



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 2, 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, Jones, Herrera, 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 9:30 p.m. to a Closed Session in Room W133; (A) to confer with Legal Counsel pursuant to subsection (c) of Section 54956.9 of the Government Code with respect to anticipated litigation in one (1) matter; (B) to confer with Legal Counsel pursuant to subsection (b) of Section 54956.9 of the Government Code with respect to anticipated litigation (Claim Not Filed) in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (Hernandez, Juan, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Juan Hernandez, Nathan Velasquez, Frank Velasquez, Rachel Casey, Mark Doering, Mary Doering, Barbara Arigoni, Dustin Haines-Scrodin, Andrew Zambetti, Christina Wong, Craig Parsons, I.P. (minor), Grey Hyver, Todd Broome, Sam Liccardo, Edgardo Garcia, Anthony Yi, H.A. (minor), S.M. (minor); Court: United States District Court, Northern District of California, San José Division; Case No.: 5:16-CV-03957 LHK; Amount of Money or Other Relief Sought: Damages according to proof; (2) Anderson, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Sarah Anderson, Joana Cruz,

CLOSED SESSION (Cont'd.)

Urban Habitat Program, Housing California, City of San José, San Jose City Council, Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 16-CV-297950; Amount of Money or Other Relief Sought: Writ of Mandate and Complaint for Declaratory and Injunctive Relief; (3) Sharks Sports & Entertainment LLC v. City of San José, et al.; Names Of Partie(s) Involved: Sharks Sports & Entertainment LLC, City of San José, San Jose City Council, and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No.: 16-CV-296834; 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; (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) 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; (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; H040979; H042074; 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: 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

CLOSED SESSION (Cont'd.)

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; (14) People of the State of California, et al. v. City of San José, et al.; Names of Parties 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; (15) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court; Names Of Parties Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, a California non-profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, the People of the State of California ex. Rel. San José Police Officers Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No.: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or, In the Alternative, Supersedeas, or Other Appropriate Relief; (16) San José Retired Employees Association, et al. v. City of San José, et al; Names of Parties 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; (D) 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

CLOSED SESSION (Cont'd.)

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 11:42 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

INVOCATION

Victoria McDowell sang the National Anthem for the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Councilmember Tam Nguyen, seconded by Vice Mayor Rose Herrera and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 2.9 pulled from the Consent Calendar and to be heard after 3:30 p.m. (11-0.)

CEREMONIAL ITEMS

None provided.

CONSENT CALENDAR

Upon motion by Councilmember Pierluigi Oliverio, 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. 29765** – An ordinance of the City of San José amending Section 12.06.040 of Chapter 12.06 of Title 12 of the San José Municipal Code to align the definition of “Committee” with the California Fair Political Practices Commission definition. CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making, Municipal Code or Policy, Title 12.

Documents Filed: Proof of Publication of the Title of Ordinance No. 29765 executed on July 5, 2016, submitted by the City Clerk.

Action: Ordinance No. 29765 was adopted. (11-0.)

- (b) **ORD. NO. 29768** – An ordinance of the City of San José rezoning certain real property of approximately 7.23-gross acres located at the easterly terminus of Quinn Avenue (689-699 Quinn Avenue and 2269 Will Wool Drive) from the A(PD) Planned Development Zoning District to the LI Light Industrial Zoning District. CEQA: Determination of Consistency with the Envision 2040 FEIR, adopted by City Council Resolution 76041 on November 1, 2011; and, the Envision San José Final Supplemental EIR adopted by City Council Resolution No. 77617 on December 15, 2015. (Planning, Building and Code Enforcement)
C16-021

Documents Filed: Proof of Publication of the Title of Ordinance No. 29768 executed on July 5, 2016, submitted by the City Clerk.

Action: Ordinance No. 29768 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

None provided.

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 a resolution revising the regulation and procedures of the San José Ethics Commission, and repealing Council Resolution No. 76954, which sets forth the current regulations and procedures for the San José Ethics Commission's investigations and hearings. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (City Attorney)
(Deferred from 6/21/16 – Item 2.10 and 6/28/16 – Item 2.7)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 14, 2016, recommending adoption of a resolution.

