



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, NOVEMBER 15, 2016

The Council of the City of San José convened in Regular Session at 9:33 a.m. in the Council Chambers at City Hall.

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

Absent: Councilmembers - Herrera, Kalra. (Excused)

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:35 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 two (2) matters; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) 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; (2) 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; (3) 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; (4) Great

CLOSED SESSION (Cont'd.)

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; (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-

CLOSED SESSION (Cont'd.)

CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: 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; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing

CLOSED SESSION (Cont'd.)

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 10:35 a.m. and reconvened to Regular Session at 11:00 a.m. in the Council Chambers.

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

Absent: Councilmembers - Herrera, Kalra. (Excused)

ORDERS OF THE DAY

Upon motion by Councilmember Donald Rocha, seconded by Councilmember Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Item 10.3 deferred to December 13, 2016. (9-0-2. Absent: Herrera, Kalra.)

Public Comments: Applicant Michael Van Every, representing Home First, and Jim Eller, San José Evergreen CCD, acknowledged technical issues regarding the General Plan Amendment at the Northeasterly Corner of Yerba Buena Road and San Felipe Road and recommended deferral of this issue and deferral of public testimony.

CONSENT CALENDAR

Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Johnny Khamis, and carried unanimously, the Consent Calendar was approved with Item 10.3 deferred to December 13, 2016. (9-0-2. Absent: Herrera, Kalra.)

2.1 Approval of City Council Minutes.

(a) Regular Minutes of October 4, 2016.

(b) Regular Minutes of October 18, 2016.

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

Documents Filed: (1) Council Meeting Minutes dated October 4, 2016; (2) Council Meeting Minutes dated October 18, 2016.

Action: The Council Meeting Minutes were approved. (9-0-2. Absent: Herrera, Kalra.)

2.2 Final adoption of ordinances.

(a) ORD. NO. 29812 – An ordinance of the City of San José amending Title 12 of the San José Municipal Code to add Section 12.12.165 and amend Sections 12.12.400, 12.12.420, 12.12.430, 12.12.440, 12.12.600 and 12.12.800 to revise lobbyist reporting disclosures and to clarify calculation of fines. CEQA: Not a Project, File No. PP10-068(c) Municipal Code or Policy Change that involves no changes to the physical environment. (City Clerk)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29812 executed on November 4, 2016, submitted by the City Clerk.

Action: Ordinance No. 29812 was adopted. (9-0-2. Absent: Herrera, Kalra.)

(b) ORD. NO. 29814 – An ordinance of the City San José amending Section 11.04.031 of Title 11 of the San José Municipal Code to identify “Lincoln Avenue between Coe Avenue and Minnesota Avenue” as a designated area where bicycling on the sidewalk is prohibited. CEQA: Exempt, Section 15301(c), Existing Facilities, File No. PP16-111. Council District 6. (Transportation)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29814 executed on November 4, 2016, submitted by the City Clerk.

Action: Ordinance No. 29814 was adopted. (9-0-2. Absent: Herrera, Kalra.)

(c) ORD. NO. 29815 – An ordinance of the City of San José rezoning certain real property of approximately 78.4 acres situated on the east side of Perimeter Road, between Great Oaks Boulevard and Miyuki Drive, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District. CEQA: Determination of Consistency with the Great Oaks Mixed Use Project Final Environmental Impact Report (Resolution No. 77219), and the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617). (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29815 executed on November 4, 2016, submitted by the City Clerk.

2.2 Final adoption of ordinances (Cont'd.)

- (c) Action: Ordinance No. 29815 was adopted. (9-0-2. Absent: Herrera, Kalra.)
- (d) **ORD. NO. 29816** – An ordinance of the City of San José amending Sections 4.80.2010 and 4.80.2020 of Chapter 4.80 of Title 4 of the San José Municipal Code to establish a fund for the City-funded medical program. CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy Making that involves not changes to the physical environment; and Not a Project, File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. (Human Resources/City Manager)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29816 executed on November 11, 2016, submitted by the City Clerk.

Action: Ordinance No. 29816 was adopted. (9-0-2. Absent: Herrera, Kalra.)

- (e) **ORD. NO. 29820** – An ordinance amending Title 4 of the San José Municipal Code to add a new Chapter 4.88 to create an Urban Agriculture Tax Incentive Zone consisting of vacant, unimproved, and minimally improved blighted property parcels that are at least 0.10 acre and less than 1.0 acre in size, located in incorporated areas of the City of San José, and meeting other specified eligibility criteria consistent with State law governing the adoption of Urban Agriculture Incentive Zone ordinances. CEQA: Not a Project, Section 15378 Definition of Project and Exempt, Section 15061(b)(3), No potential for causing a significant effect on the environment, File No. PP16-119. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29820 executed on November 11, 2016, submitted by the City Clerk.

Action: Ordinance No. 29820 was adopted. (9-0-2. Absent: Herrera, Kalra.)

2.3 Approval of Council Committee Minutes.

- (a) **Community and Economic Development Committee Minutes of October 24, 2016. (Khamis)**
- (b) **Rules and Open Government Committee Minutes of October 26, 2016. (Mayor)**
- CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.**

Documents Filed: (1) Community and Economic Development Committee Minutes of October 24, 2016; (2) Rules and Open Government Committee Minutes dated October 26, 2016.

Action: The Council Committee Minutes were accepted. (9-0-2. Absent: Herrera, Kalra.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.4 City Council Travel Reports.

None provided.

2.5 Report from the Council Liaison to the Retirement Boards.

None provided

2.7 Approve the Fifth Amendment to Lease of Airport Premises between the City of San José and Jett Pro Line Maintenance, Inc. to extend the term for three years to expire on November 30, 2019, with total revenue to the City in the amount of \$400,000. CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for the same use. (Airport)

Documents Filed: City Council Action Request from Director of Aviation Services Kimberly J. Becker, dated November 15, 2016, recommending approval of a Fifth Amendment to Lease of Airport Premises.

Action: The Fifth Amendment to Lease of Airport Premises between the City of San José and Jett Pro Line Maintenance, Inc. to extend the term for three years to expire on November 30, 2019, with total revenue to the City in the amount of \$400,000, was approved. (9-0-2. Absent: Herrera, Kalra.)

2.8 Approve a Fifth Amendment to Lease of Airport Premises with G2 Secure Staff, LLC to extend the term for three years, from January 1, 2017 through December 31, 2019, with annual revenue to the City of approximately \$64,352. CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for the same use. (Airport)

Documents Filed: Memorandum from Director of Aviation Services Kimberly J. Becker, dated October 24, 2016, recommending approval of a Fifth Amendment to Lease of Airport Premises.

Action: The Fifth Amendment to Lease of Airport Premises with G2 Secure Staff, LLC to extend the term for three years, from January 1, 2017 through December 31, 2019, with annual revenue to the City of approximately \$64,352, was approved. (9-0-2. Absent: Herrera, Kalra.)

2.9 Approve an Amendment to the special Grant Agreement with San Jose Jazz, relating to "The Musical Swings" at Plaza de Cesar Chavez, to increase the grant award by \$23,936, from \$50,000 to \$73,936. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts for Services that involve no physical changes to the environment. Council District 3. (Economic Development)

2.9 (Cont'd.)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated October 24, 2016, recommending approval of an amendment.

Action: An Amendment to the special Grant Agreement with San Jose Jazz, relating to "The Musical Swings" at Plaza de Cesar Chavez, to increase the grant award by \$23,936, from \$50,000 to \$73,936, was approved. (9-0-2. Absent: Herrera, Kalra.)

