



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 30, 2016

The Council of the City of San José convened in Regular Session at 9:35 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 9:40 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 two (2) matters; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: Claim of Palma; Amount of Money or Other Relief Sought: Administrative Appeal; (2) Lam v. City of San José, et al.; Names Of Partie(s) Involved: Hung Lam, individually, through his next friend Kathy Lam; City of San José, Larry Esquivel and Dondi West; Court: United States District Court, Northern District of California, San José Division; Case No.: 14-CV-00877 PSG; Amount of Money or Other Relief Sought: Damages according to proof; (3) Haug, et al. v. Taber, et al.; Names Of Partie(s) Involved: Steve Haug, Mark Hinkle, Toni Taber, City of San José, Shannon Bushey, Santa Clara County Registrar of Voters, City Council of the City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 16CV2-98602;

CLOSED SESSION (Cont'd.)

Amount of Money or Other Relief Sought: Petition for Writ of Mandate; (4) 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; (5) 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; (6) 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; (7) 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; (8) 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; (9) 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; (10) 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. (11) 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. (12) 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. (13) 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:

CLOSED SESSION (Cont'd.)

Challenge to Measure B. (14) 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; (15) 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; (16) 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; (17) 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; (C) to Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: (1) Property Street Address, Parcel Number or Other Unique Reference of Property: Francia Property, 525 Wet St. John Street; Negotiation Parties: Martin Chiechi – Seller Representative; Nanci Klein and Bill Ekern for the City; Under Negotiation: the Direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (2) Property Street Address, Parcel Number or Other Unique Reference of Property: Milligan News Property, 130 & 150 Autumn Street and 405, 407 and 447 Wet St. John; Negotiation Parties: John Machado – Seller Representative; Under Negotiation: the Direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values; (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

CLOSED SESSION (Cont'd.)

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 a.m. and reconvened to Regular Session at 1:30 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

Venerable Thich Phap Luan, Di Lac Temple, offered a Buddhist prayer for peace and harmony for the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Raul Peralez and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of minutes:

None provided

2.2 Final Adoption of Ordinances.

- (a) **ORD. NO. 29780** – An ordinance of the City of San José rezoning certain real property of approximately 2.88 acres situated on the southerly side of Phelan Avenue, approximately 650 feet westerly of Senter Road (500-506 Phelan Avenue), from the LI Light Industrial Zoning District to the HI Heavy Industrial Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)
C16-025 – District 7

Documents Filed: Proof of Publication of the Title of Ordinance No. 29780 executed on August 19, 2016, submitted by the City Clerk.

Action: Ordinance No. 29780 was adopted. (11-0.)

- (b) **ORD. NO. 29782** – An ordinance of the City of San José rezoning certain real property of approximately 28 gross acres situated on the northeast corner of North Ninth Street and East Santa Clara Street (389 East Santa Clara Street) from the R-M Multiple Residence and CG Commercial General Zoning District to the PQP Public/Quasi-Public Zoning District. CEQA: Our Lady La Vang Church and Multi-Purpose Building Mitigated Negative Declaration (C14-061). (Planning, Building and Code Enforcement)
C14-061 – District 3

Documents Filed: Proof of Publication of the Title of Ordinance No. 29782 executed on August 19, 2016, submitted by the City Clerk.

Action: Ordinance No. 29782 was adopted. (11-0.)

2.2 (Cont'd.)

- (c) **ORD. NO. 29783 – An ordinance of the City of San José rezoning certain real property of approximately 3.5 gross acres bounded by South Second Street, East William Street, South Third Street, and East Reed Street (596 South Second Street), from the CG Commercial General and R-M Multiple-Residence Zoning Districts to the DC(PD) Planned Development Zoning District. CEQA: Addendum to the Final Program Environmental Impact Report for The Downtown Strategy 2000 (Resolution No. 77267), and The Final Program Environmental Impact Report for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San José 2040 Final Supplemental Environmental Impact Report (Resolution No. 77617). (Planning, Building and Code Enforcement)**
PDC15-032 – District 3

Documents Filed: Proof of Publication of the Title of Ordinance No. 29783 executed on August 19, 2016, submitted by the City Clerk.

