage in discussions on human trafficking and other human rights issues.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Retroactive travel by Mayor Liccardo to Vatican City on July 19 – 22, 2015 for a meeting with Pope Francis and other international leaders as Mayor of the City of San José, was approved. (10-0-1. Absent: District 4.)

- 2.11 (a) Approve Shakespeare in the Park and Opera in the Park scheduled for June 2016 as City Council sponsored Special Event and approve the expenditure of funds;
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077 Temporary Special Events. (Oliverio)
[Rules Committee referral 7/29/15 – Item G(1)(b)]**

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

Action: Shakespeare in the Park and Opera in the Park scheduled for June 2016 as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (10-0-1. Absent: District 4.)

- 2.12 As recommended by the Rules and Open Government Committee on July 29, 2015, approve the San José Jazz Flag scheduled to be raised August 3 – 10, 2015 as City Council sponsored Special Event. CEQA: Not a Project, File No. PP15-077 Temporary Special Events. (Peralez)**

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

Action: The San José Jazz Flag Raising as a City Council Sponsored Special Event was approved. (10-0-1. Absent: District 4.)

- 2.13 (a) **Appoint Councilmember Charles “Chappie” Jones as an alternate to the El Camino Real Rapid Transit Policy Advisory Board.**
- (b) **Appoint Councilmember Jones to the Federated City Employees Retirement Board as a Non-Voting Member.**
- (c) **Appoint Councilmember Manh Nguyen to replace Councilmember Margie Matthews on the following Boards and Commissions:**
- (1) **Recycling and Waste Reduction Commission of Santa Clara County;**
 - (2) **Recycled Water Policy Advisory Committee;**
 - (3) **Santa Clara Valley Habitat Agency Governing Board (Alternate);**
 - (4) **Santa Clara Valley Habitat Agency Implementation Board (Alternate);**
 - (5) **Santa Clara Valley Water District - Water Commission (two year appointment);**
 - (6) **SJ/SC Clean Water Financing Authority; and**
 - (7) **SJ/SC Treatment Plant Advisory Committee.**

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

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

Mayor Sam Liccardo pulled Item 2.13 to include the appointment of Councilmember Manh Nguyen to the Neighborhood Services Committee and the Transportation and Environment Committee.

Public Comment: David Wall opined that a more seasoned member of the Council should be appointed to the more challenging commissions, given Councilmember Manh Nguyen’s lack of experience.

Action: The appointments of Councilmember Chappie Jones and Councilmember Manh Nguyen to the indicated Boards and Commissions were approved, including appointment of Councilmember Manh Nguyen to the Neighborhood Services Committee and the Transportation and Environment Committee, replacing Councilmember Margie Matthews. (10-0-1. Absent: District 4.)

END OF CONSENT CALENDAR

CEREMONIAL ITEMS

1.4 Administer Oath of Office for newly elected Councilmember Manh Nguyen. (City Clerk)

Blanca Alvarado administered the Oath of Office to Newly elected Councilmember Manh Nguyen.

Public Comment: Susie Barton expressed her disappointment with the District 4 election.

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

City Manager Norberto Dueñas invited everyone to participate in this evening's "National Night Out" activities.

3.3 Adopt a resolution establishing the FY 2015-2016 property tax levy on all taxable property within the City of San José for the purpose of funding the City's general obligation bonded indebtedness and pay the related administration fee to the County. CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated July 16, 2015, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 77483, entitled: "A Resolution of the Council of the City of San José Establishing the Fiscal Year 2015-2016 Property Tax Levy for the City's General Obligation Bond Indebtedness", was adopted. (11-0.)

3.4 Conduct a Public Hearing to hear public testimony on the Fiscal Year 2015-2016 Residential Solid Waste Collection Service Charges annual report prepared by the Director of Finance ("Director's Annual Report") filed with the City Clerk's Office; and adopt a resolution to confirm the approval of the Director's Annual Report and the placement of such charges as set forth therein on the 2015-2016 Santa Clara County Secured Property Tax Roll, with such modifications as the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Julia H. Cooper, dated July 15, 2015, recommending conducting a public hearing and adoption of a resolution. (2) Statement and Declaration of Conflict of Interest Form from Council Member Tam Nguyen, dated August 4, 2015, disclosing he is a recipient of income from California Waste Solutions. (3) Proof of Publication of Notice of Public Hearing executed on July 21, 2015 and July 28, 2015 submitted by the City Clerk.