2.10 Approve the Second Amendment to the Master Service Agreement between the City of San José and Langham Consulting Services, LLC (Langham) dated May 21, 2014, both extending the term from December 13, 2016 to July 31, 2017, and increasing the maximum total compensation by \$160,000 from \$1,100,000 to \$1,260,000. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Finance/Environmental Services)

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper and Director, Environmental Services, Kerrie Romanow, dated November 15, 2016, recommending approval of a second amendment to a Master Service Agreement.

Action: The Second Amendment to the Master Service Agreement between the City of San José and Langham Consulting Services, LLC (Langham) dated May 21, 2014, both extending the term from December 13, 2016 to July 31, 2017, and increasing the maximum total compensation by \$160,000 from \$1,100,000 to \$1,260,000, was approved. (9-0-2. Absent: Herrera, Kalra.)

2.11 Amendment to the City Pay Plan for Various Classifications

Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective November 20, 2016, to change the title and salary ranges for following classifications:**
 - (1) Council Assistant U (7648) (formerly Council Assistant II U) with a new salary range of \$47,476.00 - \$70,140.20 annually; and**
 - (2) Council Assistant U PT (7653) (formerly Council Assistant II U PT) with a new salary range of \$47,476.00 - \$70,140.20 annually.**
- (b) Amend the City of San José Pay Plan effective November 20, 2016, to change the salary ranges for following classifications:**
 - (1) Council Community Relations Aide U (7672) with a new salary range of \$47,476.00 - \$51,448.37 annually;**
 - (2) Council Community Relations Aide U PT (7682) with a new salary range of \$47,476.00 - \$51,448.37 annually;**
 - (3) Council Policy & Legislative Aide U (7671) with a new salary range of \$47,476.00 - \$51,448.37 annually;**
 - (4) Council Community Relations Representative U (7674) with a new salary range of \$47,476.00 - \$61,738.04 annually;**
 - (5) Council Community Relations Representative U PT (7684) with a new salary range of \$47,476.00 - \$61,738.04 annually;**

2.11 (Cont'd.)

- (b) (6) **Council Policy & Legislative Analyst U (7673) \$47,476.00 - \$61,738.04 annually;**
 - (7) **Council Community Relations Coordinator (7676) with a new salary range of \$47,476.00 - \$74,085.65 annually;**
 - (8) **Council Community Relations Coordinator PT (7676) with a new salary range of \$47,476.00 - \$74,085.65 annually;**
 - (9) **Temporary Employee U Mb (9988) with a new salary range of \$47,476.00 - \$238,366.11 annually; and**
 - (10) **Temporary Employee U Mgt Unben (9989) with a new salary range of \$47,476.00 - \$238,366.11 annually.**
- (c) **Amend the City of San José Pay Plan effective November 20, 2016, to delete the following classifications:**
- (1) **Council Assistant I (7647); and**
 - (2) **Council Assistant I PT (7652).**

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

Documents Filed: Memorandum from Director of Human Resources, Joe Angelo, dated October 27, 2016, recommending adoption of a resolution.

Action: Resolution No. 77973, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications", was adopted. (9-0-2. Absent: Herrera, Kalra.)

2.12 Approve the Downtown San José Property-Based Improvement District Annual Financial Report for FY 2015-16. CEQA: Exempt, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports. Council District 3.

Documents Filed: City Council Action Request from Director of Transportation Jim Ortbal, dated November 15, 2016, recommending approval of the Annual Financial Report.

Action: The Downtown San José Property-Based Improvement District Annual Financial Report for FY 2015-16, was approved. (9-0-2. Absent: Herrera, Kalra.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.3 Accept the report on the status of City Clerk audit recommendations. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments, and Annual Reports that involve no approvals of any City Actions. (City Auditor)

Documents Filed: Memorandum from City Auditor Sharon Erickson, dated November 3, 2016, regarding the status of City Clerk audit recommendations.

3.3 (Cont'd.)

City Auditor Sharon Erickson provided an update on the City Clerk audit status.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Tam Nguyen and carried unanimously, the City Clerk audit recommendations update was accepted. (9-0-2. Absent: Herrera, Kalra.)

3.4 Actions Related to the Minimum Wage Increase.

Item 3.4 was heard during the afternoon session.

- (a) Council discussion and consideration of staff's recommendations related to a countywide effort to increase the citywide minimum wage to \$15 per hour ahead of the state schedule. Staff recommends:
- (1) Delaying the implementation of the studied schedule by one year, starting with an increase to \$12 in January 2018, an increase to \$13.50 in January 2019, reaching \$15 per hour in January 2020 (one year later than the Cities Association recommendation);
 - (2) Increasing San Jose's minimum wage to \$10.50 in January 2017, for consistency with the state schedule across employers of all sizes;
 - (3) Adding an exemption for employees in transitional jobs programs;
 - (4) Changing the CPI index used for annual increases from the U.S. All Cities CPI-W to the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area (CMSA) CPI-W to more accurately account for the cost of living adjustments in this area; and
 - (5) Including an 'off ramp' provision with two economic triggers similar to the State of California, providing option to delay scheduled increase to the minimum wage if a severe recession occurs during the ramp up to \$15.
- (b) Direct staff to return on November 29, 2016 with an ordinance to modify the existing minimum wage ordinance according to Council direction.

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Councilmember Chappie Jones and Councilmember Manh Nguyen, dated November 10, 2016, recommending approval of staffs' recommendations with additional direction. (2) Joint memorandum from Councilmember Magdalena Carrasco, Councilmember Raul Peralez, Councilmember Ash Kalra and Councilmember Donald Rocha, dated November 10, 2016, providing recommendations to the Minimum Wage policy options. (3) Memorandum from Councilmember Johnny Khamis, dated November 10, 2016, providing support to the staffs' recommendations. (4) Memorandum from Councilmember Donald Rocha, dated November 15, 2016, providing recommendations regarding the Minimum Wage policy options. (5) Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated November 3, 2016, recommending Council consideration to a countywide increase in the Citywide minimum wage. (6) Letters from members of the public, Randy Musterer, Chava Bustamante and Tracey Infantino, offering support to the staffs' recommendations.

3.4 (Cont'd.)

Public Comments: Offering support, comments and feedback regarding the proposed countywide effort to increase the citywide minimum wage to \$15 per hour, were: Angelo Heropoulos, Ed Burns, Joan Goddard, Jerry Wilburn, Alberto Rodriguez, Jessica Lynam Masoledad Timer, Shaunn Cartwright, Quien Mai, Dave Thompson, Ray Perez, Carol Garvey, Karina Tenorio, Yolanda Salinas, Wendy Ho, Andrew Boone, Marie Bernard, David Urhausen, Jessica Paz-Cedillos, Mike Fox, Alison Hicks, Meghan Fraley, Rosa Espinoza, Alejandra Hernandez, Patricia Gardner, LeeAndra Leola, Elizabeth Agramont, Yareth Gomez, Bill Wallace, Maria Noel Fernandez, Omar Vasquez, Yasmin Fernandez, Magaly Mata, Doug Jones, Scott Myers-Lipton, Ruth Silver Taube, Salvador Bustamante, Anne Rosenzerg, Alejandro Nunez, Fatemeh Naseri, Rod Sinks, Margaret Abe-Kuga, Angela Tamago, Trish Dorsell, Victor Gomez, Marisol Diaz, Pocho Guerada, Gemma Abels Blanca Rodriguez, Emily Ramos, Victor Cristobal, and Randy Musterer.

Motion: Councilmember Chappie Jones moved approval of the memorandum he cosigned with Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmember Manh Nguyen, dated November 10, 2016, including capping the CPI increase at 5 cents. Vice Mayor Rose Herrera seconded the motion.

