



## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, SEPTEMBER 27, 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 (Claim Filed) in one (1) matter; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 with respect to anticipated litigation in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: Claim of Martinez; Amount of Money or Other Relief Sought: Administrative Appeal; (2) City of San José v. City of Santa Clara.; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of Santa Clara; Case No: 16-CV-298317; Amount of Money or Other Relief Sought: Damages according to proof; (3) 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; (4) IFPTE Local

## CLOSED SESSION (Cont'd.)

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; (5) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (6) 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; (7) 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; (8) 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. (9) 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. (10) 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. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: City of San José, John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) 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; (13) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s) Involved: The People of the State of California ex rel.

## CLOSED SESSION (Cont'd.)

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; (14) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court; Names Of Partie(s) 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; (15) San José Retired Employees Association, et al. v. City of San José, et al; Names of Partie(s) Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, the Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (16) SJJC Aviation Services, LLC v. City of San José , et al; Names Of Partie(s) Involved: SJJC Aviation Services, LLC, City of San José , City Council of the City of San José and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV246057; H041946; Amount of Money or Other Relief Sought: Damages according to proof; (17) Shahrivar, Farid v. City, et al.; Names Of Partie(s) Involved: Farid Shahrivar, City of San José , a municipality; Rodney Rapson, an individual; David Sykes, an individual; Harry Freitas, an individual; Katherine Jensen, an individual; David Printy, an individual; Danny Tsao, an individual; Katrina Allen, an individual; Doug Baker, an individual; Alex Gurza, an individual; Sarah Nunes, an individual; Les White, an individual; Allen Demers, an individual; Rajiv Das, an individual; Adam Stempel, an individual; Steve Pagan, an individual; Angela Chen, an individual; Mark Danaj, an individual; Robert Fabela, an individual; Susan Lacy, and Does 1 through 45; Court: U.S. District Court, Oakland Division; Case No.: CV-10-01029 PSG; Amount of Money or Other Relief Sought: Damages according to proof; (18) Great Oaks Water, Inc. v. City, et al.; Names Of Partie(s) Involved: Great Oaks Water Company, Inc., John W.S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and Betty B. Roeder, Trustees of the Walter S. Roeder Trust B, the City of San José , the San José Redevelopment Agency, South Bay Water Recycling, Does 1 through 100; Court: Superior Court of California, County of Santa Clara; Case No: 1-04-CV012008; Amount of Money or Other Relief Sought: Damages according to proof; (19) 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 José City Council, and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; (20) County of Alameda, et al. v. AMBAC Financial, et al; Names Of Partie(s) Involved: County of Alameda; City and County of San Francisco; City of Los Angeles; Los Angeles Department of Water and Power; Los Angeles World Airports; City of Oakland; City of Richmond; Redwood City; East Bay Municipal Utility District; City of Sacramento;

## CLOSED SESSION (Cont'd.)

Sacramento Suburban Water District; Sacramento Municipal Utility District; City of San José; City of Stockton; Redevelopment Agency of the City of Stockton; County of Tulare; the Regents of the University of California; Redevelopment Agency of the City of San José; AMBAC Financial Group, Inc.; AMBAC Assurance Corporation; MBIA Inc.; MBIA Insurance Corporation; MBIA Insurance Corp. of Illinois, A/k/a National Public Finance Guarantee Corporation; Syncora Guarantee, Inc., f/k/a XL Capital Assurance Inc.; Financial Guaranty Insurance Company; Financial Security Assurance, Inc.; CIFG Assurance North America, Inc.; Assured Guaranty Corp.; Jason Kissane; Does 1 through 50; Court: Superior Court of California, in and for the City and County of San Francisco; Case No.: CJC-08-004555; Amount of Money or Other Relief Sought: Damages according to proof; (21) RDA/City vs Bank of America, N.A., et al; Names Of Partie(s) Involved: City of San José, the San José Redevelopment Agency, Bank of America, N.A. Merrill Lynch & Co., Inc., UBS AG, UBS Financial Services, Inc., UBS Securities, LLC, MBIA, Inc., Citibank, N.A., Citigroup Financial Products Inc., Citigroup Global Markets Holdings Inc., Morgan Stanley, Rabobank Group, Bayerische, Landesbank Gironzentrale, Piper Jaffrey & Co., Societe Generale SA, Financial Security Assurance, Inc., Assured Guaranty US Holdings Inc., Dexia S.A. National Westminster Bank, PLC, Natixis Funding Corp., Natixis S.A., Goldman Sachs Group, Inc., Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs Bank USA, CDR Financial Projects, Winters & Co., Advisors, LLC, George K. Baum & Co., Sound Capital Management, Inc., Investment Management Advisory Group, Inc., First Southwest Company, PFM Investment, LLC., PFM Asset Management LLC; Court: United States District Court, Northern District of California, San José Division; Case No.: CV 10-2199; Amount of Money or Other Relief Sought: Damages according to proof; (22) Seibert v. City of San José; Names Of Partie(s) Involved: Grant Seibert, City of San José, San José Civil Service Commission, Debra Figone as San José City manager, Alex Gurza as San José Director of Employee Relations, William McDonald as Fire Chief for San José Fire Department, Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No.: 1-11-CV-204096;; Amount of Money or Other Relief Sought: Damages according to proof; (23) Ward, Debra and Patricia Tapia v. City, Fire Chief William McDonald, et al; Names Of Partie(s) Involved: Debra Ward; Patricia Tapia; City of San José; Fire Chief William McDonald; Court: Superior Court of California, County of Santa Clara; Case No.: 1-11-CV203561; Amount of Money or Other Relief Sought: Damages according to proof; (24) Lee, Ivan v. City of San José; Names Of Partie(s) Involved: Ivan Lee, City of San José and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-15-CV-287181; Amount of Money or Other Relief Sought: Damages according to proof; (25) Anderson, et al v. City of San José & San José City Council; Names Of Partie(s) Involved: Sarah Anderson, Joana Cruz, Urban Habitat Program and Housing California, City of San José, a Government Entity, San José City Council, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 16-CV-297950; Amount of Money or Other Relief Sought: Damages according to proof; (26) Cali-Arioto, LLC v. City of San José; Names Of Partie(s) Involved: Cali-Arioto, LLC, the City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No.: 16-CV-296549; Amount of Money or Other Relief Sought: Damages according to proof; (27) Nguyen, Cu Thanh v. City of San José; Names

