



## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 8, 2016

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, 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 9:38 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 three (3) matters; (B) 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; (4) OE#3 v. City of San

## CLOSED SESSION (Cont'd.)

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; (5) ABMEI v. City, et al.; Names of Partie(s) Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No.: UPC SF CE 1358 M; Amount of Money or Other Relief Sought: Damages According to Proof; (6) 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; H040979; H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (7) 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. (8) 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. (9) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: City of San José, John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, 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; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) 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; (11) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s) Involved: The People of the State of California ex rel. San José Police Officers Association, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint In Quo Warranto; (12) San José Retired Employees Association, et al. v. City of San José, et al; Names of Partie(s) Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, 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 No: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (C) to Confer with Labor

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

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 11:40 p.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

## INVOCATION

Reverend Gerald Sakamoto read a translation of the Metta Sutta 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 Chappie Jones and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with notice that there would be a break during the meeting to engage in a Closed Session regarding labor negotiations. (10-0-1. Absent: Kalra.)

## CLOSED SESSION REPORT

No Report.

## CEREMONIAL ITEMS

### 1.1 Presentation of a proclamation recognizing March 2016 as “Women Veterans Month” in the City of San José. (Herrera)

Mayor Liccardo and Vice Mayor Rose Herrera presented a proclamation recognizing March 2016 as “Women Veterans Month” in the City of San José.

## CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Chappie Jones 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. 29690** – An Ordinance of the City of San José amending Title 20 (Zoning) of the San José Municipal Code to Amend Sections 20.100.220, 20.100.720 and 20.100.940 of Chapter 20.100. CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making that involves no changes in the physical environment. (Planning, Building and Code Enforcement)

## 2.2 Final Adoption of Ordinances. (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29690 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29690 was adopted. (11-0.)

- (b) **ORD. NO. 29691** – An Ordinance of the City of San José rezoning certain real property of approximately 0.16 acre, located on the East side of Almaden Avenue, approximately 80 feet North of Oak Street (890 Almaden Avenue), from the CN Commercial Neighborhood Zoning District to the R-2 Two-Family Residence Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), and Supplemental EIR (Resolution No. 77617). File No. C15-005. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29691 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29691 was adopted. (11-0.)

- (c) **ORD. NO. 29692** – An Ordinance of the City of San José rezoning certain real property of approximately 0.17 acre, located on the East Side of South Capitol Avenue, approximately 400 feet South of Alum Rock Avenue (56 South Capitol Avenue), from the CP Commercial Pedestrian Zoning District to the R-1-8 Single Family Residence Zoning District. CEQA: Determination of Consistency with Envision San José 2040 General Plan EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). File No. C15-050. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29692 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29692 was adopted. (11-0.)

- (d) **ORD. NO. 29693** – An Ordinance of the City of San José rezoning certain real property of approximately 0.72 acre situated approximately 230 feet North of East Santa Clara Street on the West Side of North 4<sup>th</sup> Street (49 North 4<sup>th</sup> Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District. CEQA: Addendum to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041). File No. C15-052. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29693 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29693 was adopted. (11-0.)

2.2 Final Adoption of Ordinances. (Cont'd.)

- (e) **ORD. NO. 29694** – An Ordinance of the City of San José rezoning certain real property of approximately 5.4 acres situated on the Southeast corner of San Ignacio Avenue and Great Oaks Boulevard (80 Great Oaks Boulevard) from the A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final EIR, (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). File No. C15-061. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29694 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29694 was adopted. (11-0.)

- (f) **ORD. NO. 29695** – An Ordinance of the City of San José rezoning certain real property of approximately 1.30 acres situated on the East Side of Sunol Street, approximately 120 feet North of West San Carlos Street (777 West San Carlos Street) from the CP Commercial Pedestrian and CIC Combined Industrial/Commercial Zoning Districts to the RM(PD) Planned Development Zoning District. File No. PDC 14-033. CEQA: Addendum to the Diridon Station Area Plan EIR (Resolution No. 77096). File No. PDC14-033. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29695 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29695 was adopted. (11-0.)