Deputy City Manager/Director of Economic Development Kim Walesh responded to questions from Council, indicated the change to staffs' recommendation, recommending that San José's minimum wage is set to increase to \$10.50 on January 1, 2017.

Extensive Council discussion followed.

Substitute Motion: Councilmember Raul Peralez moved approval of the memorandum he cosigned with Councilmembers Carrasco, Kalra and Rocha, dated November 10, 2016, allowing for an initial increase of \$12 in July 1, 2017 and excluding the training wage. Councilmember Ash Kalra seconded the motion.

On a call for the question, the motion on the floor failed. (4-6-1. Noes: Herrera, Jones, Khamis, M. Nguyen, Rocha; Liccardo. Absent: Oliverio.)

Action: On a call for the question, the original motion carried unanimously, the Staffs' recommendations were accepted, including the memorandum cosigned by Mayor Sam Liccardo, Vice Mayor Rose Herrera, Councilmember Chappie Jones and Councilmember Manh Nguyen, dated November 10, 2016, to (a) Move the implementation of \$12 to July 1, 2017, \$13.50 to January 1, 2018 and \$15 to January 1, 2019; (b) Include an exemption for youth (below 18 years of age) in training/education employment programs, limited to 120 days annually per position and per trainee. (2) Direct the City Manager to incorporate changes into community outreach previously directed by Council regarding the business tax modernization to the business and nonprofit community. Also, amending the staff recommendation regarding Measure D Local Minimum Wage Ordinance as follows: Based on annual CPI increases, San José's current minimum wage is \$10.30. San José's minimum wage is set to increase to \$10.50 on January 1, 2017. (10-0-1. Absent: Oliverio.)

- 3.5 Adopt a resolution authorizing the City Manager to:**
- (a) Negotiate and execute an Agreement with AST Corporation (Naperville, IL) for the implementation of a Service Request Management/Customer Relationship Management (SRM/CRM) Software System including mobile application development, configuration, testing, training, and related professional services, for an initial five-year term commencing on or about December 1, 2016, and ending on or about November 30, 2021, with maximum compensation amount not-to-exceed \$374,483, subject to the appropriation of funds;**
 - (b) Negotiate and execute an Agreement with Oracle America, Inc. (Redwood City, CA) for the purchase of a SRM/CRM Software System including software and hosting services, for an initial five-year term commencing on or about December 1, 2016, and ending on or about November 30, 2021, with maximum compensation amount not-to-exceed \$546,590, subject to the appropriation of funds;**
 - (c) Execute change orders to cover any additional requirements including but not limited to additional mobile application development, CRM products and services, and enhanced integration/automation, not-to-exceed \$100,000 for the initial five-year term, subject to the appropriation of funds; and**
 - (d) Execute up to five one-year options to extend the term of the Agreements through November 30, 2026, to provide ongoing services, subject to the appropriation of funds.**

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts, Purchase of Supplies, Equipment & Professional Services that involve no changes to the physical environment. (Finance/Information Technology)

Documents Filed: Joint memorandum from Director of Finance Julia H. Cooper and Chief Information Officer Rob Lloyd, dated November 4, 2016, recommending adoption of a resolution.

Chief Information Officer Rob Lloyd provided a presentation regarding the SRM/CRM Software System.

Councilmember Pierluigi Oliverio expressed that he could not support implementation of this system, since he believes other alternatives should be considered.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Tam Nguyen and carried, Resolution No. 77974, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Negotiate and Execute an Agreement with AST Corporation for the Implementation of a Service Request Management/Customer Relationship Management Software System; (2) Negotiate and Execute an Agreement with Oracle America, Inc. (Redwood City, CA) for the Purchase of a SRM/CRM Software System; (3) Execute Change Orders to Cover any Additional Requirements; and (4) Execute Up To Five One-Year Options to Extend the Term of the Agreements; Subject to the Appropriation of Funds", was adopted. (8-1-2. Noes: Oliverio. Absent: Herrera, Kalra.)

- 3.6 As recommended by the Rules and Open Government Committee on October 26, 2016, discuss the “Fiscal Year 2015-2016 Retirement Plan Investments Annual Report” and an analysis for FY 2013-2014 and FY 2014-2015 and information regarding the timing of projections for future rates focusing on assumed rates of return and impacts to the City’s contribution rate for next five years. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports that involve no approvals of any City Actions. (Retirement Services) [Rules Committee referral 10/26/16 – Item G.2.]**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated November 14, 2016, providing a Retirement Plan Report and Briefing. (2) Memorandum from City Clerk Toni J. Taber, dated November 3, 2016, transmitting the recommendations of the Rules and Open Government Committee. (3) PowerPoint Presentation: “Office of Retirement Services Investment Program Return”.

Staff provided a presentation and responded to questions from Council.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Magdalena Carrasco and carried unanimously, the “Fiscal Year 2015-2016 Retirement Plan Investments Annual Report” and an analysis for FY 2013-2014 and FY 2014-2015 and information regarding the timing of projections for future rates focusing on assumed rates of return and impacts to the City’s contribution rate for next five years, was accepted. (9-0-2. Absent: Herrera, Kalra.)

- 3.7 Approve a global settlement in Sharks Sports & Entertainment LLC v. City of San José, et al., Santa Clara County Superior Court case no. 16CV296834, and authorize the City Attorney to execute a Settlement Agreement and Mutual Release relating to the Sharks Sports & Entertainment LLC’s claim against City of San José, San José City Council, Trammel Crow Company, LLC, and Diridon Station Joint Venture, LLC challenging the City’s approval of the Delmas Avenue Mixed-Use Development Project and addendum to the Environmental Impact Reports. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated November 10, 2016, recommending approval of a settlement. (2) Letters from the public, Edward Saum, Shaster/Hanchett Park Neighborhood Association; Richard Nieset; and Adina Levin, Friends of Caltrain, each dated November 15, 2016, addressing urban planning issues.

City Attorney Richard Doyle offered opening comments regarding the settlement agreement; and Don Little, representing Trammel Crow Company, LLC, responded to questions from Council.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Chappie Jones and carried unanimously, a global settlement in Sharks Sports & Entertainment LLC v. City of San José, et al., Santa Clara County Superior Court case no. 16CV296834, with authorization by the City Attorney to execute a Settlement Agreement

3.7 (Cont'd.)

Action (Cont'd.): and Mutual Release relating to the Sharks Sports & Entertainment LLC's claim against City of San José, San José City Council, Trammel Crow Company, LLC, and Diridon Station Joint Venture, LLC challenging the City's approval of the Delmas Avenue Mixed-Use Development Project and addendum to the Environmental Impact Reports, was approved. (9-0-2. Absent: Herrera, Kalra.)

RECESS/RECONVENE

The City Council recessed at 12:39 p.m. from the morning Council Session and reconvened at 1:36 p.m. in the Council Chambers, City Hall.

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

Absent: Councilmembers - All Present.

INVOCATION

Dr. Ed Silvos, Harvest Evangelism, and International Transformation Network provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by students from Glider and De Vargas Elementary School.

CEREMONIAL ITEMS

1.1 **Presentation of a proclamation recognizing November 26, 2016 as Small Business Saturday in the City of San José. (Khamis)**

Mayor Sam Liccardo and Councilmember Johnny Khamis recognized November 26, 2016 as Small Business Saturday in the City of San José.

1.2 **Presentation of a proclamation declaring November 17, 2016 as World Pancreatic Cancer Day. (Oliverio)**

Mayor Sam Liccardo and Councilmember Pierluigi Oliverio recognized November 17, 2016 as World Pancreatic Cancer Day.