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Of Partie(s) Involved: Cu Thanh Nguyen; City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-268209; Amount of Money or Other Relief Sought: Damages according to proof; (28) Berg & Berg Enterprises, LLC v. City, et al.; Names Of Partie(s) Involved: Berg & Berg Enterprises, LLC, City of San José; San José City Council and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-07-CV-091955; Amount of Money or Other Relief Sought: Damages according to proof; (29) Stand for San José, et al. v. City, et al.; Names Of Partie(s) Involved: Stand for San José and Eileen Hannan; City of San José; City Council of the City of San José; Redevelopment Agency of the City of San José; Diridon Development Authority; Court: Superior Court of California, County of Santa Clara; Case No.: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive Relief; (30) Stand for San José, et al. v. City, et al.; Names Of Partie(s) Involved: Stand for San José and Eileen Hannan; Michelle Brenot; Robert Brown; and Robert Shields; City of San José; City Council of the City of San José; Redevelopment Agency of the City of San José; Successor Agency to the Redevelopment Agency of the City of San José; Successor Agency Oversight Board; Diridon Development Authority; Does 1 through 10 inclusive; Athletics Investment Group, LLC; Does 1 through 20, inclusive; Court: Superior Court of California, In and for the County of Santa Clara; Case No.: 1-13-CV-250372; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorney's Fees; (31) Friends of the Willow Glen Trestle v. City of San José, et al.; Names Of Partie(s) Involved: Friends of the Willow Glen Trestle, and unincorporated association; City of San José and City Council of the City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-260439; Amount of Money or Other Relief Sought: Damages according to proof; (32) Alemayehu v. City of San José, et al.; Names Of Partie(s) Involved: Dawit Alemayehu; City of San José and the City of San José Police Department, a municipal corporation; Officer Jorge Garibay #4218; a sworn San José Police Officer and as an individual; Sgt. D. Tran Badge #3262, a San José Police Officer and as an individual; and Does 1 through 40; Court: U.S. District Court, Northern Division; Case No. C14-1738 EJD; Amount of Money or Other Relief Sought: Damages according to proof; (33) Armstrong, David v. City of San José, Alexander Keller, et al.; Names Of Partie(s) Involved: David Armstrong, City of San José, San José Police Officer Alexander Keller, San José Police Officer Baldwin, San José Police Officer Arate, and San José Police Officer Bortolotti; Court: U.S. District Court, Northern Division; Case No.: 16-CV-02938 EJD; Amount of Money or Other Relief Sought: Damages according to proof; (34) Binkovich v. Barthelmy, et al.; Names Of Partie(s) Involved: Aleksandr Binkovich, City of San José, Officer Barthelemy, Officer Grondahl, Officer Panighetti, Officer Craig, Officer Jacob and Officer Bollendorf; Court: U.S. District Court, Northern Division; Case No. C11-03744 PSG; Amount of Money or Other Relief Sought: Damages according to proof; (35) Burt v. City of San José Names Of Partie(s) Involved: Shauncey Burt, the City of San José, the San José Police Department, Unidentified San José Police Officers Numbered 1 through 6 and Does 7 through 50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-15-CV-28121; Amount of Money or Other Relief Sought: Damages according to proof; (36) Chavez-Alvarez v. City of San José Names Of Partie(s) Involved: Rafael Chavez-Alvarez, San José Police