Action: Ordinance No. 29783 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

- (a) **Rules and Open Government Committee Minutes of August 10, 2016. (Mayor)**
CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: Rules and Open Government Committee Minutes dated August 10, 2016.

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

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Traffic and Criminal Bail Schedules.

- (a) Approve recommended changes to the City of San José Traffic and Criminal Bail Schedules and direct the City Attorney to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee.**
- (b) Approve an ordinance amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of infractions.**

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

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 18, 2016, recommending approval of proposed bail schedules and approval of an ordinance.

Action: Changes to the City of San José Traffic and Criminal Bail Schedules and direct the City Attorney to submit the recommended changes in the Bail Schedules to the Superior Court Bail Committee were approved, and Ordinance No. 29786, entitled “An Ordinance of the City of San José, Amending Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, which Lists All Infractions, to Update the List of Infractions”, was passed for publication. (11-0.)

2.8 As recommended by the Rules and Open Government Committee on August 17, 2016:

- (a) Retroactively approve the Walk to End Alzheimer’s Kickoff scheduled on Wednesday, August 3, 2016, as City Council sponsored Special Events 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 August 18, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Vice Mayor Rose Herrera pulled Item 2.8 to bring attention to the Alzheimer’s Walk.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Magdalena Carrasco and carried unanimously, the Walk to End Alzheimer’s Kickoff as a City Council Sponsored Special Event was retroactively 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.)

2.9 As recommended by the Rules and Open Government Committee on August 17, 2016:

- (a) Approve the Disability Awareness Day scheduled on Thursday, October 6, 2016, as City Council Sponsored Special Events 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. (Jones)

2.9 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 18, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Disability Awareness 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.)

2.10 As recommended by the Rules and Open Government Committee on August 17, 2016:

(a) Approve the Shred-A-Thon and E-Waste event scheduled on Saturday, October 8, 2016, as City Council Sponsored Special Events and approve the expenditure of funds; and

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Exempt, File No. PP12-080, Section 15304(e), Minor temporary use of land having negligible or no permanent effect on the environment. (Jones)

[Rules Committee referral 8/17/16 – Item G.1.c.]

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 18, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Shred-A-Thon and E-Waste event 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.)

2.11 Adopt a resolution authorizing the City Manager to execute an Amendment to an Agreement with the Silicon Valley Regional Interoperability Authority for its restated Silicon Valley Regional Interoperability Authority Joint Powers Agreement, which was originally entered into as of November 2009, to accommodate Santa Clara Valley Transportation Authority as an additional member of the Silicon Valley Regional Interoperability Authority and member of the Authority's Board of Directors. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Police) Resolution No. 77918 adopted.

Documents Filed: Memorandum from Chief of Police Edgardo Garcia, dated August 17, 2016, recommending adoption of a resolution.

Action: Resolution No. 77918, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Amendment to an Agreement with the Silicon Valley Regional Interoperability Authority for its Restated Silicon Valley Regional Interoperability Authority Joint Powers Agreement, which was Originally Entered into as of November 2009, to Accommodate Santa Clara Valley Transportation Authority as an Additional Member of the Silicon Valley Regional Interoperability Authority and Member of the Authority's Board of Directors", was adopted. (11-0.)

- 2.12 Approve an ordinance dedicating as public right-of-way approximately 3,684 square feet along the south side of St. James Street, located over City-owned properties, and accepting the newly dedicated right-of-way into the City's street system as part of St. James Street to allow for construction-related traffic improvements on St. James Street in conjunction with the Julian Street Realignment Project. CEQA: Exempt, File No. PP16-059. Council District 3. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated August 30, 2016, recommending approval of an ordinance.

Action: Ordinance No. 29787, entitled "An Ordinance of the City of San José Dedicating as Public Right-of-Way Approximately 6,382 Square Feet of City-Owned Property along the South Side of Saint James Street for the Purpose of Constructing Roadway Improvements on Saint James Street", was passed for publication. (11-0.)

- 2.13 (a) Approve travel by Councilmember Carrasco to Shanghai, China on September 1 – 6, 2016, to join the City of San José's Delegation on Air China's inaugural flight between San José and Shanghai. Source of Funds: Personal Funds.**
- (b) Approve the receipt of gifts of meals received in an official capacity as a representative of the City in accordance with San José Municipal Code section 12.08.040(c). While the City could reimburse Air China for the meals, they will be provided as a gesture to foster a good working relationship between the City and Air China.**

Documents Filed: Memorandum from Councilmember Magdalena Carrasco, dated August 22, 2016, requesting authorization to travel and the receipt of gifts of meals received in an official capacity.

Action: The travel request and receipt of gifts of meals received in an official capacity was approved. (11-0.)

- 2.14 Approve travel by Councilmember Carrasco to Washington D.C. on September 9 – 12, 2016, to join the International Sister City Board Members at a mandatory executive board training. Source of Funds: Mayor/Council Travel Budget. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Carrasco)**

Documents Filed: Memorandum from Councilmember Magdalena Carrasco, dated August 22, 2016, requesting authorization to travel.

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

- 2.15 Retroactively approve payment and reimbursement of participant expenses for the San José Pride Parade and Festival scheduled on August 28, 2016 for the Mayor, Vice Mayor and Councilmembers. CEQA: Not a Project, File No: PP15-077, Temporary Special Events. (City Clerk)**

2.15 (Cont'd.)

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated July 29, 2016, transmitting the recommendations to retroactively approve expenses.

Action: Retroactive payment and reimbursement of participant expenses for the San José Pride Parade and Festival scheduled on August 28, 2016 for the Mayor, Vice Mayor and Councilmembers was approved. (11-0.)

2.16 Approve the Winchester/Santana Row Urban Village Workshop #2 scheduled on September 1, 2016 as a City Council sponsored Special Event and approve the expenditure of funds. CEQA: Not a Project, File No: PP15-077, Temporary Special Events. (Jones)

Documents Filed: Memorandum from Councilmember Chappie Jones, dated August 23, 2016, recommending approval of the expenditure of funds.

Action: The Winchester/Santana Row Urban Village Workshop #2 scheduled on September 1, 2016 as a City Council sponsored Special Event and approve the expenditure of funds was approved. (11-0.)

- 2.17 (a) Approve travel by Councilmember Khamis to Shanghai, China on September 1 – 6, 2016, as an official representative of the City of San José on the Inaugural Flight of the new, direct, Air China service between Mineta San José International Airport (SJC) and Shanghai Pedong International Airport (PVG) in the People’s Republic of China. Source of Funds: Personal Funds.**
- (b) Request for an excused absence for Councilmember Khamis from the following meetings due to Authorized City Business:**
- (1) September 1, 2016 Police and Fire Department Retirement Plan Board of Trustees;**
 - (2) September 2, 2016 Santa Clara Valley Transportation Authority; and**
 - (3) September 6, 2016 San José City Council Study Session.**
- (c) Approve the receipt of gifts of meals received in an official capacity as a representative of the City in accordance with San José Municipal Code section 12.08.040(c). While the City could reimburse Air China for the meals, they will be provided as a gesture to foster a good working relationship between the City and Air China. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Khamis)**

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated August 17, 2016, recommending authorization of funds, excused absences from meetings and the receipt of gifts of meals received in an official capacity.

Action: Travel by Councilmember Khamis to Shanghai, China on September 1 – 6, 2016, as an official representative of the City of San José, the request for excused absences, and the receipt of gifts of meals received in an official capacity as a representative of the City, were approved. (11-0.)

- 2.18 Accept travel payments and authorize travel for Mayor's staff, Khanh Russo, Director of Strategic Partnership, to Baltimore, Maryland from September 14 – 16, 2016 for the 21st Century Cities Symposium. Source of Funds: John Hopkins University. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated August 24, 2016, requesting authorization for travel.

Action: The travel request for Mayor's staff, Khanh Russ, Director of Strategic Partnership, was approved, and the travel payments were accepted. (11-0.)

- 2.19 As recommended by the Rules and Open Government Committee on August 24, 2016, approve a grant for the Cambrian Park Little League for their general fund for general operating administrative expenses to support student sports. To be paid by the Arena Community Fund City-Wide appropriation. (Rocha)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 26, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: A grant for the Cambrian Park Little League for their general fund for general operating administrative expenses to support student sports, to be paid by the Arena Community Fund City-Wide appropriation, 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 offered that September is Disaster Preparedness Month and reminded everyone of the importance of being prepared both at home and in the work place.

- 3.3 Appointments of Olivia Navarro and Jim Carter to fill Council District 6 vacancies on the Neighborhoods Commission to a term ending June 30, 2020. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. Council District 6. (City Manager)**

Documents Filed: (1) Memorandum from Councilmember Donald Rocha, dated August 29, 2016, recommending upholding results of the District 6 Neighborhoods Caucus. (2) Memorandum from Councilmember Pierluigi Oliverio, dated August 30, 2016, providing comments received regarding Caucus appointments. (3) Supplemental memorandum from Deputy City Manager Julie Edmonds-Mares, dated August 25, 2016, providing additional information regarding outreach efforts.

3.3 (Cont'd.)

Motion: Councilmember Pierluigi Oliverio moved approval of an alternative process for appointing applicants from District 6. The motion was seconded by Vice Mayor Rose Herrera.

Deputy City Manager Julie Edmonds-Mares discussed outreach conducted for the District 6 caucus process.

Public Comments: Offering perspectives on challenging the District 6 appointments and the 2016 Neighborhoods Commission Caucus process, were Pat Gormley, Ed Rast, John Leyba, Randy Kinman, Richard Zapelli and Shaunn Cartwright.

Mayor Sam Liccardo and Councilmember Johnny Khamis indicated that they could not support the motion on the floor, opining that residents are capable of making their own decisions.

Substitute Motion: Councilmember Raul Peralez moved approval of Councilmember Donald Rocha's memorandum dated August 29, 2016, recommending upholding results of the Neighborhoods Commission Caucus as indicated below in "Action". Councilmember Ash Kalra seconded the motion.

Council discussion followed.

Councilmember Pierluigi Oliverio indicated that he would reverse his prior recommendation.

Action: On a call for the motion, the substitute motion carried unanimously, and the results of the District 6 Neighborhoods Commission Caucus to appoint Olivia Navarro and Jim Carter to fill Council District 6 vacancies on the Neighborhoods Commission were upheld as recommended in Councilmember Donald Rocha's memorandum dated August 29, 2016. (11-0.)

- 3.4 (a) **Accept the update on the Request for Proposal for a Customer Relationship Management/Service Request Management (CRM/SRM) Software Solution; and**
- (b) **Reject all proposals; and re-issue a Request for Proposal or follow a similar competitive process consistent with the City's procurement Code and policies that would incorporate modified scope requirements for a successful CRM/SRM solution.**

CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, staff reports that involve no approvals of any City actions. (Finance/Information Technology)
(Deferred from 6/28/16 – Item 3.4; 8/9/16 – Item 3.4; and 8/23/16 – Item 3.3)

3.4 (Cont'd.)

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Councilmember Johnny Khamis, Councilmember Tam Nguyen and Councilmember Chappie Jones, dated August 26, 2016, recommending acceptance of staff's recommendation with direction to the City Manager. (2) Memorandum from Director of Finance Julia H. Cooper, dated June 13, 2016, recommending acceptance of the report on the Request for Proposal and adoption of a resolution. (3) Joint replacement memorandum from Chief Information Officer Rob Lloyd and Director of Finance Julia H. Cooper, dated August 18, 2016, providing an update on the project.

Chief Information Officer Rob Lloyd offered a presentation and responded to questions from Council.

Mayor Sam Liccardo offered a recommendation that the Office of Civic Innovation and Digital Strategy join forces with the IT Department, Finance, and the City Attorney's Office to explore and pilot alternative processes that will speed up procurement cycles for Information Technology (IT).

Vice Mayor Rose Herrera moved approval of the memorandum she cosigned with Mayor Sam Liccardo, Councilmember Johnny Khamis, Councilmember Tam Nguyen and Councilmember Chappie Jones, dated August 26, 2016, including direction as indicated below in "Action". Councilmember Chappie Jones seconded the motion.

Action: On a call for the question, the motion carried, and the update on the Request for Proposal for a Customer Relationship Management/Service Request Management (CRM/SRM) Software Solution was accepted; all proposals were rejected with Staff directed to requote the Request for Proposal, and as outlined in the joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmembers Khamis, Tam Nguyen, and Jones, dated August 26, 2016, directing the new Office of Civic Innovation and Digital Strategy to prioritize and work together with the IT Department, Finance, and the City Attorney's Office to explore and pilot alternative processes that will speed up procurement cycles for IT, including, but not limited to, cooperative purchasing agreements. Recommendations should come back by Q1 2017. (10-1. Noes: Oliverio.)

3.5 **As recommended by the Rules and Open Government Committee, adopt a resolution amending the Council's Rules for the Conduct of Its Meetings, superseding Resolution No. 77486, to limit evening Council meeting sessions to two per month, with the second evening session scheduled only when necessary as prescribed by Council or the Rules Committee, and to schedule evening sessions to commence at 6:00 p.m. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated August 26, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: Shaunn Cartwright suggested public outreach on this item.

3.5 (Cont'd.)

Motion: Councilmember Johnny Khamis moved approval of the recommendation as outlined by the Rules and Open Government Committee. The motion was seconded by Councilmember Pierluigi Oliverio.

Substitute Motion: Councilmember Raul Peralez moved approval of the scheduling as recommended, but to defer the issue of meeting start times to allow further review and public feedback. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the motion, the substitute motion carried unanimously, and Resolution No. 77919, entitled: "A Resolution of the Council of the City of San José Amending the Rules for the Conduct of its Meetings, Superseding Resolution No. 77486, was adopted, with the issue regarding a meeting 'start time' to be deferred to allow feedback from the public, and with staff to review the City's various commissions for possible alternatives. (11-0.)

- 3.6
- (a) **Accept the staff memorandum describing the unprecedented low staffing levels in the Patrol Division of the San José Police Department and the public safety reasons for the determination of emergency.**
 - (b) **Council discussion and consideration of a Resolution determining an emergency under the Meyers-Milias-Brown Act based on the findings in the memorandum to address the threat to public safety created by the unprecedented low staffing levels in the Patrol Division, including the redeployment of Police Officers from other assignments into Patrol and the resulting rebidding of the shift assignments for the upcoming September 2016 shift change.**
 - (c) **Direct City Administration to take the necessary steps to address the staffing levels of the Patrol Division via the redeployment of Police Officers into Patrol and the resulting rebidding of the shift assignments for the upcoming September 2016 shift change.**

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

Documents Filed: (1) Memorandum from City Manager Norberto Dueñas, dated August 25, 2016, recommending adoption of a resolution. (2) Supplemental memorandum from City Attorney Richard Doyle, dated August 26, 2016, offering clarification to questions raised regarding making an emergency determination and changes to the City Charter. (3) Letter from City of San José Sheriff Laurie Smith, dated August 29, 2016, expressing concerns regarding supplementing the City's understaffed Police Department.

Chief of Police Edgardo Garcia and Assistant Chief of Police David Knopf offered a presentation, and Director Office of Employee Relations Jennifer Schembri followed up with a discussion on the meet and confer process.

3.6 (Cont'd.)

Public Comments: Offering support and citing the need for more officers and rebuilding the police department were: Tom McEnery, Rose LeBeau, Adnan Rasheed, Bob Sippel, Paul Kelly, James Gonzales, Ray Perez, Walter Wilson, Carmen Hernandez and Shaunn Cartwright. Mark Trout spoke off topic.

Mayor Sam Liccardo disclosed a potential Brown Act violation, indicating that a discussion he had with Vice Mayor Rose Herrera may have been considered a serial conversation.

Motion: Vice Mayor Rose Herrera moved approval of the staffs' recommendations. Councilmember Raul Peralez seconded the motion.