1.3 Presentation of commendations to the San José Police Department Crime Prevention Unit and the District 8 Neighborhood Watch Leaders. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera commended the San José Police Department Crime Prevention Unit and the District 8 Neighborhood Watch Leaders for their continued commitment in keeping our community safe.

1.4 Presentation of a commendation to Jim Zito for his outstanding leadership and community service. (Herrera)

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmember Johnny Khamis commended Jim Zito for his outstanding leadership and community service.

Heard in the Evening.

1.5 Presentation of a proclamation for Sikh American Awareness & Appreciation Month in the City of San José. (Kalra)

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Councilmember Ash Kalra presented a proclamation for Sikh American Awareness & Appreciation Month in the City of San José.

Heard in the Evening.

1.6 Presentation of a commendation to the Cambrian Valley Youth Football League Longhorns Mitey Mites Division. (Rocha)

Mayor Sam Liccardo and Councilmember Donald Rocha presented a commendation to the Cambrian Valley Youth Football League Longhorns Mitey Mites Division for outstanding accomplishments and sportsmanship during the 2016 season.

Heard in the Evening.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Conduct a Public Hearing regarding an economic subsidy in connection with an Industrial Project Completion Agreement with CMK, LLC (Broadcom Limited), pursuant to California Government Code Section 53083; and**
(b) Approve the Industrial Project Completion Agreement with CMK, LLC, in which the City will provide a traffic impact fee reduction from \$14.44 per square foot to \$5 per square foot for the equivalent of a net gain of 100,200 square feet in industrial development at 3200 Zanker Road in North San José pursuant to the North San José Area Development Policy.

CEQA: North San José Development Policies EIR, Resolution No. 72768, and Addenda thereto. Council District 4. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated October 26, 2016, recommending approval of an agreement.

4.1 (Cont'd.)

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Raul Peralez, and carried unanimously, the Industrial Project Completion Agreement with CMK, LLC, in which the City will provide a traffic impact fee reduction from \$14.44 per square foot to \$5 per square foot for the equivalent of a net gain of 100,200 square feet in industrial development at 3200 Zanker Road in North San José pursuant to the North San José Area Development Policy, was approved. (11-0.)

4.2 **Adopt a Resolution: Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Don de Dios Apartments), Series 2016A (the “Series 2016A Note”) in a principal amount not to exceed \$20,000,000;**

- (b) **Approving a loan of Series 2016A Note proceeds to Don de Dios L.P., a California limited partnership created by EAH, Inc., a California nonprofit public benefit corporation, to finance the acquisition and rehabilitation of the Don de Dios Apartments located at 987 Fair Avenue, in San José (the “Property”);**
- (c) **Approving in substantially final form the Funding Loan Agreement, Borrower Loan Agreement and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2016A Documents”);**
- (d) **Authorizing and directing the City Manager, Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2016A Documents and related Series 2016A Documents as necessary; and**
- (e) **Authorizing the Director of Housing to negotiate and execute amendments to existing City loan documents relating to the Don de Dios Apartments consistent with the terms described below.**

CEQA: Exempt, File No. PP16-120, Section 15301 (d) Existing Facilities. Council District 7. (Housing/Finance)

Action: Deferred to November 29, 2016 per Administration.

4.3 **Consideration of an Ordinance of the City of San José amending Title 20 of the San José Municipal Code (Zoning Ordinance or Zoning Code) to amend various sections of Chapter 20.30 “Residential Zoning Districts” all to add mixed residential-commercial use as an allowable use, to allow secondary dwellings in the R-2 Two Family Residence District, to modify development standards for residential uses including reducing minimum required setbacks, to delete maximum number of stories in the R-M Multiple Residence Zoning District while maintaining maximum allowable height, to modify the permit type for exceedance of decibel levels indicated in Table 20-85, and to amend Section 20.30.150 “Secondary Units” in Required Off-Street Parking Spaces” in Chapter 20.90, “Parking and Loading” to allow reductions in parking spaces for residential uses in compliance with newly adopted State law; to amend Section 20.200.325 - Dwelling, Secondary in compliance with newly adopted State law; to re-number various sections within Chapter 20.200 so that the sections**

4.3 (Cont'd.)

are listed in alphabetical order; and to make other technical, non-substantive, or formatting changes within those sections of Title 20. **CEQA: Determination of Consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental EIR to Envision San José General Plan EIR, Resolution No. 77617, and Addenda thereto; Downtown Strategy 2000 EIR, Resolution No. 72767, and Addenda thereto; North San José Development Policies EIR, Resolution No. 72768, and Addenda thereto; and Diridon Station Area Plan EIR, Resolution No. 77096 and Addenda thereto (collectively, the “Final Program EIRs”). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs. File No. PP16-115. Planning Commission recommends approval (5-0-2) (Abelita and Pham absent). (Planning, Building and Code Enforcement)**

Title 20 – Citywide

Documents Filed: (1) Memorandum from Vice Mayor Rose Herrera, dated November 14, 2016, recommending support to the Planning Department’s recommendations with additional direction to Administration. (2) Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated October 26, 2016, recommending adoption of an ordinance. (3) Memorandum from Planning Commission Secretary, Harry Freitas, dated November 10, 2016, transmitting the Planning Commission recommendations. (4) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated November 15, 2016, providing suggested modifications to the conditions of approval. (5) Proof of Publication of Notice of Public Hearing, executed on September 26, 2016, submitted by the City Clerk. (6) Letter and email correspondence from SPUR Community Planning Policy Director, Kristy Wang, dated November 8, 2016, providing feedback on the proposed project. (6) Letter from Matt Regan, Senior Vice President, Bay Area Council, dated November 15, 2016, expressing support for amendments to the Zoning Code. (7) CitySpaces Micropad Prefab Affordable Dwelling pamphlet and model provided by Patrick Kennedy of Panoramic Interests.

Director, Planning, Building and Code Enforcement Harry Freitas introduced the proposal, and Supervising Planner, Jennie Nausbaum, provided a presentation.

Public Comments: Speaking in support of the amendments to the Zoning Code were Adam Mayberry, Vincent Rocha, Patrick Kennedy (Panoramic Interests), Georgie Huff, Rachele Trigueros (Bay Area Council), Don Gagliardi, Pilar Lorenzana-Campo (SV@Home), and Laura Tolhoff (SPUR).

Motion: Vice Mayor Rose Herrera moved approval of the staff recommendations, including direction as indicated in her memorandum dated November 14, 2016, with changes as indicated below in “Action”. Councilmember Chappie Jones seconded the motion.

4.3 (Cont'd.)

Councilmember Raul Peralez requested an amendment regarding a requirement for the secondary dwelling a minimum area of 80 s.f. of private open space with a minimum width of 8 feet, and Councilmember Magdalena Carrasco requested a review of the potential for attached garages for future consideration. Vice Mayor Rose Herrera and Councilmember Chappie Jones accepted amendments to the motion.

Director, Planning, Building and Code Enforcement Harry Freitas responded to questions from the Council.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29821 passed for publication, with direction as indicated in Vice Mayor Rose Herrera's memorandum dated November 14, 2016, as amended, to: (1) Support the Planning Department's recommendations to revise the Zoning Code to ensure that the City's Second Unit Ordinance is in conformance with the provisions of Senate Bill 1069 (Wieckowski), which requires jurisdictions to relax some requirements for second units, also called accessory dwelling units; (2) Direct the Administration to: (a) Eliminate any impediments to the conversion of detached garages or other accessory units to residential use; (b) Consider changes that would increase the number of potential lots in R-2 zones; (c) ~~Implement~~ *Study* an amnesty program that would legalize illegal non-conforming accessory dwellings as long as they are brought up to the standards included in the City's ordinance; (d) ~~Develop~~ *Encourage* a robust public information effort to help residents understand the potential for second units, and the process for development. Additionally, to "Not require for the secondary dwelling a minimum area of 80 s.f. of private open space with a minimum width of 8 feet." And to review the potential for attached garages for future consideration.