Action: Resolution No. 77879, entitled: "A Resolution of the Council of the City of San José Amending Regulations and Procedures for the San Jose Ethics Commission Investigations and Hearings and Repealing Resolution No. 76954", was adopted. (11-0.)

2.8 Approve the First Amendments to the Concession Agreement and the Lease Agreement between the City of San José and ALCLEAR, LLC for expedited security screening services, to extend each term for three years to expire on October 21, 2019, with combined annual revenue to the City in the amount of \$296,027. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts, Services that involve no physical changes to the environment. (Airport)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated July 18, 2016, recommending approval of first amendments to concession and lease agreements.

Public Comments: Anjali Ashtaputre offered comments regarding renewal of the lease. Councilmember Raul Peralez offered comments and offered to discuss her concerns off line.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, the First Amendments to the Concession Agreement and the Lease Agreement between the City of San José and ALCLEAR, LLC for expedited security screening services, to extend each term for three years to expire on October 21, 2019, with combined annual revenue to the City in the amount of \$296,027, were approved.

2.9 Adopt a resolution declaring the results of the June 7, 2016 Municipal Election pursuant to Elections Code Section 15400. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)

Heard after 3:30 p.m. per Orders of the Day.

Documents Filed: (1) Memorandum from Councilmember Manh Nguyen, dated August 2, 2016, recommending deferral of certification of the election results. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated July 15, 2016, regarding certification of the results of the Primary and Special Municipal Elections held June 7, 2016. (3) Email correspondence from James Rider, District 4 resident, asking that no extension in certification of election results be allowed.

City Attorney Richard Doyle provided background on the Municipal Election.

Public Comments: Ty Greaves, Quyen Vuong, and Bradley Hertz, Esq. (representing Councilmember Manh Nguyen) urged extension of the election certification results. Lan Diep, candidate for the District 4 Council seat, indicated most recent Registrar of Voter results indicate the recount is complete, and asked that results be certified.

City Attorney Richard Doyle indicated that he has verified with the Registrar of Voters that the recount is complete, and Lan Diep has been declared the elected candidate by 12 votes. City Clerk Toni J. Taber, CMC concurred that the recount is official.

Council discussion continued, and Quyen Vuong and Bradley Hertz, Esq. came forward to respond to questions from Council.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Donald Rocha, and carried, Resolution No. 77880, entitled: "A Resolution of the Council of the City of San José Reciting that a Regular Municipal Election and Special Municipal Election was Held in the City of San José on Tuesday, June 7, 2016; Stating the Offices to be Filled at the Election, and Confirming the Passage of Measure B and the Defeat of Measure C; 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 Offices Voted for, the Number of Votes Given at Each Precinct to Each Person and the Measures; and Finding and Declaring Who Received the Highest Number of Votes of the Votes Cast and that Measure B Received a Majority of the Votes Cast", was adopted. (9-2. Noes: M. Nguyen, T. Nguyen.)

2.10 Adopt resolutions:

- (a) Authorizing the City Manager to execute agreements with the State Board of Equalization and any other documents, as necessary, for implementation of the City's Transactions and Use Tax;**
- (b) Authorizing the Director of Finance to negotiate and execute an amendment to the Agreement with MuniServices, LLC for Sales and Use Tax Audit Services to add Transactions and Use Tax audit services at no additional cost to the City; and**

2.10 (Cont'd.)

- (c) **Authorizing MuniServices, LLC and the City Manager, City Auditor, Budget Director, and Director of Finance as well as other City officials and employees designated in writing by the City Manager to examine all Transactions and Use Tax records of the State Board of Equalization for tax collection purposes and other governmental functions.**

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

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated July 20, 2016, recommending adoption of resolutions.

Action: Resolution No. 77881, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Agreements with the State Board of Equalization for Implementation of a Local Transactions and Use Tax; Resolution No. 77882, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute an Amendment to the Agreement with MuniServices, LLC for Services Related to Sales and Use Tax Audit Services to Add Transactions and Use Tax Audit Services at No Additional Cost to the City"; and Resolution No. 77883, entitled: "A Resolution of the Council of the City of San José Authorizing the Examination of Transactions (Sales) and Use Tax Records of the California State Board of Equalization for Tax Collection Purposes and Other Governmental Functions", were adopted. (11-0.)