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Department, Court: U.S. District Court, Northern Division; Case No. 16-CV-02796-EJD; Amount of Money or Other Relief Sought: Damages according to proof; (38) Fujikawa, Michael v. City, Chief Chris Moore, et al.; Names Of Partie(s) Involved: Michael Fujikawa, the City of San José; Police Chief Chris Moore, Officers Payne (Badge No. 3971), Officer Pfiefer (Badge No. 3951), Officer Jeffrey (Badge No. 3926), Officer Burke (Badge No. 3949), Officer Akery (Badge No. 3495) and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 1-12-CV-219612; Amount of Money or Other Relief Sought: Damages according to proof; (39) Gonzales v. City of San José, et al.; Names Of Partie(s) Involved: Mary Lou Gonzales, City of San José as a municipal corporation, SJPD Detective Yvonne Delacruz in her official an individual capacity, SJPD Sgt. Archer in his official and individual capacity; SJPD Homicide Detective Jamie (last name unknown) in his individual and official capacity; SJPD Officers Doe 1 to Doe 7 in their individual and official capacities; SJPD Officers and Detectives and Employees Doe 8-50 in their individual and official capacities; Court: U.S. District Court, Northern Division; Case No. 13-CV-00695-BLF (PSG); Amount of Money or Other Relief Sought: Damages according to proof; (40) Hernandez, Juan, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Juan Hernandez, an individual; Nathan Velasquez, and individual; Frank Velasquez, and individual; Rachel Casey, an individual; Mark Doering, an individual; Mary Doering, an individual; Barbara Arigoni, an individual; Dustin Haines-Scrodin, an individual; Andrew Zambetti, an individual; Christina Wong, an individual; Craig Parsons, an individual; I.P., a minor individual; Greg Hyver, an individual; and Todd Broome, an individual, on behalf of themselves and all others similarly situated, City of San José, a municipal corporation; Sam Liccardo, sued in his individual capacity; Edgardo Garcia, sued in his individual capacity; Anthony Yi, an individual; H.A., a minor individual; S.M., a minor individual; and Does 1-38; Court: U.S. District Court, Northern Division; Case No. 5:16-CV-03957 LHK; Amount of Money or Other Relief Sought: Damages according to proof; (41) Hernandez, Luis & Cindy Calderon v. City of San José, et al.; Names Of Partie(s) Involved: Luis Hernandez, Cindy Calderon, City of San José, Ernie Alcantar individually and in his official capacity as Captain, SJPD; and James Werkema, individually and in his official capacity as Lieutenant, SJPD; Court: U.S. District Court, San José Division; Case No.: CV12-02952 HRL; Amount of Money or Other Relief Sought: Damages according to proof; (42) Hernandez, Yanira v. City, Geoffrey Evatt Graves, et al.; City of San José, Geoffrey Evatt Graves and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 114CV270467; Amount of Money or Other Relief Sought: Damages according to proof; (42) Kerkeles v. City of San José, et al.; Names Of Partie(s) Involved: Michael Kerkeles, a.k.a. Michael Kerk, City of San José, Matthew Christian and Does 1 through 25; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV103523; Amount of Money or Other Relief Sought: Damages according to proof; (44) Hung 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, a municipal corporation, Larry Esquivel, in his capacity of Chief of Police for the City of San José; Officer Dondi West, individually and in her official position; Court: U.S. District Court, Northern Division; Case No. 14-CV-0087 PSG; Amount of Money or Other Relief Sought: Damages according to proof; (45) Paulino, Eiel

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v. Marco Cruz, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Eliel Paulino, Marco Cruz, individually and as an Officer of the San José Police Department, Gerardo Silva, individually and as an Officer of the San José Police Department, Gurbaksh Sohal, individually and as an Officer of the San José Police Department, and Does 1-10; Court: U.S. District Court, Northern Division; Case No. CV 16-2642 NC; Amount of Money or Other Relief Sought: Damages according to proof; (46) Rice JoAnn, America Savin, et al. v. City, et al.; Names Of Partie(s) Involved: JoAnn Rice, American Savin, Perry Nelson and W.N., a minor by and through his Guardian ad Litem, America Savin, City of San José, San José Police Department, Does 1-10; Court: U.S. District Court; Case No.: 2:13-CV-00334-KJM-CKD; Amount of Money or Other Relief Sought: Damages according to proof; (47) Rodriguez, Lori v. City of San José; Lori Rodriguez, City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-13-CV-241669; Amount of Money or Other Relief Sought: Damages according to proof; (48) Sutter's place, Inc. dba Bay 101 v. City of San José; Names Of Partie(s) Involved: Sutter's Place Inc. dba Bay 101; City of San José; the Division of Gaming Control; Court: Superior Court of California, County of Santa Clara; Case No.: 1-13-CV-258057; Amount of Money or Other Relief Sought: Damages according to proof; (49) Watkins, Sharon, et al. v. City of San José, et al.; Names Of Partie(s) Involved: Sharon Watkins; Sylvia Buchanan, and Deviny Buchanan on her own behalf and on behalf of her minor child, Laniyah Watkins, the City of San José; San José Police Officer Ryan Dote; and San José Police Officer James Soh; Court: U.S. District Court, Northern Division; Case No. 15-CV-05786-LHK; Amount of Money or Other Relief Sought: Damages according to proof; (50) Watson, Lee Darnell v. City of San José; Matthew Brackett; Ryan Hansen; Ronald Hughes, et al.; Names Of Partie(s) Involved: Watson, Lee Darnell, City of San José; Matthew Brackett; Ryan Hansen; Ronald Hughes and Does 1-10; Court: U.S. District Court, Northern Division; Case No. 15-CV-04054-NC; Amount of Money or Other Relief Sought: Damages according to proof; (51) Camacho v. CSJ, et al.; Names Of Partie(s) Involved: Carolina Camacho, individually and as Successor in interest to Jessenia Camacho-Torres, deceased; the City of San José, Amy M. Dorr, Sarah R. Cox; Court: Court of Appeal of the State of California, Sixth Appellate District; Case No.: H041762; Amount of Money or Other Relief Sought: Damages according to proof; (52) Herrera, et al. v. City, et al.; Names Of Partie(s) Involved: Martha Herrera, Michelle Rodriguez, Jessica Rodriguez, Minors, by and through their Guardian ad litem Martha Herrera; City of San José, John Doe and John Doe Company, et al.; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 1-10-CV-165689; Amount of Money or Other Relief Sought: Damages according to proof; (53) City of San José v. CSAA Insurance Exchange; Names Of Partie(s) Involved: City of San José, CSAA Insurance Exchange and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No.: 1-15-CV-284966; Amount of Money or Other Relief Sought: Damages according to proof; (54) Smith, Deanna and Johnny Garcia v. City of San José, Santa Clara Valley Transportation Authority, et al.; Names Of Partie(s) Involved: Deanna Smith and Johnny Garcia, City of San José, a public entity; Santa Clara Valley Transportation Authority, a public entity; Union Pacific Railroad Company, and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-271771; Amount of Money or Other Relief Sought: Damages according to proof; (55)