4.4 **Accept the Envision San José 2040 General Plan Annual Performance Review 2016 report. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated October 25, 2016, recommending acceptance of the Envision San José 2040 General Plan Annual Performance Review.

Jared Hart, Planning, Building and Code Enforcement provided a review of the report.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Tam Nguyen and carried unanimously, the Envision San José 2040 General Plan Annual Performance Review 2016 report was accepted. (9-0-2. Absent: Herrera, Kalra.)

4.5 Amendment to Title 4 - Downtown Commercial Highrise Incentive.

- (a) Approve an ordinance amending Chapter 4.46 of Title 4 of the San Jose Municipal Code and Chapter 4.47 of Title 4 of the San Jose Municipal Code to amend sections 4.46.039.11 and 4.47.089.6 to specify the tax rate that would be in effect for 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 if the project timeline extends beyond the December 31, 2019 timeframe.**
- (b) 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 one million square feet of office/retail development in Downtown San Jose subject to Trammel Crow Company being eligible for the tax suspension; and identifying the possibility that a portion of the project may extend beyond the 2019 timeframe.**

CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Rates, Tolls, Fares, and Charges. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated November 10, 2016, recommending modification of criteria for the incentive.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Chappie Jones and carried unanimously, Ordinance No. 29822, entitled “An Ordinance of the City of San José Amending Sections 4.46.039.11 of Chapter 4.46 and 4.47.089.6 of Chapter 4.47 of Title 4 of the San José Municipal Code to Suspend the Collection of the Building and Structure Construction Tax and the Commercial Residential Mobilehome Park Building Tax on One Downtown Commercial High Rise Project”, was passed for publication; and Resolution No. 77975, entitled: “A Resolution of the Council of the City of San José 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-Mobilehome Park Construction Tax for the Construction of One Million Square Feet of Office/Retail Development in Downtown San José, Subject to Trammell Crow Company Being Eligible for the Tax Suspension”, was adopted. (9-0-2. Absent: Herrera, Kalra.)

RECESS/RECONVENE

The City Council recessed at 6:37 p.m. from the afternoon Council Session and reconvened at 7:13 p.m. in the Council Chambers, City Hall.

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

Absent: Councilmembers - Kalra. (Excused)

NEIGHBORHOOD SERVICES

- 5.1 (a) **Adopt a resolution authorizing the Director of Public Works to:**
- (1) **Award the construction contract for the Arcadia Softball Facility Project to the low bidder in an amount not to exceed \$15,000,000 and approve a five percent of the contract amount construction contingency;**
 - (2) **Decide any timely bid protest(s), make the City's final determination as to the lowest responsive bidder that is responsible, or reject all bids and re-bid the project; and**
 - (3) **Negotiate and execute any single and/or multiple change orders in excess of \$100,000 within the contingency amount.**
- (b) **Adopt the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund:**
- (1) **Increase the Arcadia Softball Facility project by \$11,645,000;**
 - (2) **Decrease the Arcadia Softball Facility Reserve by \$9,005,000,**
 - (3) **Establish a new appropriation to the Parks, Recreation and Neighborhood Services Department for the Guadalupe Gardens Soccer Facility in the amount of \$2,000,000;**
 - (4) **Establish a new appropriation to the Parks, Recreation and Neighborhood Services Department for the Guadalupe Gardens Soccer Facility Reserve in the amount of \$14,616,000; and**
 - (5) **Decrease the Parks and Recreation Bond Projects Contingency Reserve by \$19,256,000.**
- (c) **Adopt the following Appropriation Ordinance amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes:**
- (1) **Establish a new appropriation to Parks, Recreation and Neighborhood Services Department for the Arcadia Softball Facility in the amount of \$5,100,000;**
 - (2) **Decrease the Arcadia Softball Facility Reserve by \$5,100,000;**
 - (3) **Establish a new appropriation to the Parks, Recreation and Neighborhood Services Department for the Guadalupe Gardens Soccer Facility Reserve in the amount of \$4,184,000;**
 - (4) **Establish a new appropriation to the Parks, Recreation and Neighborhood Services Department for the Guadalupe Gardens Soccer Facility Fixtures, Furnishings and Equipment Reserve for \$91,000;**

5.1 (Cont'd.)

- (c) (5) **Decrease the Soccer Complex Fixtures, Furnishings and Equipment by \$91,000;**
- (6) **Decrease the Airport West (Coleman) Debt Payment Service Reserve by \$2,339,000; and**
- (7) **Decrease the Infrastructure Backlog Reserve by \$1,845,000.**
- (d) **Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:**
 - (1) **Establish a new appropriation to the Parks, Recreation and Neighborhood Services Department for the Arcadia Softball Facility Maintenance Yard in the amount of \$1,097,000; and**
 - (2) **Decrease the Park Yards Future Projects Reserve by \$1,097,000.**

CEQA: Addendum to the Evergreen East Hills Vision Strategy and Supplemental EIR (Resolution No. 74742), File No. PP14-088; and Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: Joint memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., Director of Public Works Barry Ng and Senior Deputy City Manager Jennifer Maguire, dated October 27, 2016, recommending adoption of resolutions and appropriation ordinances.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. offered a brief presentation and responded to questions from Council.

Motion: Vice Mayor Rose Herrera moved approval of the staff recommendations. The motion was seconded by Councilmember Magdalena Carrasco.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 29823, Ordinance No. 29824 and Ordinance No. 29825 were adopted, and Resolution No. 77976, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to (1) Award the Construction Contract for the Arcadia Softball Facility Project to the Lowest Responsive Bidder in an Amount Not to Exceed \$15,000,000; (2) Establish a Construction Contingency Not to Exceed Five Percent of the Construction Contract; (3) Decide Any Timely Bid Protest(s), Make the City's Final Determination as to the Lowest Responsive Bidder that is Responsible, or Reject All Bids and Re-Bid the Project; and (4) Negotiate and Execute any Single and/or Multiple Change Orders for the Arcadia Softball Facility Project in Excess of \$100,000 Up to the Amount of the Contingency", was adopted. (10-0-1. Absent: Kalra.)

- 5.2 (a) Report on bids and award of contract for the 8135 – South 31st Street and Alum Rock Avenue Park Project to the low bidder, Suarez & Munoz Construction, Inc. for the base bid and Bid Alternates No. 1 and No. 2 in the amount of \$1,391,500 and approval of a five percent contingency in the amount of \$70,000.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 5:
- (1) Increase the estimate for Revenue from the State of California by \$852,000;
 - (2) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the South 31st Street and Alum Rock Avenue Park Project in the amount of \$1,532,000;
 - (3) Decrease the Alum Rock Avenue and 31st Street Park Reserve by \$615,000; and
 - (4) Decrease the Unrestricted Ending Fund Balance by \$65,000.

CEQA: S. 31st Street & Alum Rock Avenue Park Mitigated Negative Declaration, File Nos. GP16-008 and PP16-073. Council District 5. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

Note: Item 5.2 was heard jointly with Item 10.4 in the Evening.

Documents Filed: (1) Joint memorandum from Director of Public Works Barry Ng and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. dated October 24, 2016, recommending approval of a Master Plan. (2) Joint Supplemental memorandum from Director of Public Works Barry Ng, Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Senior Deputy City Budget Director/Manager Jennifer Maguire, dated November 7, 2016, providing additional information obtained after bid opening.

Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr. and Deputy Director of Parks, Recreation and Neighborhood Services Marybeth Harasz offered a presentation.