- (g) **ORD. NO. 29696** – An Ordinance of the City of San José rezoning certain real property of approximately 78.4 acres on the East Side of Perimeter Road, between Great Oaks Boulevard and Miyuki Drive, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. CEQA: Addendum to the Great Oaks Mixed Use Project Final EIR (Resolution No. 77219) and the Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617). File No. PDC15-059. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29696 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29696 was adopted. (11-0.)

**2.2 Final Adoption of Ordinances. (Cont'd.)**

- (h) **ORD. NO. 29697 – An Ordinance of the City of San José rezoning certain real property of approximately 7.68 gross acres situated on the Northwest corner of South Winchester Boulevard and Williams Road (881 South Winchester Boulevard) from the R-M Multi-Family Zoning District to R-M (PD) Planned Development Zoning District. CEQA: Reserve Residential Project Environmental Impact Report, File No. PDC14-040. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated March 3, 2016, providing revisions to the development standards for the subject rezoning. (2) Proof of Publication of the Title of Ordinance No. 29697 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29697 was adopted. (11-0.)

- (i) **ORD. NO. 29698 – An Ordinance of the City of San José rezoning certain real property of approximately 1.72 acres situated at the Northeast side of Stockton Avenue, approximately 300 feet North of West Santa Clara Street (106-120 and 138 Stockton Avenue) from the CG Commercial General Zoning District to the A(PD) Planned Development Zoning District. CEQA: Addendum to the Downtown Strategy 2000 Final EIR (Resolution No. 72767) and Diridon Station Area Plan Final EIR (Resolution No. 77096). File No. PDCE15-010. (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29698 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29698 was adopted. (11-0.)

- (j) **ORD. NO. 29699 – An Ordinance of the City of San José rezoning certain real property of approximately 0.86 gross acre situated on the East side of South Buena Vista Avenue, approximately 500 feet South of West San Carlos Street (368 & 388 South Buena Vista Avenue), from the R-M Multiple Residence Zoning District to the R-M(PD) Planned Development Zoning District. CEQA: 368 and 388 South Buena Vista Avenue Mitigated Negative Declaration. File No. PDC15-041. (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29699 executed on February 26, 2016, submitted by the City Clerk.

Action: Ordinance No. 29699 was adopted. (11-0.)

**2.3 Approval of Council Committee Minutes.**

- (a) **Rules and Open Government Committee Minutes of February 10, 2016. (Mayor)**
- (b) **Neighborhood Services and Education Committee Minutes of February 11, 2016. (Rocha)**
- (c) **Public Safety, Finance, and Strategic Support Committee Minutes of February 18, 2016. (Oliverio)**
- (d) **Community and Economic Development Committee Minutes of February 22, 2016. (Khamis)**

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

Documents Filed: (1) Rules and Open Government Committee Minutes dated February 10, 2016. (2) Neighborhood Services and Education Committee Minutes dated February 11, 2016. (3) Public Safety, Finance, and Strategic Support Committee Minutes dated February 18, 2016. (4) Community and Economic Development Committee Minutes dated February 22, 2016.

Action: The Council Committee Minutes were approved. (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 Approve two new five-year Lease Agreements with La Familia, LP for three office spaces located at 777 North First Street comprised of the following:**

- (a) **Suite 320: 945 rentable square feet of office space for the Child Interview Center at a cost of \$21,433 for the first year of the lease, \$22,076 for the second year, \$22,738 for the third year, \$23,421 for the fourth year, and \$24,127 for the fifth year, for a total of \$113,795 for the five-year lease term;**
- (b) **Suite 430: 560 rentable square feet of additional office space for the Police Professional Standards and Conduct Unit at a cost of \$12,432 for the first year of the lease, \$12,805 for the second year, \$13,190 for the third year, \$13,586 for the fourth year, and \$13,994 for the fifth year, for a total of \$66,007 for the five-year lease term; and**
- (c) **Suite 666: 3,553 rentable square feet of office space for the Police Professional Standards and Conduct Unit at a cost of \$78,877 for the first year of the lease, \$81,244 for the second year, \$83,682 for the third year, \$86,193 for the fourth year, and \$88,779 for the fifth year, for a total of \$418,775 for the five-year lease term.**



2.7 (Cont'd.)

**CEQA: Not a Project, File No. PP10-066(f), Lease of equipment or existing space for the same use that involve no physical changes to the environment. Council District 3. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated February 25, 2016, recommending approval of lease agreements.