## CLOSED SESSION (Cont'd.)

Avila, Ilido; Angelina Avila; Sonny Avila, a minor; Dominic Avila, a minor; Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, and City of San José; Names Of Partie(s) Involved: Avila, Ilido; Angelina Avila; Sonny Avila, a minor; Dominic Avila, a minor; Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, and City of San José and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-13-CV-245894; Amount of Money or Other Relief Sought: Damages according to proof; (56) Blevins, Lisa v. City of San José; Names Of Partie(s) Involved: Lisa Blevins, City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV270069; Amount of Money or Other Relief Sought: Damages according to proof; (57) City of San José v. County of Santa Clara; Names Of Partie(s) Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, individually and in his official capacity as Santa Clara County Director of Finance, Santa Clara County; Court: Superior Court of California, County of Sacramento; Case No.: CIV536836; Amount of Money or Other Relief Sought: Damages according to proof; (58) City of San José v. First Serve Productions; Names Of Partie(s) Involved: City of San José, First Serve Productions, Inc.; Court: Superior Court of California, County of San Mateo; Case No.: CIV536836; Amount of Money or Other Relief Sought: Damages according to proof; (59) Ted Smith v. City, et al.; Names Of Partie(s) Involved: Ted Smith, City of San José, a municipal entity; San José Redevelopment Agency, a municipal entity; Harry Mavrogenes, in his official capacity as Executive Director of the San José Redevelopment Agency; Mayor Chuck Reed, in his official capacity as the Mayor of the City of San José; Pete Constant, in his official capacity as a Councilmember for the City of San José; Ash Kalra, in his official capacity as a Councilmember for the City of San José; Sam Liccardo, in his official capacity as a Councilmember for the City of San José; Pierluigi Oliverio, in his official capacity as a Councilmember for the City of San José; Madison Nguyen, in her official capacity as a Councilmember for the City of San José; Rose Herrera, in her official capacity as a Councilmember for the City of San José; Judy Chirco, in her official capacity as a Councilmember for the City of San José; Kansen Chu, in his official capacity as a Councilmember for the City of San José; Nora Campos, in her official capacity as a Councilmember for the city'; Nancy Pyle, in her official capacity as a Councilmember for the City of San José; and Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No.: 1-09-CV-150427; Amount of Money or Other Relief Sought: Damages according to proof; (60) Vietnamese-American Community of Northern California v. City, et al.; Vietnamese-American Community of Northern California; City of San José; City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-107082; Amount of Money or Other Relief Sought: for declaratory and injunctive relief according to proof; (61) Plata, Raymond and Michelle v. City of San José; Names Of Partie(s) Involved: Raymond and Michelle Plata, individual and on behalf of other members of a class of similarly situated residents and taxpayers, City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-14-CV-258879; Amount of Money or Other Relief Sought: Declaratory Relief, Injunctive Relief; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1)



## CLOSED SESSION (Cont'd.)

Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 12:15 p.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

Imam Saleem Mola, Evergreen Islamic Center, presented the Invocation.

## PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by third-grade students from Lynhaven Elementary School.

## ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen 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 Raul Peralez 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.

None provided

### 2.3 Approval of Council Committee Minutes.

(a) **Rules and Open Government Committee Minutes of September 7, 2016. (Mayor)**

(b) **Neighborhood Services and Education Committee Minutes of September 8, 2016. (Rocha)**

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

Documents Filed: (1) Rules and Open Government Committee Minutes dated September 7, 2016; (2) Neighborhood Services and Education Committee Minutes of September 8, 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.**

Councilmember Johnny Khamis reported on his participation in the 7th Annual World Bank Global Pension and Savings Conference held in Washington DC.

**2.7 Revisions to Conflict of Interest Code.**

(a) **Adopt a resolution by the City Council amending the Conflict of Interest Code for the City of San José.**

(b) **Adopt a resolution by the City Council, as the code reviewing body pursuant to the California Political Reform Act, amending the Conflict of Interest Code for the Successor Agency to the Redevelopment Agency of the City of San José.**

**CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 16, 2016, recommending adoption of resolutions.

Action: Resolution No. 77935, entitled: “A Resolution of the Council of the City of San José Amending the Conflict of Interest Code for the City of San José”; and Resolution No. 77936, entitled: “A Resolution of the Council of the City of San José, as the Code Reviewing Body Pursuant to the California Political Reform Act, Amending the Conflict of Interest Code for the Successor Agency to the San José Redevelopment Agency and the Oversight Board of the Successor Agency”, were adopted. (11-0.)

**2.8 Authorize international travel to Toronto, Canada for Jo Zientek, Deputy Director of Environmental Services Department, as the City Manager’s designated representative to the Urban Sustainability Directors Network Annual Meeting, from October 16 to October 19, 2016. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Environmental Services)**

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated September 6, 2016, requesting authorization for international travel for staff.

Action: International travel to Toronto, Canada for Jo Zientek, Deputy Director of Environmental Services Department, as the City Manager’s designated representative to the Urban Sustainability Directors Network Annual Meeting, was authorized. (11-0.)

**2.9 Adopt a resolution to authorize the City Manager to:**

(a) **Execute a Purchase Order with Central Medical Lab, Inc. (San José, CA) to provide forensic, blood, urine, and breath testing and analysis services for the Police Department for an initial twelve month period commencing on July 1, 2016 and ending on June 30, 2017, in an amount not-to-exceed \$75,000;**

2.9 (Cont'd.)

- (b) Approve a contingency of \$15,000 in the event that required services exceed estimates; and
- (c) Exercise up to four one-year options to renew the Purchase Order, with the final option year ending June 30, 2021, subject to the annual appropriation of funds.

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

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated September 27, 2016, recommending adoption of a resolution.