Action: Upon motion by Councilmember Magdalena Carrasco, seconded by Councilmember Tam Nguyen and carried unanimously, Ordinance No. 29826, and Resolution No. 77977 were adopted. (9-0-2. Absent: Herrera, Kalra.)

TRANSPORTATION & AVIATION SERVICES

- 6.1 Report on bids and award of contract for the 8231 - Mineta San José International Airport - Terminal Roadway Safety Improvements project to the low bidder, Granite Rock Company, for the base bid in the amount of \$1,106,714, and approve a contingency in the amount of \$110,671. CEQA: Determination of Consistency with the San José International Airport Master Plan Update Final EIR as Supplemented (Resolution Nos. 67380 and 71451), File No. PP16-005. (Public Works/Airport)

6.1 (Cont'd.)

Documents Filed: Joint memorandum from Director of Public Works Barry Ng and Director of Aviation Services Kimberly J. Becker dated October 24, 2016, recommending award of a contract.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Councilmember Magdalena Carrasco and carried unanimously, Report on bids and award of contract for the 8231 - Mineta San José International Airport - Terminal Roadway Safety Improvements project to the low bidder, Granite Rock Company, for the base bid in the amount of \$1,106,714, with related contingencies, was accepted. (10-0-1. Absent: Kalra.)

- 6.2 (a) **Reject all bids received and opened on August 11, 2016 for the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology - Rebid project.**
- (b) **Report on bids and take appropriate action based on the evaluation of bids for the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology - Rebid II Project.**

CEQA: Determination of Consistency with the San José International Airport Master Plan Update Final EIR as Supplemented (Resolution Nos. 67380 and 71451), File No. PP16-047. (Public Works/Airport)

Action: Deferred to November 29, 2016 per Administration.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **Report on bids and award of contract for the 7029 - Nordale Pump Station Replacement Rebid project to the low bidder, JMB Construction, Inc., in the amount of \$1,723,358, and approve a 15 percent contingency in the amount of \$258,504. CEQA: Exempt, Section 15302 (c) Replacement or Reconstruction, File No. PP14-038. Council District 7. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated November 1, 2016, recommending acceptance of a report and award of a contract.

Action: Upon motion by Councilmember Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the Report on bids and award of contract for the 7029 - Nordale Pump Station Replacement Rebid project to the low bidder, JMB Construction, Inc., in the amount of \$1,723,358, with related contingencies, was accepted. (10-0-1. Absent: Kalra.)

PUBLIC SAFETY SERVICES

- 8.1 Review and discuss the Independent Police Auditor's 2014 Annual Report Recommendation #2(b) that would require independent civilian oversight of all Police Department-Initiated Investigations. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports. (Independent Police Auditor/Police)**

Action: Deferred to December 6, 2016 per Mayor.

REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 (a) Successor Agency Board approve the Purchase and Sale Agreement and Escrow Instructions between the Successor Agency to the Redevelopment Agency of the City of San José, as seller, and J3 Inc., a California Corporation as buyer to allow the sale of 501 Vine Street for a purchase price of \$876,000.**
- (b) Successor Agency Board reject all three bids received related to the sale of real property located at 551 West Julian Street and authorize the Successor Agency staff to solicit the property within the next three months.**

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

Documents Filed: (1) Memorandum from Successor Agency Managing Director Richard A. Keit, dated November 1, 2016, recommending rejection of bids and approval to resolicit the subject property. (2) Supplemental memorandum from Successor Agency Managing Director Richard A. Keit, dated November 10, 2016, providing recommendations from the Oversight Board.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Pierluigi Oliverio and carried unanimously, the Successor Agency Board approved rejection of all three bids received related to the sale of real property located at 551 West Julian Street and authorized the Successor Agency staff to solicit the property within the next three months. (10-0-1. Absent: Kalra.)

- 9.2 Approve the Fourth Amendment to the Amended and Restated Lease with the Comedy Club of San Jose, LLC for the use of the Jose Theater located at 62 South Second Street. CEQA: Not a Project, File No. PP10-066(f), Agreements and Contracts for lease of existing space for the same use. (Successor Agency)**

Documents Filed: Memorandum from Successor Agency Managing Director Richard A. Keit, dated November 1, 2016, recommending approval of the Fourth Amendment to the Amended and Restated Lease.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio, and carried unanimously, the Successor Agency Board approved the Amendment to the Amended and Restated Lease with the Comedy Club of San Jose, LLC for the use of the Jose Theater located at 62 South Second Street. (10-0-1. Absent: Kalra.)

GENERAL PLAN PUBLIC HEARINGS

Tentative Approval of General Plan Consent Calendar Items

10.1 (a) General Plan Text Amendment: Make Minor Modifications and Clarifying Revisions to the Envision San José 2040 General Plan.

- (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617.
- (2) Tentative approval of the City-initiated General Plan Text Amendment to make minor modifications and clarifying revisions to the Envision San José 2040 General Plan.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
GPT16-004 – Citywide

(b) General Plan Text Amendment: Include Text Clarifying how an Adopted Urban Village Plan's Text, Goals and Policies can be Amended.

- (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617.
- (2) Tentative approval of the City-initiated General Plan Text Amendment to include text clarifying how an adopted Urban Village Plan's text, goals and policies can be amended.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
GPT16-005 – Citywide

(c) General Plan Text Amendment: Update to the Growth Areas Planned Capacity by Horizon Table in Appendix 5.

- (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617.
- (2) Tentative approval of the City-initiated General Plan Text Amendment to update the Growth Areas Planned Capacity by Horizon table in Appendix 5 to reflect approved residential unit entitlements since adoption of the General Plan and to make minor formatting revisions.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental

10.1 (c) (Cont'd.)

**EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
GPT16-006 – Citywide**

Documents Filed: (1) Reports of the Staff of the Department of Planning, Building and Code Enforcement Projects on Project File No. GPT16-004, GPT16-005 and GPT16-006, each dated September 19, 2016. (2) Three memoranda from Planning Commission Secretary Harry Freitas, each dated October 24, 2016, transmitting the Planning Commission recommendations. (3) Three Proof of Publication of Notices of Public Hearings, each executed on September 6, 2016, submitted by the City Clerk.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Councilmember Tam Nguyen and carried unanimously, (A) (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617; (2) Tentative approval of the City-initiated General Plan Text Amendment to make minor modifications and clarifying revisions to the Envision San José 2040 General Plan. (B) General Plan Text Amendment: Include Text Clarifying how an Adopted Urban Village Plan's Text, Goals and Policies can be Amended; (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617; (2) Tentative approval of the City-initiated General Plan Text Amendment to include text clarifying how an adopted Urban Village Plan's text, goals and policies can be amended; (C) (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617; (2) Tentative approval of the City-initiated General Plan Text Amendment to update the Growth Areas Planned Capacity by Horizon table in Appendix 5 to reflect approved residential unit entitlements since adoption of the General Plan and to make minor formatting revisions, were tentatively approved. (10-0-1. Absent: Kalra.)

(d) General Plan Text Amendment: Revisions to Urban Villages Design Policy CD-7.9.

- (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617.**
- (2) Tentative approval of the City-initiated General Plan Text Amendment to revise Urban Villages Design Policy CD-7.9 to allow more flexibility in building height step down in Urban Villages adjacent to single-family residential sites.**

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental

10.1 (d) (Cont'd.)

EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement) GPT16-007 – Citywide

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. GPT16-007, dated September 19, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 24, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearings, executed on September 6, 2016 and September 9, 2016, submitted by the City Clerk. (4) Letter from Steve Landau, dated November 15, 2016, expressing concerns regarding the policy changes.