Councilmember Johnny Khamis pulled Item 2.7 to inquire regarding other options, and Staff offered a response regarding the use of existing offices.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pierluigi Oliverio and carried unanimously, two new five-year Lease Agreements with La Familia, LP for three office spaces located at 777 North First Street, were approved. (11-0.)

2.8 **Approve the First Amendment to the Master Agreement with Cornerstone Earth Group, for environmental consulting services, increasing the amount of compensation by \$200,000, for a total agreement not to exceed \$550,000, with no extension on the term of the agreement, which expires on March 1, 2017. CEQA: Not a Project, File No. PP10-066(d), Agreements and Contracts for Consultant Services with no change in the physical environment. (Environmental Services)**

Documents Filed: Memorandum from Environmental Services Director Kerrie Romanow, dated February 24, 2016, recommending approval of a First Amendment to a Master Agreement.

Action: The First Amendment to the Master Agreement with Cornerstone Earth Group, for environmental consulting services, increasing the amount of compensation by \$200,000, for a total agreement not to exceed \$550,000, with related contingencies, was approved. (11-0.)

2.9 (a) **Approve the Cesar Chavez Day Flag Raising scheduled on March 30, 2016 as a 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 February 25, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Cesar Chavez 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.)

- 2.10 (a) Approve the Veggie Fest scheduled on April 9, 2016 as a 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 February 25, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Veggie Fest 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.)

- 2.10 As recommended by the Rules and Open Government Committee on February 24, 2016:

- (a) Approve the Jewish American Heritage Month Flag Raising and Reception scheduled on May 10, 2016 as a 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. (Herrera)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated February 25, 2016, transmitting the recommendations of the Rules and Open Government Committee.

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

## END OF CONSENT CALENDAR

### STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas heralded staff's diligent efforts in handling storm-related incidents over the weekend and indicated that the current infrastructure has held up under El Niño thus far.

**3.3 Potential Sales and Use Taxes Ballot Measures.**

- (a) Council discussion of community survey results for a potential revenue measure for the June 7, 2016, ballot including consideration of a general purpose one-quarter percent retail transactions and use (“sales tax”) measure.
- (b) Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on June 7, 2016, to submit to the electors of the City of San José the following measure:  
**San José Local City Services**

To fund city services such as: improving police response to violent crimes, burglaries, and other safety needs; improving 911/emergency medical/fire response times; repairing potholes and streets; maintaining parks; expanding gang prevention; and creating jobs through economic development, shall the City of San José enact a ¼ percent sales tax for 9 years, providing about \$40 million annually, requiring Independent Citizens Oversight with public review of spending, and all revenues controlled locally?	YES	
	NO	

- (1) Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the June 7, 2016, Voter’s Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;
- (2) Council discussion and consideration of whether to permit rebuttal arguments in the June 7, 2016, Voter’s Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;
- (3) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the June 7, 2016, Voter’s Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election;
- (b) (4) Direct the City Clerk to take all actions necessary to place this measure for a June 7, 2016, Special Municipal Election, if needed.
- (c) Adopt an ordinance amending Title 4 of the San José Municipal Code to add Chapter 4.60 to enact a transactions and use tax at the rate of 0.25% administered by the California Board of Equalization, subject to approval of a majority of the electors voting at the Special Municipal Election to be held on June 7, 2016.

**CEQA: Not a Project, CEQA Guidelines Section 15378(b)(4). (City Manager)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated March 7, 2016 providing recommendations regarding the potential sales and use tax ballot measure. (2) Joint memorandum from Councilmember Johnny Khamis, Councilmember Manh Nguyen and Councilmember Pierluigi Oliverio, dated March 3, 2016, providing recommendations

### 3.3 Potential Sales and Use Taxes Ballot Measures (Cont'd.)

Documents Filed (Cont'd.): regarding the tax ballot measure. (3) Memorandum from Councilmember Chappie Jones, dated March 8, 2016, offering support to Mayor Liccardo's recommendations. (4) Memorandum from City Manager Norberto Dueñas, dated February 26, 2016, recommending adoption of a resolution regarding the proposed tax ballot measure. (5) Supplemental memorandum from City Manager Norberto Dueñas, dated March 8, 2016, providing revised language for the tax ballot measure. (6) Three memoranda, each dated March 8, 2016, from San José Fire Fighters Local 230, San José Police Officers' Association and the San José Silicon Valley Chamber of Commerce, and one email offering support to the potential sales and use tax ballot measure. (7) Nine email messages dated February 6, 2016, offering opposition to additional taxation.

Deputy City Manager/Director of Economic Development Kim Walesh provided a presentation on the Potential Sales Tax Ballot Measure, and Director of Communications, David Vossbrink and Dave Metz representing Fairbank, Maslin, Maullin, Metz & Associates continued the discussion and provided the survey results from residents of the City of San José.

Public Comments: Offering support to the proposed ballot measure and Mayor Liccardo's memorandum, were: Pat Sausedo, NAIOP; Ben Field, South Bay Labor Council; Matt Mahood, San José Silicon Valley Chamber of Commerce; Carl Guardino, James Gonzales, and Paul Kelly. Expressing opposition and further recommendations, were: Rich Crowley, Citizens for Fiscal Responsibility; Jerry Mungai, Ray Perez (LRON); Mario Delgado, and Tanya Freudenberger (Youth Connections Foundation).

Mayor Sam Liccardo urged support of his memorandum dated March 7, 2016, to amend the City Manager's recommendation, development of a "Draft Proposed 2016 Sales Tax Spending Priorities List", and approval of a resolution. He asked that the sample ballot reflect amended language, "...maintaining the City's long-term ~~fiscal~~ financial stability".

Motion: Councilmember Johnny Khamis moved approval of the memorandum he coauthored with Councilmember Manh Nguyen and Councilmember Pierluigi Oliverio, dated March 3, 2016. Councilmember Pierluigi Oliverio seconded the motion.

*Note: The Council Meeting adjourned at 3:25 p.m. to an emergency Closed Session regarding Measure "B" litigation and labor negotiations. The Council resumed the meeting and Item 3.3 at 3:55 p.m.*

On a call for the question, the motion on the floor failed. (8-3. Noes: Carrasco, Herrera, Jones, Kalra, T. Nguyen, Peralez, Rocha; Liccardo.)

3.3 (Cont'd.)

Motion: Vice Mayor Rose Herrera moved approval of staff's recommendations as amended, including Mayor Sam Liccardo's memorandum dated March 7, 2016, and designating Mayor Sam Liccardo as the author of the ballot argument. Councilmember Raul Peralez seconded the motion.

Action: On a call for the question, the motion carried, and Resolution No. 77682, entitled: "A Resolution of the Council of the City of San José Calling and Giving Notice of, On its Own Motion, the Submission to the Electors of the City of San José, at a Special Municipal Election to be Held on June 7, 2016, a Ballot Measure Proposal to Impose a Retail Transactions and Use Tax"; and Ordinance No. 29704, entitled: "An Ordinance of the City of San José Amending Title 4 of the San José Municipal Code by Adding a New Chapter 4.60 Enacting a Retail Transactions and Use Tax, Administered by the State Board of Equalization, Subject to Approval of a Majority of the Electors Voting on the Tax Measure at the Special Municipal Election to be Held on Tuesday, June 7, 2016", were adopted, including Staff's recommendations, and supplemental memorandum dated March 8, 2016, as amended, revising language for a recommended sales and use tax ballot measure, and including Mayor Sam Liccardo's memorandum dated March 7, 2016, to (1) Amend the City Manager's recommendation calling and giving notice for a Special Municipal Election to be held on June 7, 2016 and to submit to the residents of the City of San José a one-quarter percent sales tax for 15 years; (2) to Direct the City Manager to develop a "Draft Proposed 2016 Sales Tax Spending Priorities List" focused on public safety, street repair and essential neighborhood services, to comply with the City Council and resident priorities. Such restorations should align generally with the 2011 Fiscal Reform Plan's goal to restore key services to January 1, 2011 levels, along with the Police Sworn Staffing Restoration Strategy. The City Manager should present those spending priorities to the Council as an option – conditioned on the passage of the measure – as part of the 2016-2017 Proposed Operating Budget; (3) Approve a Resolution authorizing the City clerk to include the full text of the proposed ordinance and rebuttal arguments in the June 7, 2016, Voter's Sample Ballot, pursuant to Election Code 12111 and 9285.