Councilmember Pierluigi Oliverio indicated that he cannot support the motion on the floor, as he believes other tactics can be utilized.

Action: On a call for the question, the motion carried, Resolution No. 77920, entitled: "A Resolution of the Council of the City of San José Determining an Emergency Under the Meyers-Milias-Brown Act to Address the Threat to Public Safety Created by Unprecedented Low Staffing Levels in the Patrol Division of the San José Police Department", was adopted, with direction to City Administration to take the necessary steps to address the staffing levels of the Patrol Division via the redeployment of Police Officers into Patrol and the resulting rebidding of the shift assignments for the upcoming September 2016 shift change. (10-1. Noes: Oliverio.)

Councilmember Ash Kalra left the meeting at approximately 5 p.m.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **Hold further work on the North San José Area Development Policy. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, staff reports that involve no approvals of any City actions. Council District 4. (Economic Development)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated August 29, 2016, recommending acceptance of the staff report with additional direction. (2) Joint memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, Director of Transportation, Jim Ortbal and Deputy City Manager/Director of Economic Development Kim Walesh, dated August 19, 2016, recommending holding further work on the North San José Area Development Project. (3) Letter from Vanessa Wong, Co-owner of the San José Airport Inn, asking the City to include an increase in hotel key count as part of the update.

Deputy City Manager/Director of Economic Development Kim Walesh provided an overview and responded to questions.

4.1 (Cont'd.)

Motion: Councilmember Manh Nguyen moved approval of the staff recommendations, including direction as outlined in Mayor Sam Liccardo's memorandum dated August 29, 2016. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried unanimously, and further work on the North San José Area Development Policy was held pending the result of the VTA's November ballot measure for sales tax funding of regional transportation improvements and the outcome of the City of Santa Clara "City Place" project lawsuit; including Mayor Sam Liccardo's memorandum dated August 29, 2016, approving direction to suspend work on the North San José Area Development Policy ("Policy"), but with staff directed to return to Council in December 2016 to: (1) Assess whether to resume work on the Policy, and (2) Regardless of the progress of the Policy, present Council with a list of recommendations that will spur development of much-needed amenities – retail, recreation, restaurants and athletic facilities – on or adjacent to corporate campuses in the area. (10-0-1. Absent: Kalra.)

4.2 Adopt a resolution:

- (a) **Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a public service easement on property owned by the State of California ("PSE");**
- (b) **Summarily vacating the PSE that had been reserved with the vacation of Eighth Street between San Salvador Street and San Carlos Street in Resolution No. 31726; and**
- (c) **Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.**

CEQA: Exempt, File No. PP16-082. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated August 8, 2016, recommending adoption of a resolution.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 77921, entitled: "A Resolution of the Council of the City of San José Summarily Vacating a Public Service Easement Upon and Over Real Property Located on South Eighth Street between San Salvador Street and San Carlos Street", was adopted. (10-0-1. Absent: Kalra.)

- #### 4.3 Adopt a resolution approving an amendment to Resolution No. 61114 for the existing regulations for the operation and administration of the San José Rental Dispute Mediation and Arbitration Ordinance to add Chapter 9 which provides the procedural direction needed for the interim fair return hearing process implemented by the Interim Ordinance amending Chapter 17.23 of Title 17 of the San José Municipal Code (Apartment Rent Ordinance). CEQA: Exempt, Section 15061(b)(3), No potential for causing a significant effect on the environment, File No. PP16-051. (Housing)

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Housing Jacky Morales-Ferrand, dated August 8, 2016, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated August 29, 2016, providing a summary of public comments. (3) Correspondence from members of the public urging approval of an amendment to the resolution: Melissa A. Morris, Law Foundation of Silicon Valley, dated August 29, 2016; (4) Correspondence from members of the public asking for a delay/reconsideration in implementation of the proposed guidelines: Anil Babbar, California Apartment Association, dated August 30, 2016; Pahl & McCay, August 29, 2016; Prem and David Andrzejek, dated August 30, 2016; Anna Salas, Realtor, dated August 30, 2016.

Director of Housing Jacky Morales-Ferrand provided an introduction.

Public Comments: Recommending consideration for further vetting and other concerns, were: Anil Babbar, California Apartment Association, and Scott Soper. Encouraging immediate adoption of this resolution, were: Mel Krantz, San José Affordable Housing Network; Melisa Morris Law Foundation of Silicon Valley; and Shaunn Cartwright.

Director of Housing Jacky Morales-Ferrand and staff responded to Scott Soper's remarks, indicating that this item was publicly noticed on August 11, 2016.

City Attorney Richard Doyle offered clarification regarding time sensitivity and the allowance for continued staff outreach.

Motion: Councilmember Johnny Khamis moved approval of Staffs' recommendations, as indicated below in "Action". The motion was seconded by Councilmember Pierluigi Oliverio.

Action: On a call for the question, the motion carried, and Resolution No. 77922, entitled: "A Resolution of the Council of the City of San José Approving an Amendment to Resolution No. 61114 for the Existing Regulations for the Operation and Administration of the San José Rental Dispute Mediation and Arbitration Ordinance to Add Chapter 9 to Provide the Procedural Direction Needed for the Interim Fair Return Hearing Process Implemented by the Interim Ordinance Amending Chapter 17.23 of Title 17 of the San José Municipal Code", was adopted, with Staff to return to discuss proposed revisions in 4 weeks to allow outreach to stakeholders, allowing for further input to the final Apartment Rent Ordinance, which must be finalized by January 1, 2017. (9-1-1. Noes: Oliverio. Absent: Kalra.)

TRANSPORTATION & AVIATION SERVICES

6.1 Adopt a resolution authorizing the Director of Public Works to:

- (a) Award and execute the 8100 – Mineta San José International Airport Southeast Apron Reconstruction Project to the low bidder, Graniterock Company for the base bid in an amount of \$2,315,085, contingent on the award and execution of an Airport Improvement Program (AIP) grant from the Federal Aviation Administration (FAA) of a minimum amount of \$2,800,000, and for Add Alternates 1 and/or 2 contingent on the amount of any FAA AIP grant being sufficiently above the minimum amount to fund either or both of the add alternates;
- (b) Establish a construction contingency of fifteen percent of the amount of the construction contract for the Project if the Director awards and executes a contract; and
- (c) Issue any change orders up to the amount of the contingency if the Director awards and executes a construction contract for the Project.

CEQA: Resolution Nos. 67380 and 71451, Determination of Consistency with the Final EIR, as Supplemented, for the San José International Airport Master Plan Update, File No. PP15-129. (Airport)

Documents Filed: Joint memorandum from Director of Public Works Barry Ng and Director of Aviation Services Kimberly J. Becker, dated August 16, 2016, recommending adoption of a resolution.

Director of Public Works Barry Ng responded to questions from Council.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 77923, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to do the Following: (1) Award and Execute the 8100 San José Mineta International Airport Southeast Apron Reconstruction Project to the Low Bidder, Graniterock Company, for the Base Bid Amount of \$2,315,085, Subject to Certain Conditions; (2) Award One or Both Bid Alternates Subject to Certain Conditions; (3) Establish a Construction Contingency of 15% of the Contract Amount if the Contract is Awarded, and (4) Issue Change Orders Up To the Amount of the Contingency”, was adopted. (11-0.)

OPEN FORUM

- (1) Mark Trout offered personal observations.
- (2) Blair Beekman urged a commitment to Vision Zero to address bicycle and pedestrian fatalities.

ADJOURNMENT

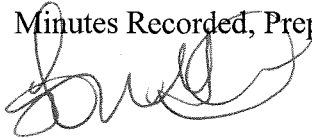
The Council of the City of San José adjourned at 6:03 p.m. in memory of Crisantos Flores, a member of the City of San José Parks, Recreation and Neighborhood Services Department for 18 years who passed away on July 13, 2016. (City Manager)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10263	SE/C of Yerba Buena Rd. and Hwy 101	8	Dove Hill of San Jose	18/17	SFD	Approve

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/08-30-16 MIN