Councilmember Chappie Jones pulled Item 10.1(d) and offered comments regarding the four-story height minimum in Urban Village areas. Staff responded to questions from Council.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Motion: Councilmember Chappie Jones moved deferral of this item to December 6, 2016 to allow further study. Councilmember Raul Peralez seconded the motion.

Action: On a call for the question, the Revisions to Urban Villages Design Policy CD-7.9 was deferred to December 6, 2016. (9-0-2. Absent: Herrera, Kalra.)

(e) General Plan Text Amendment: Modifications in Floor Area Ratio (FAR) for the Mixed Use Commercial Land Use Designation.

- (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617.**
- (2) Tentative approval of the City-initiated General Plan Text Amendment to modify the Mixed Use Commercial land use designation to establish a minimum and maximum Floor Area Ratio (FAR) range from 0.5 to up to 4.5 FAR for mixed-use projects, and from 0.25 to up to 4.5 FAR for stand-alone commercial projects.**

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement) GPT16-008 – Citywide

10.1 (f) (Cont'd.)

(f) **General Plan Amendment: Modify the Transportation Network Diagram.**

(1) **Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77610.1(f) (Cont'd.)**

(2) **Tentative approval of the City-initiated General Plan Amendment to modify the Transportation Network Diagram to be consistent with the North San Pedro Streetscape Project improvements on West Julian Street between North San Pedro Street and Notre Dame Avenue, located at/on West Julian Street between North San Pedro Street and Notre Dame Avenue (City of San José City, Owner).**

**CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
GP16-009 – Council District 3**

Documents Filed: (1) Reports of the Staff of the Department of Planning, Building and Code Enforcement Projects on Project File No. GPT16-008 and GPT16-009, dated September 19, 2016. (2) Two memoranda from Planning Commission Secretary Harry Freitas, both dated October 24, 2016, transmitting the Planning Commission recommendations. (3) Two Proof of Publication of Notices of Public Hearings, both executed on September 6, 2016, submitted by the City Clerk.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Councilmember Tam Nguyen and carried unanimously, (E) (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617; (2) Tentative approval of the City-initiated General Plan Text Amendment to modify the Mixed Use Commercial land use designation to establish a minimum and maximum Floor Area Ratio (FAR) range from 0.5 to up to 4.5 FAR for mixed-use projects, and from 0.25 to up to 4.5 FAR for stand-alone commercial projects; and (F) (1) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617; (2) Tentative approval of the City-initiated General Plan Amendment to modify the Transportation Network Diagram to be consistent with the North San Pedro Streetscape Project improvements on West Julian Street between North San Pedro Street and Notre Dame Avenue, located at/on West Julian Street between North San Pedro Street and Notre Dame Avenue (City of San José City, Owner), were tentatively approved. (10-0-1. Absent: Kalra.)

END OF CONSENT CALENDAR

GENERAL PLAN PUBLIC HEARINGS

10.2 General Plan Amendment: Land Use/Transportation Diagram Amendment at the Southeast Corner of Almaden Road and Burnside Drive.

- (a) Adopt a resolution approving the Bertelsen Property General Plan Amendment and Rezoning Negative Declaration (File Nos. GP16-002 and C16-007).
- (b) Tentative approval of a General Plan Land Use/Transportation Diagram Amendment from (RR) Rural Residential to (RN) Residential Neighborhood designation for residential uses on a 1.33 gross acre site, located at/on the southeast corner of Almaden Road and Burnside Drive (18590 Almaden Road) (David Bertelsen, Owner).

**CEQA: Bertelsen Property General Plan Amendment and Rezoning Project Negative Declaration (File Nos. GP16-002 and C16-007), to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission (7-0-0) recommend approval. (Planning, Building and Code Enforcement)
GP16-002 – Council District 10**

Item 10.2 was Heard Jointly with Item 11.2.

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. GP16-002, dated September 19, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 24, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on September 28, 2016, submitted by the City Clerk.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Doug Goodman and Wesley Lee offered support to the project.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 77978, entitled: “A Resolution of the Council of the City of San José Adopting the Bertelsen Property General Plan Amendment and Rezoning Project Negative Declaration, for Which an Initial Study was Prepared, All in Accordance with the California Environmental Quality Act, as Amended”, was tentatively adopted. (9-0-2. Herrera, Kalra.)

- 10.3 (a) Adopt a resolution approving the Evergreen Valley Community College General Plan Amendment Negative Declaration (File No. GP16-007).
- (b) Tentative approval of the General Plan Land Use/Transportation Diagram Amendment from the Public-Quasi-Public designation to the Neighborhood Community Commercial designation on a 27 gross acre site, located at/on the northeasterly corner of Yerba Buena Road and San Felipe Road (San Jose Evergreen Community College District, Owner).

10.3 (Cont'd.)

CEQA: Evergreen Valley Community College General Plan Amendment Negative Declaration (File No. GP16-007), to be adopted. Planning Commission recommends approval (5-2-0) (Pham and Yesney opposed). (Planning, Building and Code Enforcement)

GP16-007 – Council District 8

Action: Deferred to December 13, 2016 per Orders of the Day.

- 10.4 (a) **Adopt a resolution approving the S. 31st Street & Alum Rock Avenue Park Mitigated Negative Declaration (File No. GP16-009 and PP16-073).**
- (b) **Tentative approval of the City-initiated General Plan Amendment to change the Land Use/ Transportation Diagram to Open Space, Parklands and Habitat land use designation on a 1.66 gross acre site, located along the western side of South 31st Street between Alum Rock Avenue and East San Antonio Street (City of San José, Owner).**

CEQA: S. 31st Street & Alum Rock Avenue Park Mitigated Negative Declaration (File No. GP16-009 and PP16-073), to be adopted. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

GP16-008 – Council District 5

Note: Item 10.4 was heard jointly with Item 5.2.

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. GP16-008, dated October 4, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 24, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on September 23, 2016, submitted by the City Clerk.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 77979, entitled: “A Resolution of the Council of the City of San José Adopting the S. 31st Street & Alum Rock Avenue Park Project Mitigated Negative Declaration, for which an Initial Study was Prepared, All in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”, was tentatively adopted. (9-0-2. Absent: Herrera, Kalra.)

- 10.5 (a) **Adopt a resolution approving the Samaritan Medical Center Master Plan Project Environmental Impact Report making certain findings concerning significant impacts, mitigation measures, and alternatives, and adopting a statement of overriding consideration and mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act of 1970, as amended. (File No. GP15-014, PDC15-028, and PDC15-029).**

10.5 (Cont'd.)

- (b) Tentative approval of the General Plan Amendment to change the Land Use/Transportation Diagram designation from Neighborhood/Community Commercial to Regional Commercial on a 9.3 gross acre site located on the north side of Samaritan Drive, approximately 700 feet east of the intersection of South Bascom Avenue and Samaritan Drive (2505-2577 Samaritan Drive) (Samaritan Properties LLC, Owner).

CEQA: Samaritan Medical Center Master Plan Project Environmental Impact Report (File No. GP15-014, PDC15-028, and PDC15-029) to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission (5-0-2) (Allen and Yesney absent) recommend approval. (Planning, Building and Code Enforcement) GP15-014 & PDC15-028 – Council District 9

Action: Deferred to December 6, 2016 per Administration.

PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 (a) **Conventional Rezoning for Real Property Located on the East Side of North 5th Street between Jackson Street & East Empire Street.**

- (1) Adopt a resolution adopting the Fifth Street Japantown Rezoning Project Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report (Resolution No. 77617), all in accordance with the California Environmental Quality Act, as amended.