Action: Resolution No. 77937, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute a Purchase Order with Central Lab, Inc. to Provide Forensic, Blood, Urine and Breath Testing and Analysis Services for the Police Department for an Initial Twelve Month Period Commencing on July 1, 2016 and Ending on June 30, 2017, in an Amount Not to Exceed \$75,000; (2) Approve a Contingency of \$15,000 in the Event that Required Services Exceed Estimates; and (3) Exercise up to Four One-Year Options to Renew the Purchase Order, with the Final Option Year Ending June 30, 2021, Subject to the Annual Appropriation of Funds", was adopted. (11-0.)

2.10 Adopt a resolution authorizing the City Manager to:

- (a) Execute Purchase Orders with Buckles Smith Electric (San José, CA) and Edges Electrical Group, LLC (San José, CA) for the purchase of electrical parts and supplies for an initial twelve month period commencing on July 1, 2016 through June 30, 2017, for a collective amount not-to-exceed \$2,000,000, or \$1,000,000 for each Purchase Order;
- (b) Approve a contingency of \$75,000 in the event that actual usage exceeds estimates;
- (c) Transfer funds between the two Purchase Orders as required, depending on actual usage; and
- (d) Exercise up to four, one-year options to renew the Purchase Orders, with the final option year ending June 30, 2021, subject to the annual appropriation of funds.

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

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated September 27, 2016, recommending adoption of a resolution.

Action: Resolution No. 77938, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute Purchase Orders with Buckles Smith Electric (San José, CA) and Edges Electrical Group, LLC (San José, CA) for the purchase of electrical parts and supplies for an initial twelve-month period commencing on July 1, 2016 through June 30, 2017, for a collective amount not-to-exceed \$2,000,000, or

**2.10 (Cont'd)**

Action (Cont'd.): \$1,000,000 for each Purchase Order; (2) Approve a Contingency Of \$75,000 in the Event that Actual Usage Exceeds Estimates; (3) Transfer Funds Between the Two Purchase Orders as Required, Depending on Actual Usage; and (4) Exercise up to Four One-Year Options to Renew the Purchase Order, with the Final Option Year Ending June 30, 2021, Subject to the Annual Appropriation of Funds”, was adopted. (11-0.)

**2.11 As recommended by the Rules and Open Government Committee on September 14, 2016:**

- (a) **Approve the Costume Dog Walk scheduled on Sunday, October 30, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) **Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Oliverio)  
[Rules Committee referral 9/14/16 – Item G.1.a]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 15, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Costume Dog Walk 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.)

**2.12 As recommended by the Rules and Open Government Committee on September 21, 2016, adopt a position of support for County Measure A. CEQA: Not a Project, File No. PP10-069(d), Legislative Positions. (Housing)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 23, 2016, providing recommendations of the Rules and Open Government Committee.

Mayor Sam Liccardo pulled Item 2.12 and advised Council that debates on ballot measures that are not specifically related to the City must be constrained to two minutes per Councilmember.

Councilmember Johnny Khamis indicated that he cannot support County Measure A, as he considers it misleading. Councilmember Ash Kalra advocated for the measure, and council discussion followed.

Motion: Councilmember Ash Kalra moved approval to support County Measure A. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question the motion carried, and a position of support for County Measure A was adopted. (10-1. Noes: Khamis.)

**2.13 As recommended by the Rules and Open Government Committee on September 21, 2016:**

- (a) Retroactively approve the SuperKids Summer Bash scheduled on Saturday, July 30, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Retroactively 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 September 23, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The SuperKids Summer Bash 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.)

**2.14 As recommended by the Rules and Open Government Committee on September 21, 2016, appoint Councilmember Tam Nguyen and Councilmember Johnny Khamis to the Association of Bay Area Governments Board. CEQA: Not a Project, File No. PP10-069, City Administrative Activities.**

**[Rules Committee referral 9/21/16 – Item F.1.a.]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 23, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The appointments of Councilmember Tam Nguyen and Councilmember Johnny Khamis to the Association of Bay Area Governments Board 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 provided a status on the currently raging Loma fire and extended gratitude to San José's emergency personnel who, through a mutual aid agreement, are actively fighting this fire.

- 3.3 Adopt a resolution authorizing the City Manager to:**
- (a) Negotiate and execute Amendments to the Master Agreements with the following vendors to provide temporary staffing to perform building inspection, plan review, and related services, to increase maximum compensation by \$1,900,000 for a revised not to exceed maximum compensation amount of \$6,900,000, for the term ending July 31, 2017 for each agreement:**
    - (1) 4Leaf, Inc.**
    - (2) Bureau Veritas North America Inc.**
    - (3) California Code Check Inc.**
    - (4) CSG Consultants Inc.**
    - (5) Interwest Consulting Group Inc.**
    - (6) Metropolitan Planning Group**
    - (7) Pacific Municipal Consultants**
    - (8) Shums Coda Associates**
    - (9) TRB and Associates Inc.**
    - (10) West Coast Code Consultants Inc.**
    - (11) Willdan Engineering**
  - (b) Negotiate and execute Amendments to the Agreements to add up to five additional one-year options to extend the term through July 31, 2022, subject to appropriation of funds; and**
  - (c) Negotiate and execute Amendments to the Agreements to make minor modifications to the scope of services and compensation schedule for each agreement as required, subject to the appropriation of funds.**

**CEQA: Not a Project, File No. PP10-066(d), Agreements and Contracts, Consultant Services. (Finance/Planning, Building and Code Enforcement)**

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper and Director, Planning, Building and Code Enforcement Harry Freitas, dated September 26, 2016, recommending adoption of a resolution.