To fund essential City services such as: improving police response to reduce violent crimes and burglaries; improving 911/emergency medical/fire response times; repairing potholes and streets; expanding gang prevention; and maintaining the City's long-term fiscal <b>financial</b> stability, shall the City of San José enact a .25% percent sales tax for 15 years, providing about \$40 million annually, requiring Independent Citizens Oversight with public review of spending, and all revenues controlled locally?	YES	
	NO	

Mayor Sam Liccardo was designated as the author of the ballot argument. (9-2. Noes: Khamis, Oliverio.)

**3.4 Consider the preliminary analysis of the citizen-initiated Gross Receipts Tax Ballot Measure and preliminary review and discussion of the City options for updating the current Business Tax. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City Actions. (Economic Development)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated March 7, 2016, providing recommendations regarding Business Tax Modernization. (2) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Director of Finance Julia H. Cooper, dated February 26, 2016, offering consideration of the preliminary analysis of the Gross Receipts Tax Ballot Measure. (3) Supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated March 3, 2016, providing additional background regarding the City's polling efforts. (4) Letter from Scott Myers-Lipton, dated March 8, 2016, providing observations regarding the proposal.

Deputy City Manager/Director of Economic Development Kim Walesh, Director of Finance Julia H. Cooper provided an overview, and representatives from Keyser Marsten submitted an impacts assessment of the proposed Measure.

Public Comment: Offering comments regarding the proposed Business Tax Modernization Measure were: Scott Knies, San José Downtown Association; Rob Means, SCC Democratic Club; Pat Sausedo (NAIOP); Carl Guardino and Peter Leroe-Muñoz, Silicon Valley Leadership Group; Ben Field, South Bay Labor Council; Walter Hudson and Marci Gerston, PACT; Mark Hinkle and Scott Myers-Lipton.

Motion: Vice Mayor Rose Herrera moved approval of Mayor Sam Liccardo's memorandum dated March 7, 2016, with additional direction as indicated below in "Action". The motion was seconded by Councilmember Donald Rocha.

Action: On a call for the question, the motion carried, and Mayor Sam Liccardo's memorandum dated March 7, 2016 was accepted, with direction (1) to the City Manager to draft revisions to the City's current Business License Tax (Municipal Code Section 4.76.300), for Council consideration, with the goal of modernizing the existing tax and meet the following objectives: (a) Protect smallest businesses; (i) Ensure that the increase in the base rate for the smallest businesses does not exceed the equivalent of a 1 percent annual increase since 1986 (the last date on which the tax was revised); (ii) Make the existing tax structure more progressive, ensuring that larger businesses pay modestly more per employee than smaller ones; (b) Double the annual revenues from the tax in a manner which does not unduly influence business location decisions; (c) Expand the current maximum per-firm caps; (d) Include a Cost-of-Living Adjustment (COLA) to prevent erosion of revenue and City services over time; (e) Simplify compliance for taxpayers and administration for the City. Work with City Manager's Innovation Cabinet to create a system that ensures that businesses can obtain their licenses on-line; additionally (2) and Direct the City Manager to engage the business community and other stakeholders in the process of reviewing the proposed revisions.

*(Item Continued on the next page)*

### 3.4 (Cont'd.)

Action: (Cont'd.): With direction to Staff to return to Council mid to late June to discuss parameters of the plan which reflects the Mayor's memorandum, as well as staff proposed alternatives regarding the Business Tax to Consumer Price Index (CPI) and reviewing a more simplistic model in determining employee count.

Including direction for the Cities Association to explore the issue of sole proprietorship across the City's boundaries, so sole proprietors will not be required to have a business license tax in each city. (10-1. Noes: Oliverio.)

### 3.5 As recommended by the Public Safety, Finance and Strategic Support Committee on February 18, 2016:

- (a) **Accept the following Second Quarter (period ending December 31, 2015) Financial Reports for Fiscal Year 2015-2016 for the following programs:**
- (1) **Debt Management Program;**
  - (2) **Investment Management Program; and**
  - (3) **Revenue Collection Program.**
- (b) **Adopt a resolution authorizing the Director of Finance to write off uncollectible debts in an amount up to \$1,126,625.98.**

**CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approval of City Actions. (Finance)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated February 26, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Donald Rocha and carried unanimously, the Second Quarter (period ending December 31, 2015) Financial Reports for Fiscal Year 2015-2016 was accepted, and Resolution No. 77683, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Write Off Uncollectible Accounts", was adopted. (10-0-1. Absent: Oliverio.)

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 **Adopt a resolution approving a City Council Policy for disposing of surplus property that includes provisions relating to affordable housing. CEQA: Not a Project, File No. PP10-068(c), Code or Policy change that involve no changes in the physical environment. (Economic Development/Housing) (Deferred from 2/2/16 – Item 4.1 and 3/1/16 – Item 4.1)**

Action: Deferred to March 22, 2016 per Administration.

## NEIGHBORHOOD SERVICES

- 5.1 As recommended by the Public Safety, Finance and Strategic Support Committee on February 18, 2016, adopt a resolution establishing a City Council Policy for the removal of shrines or memorials as proposed by the Mayor's Gang Prevention Task Force. CEQA: Exempt, Section 15301 (d) Existing Facilities, File No. PP16-010, Removal of shrines and memorials that present a safety hazard. (Parks, Recreation and Neighborhood Services/Transportation)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated February 26, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Interim Deputy Director, Diane Milowicki, offered a presentation and responded to questions.

Vice Mayor Rose Herrera asked that this item be brought to the Community Engagement Subcommittee for further study.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Raul Peralez and carried unanimously, the report on Measuring San José's Financial Condition was accepted, and Resolution No. 77684, entitled: "A Resolution of the Council of the City of San José Approving a New Council Policy No. 9-15, Entitled "Removal of Shrines or Memorials", was adopted. (10-0-1. Absent: Oliverio.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Report on bids, and award of a contract for the Airport Federal Inspection Services Improvement Project to the lowest responsible and responsive bidder and a contingency in the amount of fifteen percent of the contract amount.**
- (b) Adopt a resolution authorizing the Director of Public Works to issue any single and/or multiple change orders up to the amount of the contingency.**

**CEQA: Determination of Consistency with the City of San José International Airport Master Plan Final EIR and Addenda thereto (Resolution Nos. 67380 and 71451), File Nos. PP15-053, PP15-122, and PP16-005. (Public Works/Airport) (City Council referral from 2/23/16 – Item 2.16)**

Action: Deferred to March 15, 2016 per Administration.



## REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) Approval by the City Council of an Agreement with Grant Thornton LLP to perform annual financial and compliance audit services for fiscal years ending June 30, 2016, 2017, 2018, 2019, and 2020 with two one-year extension options for fiscal years ended June 30, 2021 and 2022, with annual compensation not to exceed \$544,160 in years one and two and with annual increased adjusted by 2.5 percent in years three through seven, for a total amount not to exceed \$4,020,111 for a potential seven year term subject to annual appropriation of funds by the City Council.
- (b) Approval by the Board of the Successor Agency to the Redevelopment Agency of an Agreement with Grant Thornton LLP to perform annual financial and compliance audit services for fiscal years ending June 30, 2016, 2017, 2018, 2019, and 2020 with two one-year extension options for fiscal years ended June 30, 2021 and 2022, with annual compensation not to exceed \$46,930 in years one and two and with annual increased adjusted by 2.5 percent in years three through seven, for a total amount not to exceed \$346,706 for a potential seven year term subject to annual appropriation of funds by the Board of the Successor Agency.

**CEQA: Not a Project, File No. PP10-066(a), Agreement and Contracts for professional services with no changes in the physical environment. (City Auditor)**

Action: Deferred to March 15, 2016 per Administration.

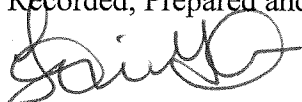
## OPEN FORUM

Regina Moreno spoke on the plight of victims of domestic violence and the housing crisis in Silicon Valley.

## ADJOURNMENT

The Council of the City of San José adjourned at 6:45 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

rmk/3-8-16MIN