- 2.11 Retroactively approve travel by the Independent Police Auditor Walter Katz to Philadelphia, Pennsylvania on July 25, 2016 to participate as a panelist during the 20/20 Leaders of America's "Justice Forum." Source of Funds: Independent Police Auditor's Travel Funds. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Independent Police Auditor)**

Documents Filed: Memorandum from Independent Police Auditor Walter W. Katz, dated July 20, 2016, requesting approval to travel on City authorized business.

Action: The travel request was approved. (11-0.)

- 2.12 Approve the Second Amendment to the Agreement for Consultant Services with Moore, Iacofano, Goltsman, Inc. to increase the total contract amount from \$750,000 to \$1,500,000, and to extend the term of the agreement from June 30, 2017 to June 30, 2019, which will allow continued comprehensive planning support for various Parks, Recreation and Neighborhood Services Department capital improvement projects including, but not limited to, community centers, parks, trails, and other recreational facilities. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Parks, Recreation and Neighborhood Services)**

Documents Filed: City Council Action Request from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated August 2, 2016, recommending approval of an Amendment to an Agreement for consultant services.

2.12 (Cont'd.)

Action: The Second Amendment to the Agreement for Consultant Services with Moore, Iacofano, Goltsman, Inc. to increase the total contract amount from \$750,000 to \$1,500,000, and to extend the term of the agreement from June 30, 2017 to June 30, 2019, which will allow continued comprehensive planning support for various Parks, Recreation and Neighborhood Services Department capital improvement projects including, but not limited to, community centers, parks, trails, and other recreational facilities, was approved. (11-0.)

2.13 Approve the submittal of a resolution for consideration at the Annual League of California Cities Conference recommending support of Vision Zero programs, policies and initiatives that prioritize transportation safety. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Transportation)

Documents Filed: Memorandum from Director of Transportation Jim Ortbal, dated July 21, 2016, recommending approval of submittal of a resolution.

Vice Mayor Rose Herrera pulled Item 2.13 to offer support and to indicate her own participation in the conference.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Pierluigi Oliverio and carried unanimously, the submittal of a resolution for consideration at the Annual League of California Cities Conference recommending support of Vision Zero programs, policies and initiatives that prioritize transportation safety, was approved. (11-0.)

2.14 As recommended by the Rules and Open Government Committee on July 27, 2016:
(a) Approve the Indian Flag Raising Ceremony scheduled for August 12, 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 July 29, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Indian Flag Raising Ceremony 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.)

2.15 As recommended by the Rules and Open Government Committee on July 27, 2016:
(a) Approve Campton Chase Neighborhood Beautification Day scheduled for August 13, 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.

2.15 (Cont'd.)

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Khamis)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated July 29, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Campton Chase Neighborhood Beautification Day 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.)

2.16 As recommended by the Rules and Open Government Committee on July 27, 2016:

- (a) Approve the District 6 City Council Candidates Forum tentatively scheduled for September 14, September 26 and October 17, 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. (Oliverio)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated July 29, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 6 City Council Candidates Forum 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.)

2.17 As recommended by the Rules and Open Government Committee on July 27, 2016:

- (a) Approve the Jazz in the Park scheduled for September 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. (Oliverio)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated July 29, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: Jazz in the Park 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

3.2 Labor Negotiations Update.

None provided.

3.3 Potential Business Tax Modernization Measure

- (a) Council discussion and consideration of City options for updating and modernizing the current Business Tax for the November 8, 2016, general election.
- (b) If Council wishes to proceed, adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 8, 2016, to submit to the electors of the City of San José the following measure:

San José Business Tax Modernization

Shall an ordinance be adopted to modernize the 1986 San José business tax to fund essential city services such as police patrols, 911 emergency response, street repair, and parks maintenance by increasing tax rates, including base tax from \$150 to \$195, adding an inflation adjustment, raising caps, exempting certain small businesses, and expanding financial hardship exemption, providing approximately \$13 million added annual revenue, subject to existing independent financial audits?	YES	
	NO	

- (c) Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 8, 2016, Voter’s Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;
- (d) Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure in the November 8, 2016, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;

Items (b), (c) and (d) deferred to 8/9/16.