Council Member Tam Nguyen recused himself from participating in the Council discussion and/or voting and disclosed that he receives income from California Waste Solutions.

Mayor Liccardo opened the public hearing.

Public Comment: Brian Darby and David Wall each expressed criticism of the staff's recommendations.

Mayor Liccardo closed the public hearing.

3.4 (Cont'd.)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 77484, entitled: "A Resolution of the Council of the City of San José Confirming the Approval of the Annual Report for Fiscal Year 2015-2016 of the Director of Finance on Residential Solid Waste Collection Service Charges, and Confirming the Approval of the Placement of Charges as Set Forth Therein on the 2015-2016 Tax Roll", was adopted. (10-0-0-1. Abstain: Councilmember Tam Nguyen.)

3.5 Conduct a Public Hearing to hear public testimony on the Fiscal Year 2015-2016 annual report prepared by the Director of Finance ("Director's Report") detailing the Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges filed with the City Clerk's Office; and adopt a resolution to confirm the approval of the Director's Report and the placement of such charges as set forth therein on the 2015-2016 Santa Clara County Secured Property Tax Roll, with such modifications as the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP10-069(c), City Organizational & Administrative Activities. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Julia H. Cooper, dated July 15, 2015, recommending conducting a public hearing and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing executed on July 21, 2015 and July 28, 2015 submitted by the City Clerk.

Mayor Liccardo opened the public hearing.

Public Comment: David Wall expressed criticism of the staff's recommendations and complained that the hearing was not noticed.

Mayor Liccardo closed the public hearing.

Upon being questioned by Mayor Sam Liccardo, City Manager Norberto Dueñas verified that the meeting had been noticed.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 77485, entitled: "A Resolution of the Council of the City of San José Confirming the Approval of the Annual Report for Fiscal Year 2015-2016 of the Director of Finance on Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges, and Confirming the Approval of the Placement of Charges as Set Forth Therein on the 2015-2016 Tax Roll", was adopted. (11-0.)

- 3.6 As recommended by the Rules and Open Government Committee on July 29, 2015, consider adoption of a resolution amending the Council's Rules for the Conduct of Its Meetings, Superseding Resolution No. 77268, to allow the Mayor, in his or her discretion, to convene any regular City Council meeting or special City Council meeting at the noticed times with at least one other member of the Council present in order to proceed with the Invocation, the Pledge of Allegiance, and Ceremonial Items, and to include additional modifications. CEQA: Not a Project; File No. PP10-068(c), Municipal Code or Policy, change that involve no changes to the physical environment. (City Attorney)**

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

Public Comment: Brian Darby addressed the importance of the Pledge of Allegiance when calling to order Council meetings.

Councilmembers Khamis, Peralez and Rocha expressed criticism of the recommendations.

Motion: Councilmember Tam Nguyen moved to split the Ceremonial Items from the rest of the agenda. The motion failed for lack of a second.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Chappie Jones, and carried, Resolution No. 77486, entitled: "A Resolution of the Council of the City of San José Amending the Rules for the Conduct of its Meetings, Superseding Resolution No. 77268", was adopted. (8-3. Noes: Khamis, Peralez, Rocha.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Consideration of an ordinance approving a Development Agreement between the Coleman Airport Partners, LLC, and the City of San Jose relative to the development of an industrial/commercial project with (a) up to 1.514 million square feet of general office uses, 300 hotel rooms, and 63,700 square feet of retail uses; or (b) up to 1.695 million square feet of office/research and development or light industrial uses on an approximately 45.4 gross acre site, located on the west side of Coleman Avenue, approximately 820 feet south of Brokaw Road and north of Newhall Drive. CEQA: Section 15164. Addendum to the FMC/Coleman Avenue Planned Development Rezoning Environmental Impact Report (Resolution No. 71716). (Planning, Building, and Code Enforcement)
DA15-001 – Council District 3
(Deferred from 6/16/15 – Item 4.5)**

Action: Dropped per Administration.