Director, Planning, Building and Code Enforcement Harry Freitas responded to questions regarding vacancies for inspectors. Director of Human Resources, Joe D'Angelo offered a presentation and responded to questions. Staff offered additional info regarding the hiring process, and City Manager Norberto Dueñas provided additional input. Extensive discussion followed.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Johnny Khamis and carried unanimously, Resolution No. 77939, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to the Master Agreements with Various Vendors to Provide Temporary Staffing to Perform Building Inspection, Plan Review and Related Services", was adopted. (11-0.)

- 3.4 (a) **Accept the report on the status of the Human Resources, Payroll, Timekeeping, and Budget Systems implementation.**
- (b) **Approve an increase to the project contingency of \$966,000, bringing the total contingency to \$1,883,740, of which funding of \$500,000 was approved in the 2016-2017 Adopted Budget and \$466,000 will be recommended to be funded as part of the 2015-2016 Annual Report to be heard by the City Council on October 18, 2016.**
- (c) **Adopt a resolution authorizing the City Manager to:**
- (1) **Negotiate and execute amendments to the Agreements with CherryRoad Technology, Inc., Oracle, Mythics, Leckey Consulting, Inc., and Maverick in order to increase the maximum compensation payable under these agreements in a total amount not to exceed the revised contingency amount of \$1,883,740, subject to appropriation of additional funding totaling \$466,000;**
  - (2) **Negotiate and execute amendments to the Agreements with Beacon Light Consulting Inc., and Twysoft, Inc. for staffing support not to exceed a maximum compensation amount of \$600,000 for both Agreements; and**
  - (3) **Execute amendments to the Agreement with CherryRoad Technology, Inc., for Managed Services at a cost of \$100,000 in 2016-2017 and an annual cost of \$200,000 for a term of up to five years, subject to the appropriation of funds.**

**CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Not a Project, File No PP10-069, City Administrative Activities and; Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Finance/Human Resources/Information Technology/City Manager)**

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper, Director of Human Resources, Joe Angelo, Chief Information Officer Rob Lloyd and Senior Deputy City Manager Jennifer Maguire, dated September 16, 2016, recommending acceptance of a report approval of an increased project contingency and adoption of a resolution.

City Manager Norberto Dueñas offered opening comments. Director of Human Resources, Joe Angelo, Assistant Budget Director Margaret McCahan and Director of Finance Julia H. Cooper provided a presentation.

Councilmember Pierluigi Oliverio offered that he cannot support this System, since his preference would be to explore options for off-the-shelf software and to ‘try it before you buy it’.

Action: Upon motion by Councilmember Manh Nguyen, seconded by Vice Mayor Rose Herrera and carried, the report on the status of the Human Resources, Payroll, Timekeeping, and Budget Systems implementation was accepted, an increase to the project contingency of \$966,000, was approved, and Resolution No. 77940, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to the Agreements for the Purchase and Implementation of the Human Resources, Payroll, Timekeeping and Budget Systems”, was adopted. (9-1-1. Noes: Oliverio. Absent: Jones.)



- 3.5 (a) Approve an ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to amend Section 12.06.810 and to add a new Part 11 related to the Legal Defense Fund.
- (b) Approve an ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to add Section 12.06.175 and to amend Sections 12.06.210, 12.06.290, 12.06.610, 12.06.720, and 12.06.910 related to Elections and Municipal Campaign and Officeholder Contributions.

**CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making Municipal Code or Policy, Title 12. (City Attorney)**

**[Deferred from 9/20/16 – Item 3.6]**

*Please note: Approval of this item requires 8 or more affirmative votes (2/3).*

Documents Filed: (1) Memorandum from Councilmember Manh Nguyen, dated September 27, 2016, recommending approval of an ordinance. (2) Memorandum from City Attorney Richard Doyle, dated September 21, 2016, recommending approval of ordinances. (3) Letter from Quyen Vuong, dated September 24, 2016, regarding the recount of votes for the City Council District 4 race. (4) Letter from Lan Diep, Councilmember-Elect, District 4, dated September 27, 2016, requesting Council consideration on issues regarding the proposed ordinances.

Public Comment: Brian Darby suggested that these actions may help make this process more equitable.

Councilmember Manh Nguyen offered comments on Part (a) and recused himself from the remainder of this item due to a conflict of interest.

City Attorney Richard Doyle recommended particular language that may be inserted in the contribution area and responded to concerns from Council. Extensive discussion followed.

Motion: Councilmember Tam Nguyen moved approval of ordinances amending Title 12 of the San José Municipal Code as indicated below in “Action”. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried, and Ordinance No. 29792, entitled “An Ordinance of the City of San José Amending Chapter 12.06 of Title 12 of the San José Municipal Code to Amend Section 12.06.810 and to Add a New Part 11 to Limit Contributions by Individuals to a Candidate Legal Defense Fund”; and Ordinance No. 29793, entitled “An Ordinance of the City of San José Amending Chapter 12.06 of Title 12 of the San José Municipal Code to Add Section 12.06.175 and Amend Sections 12.06.210, 12.06.290, 12.06.610, 12.06.720 and 12.06.910 Related to Elections and Municipal Campaign and Officeholder Contributions”, were passed for publication, with the inclusion of a reference to voluntary pro bono services as allowed under state law, and with referral to the Board of Fair Campaign and Political Practices for further review, returning to Council in six months, and include examining that if no action is filed regarding election contests by the deadlines set by the Elections Code, that no fundraising pursuant to section (b) of the staff recommendation should be allowed. (10-0-0-1. Abstain: M. Nguyen.) (Recused)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 Adopt a resolution authorizing the following:

- (a) Approving the sale by Sharks Ice of the naming rights of the Ice Centre of San Jose (the Ice Centre) to Petersen Dean Roofing & Solar (the Sponsor) for a term of five years;
- (b) Consenting to the official renaming of the Ice Centre from “Sharks Ice at San Jose” to “Solar4America Ice at San Jose” and to the use of the shorter version of the name “Solar4America Ice” when use of the full official name is not reasonably practical; and
- (c) Delegating to the City Manager the authority to approve the location, design, size and appearance of new exterior signage at the Ice Centre to portray the new name and logo.