- (e) 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 November 8, 2016, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and
- (f) Direct the City Clerk to take all actions necessary to place this measure for a November 8, 2016, Special Municipal Election, if needed.

CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Finance/Economic Development)

3.3 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated August 1, 2016, recommending approval of staff recommendations with additional direction. (2) Memorandum from Councilmember Donald Rocha, dated July 29, 2016, recommending approval of staff recommendations with additional direction. (3) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh and Director of Finance Julia H. Cooper, dated July 20, 2016 offering consideration of City options for updating the current Business Tax. (4) Supplemental memorandum from Director of Communications, David Vossbrink, dated July 27, 2016, transmitting results of a public opinion survey.

Director of Finance Julia H. Cooper and Deputy City Manager/Director of Economic Development Kim Walesh provided a presentation on modernizing the business tax. David Metz, representing Fairbank, Maslin, Maullin, Metz & Associates, presented results of the public survey conducted in July 2016.

Public Comments: Scott Knies offered support to the proposed measure, and Ray Perez (L.R.O.N. journalist) pointed out the effect this may have on small businesses.

Motion: Councilmember Chappie Jones moved approval of staffs' recommendations, including direction as outlined in Mayor Sam Liccardo's memorandum dated August 1, 2016, and with recommendation (b) as outlined in Councilmember Donald Rocha's memorandum dated July 29, 2016.

City Attorney Richard Doyle offered suggestions regarding deferral of Items B, C, D and E. Vice Mayor Rose Herrera requested to amend the motion on the floor to add additional direction included returning in one year to review the possibility of raising the exemption level and to include City Attorney Richard Doyle's recommendations regarding deferral as indicated below in "Action". Councilmember Chappie Jones agreed to the amendment to the motion.

Council discussion followed.

Action: On a call for the question, the motion carried unanimously, and recommendation A, F, and G from the Mayor's memo was approved, approving staff recommendations for updating and modernizing the Business Tax, including the Policy Alternative outlining the Residential Unit Tax Rate and Employee Rate modifications, as suggested by Councilmember Rocha, with the following addition: mandate that the City authorize on-line registration and payment of business license tax; directing the City Manager to develop an educational campaign for those affected by this measure; and if the voters approve the measure on November 8, 2016, direct the City Manager to report to the Community and Economic Development Committee in December 2016 with implementation beginning in January 2017. Additional direction included returning in one year to review the possibility of raising the exemption level, and to further engage with the business community to discuss ideas for shared spending proposals. Items B, C, D, and E of the Mayor's memo was deferred to August 9, 2016 Council meeting. (11-0.)

3.4 Proposed Ballot Measure – Alternative Pension Reform Act

- (a) Council discussion and consideration of the Alternative Pension Reform Act ballot measure agreed to by the City and its bargaining units for the November 8, 2016, general election;
- (b) If the Council wishes to proceed, adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 8, 2016, to submit to the electors of the City of San José, the following measure:

Alternative Pension Reform Act

<i>Language pending</i>	YES	
	NO	

- (c) Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 8, 2016, Voter’s Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;
- (d) Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure in the November 8, 2016, Voter’s Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;
- (e) 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 November 8, 2016, Voter’s Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and
- (f) Direct the City Clerk to take all actions necessary to place this measure for a November 8, 2016, Special Municipal Election, if needed.

CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (City Manager)

Documents Filed: (1) Memorandum from City Manager Norberto Dueñas, dated July 22, 2016, recommending actions regarding the proposed ballot measure. (2) Supplemental memorandum from City Manager Norberto Dueñas, dated August 1, 2016, providing a recommendation regarding deferral of this item on the Council Agenda. (3) Letter from Scott Myers-Lipton, dated August 1, 2016, in support of Mayor Sam Liccardo and Councilmember Donald Rocha’s memoranda regarding putting an alternative model of the Pension Reform Act on the ballot.

3.4 (Cont'd.)

City Attorney Richard Doyle offered clarification on the Administration's recommendations to defer this item.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Chappie Jones and carried unanimously, actions related to the Proposed Ballot Measure – Alternative Pension Reform Act were deferred to August 9, 2016. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Adopt a resolution authorizing the City Manager to negotiate and execute a Reimbursable Services Agreement and a Memorandum of Understanding with U.S. Customs and Border Protection to provide additional customs services commencing on September 1, 2016, until terminated by either party, at an amount not to exceed \$1,100,000 in first-year compensation and subject to annual appropriation thereafter. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts, Services that involve no physical changes to the environment. (Airport)**

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated July 19, 2016, recommending adoption of a resolution.

Director of Aviation Services Kimberly J. Becker responded to questions from Council.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 77885, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Reimbursable Services Agreement and a Memorandum of Understanding with U.S. Customs and Border Protection in an Amount Not to Exceed \$1,100,000 in Compensation for the First Year, Subject to Annual Appropriation Thereafter", was adopted. (11-0.)

- 6.2 Approve a First Amendment to the On Demand Ground Transportation Management Agreement with Taxi San Jose, Inc. at the Norman Mineta San José International Airport to extend the period for collection of monthly trip fees by Taxi San Jose and delay the implementation of per trip fees until January 1, 2017. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)**

Documents Filed: (1) Memorandum from Director of Aviation Services Kimberly J. Becker, dated July 26, 2016, recommending approval of a First Amendment to an Agreement. (2) Addendum from Director of Aviation Services Kimberly J. Becker, dated July 26, 2016, requesting approval to maintain the current taxi driver trip fee structure until fees can be properly analyzed. (3) Email correspondence from Mark Resurreccion, Taxi San Jose Manager, dated July 11, 2016, providing June 2016 Monthly Trip Reports.

6.2 (Cont'd.)

Public Comments: Urging suspension of recovery fees and opining the plight of the taxi industry, were Saiid, Shakur Bunri, Larry Zilen, Omar Tawakali and Salan Bunri.

Director of Aviation Services Kimberly J. Becker responded to questions from Council.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Manh Nguyen and carried unanimously, the First Amendment to the On Demand Ground Transportation Management Agreement with Taxi San Jose, Inc. at the Norman Mineta San José International Airport to extend the period for collection of monthly trip fees by Taxi San Jose and delay the implementation of per trip fees until January 1, 2017, was approved. (11-0.)

- 6.3 (a) **Reject all bids opened on July 14, 2016 for the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology project.**
- (b) **Adopt a resolution authorizing the Director of Public Works to:**
- (1) **Determine the lowest responsive and responsible bidder, decide any bid protests, and award the construction contract for the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology Re-Bid project in an amount not to exceed \$1,500,000, contingent on the award and execution of an Airport Improvement Program grant from the Federal Aviation Administration of a minimum \$1,612,000 and the appropriation of sufficient funds;**
 - (2) **Establish a construction contingency of fifteen percent of the amount of the construction contract for the project if the Director awards a contract;**
 - (3) **Issue any change orders up to the amount of the contingency if the Director awards a construction contract for the project.**
- (c) **Adopt a resolution making findings that specifying specific companies and product by brand or trade name in the bid specifications for this Project is necessary for the following specific elements of this project to match other products in use at the Airport: (i) Fire Alarm and Sprinkler Controls; (ii) Door Security Access Controls; (iii) Security Cameras; and (iv) Intercom/Public Address/Paging.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP16-047. (Airport/Public Works)

Documents Filed: Joint memorandum from Director of Public Works Barry Ng and Director of Aviation Services Kimberly J. Becker, dated July 26, 2016, requesting adoption of resolutions.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Donald Rocha and carried unanimously, all bids opened on July 14, 2016 for the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology project, were rejected, and Resolution No. 77886, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to do the Following: (1) Determine the Lowest Responsive and Responsible Bidder, Decide Any Bid Protests, and Award the Construction

6.3 (Cont'd.)

Contract for the 8255-Mineta San Jose International Airport-Terminal B Exit Lane Technology Re-Bid Project in an Amount Not to Exceed \$1,500,000, Subject to Certain Conditions; (2) Establish a Construction Contingency of 15% of the Contract Amount if a Contract is Awarded, and (3) Issue Change Orders up to the Amount of the Contingency”; and Resolution No. 77887, entitled: “A Resolution of the Council of the City of San José Making Findings that Specifying Specific Companies and Products by Brand or Trade Name is Necessary in the Bid Specifications for the 8255-Mineta San Jose International Airport Terminal B Exit Lane Technology Re-Bid Project”, were adopted. (11-0.)

- 6.4 (a) Reject all bids opened on July 14, 2016 for 8173 – Norman Y. Mineta San José International Airport – Perimeter Security Technology Infrastructure.**
- (b) Adopt a resolution authorizing the Director of Public Works to:**
- (1) Determine the lowest responsive and responsible bidder, decide any bid protests, and award the construction contract for the 8173 – Norman Y. Mineta San José International Airport – Perimeter Security Technology Infrastructure Re-Bid project in an amount no to exceed \$8,110,000, contingent on the award and execution of an Airport Improvement Program grant from the Federal Aviation Administration of a minimum amount of at least \$6,000,000 and the appropriation of sufficient funds;**
 - (2) Establish a construction contingency of fifteen percent (15%) of the amount of the construction contract for the project if the Director awards a contract; and**
 - (3) Issue any change orders up to the amount of the contingency if the Director awards a construction contract for the project.**
- (c) Adopt a resolution making findings that identify specific companies and product by brand or trade name in the bid specifications for this Project is necessary for the following specific elements of this project to match other products in use at the Airport: Security Access Controls. Resolution No. 77889 adopted.**
- (d) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the Airport Capital Improvement Fund:**
- (1) Increase the Perimeter Security Technology Infrastructure appropriation to the Airport Department in the amount of \$6,450,000; and**
 - (2) Increase the estimate for Earned Revenue from Federal Government to the Airport Department in the amount of \$6,450,000.**
- (e) Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Airport Renewal and Replacement Fund:**
- (1) Establish a Perimeter Security Technology Infrastructure appropriation to the Airport Department in the amount of \$1,549,000; and**
 - (2) Decrease the Unrestricted Ending Fund Balance by \$1,549,000.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP15-053. (Airport/Public Works/City Manager)

6.4 (Cont'd.)

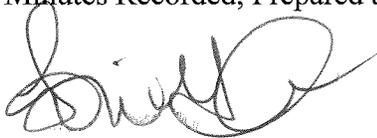
Documents Filed: Joint memorandum from Director of Public Works Barry Ng, Director of Aviation Services Kimberly J. Becker, and Senior Deputy City Manager Jennifer Maguire, dated July 26, 2016, requesting adoption of resolutions.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen and carried unanimously, all bids opened on July 14, 2016 for the 8255 – Mineta San José International Airport – Perimeter Security Technology Infrastructure project, were rejected, and Resolution No. 77888, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to do the Following: (1) Determine the Lowest Responsive and Responsible Bidder, Decide Any Bid Protests, and Award the Construction Contract for the 8173 – Norman Y. Mineta San José International Airport – Perimeter Security Technology Infrastructure Re-Bid project in an Amount Not to Exceed \$8,110,000, Subject to Certain Conditions; (2) Establish a Construction Contingency of 15% of the Contract Amount if a Contract is Awarded, and (3) Issue Change Orders up to the Amount of the Contingency”; and Resolution No. 77889, entitled: “A Resolution of the Council of the City of San José Making Findings that Specifying Specific Companies and Products by Brand or Trade Name is Necessary in the Bid Specifications for the 8173 – Norman Y. Mineta San José International Airport – Perimeter Security Technology Infrastructure Re-Bid project”; Resolution No. 77890, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the Airport Capital Improvement Fund”; Ordinance No. 29769, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Airport Capital Improvement Fund for Perimeter Security Technology Infrastructure; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Ordinance No. 29770, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Monies in the Airport Renewal and Replacement Fund for Perimeter Security Technology Infrastructure; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

ADJOURNMENT

The Council of the City of San José adjourned at 4:43 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/08-02-16 MIN