- 4.2 **Conduct an ADMINISTRATIVE HEARING and consider an APPEAL of the Planning Commission's decision to approve a Conditional Use Permit to allow construction of a 760 square foot fitness center, new pedestrian access paths, and landscape improvements to an existing Swim and Racquet club on a 3.33 acre site in the R-1-8 Single-Family Residence Zoning District located on southeast corner of Northridge Drive and Bose Lane (Almaden Swim and Racquet Club, 6604 Northridge Drive). CEQA: Exempt, CEQA Guidelines Section 15301(e)(1), Existing Facilities. (Planning, Building, and Code Enforcement)**
CP13-004 – District 10
(Deferred from 6/23/15 – Item 11.4)

Action: Deferred to August 18, 2015 in the evening per Administration.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **As recommended by the Transportation and Environment Committee on June 1, 2015, accept the Audit Report on Curbside Recycling. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Auditor)**
[Transportation and Environment Committee referral 6/1/15 – Item D(4)]
(Deferred from 6/16/15 – Item 7.1)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, dated June 3, 2015, transmitting the recommendations of the Rules and Open Government Committee. (2) Statement and Declaration of Conflict of Interest Form from Council Member Tam Nguyen, dated August 4, 2015, disclosing he is a recipient of income from California Waste Solutions.

Action: Deferred to September 15, 2015 per Rules and Open Government Committee.

- 7.2 (a) **Conduct a Public Hearing on the application of GreenWaste Recovery Inc., dba GW Debris Services LLC for Commercial Solid Waste and Recyclables Collection Franchise for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris;**
(b) **Approve an ordinance granting the franchise; and**
(c) **Approve the Commercial Solid Waste and Recyclables Collection Franchise Agreement for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris for a term from July 1, 2015 to June 30, 2016, with the option of three one-year extensions.**

CEQA: Exempt, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment, File No. PP08-228. (Environmental Services)
(Deferred from 6/16/15 – Item 7.2)

Documents Filed: (1) Memorandum from Environmental Services Director Kerrie Romanow, dated May 25, 2015, recommending conducting a public hearing, adoption of an ordinance and approval of an agreement. (2) Proof of Publication of Notice of Public Hearing executed on June 5, 2015 and June 26, 2015 submitted by the City Clerk.

7.2 (Cont'd.)

Mayor Liccardo opened the public hearing.

Public Comment: Perry Mistry offered comments regarding climate change.

Mayor Liccardo closed the public hearing.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously Ordinance No. 29599, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Greenwaste Recovery, Inc., DBA GW Debris Services LLC", was passed for publication, and the Commercial Solid Waste and Recyclables Collection Franchise Agreement for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris for a term from July 1, 2015 to June 30, 2016, with related contingencies, was approved. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 Adopt a resolution approving compensation changes for the Successor Agency to the Redevelopment Agency of the City of San José employees reflecting the changes approved by the City Council for Unit 99 which included a 3.0% salary increase for Fiscal Year 2015-16, effective retroactively to June 21, 2015 and a one-time payment equivalent to approximately 1% of a full-time employee's base pay as of June 20, 2015 and general wage increases of 3% in FY 2016-17 and FY 2017-18. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (Successor Agency)**

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated July 13, 2015, recommending adoption of a resolution.

Public Comment: David Wall expressed that potential employees will not be enticed or retained at the compensation level offered.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Successor Agency Resolution No. 7042, entitled: "A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Approving Compensation Changes for Successor Agency Employees Reflecting the Changes Approved by the City Council for Unit 99", was adopted. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10319	5550 Entrada Cedros	10	Sycamore Creek Partners, LLC	9 Lots / 8 Units	SFA/ SFD

OPEN FORUM

1. Brian Darby expressed concerns regarding the plight of fellow mobile home residents who will be displaced if the Winchester Ranch Mobile Home Park is sold.
2. Perry Mistry asked that City leaders extend a welcome to the Prime Minister of India, Narendra Modi, who will be visiting the Bay Area in September.
3. David Wall suggested that History San José should provide an exhibit to honor POW/MIA struggles to acknowledge the sacrifices these individuals have made to protect our way of life.

ADJOURNMENT

The Council of the City of San José adjourned at 3:20 p.m. in memory of William "Bill" Alfred Kindricks, beloved friend, mentor and community leader. (Kalra)

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/08-04-15MIN