**CEQA: Exempt, File No. PP15-033. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated September 15, 2016, recommending adoption of a resolution.

Public Comments: Jon Gustafson, representing Sharks Ice, offered support to the proposal.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77941, entitled: “A Resolution of the Council of the City of San José (1) Approving the Sale by Sharks Ice of the Naming Rights of the Ice Centre of San José to Petersen Dean Roofing & Solar for a Term of Five Years; (2) Consenting to the Official Renaming of the Ice Centre from “Sharks Ice at San José” to “Solar4America Ice at San José” and to the Use of the Shorter Version of the Name “Solar4America Ice” When Use of the Full Official Name is Not Reasonably Practical; and (3) Delegating to the City Manager the Authority to Approve the Location, Design, Size and Appearance of New Exterior Signage at the Ice Centre to Portray the New Name and Logo”, was adopted. (11-0.)

- 4.2 (a) Approve an ordinance amending Chapter 4.46 of Title 4 of the San José Municipal Code and Chapter 4.47 of Title 4 of the San José Municipal Code to add sections to suspend the collection of the Building and Structure Construction Tax and the Commercial Residential Mobile home Park Construction Tax (also referred to as the Construction Excise Tax) for the first commercial, non-hotel, high rise development project that secures its first building permit prior to May 31, 2017.
- (b) (1) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Project Completion Agreement with Trammell Crow Company in which the City will suspend the collection of the Building and Structure Construction Tax and the Commercial Residential Mobile Home Park Construction Tax (also referred to as the Construction Excise Tax) for the construction of 1 million square feet of office/retail development in Downtown San José subject to Trammell Crow Company being eligible for the tax suspension.

4.2 (Cont'd.)

- (2) **Conduct a Public Hearing regarding an economic subsidy estimated value not to exceed \$4 million in connection with a Project Completion Agreement with Trammell Crow Company if all conditions of receiving the tax suspension are satisfied, pursuant to California Government Code Section 53083.**

**CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making that involve no changes in the physical environment; File No. PDC15-051, Delmas Avenue Mixed-Use Development, Addendum to the Final EIR for the San José Water Land Company Planned Development Rezoning, Downtown Strategy 2000 FPEIR, Envision 2040 General Plan FPEDIR and SEIR. (Economic Development)**

Action: Deferred to October 4, 2016 per Administration.

- 4.3 (a) **Approve an ordinance amending Part 8 of Chapter 17.23 of Title 17 of the San José Municipal Code (Interim Amendment to the Apartment Rent Ordinance) extending the termination date of that Chapter until the earlier of June 30, 2017 or sixty days after the effective date of an Ordinance amending Chapter 17.23 consistent with Council direction.**
- (b) **Adopt a resolution amending and restating Chapter 9 of the regulations for the operation and administration of the San José Rental Dispute Mediation and Arbitration Ordinance, Chapter 17.23 of Title 17 of the San José Municipal Code (Apartment Rent Ordinance) and superseding Resolution No.77922.**

**CEQA: Exempt, Section 15061 (b)(3), No potential for causing a significant effect on the environment, File No. PP16-051. (Housing)**

Documents Filed: (1) Memorandum from Councilmember Johnny Khamis, dated September 27, 2016, recommending acceptance of staff recommendations with modifications. (2) Memorandum from Director of Housing Jacky Morales-Ferrand, dated September 13, 2016, recommending approval of an ordinance and adoption of a resolution. (3) Email from Melissa Morris, Law Foundation of Silicon Valley, received September 23, 2016, submitting comments and recommendations regarding the proposed rent ordinance.

*Items (a) and (b) were bifurcated as indicated below.*

Public Comments: Melissa Morris Law Foundation of Silicon Valley offered recommendations regarding tenant rights, and Anil Babbar, CAA, expressed concerns.

Director of Housing Jacky Morales-Ferrand provided an introduction and read changes into the record as indicated below in "Action", and staff responded to questions from Council.

Motion - Item "A": Vice Mayor Rose Herrera moved approval to" extending the termination date until the earlier of June 30, 2017 or sixty days after the effective date of an Ordinance amending Chapter 17.23 consistent with Council direction. The motion was seconded by Councilmember Johnny Khamis.

#### 4.3 (Cont'd.)

Action – Item “A”: On a call for the question, the motion carried unanimously, and Ordinance No. 29794, entitled “An Ordinance of the City of San José, Amending Part 8 to Chapter 17.23 of Title 17 of the San José Municipal Code Extending the Termination Date”, was passed for publication. (11-0.)

Motion - Item “B”: Councilmember Johnny Khamis moved approval of Staffs’ recommendations, including his memorandum dated September 27, 2016. The motion was seconded by Councilmember Pierluigi Oliverio.

Substitute Motion: Councilmember Ash Kalra offered a substitute motion, modifying language on best evidence and items 2 and 3 from Councilmember Johnny Khamis’ memorandum. Councilmember Donald Rocha seconded the motion.

Vice Mayor Rose Herrera requested an amendment to the motion to include the types of evidence, such as electronic, that may be submitted. Councilmembers Ash Kalra and Donald Rocha agreed to the amendment to the motion.