- (2) Consideration of an ordinance of the City of San José rezoning certain real property on three parcels totaling approximately 1.45 gross acres, located on the east side of North 5th Street between Jackson Street & East Empire Street from the R-M Multiple Residence Zoning District and LI Light Industrial Zoning District to the PQP Public/Quasi-Public Zoning District on five parcels (APNs: 249-38-008, 249-38-024, 249-38-025, 249-38-026, 249-35-050) (Wesley United Methodist Church, Owner).

CEQA: Addendum to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

C16-027 – Council District 3

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. C16-027, dated October 4, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 26, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on September 23, 2016, submitted by the City Clerk.

11.1 (Cont'd.)

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 77980, entitled: "A Resolution of the Council of the City of San José Adopting the Fifth Street Japantown Rezoning Project Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Environmental Impact Report, All in Accordance with the California Environmental Quality Act, as Amended", was adopted; and Ordinance No. 29827, entitled "An Ordinance of the City of San José Rezoning Certain Real Properties of Approximately 1.45 Acres Situated at the East Side of North 5th Street Between Jackson Street and East Empire Street from the R-M Multiple Residence Zoning District to the PQP Public/Quasi-Public Zoning District and on the West Side of North 6th Street Between Jackson Street and East Empire Street from the LI Light Industrial Zoning District to the PQP Public/Quasi-Public Zoning District", was passed for publication. (9-0-2. Absent: Herrera, Kalra.)

END OF CONSENT CALENDAR

- 11.2 Consideration of an ordinance of the City of San José rezoning certain real property on a 1.3-gross acre site located at the southeast corner of Almaden Road and Burnside Drive (18590 Almaden Road) from the R-1-2 Single-Family Residence Zoning District to the R-1-5 Single-family Residence Zoning District (David Bertelsen, Owner). CEQA: Bertelsen Property General Plan Amendment and Rezoning Project Negative Declaration (File Nos. GP16-002 and C16-007). (Planning, Building and Code Enforcement) C16-007 – Council District 10**

Item 11.2 was heard jointly with Item 10.2.

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. C16-007, dated September 19, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 24, 2016, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on September 16, 2016, submitted by the City Clerk.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, Ordinance No. 29828, entitled "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.33 Acres, Situated on the Southeast Corner of Almaden Road and Burnside Drive (18590 Almaden Road) From the R-1-2 Single-Family Residence Zoning District to the R-1-5 Single-Family Residence Zoning District", was passed for publication. (9-0-2. Herrera, Kalra.)

- 11.3 Consideration of an ordinance of the City of San José rezoning certain real property on an 3.7 acres site located on the south side of the terminus of Samaritan Court (2506-2515 Samaritan Court) from the CP Commercial Pedestrian Zoning District to the CO(PD) Planned Development Zoning District to allow up to 115,250 square feet of commercial space with a 141,040 square foot parking structure (Samaritan Medical LLC, Owner). CEQA: Samaritan Medical Center Master Plan Project EIR. (File No. GP15-014, PDC15-028, and PDC15-029). Planning Commission recommends approval (5-0-2, Allen & Yesney absent). (Planning, Building and Code Enforcement)
PDC15-029 – Council District 9**

Action: Deferred to December 6, 2016 per Administration.

- 11.4 Adopt a resolution approving a Planned Development Permit and making the required findings for Determination of Public Convenience or Necessity to allow the off-sale of a full-range of alcoholic beverages and an incidental public drinking establishment (tasting of beer, wine and spirits) in a 19,500-square foot commercial tenant space on 43.2-gross acre site, located at 5140 Cherry Avenue in the A(PD) Planned Development Zoning District (Almaden Ranch, LLC, Owner). CEQA: Determination of Consistency with the Almaden Ranch Subsequent Environmental Impact Report, certified by City Council Resolution No. 76168 on March 20, 2012. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
PD16-020 & ABC16-003 – Council District 9**

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. PD16-020 and File No. ABC16-003, dated September 19, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 19, 2016, transmitting the Planning Commission recommendation. (3) Proofs of Publication of Notices of Public Hearings, executed on September 9, 2016 and September 21, 2016, submitted by the City Clerk.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pierluigi Oliverio, and carried unanimously, Resolution No. 77981, entitled: “A Resolution of the Council of the City of San José Approving, Subject to Conditions, a Planned Development Permit to Allow the Off-Sale of a Full-Range of Alcoholic Beverages and an Incidental public Drinking Establishment in a 19,500-Square Foot Commercial Tenant Space and Granting the Determination of Public Convenience or Necessity for Off-Sale of Alcohol for a Proposed Retail Use, on an Approximately 43.2-Gross Acres Site on the Southeast Corner of Almaden Expressway and Cherry Avenue (5140 Cherry Avenue), was adopted. (9-0-2. Herrera, Kalra.)

11.5 Adopt a resolution denying:

- (a) **A rezoning of certain real property located on an approximately 3.2 gross acre portion of a 23 gross acre site, at the east side of Dove Hill Road, approximately 500 feet north of Hassler Parkway (4200 Dove Hill Road) from A Agricultural to the A(PD) Planned Development Zoning District (Kuehne Stanislaus (TE) & Eleanora (TE), Owner) to allow up to 290 units of assisted senior housing.**
- (b) **A Planned Development Permit to allow the construction of an assisted senior housing with approximately 290 units (approximately 244,000 total building square feet).**

**CEQA: Exempt, per Section 15270 which is intended to allow a screening of projects on the merits for disapprovals prior to the additional CEQA process where the agency can determine that the project cannot be approved. Planning Commission recommended denial (3-2-2, Ballard and Vora opposed; Allen and Yesney absent). (Planning, Building and Code Enforcement)
PDC14-051 & PD16-019 – Council District 8**

Documents Filed: (1) The Report of the Staff of the Department of Planning, Building and Code Enforcement Project on Project File No. PD14-051 and File No. PDC16-019, dated October 18, 2016. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated November 3, 2016, transmitting the Planning Commission recommendation. (3) Proofs of Publication of Notices of Public Hearings, executed on September 21, 2016 and October 3, 2016, submitted by the City Clerk. (4) Letter from Baron G. Hechtman, dated November 15, 2016, requesting Council reject the early denial of the applications for rezoning. (5) Project Description for Dove Hill Health Care Center, dated November 15, 2016.

Director of Planning, Building and Code Enforcement Harry Freitas offered an introduction, and Deputy Director of Planning, Building and Code Enforcement Steve McHarris provided a presentation.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Sal Caruso and Baron Hechtman, representing the applicants, spoke to the merits of the project and urged rejection of the early denial. Supporting the need for an assisted living facility on this property and urging rejection of the denial of the applications for the PD Rezoning were: Richard Rosdail, Sheri Wolfgram, Joseph Nguyen, Kenneth Newington, Joan Huffman, Ann Chavez, Ann Green, Mahamood Hassan, Douglas Cajias and Mo Salberg.

Mayor Sam Liccardo closed the public hearing.

Director of Planning, Building and Code Enforcement Harry Freitas responded to questions from Council.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Chappie Jones, the motion carried, Resolution No. 77982 was adopted, rejecting staff's recommendation for early denial of applications. (9-1-1. Noes. Herrera. Absent: Kalra.)

OPEN FORUM

Marilyn Randolph spoke on abuse among children and women and discussed the organization she founded "Women Rising Above Abuse."

ADJOURNMENT

The Council of the City of San José adjourned at 10:32 p.m

Minutes Recorded, Prepared and Respectfully Submitted by,

A handwritten signature in black ink, appearing to read "Toni J. Taber". The signature is stylized and cursive.

Toni J. Taber, CMC
City Clerk

rmk/11-15-16 MIN