Action: On a call for the question, the substitute motion carried, and Resolution No. 77942 was adopted, with changes as outlined by Staff as follows:

##### 9.02.04 Opposition Statements:

A tenant may submit a statement in opposition to the claim(s) made by the petition on a City approved form (“Opposition Statement”). The Opposition Statement should be filed with the Program within ~~21~~ 40 days of the date of the City Complete Notice. The Opposition Statement must be accompanied by a proxy form and should include any supporting documentation intended to be presented at the hearing.

...  
9.02.05 C. Evidence that may tend to show that rents were unusually low for the quality, location, age, amenities and condition of the housing includes *but is not limited to* evidence of rents collected in comparable buildings located in the same neighborhood.

...  
9.03.01 Program staff shall assign an (Arbitration) Hearing Officer to hear the completed fair return petition and the administrative hearing on the petition shall be scheduled within ~~thirty (30)~~ forty (40) days of the mailing of the notice of determination of completeness. In the event the Hearing Officer elects to hold a pre-hearing conference, the pre-hearing conference shall be scheduled within ~~30~~ 40 days and the hearing thereafter. Notice of the hearing date shall be sent to the landlord and ~~affected~~ tenants. The notice of the hearing date shall be deposited in the U.S. Mail at least two weeks prior to the hearing date.

And, by substitute motion from Councilmember Ash Kalra, include a modification to 9.02.05 (B): Tax returns *alone* are not accepted as sufficient evidence for Current Year claims, or for any year less than three years prior to the Current Year. Copies of contemporaneously prepared ledgers *alone* are not accepted as sufficient evidence for the Current Year; and modification to 9.06.03 (F) “...original documents are the best evidence, *and all types of evidence may be submitted.*” (8-3. Noes: Khamis, M. Nguyen, Oliverio.)

## NEIGHBORHOOD SERVICES

- 5.1 (a) Approve the Cannery Park Turnkey Improvements Master Plan.
- (b) Approve a Parkland Agreement between the City of San José and The Hanover Company (“Japantown Associates”), a Delaware Limited Liability Company, regarding Plan Development Permit PD15-004 for a future dedication of land for park purposes pursuant to the City’s Park Impact Ordinance (San José Municipal Code Chapter 14.25) and the development of turnkey park improvements.
- (c) Adopt a resolution authorizing the City Manager or designee to accept an offer of dedication from The Hanover Company for approximately 31,362 square feet of land (0.72 acres) for park purposes located at the southwest corner of North 10th and Mission Street, and to execute all documents necessary to construct turnkey park improvements on the above and adjacent property intended for public park purposes.

**CEQA: Cannery Park/Hanover Project Mitigated Negative Declaration, File No. GP15-001. Council District 3. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated September 6, 2016, recommending the Master Plan, approval of an agreement and adoption of a resolution.

Councilmember Raul Peralez offered brief comments.

Action: Upon motion by Councilmember Ash Kalra, seconded by Vice Mayor Rose Herrera and carried unanimously, the Cannery Park Turnkey Improvements Master Plan and the Parkland Agreement between the City of San José and The Hanover Company (“Japantown Associates”), a Delaware Limited Liability Company, regarding Plan Development Permit PD15-004 for a future dedication of land for park purposes pursuant to the City’s Park Impact Ordinance (San José Municipal Code Chapter 14.25) and the development of turnkey park improvements were approved, and Resolution No. 77943, entitled: “A Resolution of the Council of the City of San José Authorizing the City manager or Designee to Accept an Offer of Dedication from the Hanover Company for Approximately 31,362 Square Feet of Land (0.72 Acre) Located at the Southwest Corner of 10<sup>th</sup> and Mission Street for Park Purposes”, was adopted. (11-0.)

## TRANSPORTATION & AVIATION SERVICES

- 6.1 (a) Adopt a resolution making certain findings as a responsible agency for purposes of and pursuant to the provisions of the California Environmental Quality Act of 1970 in connection with the approval of discretionary actions of the City of San José necessary for the construction of the Peninsula Corridor Electrification Project and adopting the related mitigation monitoring and reporting program.

**6.1 (Cont'd.)**

- (b) Approve the Comprehensive Agreement with the Peninsula Corridor Joint Powers Board for the Peninsula Corridor Electrification Project within the limit of the City of San José for a term from the date of execution to the completion of construction estimated to be December 2020.**

**CEQA: Peninsula Corridor Electrification Project Final EIR, File No. PP16-061. (Planning, Building and Code Enforcement/Transportation)**

Documents Filed: Joint memorandum from Director, Planning, Building and Code Enforcement Harry Freitas and Director of Transportation Jim Ortbal, dated September 7, 2016, recommending adoption of a resolution and approval of an agreement.

Councilmember Raul Peralez offered brief comments.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Chappie Jones and carried unanimously, Resolution No. 77944, entitled: "A Resolution of the Council of the City of San José Making Certain Findings as the Responsible Agency for Purposes of and Pursuant to the Provisions of the California Environmental Quality Act of 1970, as Amended, in Connection with the Approval of Discretionary Actions by the City Necessary for the Construction of the Peninsula Corridor Electrification Project and Adopting the Related Mitigation Monitoring and Reporting Program", was adopted, and the Comprehensive Agreement with the Peninsula Corridor Joint Powers Board for the Peninsula Corridor Electrification Project within the limit of the City of San José for a term from the date of execution to the completion of construction estimated to be December 2020, was approved. (11-0.)

**OPEN FORUM**

1. Brian Darby offered appreciation for the advocacy the City has done on behalf of the Winchester Mobile Home Park, and he brought attention to a study that was done on autism spectrum disorder.
2. Blair Beekman discussed translation services as referenced by Melissa Morris with the Law Foundation of Silicon Valley and offered comments regarding surveillance and technology.

**ADJOURNMENT**

The Council of the City of San José adjourned at 5:46 p.m

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk