



CITY COUNCIL AGENDA

DECEMBER 1, 2015

SYNOPSIS

CHAPPIE JONES
ASH KALRA
RAUL PERALEZ
MANH NGUYEN
MAGDALENA CARRASCO

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

SAM LICCARDO MAYOR

PIERLUIGI OLIVERIO
TAM NGUYEN
ROSE HERRERA VICE MAYOR
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:31 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (Mayor)**
Reverend Chon Nguyen, Lieu Quan Buddhist Cultural Center offered the Invocation.
- **Pledge of Allegiance**
Mayor Sam Liccardo, accompanied by Lynnhaven Elementary School Students, led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 3.4 deferred to December 8, 2015 and Item 3.6(b) deferred with no specific date.

Item 3.5 was added to the Agenda. (9-1-1. Noes: Khamis. Absent: Oliverio.)
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

There were none presented.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of Minutes.

- (a) Regular Minutes of August 4, 2015.
- (b) Regular Minutes of August 11, 2015.
- (c) Special minutes of August 14, 2015.
- (d) Regular Minutes of August 18, 2015.
- (e) Regular Minutes of August 25, 2015.

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

Approved.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29649 – An ordinance rezoning the real property located at 2090 Mount Pleasant Road from the R-1-5 Single-Family Residence Zoning District to the R-1-8 Single-Family Residence Zoning District on a 0.8 gross acre site (Dan Smith, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, File No. C15-036, Resolution No. 76041, and Addendum thereto.

Ordinance No. 29649 adopted.

- (b) ORD. NO. 29650 – An ordinance rezoning the real property located at 18590 Almaden Road from the R-1-1 Single-Family Residence Zoning District to the R-1-2 Single-Family Residence Zoning District on a 1.3 gross acre site (Bertelsen, David and Ping Li, Owners). CEQA: Envision San José 2040 General Plan Final Program EIR, File No. C15-040, Resolution No. 76041, and Addendum thereto.

Ordinance No. 29650 adopted.

- (c) ORD. NO. 29651 – Adopt the Addendum to the Japantown Corporation Yard Redevelopment Project EIR (Resolution No. 74384) and revised Mitigation Monitoring and Reporting Program in accordance with CEQA, and an ordinance rezoning the real property located at 696 North 6th Street from the R-M Multiple Residence Zoning District to the CP(PD) Planned Development Zoning District to allow up to 600 residential units, up to 25,000 square feet of commercial space and a private community center on a 5.25 gross acre site (City of San José, Owner). CEQA: Japantown Corporation Yard Redevelopment Project EIR, File No. PDC15-018, Resolution No. 74384, and Addenda thereto.

Ordinance No. 29651 adopted.

2. CONSENT CALENDAR

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

Recommendation: Final adoption of ordinances.

- (d) ORD. NO. 29652 – An ordinance rezoning the real property located on the east side of South Cypress Avenue, across from Alden Way, approximately 485 feet south of Stevens Creek Boulevard (356 South Cypress Avenue) from the R-M Multiple Residence Zoning District to the RM(PD) Planned Development Zoning District to allow up to four single-family detached residences in a courthome configuration with on-site parking on a 0.23 gross acre site (Tran Xuan Nhut Trustee & Et Al, Owner). CEQA: Exempt, Guidelines Section 15303(b). New Construction of Small Structures. File No. PDC14-070.

Ordinance No. 29652 adopted.

- (e) ORD. NO. 29653 – An ordinance rezoning the real property located on the southeast corner of Stevens Creek Boulevard and Clover Avenue (2850 Stevens Creek Boulevard) from the CN Neighborhood Commercial Zoning District to the CP Pedestrian Commercial Zoning District on a 0.57 gross acre site (Villa Developers and Investors LLC, Owner). CEQA: Addendum to the Envision San José 2040 General Final Program EIR, File No. C15-043, Resolution No. 76041.

Ordinance No. 29653 adopted.

2.3 Approval of Council Committee Minutes.

Recommendation: Approval of Council Committee Minutes.

- (a) Transportation and Environment Committee Minutes of November 2, 2015. (Kalra)
(b) Rules and Open Government Committee Minutes of November 4, 2015. (Mayor)
(c) Neighborhood Services and Education Committee Minutes of November 12, 2015. (Rocha)

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approval of City actions with a potential change in the environment.

Approved.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) **Request for Travel and Excused Absence.**

- (1) Authorize travel by Council Member Carrasco.
(2) Authorize an excused absence for Council Member Carrasco from City Council meeting on 12/1/2015.
(3) Authorize an excused absence for Council Member Carrasco from Rules and Open Government 12/2/2015.

Dropped.

2. CONSENT CALENDAR

2.5 City Council Travel Reports.

Vice Mayor Rose Herrera attended the League of California Cities (LOCC) Board of Directors Meeting on November 19-20, 2015 in Sacramento and reported that the LOCC drafted its Strategic Goals for 2016 which included increased funding for critical transportation and water infrastructure, improved housing affordability and updating the local government tax structure to respond to the new economy and to stimulate economic growth. Vice Mayor Rose Herrera noted potential Ballot measures for 2016, e.g. water and sewer rates having impact on storm water cost, working with Proposition 218 to allow more flexibility and a potential State ballot measure on Marijuana.

2.6 Report from the Council Liaison to the Retirement Boards. No Report.

2.7 Second Amendment to the Agreement with Hawkins Delafield & Wood LLP for Legal Services to Support the Regional Wastewater Facility Capital Improvement Program.

Recommendation: Adopt a resolution authorizing the City Attorney to execute a Second Amendment to the legal services agreement with Hawkins, Delafield & Wood LLP, to modify the initial term of December 1, 2014 through December 1, 2015, to December 1, 2014 through June 20, 2016, to coincide with the fiscal year appropriations which will increase the amount available in the initial term to \$700,000, and to modify the number of option terms from two terms to one term, without increasing the total maximum amount of compensation of \$1,000,000 available under the contract, subject to appropriation of funds by City Council, to support the San José-Santa Clara Regional Wastewater Facility (“RWF”) capital improvement program. CEQA: Not a Project, File No. PP10-066(a), Agreements and contracts for services which result in no physical change to the environment. (City Attorney)
(Deferred from 11/3/15 – Item 2.7)

Resolution No. 77587 adopted.

2.8 Appointment of a Member to the Federated City Employee Retirement System Board of Administration and a Member to the Police and Fire Department Retirement Board.

Recommendation:

- (a) Council determination that the amount of notice to the public is appropriate and therefore waive the 10-day noticing requirement for the distribution of the memorandum reporting the results of the November 23, 2015 Employee Election, and consider the following recommendation.
- (b) Appoint one (1) employee representative to the Board of Administration for the Federated City Employee Retirement System to a term ending November 30, 2019.

2. CONSENT CALENDAR

2.8 Appointment of a Member to the Federated City Employee Retirement System Board of Administration and a Member to the Police and Fire Department Retirement Board. (Cont'd.)

- (c) Appoint one (1) Fire Department employee representative to the Board of Administration for the Police and Fire Department Retirement to a term ending November 30, 2019.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approval of City actions with a potential change in the environment. (City Clerk)

Note: Item 2.8 was renumbered to Item 3.6. See Item 3.6 for action.

2.9 Actions Related to the Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) for the Public Safety Radio Dispatcher Classification Series.

Recommendation:

- (a) Adopt a resolution approving the terms of a Side Letter Agreement as follows:
 - (1) Approve the terms of an agreement between the City of San Jose (City) and the Municipal Employees' Federation, AFSCME Local 101 (MEF) to provide employees in the classifications in the Public Safety Dispatcher class series with a retention bonus equivalent to approximately three percent (3%) of an employee's base pay as of June 21, 2015.
 - (2) Approve the terms of an agreement between the City of San Jose (City) and the Municipal Employees' Federation, AFSCME Local 101 (MEF) to provide employees in the Public Safety Radio Dispatcher class series with overtime or compensatory time at 2.0 times the hourly rate for all hours worked past twelve (12) hours in a single shift for a period of twenty-six (26) consecutive pay periods, effective the first full pay period after the agreement has been signed by all parties and has been approved by the City Council.

Resolution No. 77588 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:
 - (1) Increase the Fire Department Personal Services appropriation in the amount of \$118,000.
 - (2) Decrease the City Manager's Office Personal Services in the amount of \$118,000.

CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy change, Title 3, Personnel. (City Manager)

Ordinance No. 29654 adopted.

2. CONSENT CALENDAR

2.10 Lease Agreement for the Independent Police Auditor.

Recommendation: Approve a five-year lease with RPRO152N3, LLC for the use of approximately 3,288 square feet of office space located at 152 N 3rd Street, Suite 602 at a rental rate of \$86,014 for the first year of the lease, \$89,455 for the second year, \$93,033 for the third year, \$96,754 for the fourth year, and \$100,624 for the fifth year with total rent for the five-year term in the amount of \$465,880. CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for the same use. Council District 3. (Economic Development)
Approved.

2.11 Report on Bids and Award of Contract for 7946 – Process Water Pumps Replacement Project.

Recommendation:

(a) Award of a Construction Contract for 7946 – Process Water Pumps Replacement Project to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$382,100.

(b) Approval of a construction contingency of 15 percent in the amount of \$57,315. CEQA: Exempt, Guidelines Section 15301. Existing Facilities, File No. PP13-039. (Environmental Services)

Approved.

2.12 Actions Related to the Purchase Order with ABB Inc. for the Distributed Control System at the Regional Wastewater Facility.

Recommendation: Adopt a resolution authorizing the City Manager to:

(a) Execute an Open Purchase Order with ABB Inc. (Wicklisse, OH) for hardware repair, replacement, and rebuilding services for the Distributed Control Systems at the Regional Wastewater Facility, for the term December 1, 2015 through November 30, 2016, in an amount not to exceed \$750,000 per year;

(b) Execute change orders to purchase additional parts and services subject to the appropriations of funds; and

(c) Execute additional purchase orders for the subsequent annual purchase of hardware repair, replacement, and rebuilding services through November 30, 2018 subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Purchase Orders of Supplies, Equipment and Professional Services with no changes in the physical environment. (Finance)

Resolution No. 77589 adopted.

2. CONSENT CALENDAR

2.13 Actions Related to the Funding for the Police Department's Operation Center.

Recommendation: Adopt the following Appropriation Ordinance amendments in the General Fund in support of the Police Department's Operation Center:

- (a) Decrease the Police Department Staffing/Operations Reserve by \$305,000.
- (b) Establish a new Capital Improvement appropriation to the Department of Public Works for the Police Department Operation Center in the amount of \$305,000.

CEQA: Not a Project, File No. PP10-069, City Administrative Activities that involve no approval of City actions with a potential change in the environment. (Police/City Manager) **Ordinance No. 29655 adopted.**

2.14 Agreement for the Expansion of the Bike Share Program.

Recommendation: Adopt a resolution authorizing the City Manager or designee to enter into a Coordination Agreement between the City of San José, Bay Area Motivate, LLC, the Metropolitan Transportation Commission, and Partner Cities (San Francisco, Oakland, Berkeley, and Emeryville), and to sign all documents necessary to effectuate the expansion of the Bike Share program. CEQA: Exempt, Guidelines Section 15303. New Construction of Small Structures, File No. PP14-016. Council Districts 3, 4 and 6. (Transportation) **Resolution No. 77590 adopted.**

2.15 Agreement with HMH Engineering for the US 101/Blossom Hill Road Interchange Improvement Project.

Recommendation: Approve an agreement between the City of San José and HMH Engineers for consultant services for the US 101/Blossom Hill Road Interchange Improvement project for an amount not to exceed \$1,585,100 and for a term beginning on the date of full execution of the agreement to June 30, 2018. CEQA: Exempt, Guidelines Section 15262. Feasibility and Planning Studies and Section 15061(b)(3) Action with no possibility of significant effect on the environment, File No. PP15-110. Council District 2. (Transportation) **Approved.**

3. STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas recognized the excellent work of Code Enforcement Staff who demonstrated outstanding professionalism and sensitivity on Wednesday, November 25, 2015 in which their proactive actions helped protect the safety of the residents and kept six families in their homes for the Thanksgiving Holiday.

3. STRATEGIC SUPPORT SERVICES

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Heard at 9:31 a.m.

No Report.

3.3 Police Department Hiring Audit.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on September 17, 2015, accept the audit report on Police Hiring: Additional Efforts to Recruit Qualified Candidates Urgently Needed to Fill Vacancies. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports that involve no approval of City actions with a potential change in the environment. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 9/17/15 – Item d(4)]

(Deferred from 10/6/15 – Item 3.5, 10/27/15 – Item 3.5 and 11/10/15 – Item 3.4)

➤ **The memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Jones, Peralez and M. Nguyen, dated November 25, 2015, was approved:**

- (1) **Accept the City Auditor’s Audit Police Hiring: Additional Efforts to Recruit Qualified Candidates Urgently Needed to Fill Vacancies and the Police Chief’s Response to the Audit of Police Hiring dated September 9, 2015.**
- (2) **Direct the City Manager to develop a comprehensive recruitment plan in partnership with the San Jose Police Officers Association (POA), focused on lateral officers and new recruits, and report back to the City Council by February 9, 2016. The recruitment plan should incorporate the following:**
 - (a) **Specific steps that San José Police Department (SJPD) will take to increase the number of qualified applicants who are women or persons of color. The plan should incorporate outreach and marketing to underrepresented community groups, particularly within Santa Clara County, including:**
 - i. **Explore strategies to expand the Law Enforcement Unit Cadet Program or some similar internship model, with particular emphasis on women and communities of color, including consideration of stipends or payment.**
 - ii. **An assessment of whether outreach to diverse communities, drawn from local leadership, could help SJPD recruitment.**
 - iii. **Appropriate marketing of the salary bonus recently enhanced by the 2015 POA Agreement for second-language fluency, particularly for Spanish or Vietnamese speakers.**
 - iv. **Strategies and measurement of results specific to sub-categories of applicants that satisfy community-specific needs in the department, such as Vietnamese speakers and Spanish-speakers, women and youth.**

3. STRATEGIC SUPPORT SERVICES

3.3 Police Department Hiring Audit. (Action Cont'd.)

- (2) (b) Consistent with Recommendation# 4 in this memorandum, the total expenditure of all budgeted FY 2015-2016 Non-Personal funding of \$600,000 for recruitment and hiring, with budget monitoring reports to the Public Safety, Finance and Strategic Support.**
- (c) A hiring strategy for civilians in the SJPD Recruiting Unit, to address deficiencies suggested in Recommendation #2(a). The strategy should identify any resources needed through the 2016-17 budget process to ensure that the Unit builds expertise that is sufficiently specialized, experienced, and continuous in such areas as marketing, social media, event planning, and recruiting.**
- (d) An assessment of how the application process can be streamlined for applicants.**
- (e) An assessment of whether additional measures suggested by Recommendation 13(b)-such as altering the sequence of physical conditioning tests-- might enable more people to succeed in meeting fitness standards.**
- (f) Specific outreach to veterans, particularly upon the department's adoption of requirements that will allow the substitution of military service for college credit.**
- (3) Direct the City Manager to negotiate a more substantial one-time bonus for existing officers who recruit candidates to serve in the SJPD.**
- (4) Direct the City Manager to report to the Public Safety, Finance and Strategic Support Committee, on the Police Academy recruitment cycle, with a Recruitment Activity Report beginning in Spring 2016. The report should include the following:**
 - (a) Funds expended to date in recruiting and hiring, and the uses of funds.**
 - (b) The nature, intended audiences, and outcomes of various communication and marketing activities such as, but not limited to, advertising on radio, billboards, signage on city owned vehicles, and other advertising.**
 - (c) Use and analysis of data identifying those specific marketing and outreach activities that yield the best results, and to assess optimal marginal allocation of future resources.**
 - (d) Data describing measurements of results specific to the ethnic and gender make-up of subcategories of academy entrants.**
 - (e) Data describing the reasons officers are resigning from the department (e.g. retirement, moving to another city department, resignation in lieu of termination, etc.).**
 - (f) The status of efforts to boost applications and hiring of women, veterans, and a diverse applicant pool by re-focusing marketing, as suggested above.**

3. STRATEGIC SUPPORT SERVICES

3.3 Police Department Hiring Audit. (Action Cont'd.)

- The memorandum from Council Member Tam Nguyen, dated November 25, 2015, was approved:
 - (1) Accept the City Auditor's Report.
 - (2) Direct the City Manager to provide a more comprehensive report of the gender and ethnicity diversity within the Police Department and of recruits in addition to an action plan to achieve recruiting goals.
- The memorandum from Council Member Pierluigi Oliverio, dated November 25, 2015, was approved and referred to the Public Safety, Finance and Strategic Support Committee in February 2016 to explore alternatives:
 - (1) Accept the audit report and city staff response.
 - (2) Direct the City Manager to negotiate an agreement with both the California Highway Patrol and Sheriff to augment the San José Police Department.
- *The memorandum from Council Member Johnny Khamis, dated December 1, 2015, was not approved. (5-6. Noes: Carrasco, Jones, Kalra, M. Nguyen, Peralez, Rocha.)*

3.4 Actions Related to the Amendment to Title 6 Medical Marijuana Ordinance.

Recommendation:

- (a) Approve an ordinance of the City of San José amending Chapter 6.88 of Title 6 of the San José Municipal Code to add Section 6.88.295 to add the definition of transport; to add Section 6.88.425 to require collective owners, managers and operators to wear an identification badge issued by the Chief of Police; to add Section 6.88.445 to expressly prohibit deliveries of medical marijuana; to add Section 6.88.465 to allow a registered collective to transfer medical marijuana to other collectives who are registered with the City; to amend Sections 6.88.212, 6.88.235, 6.88.242, 6.88.310, 6.88.330, 6.88.420, 6.88.430, 6.88.435, 6.88.440, 6.88.460 and 6.88.900 to allow registered collectives to manufacture medical marijuana products at their off-site cultivation location, clarify disqualification from the registration process, revise the requirements for cultivation, decrease the time required for storing video from surveillance cameras from 90 to 30 days, limit the square footage used at a residence for personal use cultivation, and to make other technical, nonsubstantive, or typographical changes to Chapter 6.88 of Title 6 of the San José Municipal Code.
- (b) Accept staff's report regarding the creation within the City of a Division of Marijuana Control.

CEQA: Addendum to a Negative Declaration, File No. PP11-076. (City Manager)
Deferred to December 8, 2015 per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

3.5 United States v. Texas Amicus Brief.

Recommendation: Direct the City Attorney to join in the filing of an amicus brief authored by Cities United for Immigration Action (CUIA) in the U.S. Supreme Court, in support of President Obama's November 2014 executive action on immigration.

CEQA: Not a Project, File No. PP10-069(c), City Organizational and Administrative Activities that involve no approval of City actions with a potential change in the environment. (Mayor)

Approved.

Noes: Khamis, Oliverio.

3.6 Appointment of a Member to the Federated City Employee Retirement System Board of Administration and a Member to the Police and Fire Department Retirement Board.

Recommendation:

(a) Council determination that the amount of notice to the public is appropriate and therefore waive the 10-day noticing requirement for the distribution of the memorandum reporting the results of the November 23, 2015 Employee Election, and consider the following recommendation; and

Waived.

(b) Appoint one (1) employee representative to the Board of Administration for the Federated City Employee Retirement System to a term ending November 30, 2019.

Deferred per Orders of the Day.

(c) Appoint one (1) Fire Department employee representative to the Board of Administration for the Police and Fire Department Retirement to a term ending November 30, 2019.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approval of City actions with a potential change in the environment. (City Clerk)

Item 3.6 was renumbered from Item 2.8.

Andrew Gardanier was appointed to the Board of Administration for the Police and Fire Department Retirement to a term ending November 30, 2019.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Actions Related to the Agreement with San José State University for the Hammer Theatre Center.

Recommendation:

- (a) Approve the three-year agreement with San José State University to operate and maintain the Hammer Theatre Center for an annual amount of \$285,000 with changes to the business terms to recognize the California State University wage and compensation structure and existing Collective Bargaining Agreements and to modify the structure of the Theatre Advisory Working Group.

Approved.

- (b) Adopt the following 2015-2016 Appropriation Ordinance Amendments in the General Fund:
- (1) Establish a capital appropriation to the Office of Economic Development for Hammer Theater Center Capital Improvements in the amount of \$500,000.
 - (2) Decrease the Earmarked Reserve for Cultural Facilities Capital Maintenance in the amount of \$500,000.

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts that result in no impact to the physical environment. Council. District 3. (Economic Development/City Manager)
Ordinance No. 29656 adopted.

4.2 Approval of an Ordinance for a Special Event Zone in Connection with Super Bowl 50 Activities.

Recommendation: Approve an ordinance to provide for the designation of specified areas of the City of San José as a Special Event Zone to prohibit certain activities on public property including peddling, distribution of merchandise, goods or coupons for a commercial purpose, the sale of counterfeit merchandise, and the flying of unmanned aircraft systems within the Special Event Zone and to provide for the temporary suspension of the authority of the Director of the Office of Cultural Affairs under Part 16 of Chapter 20.80 of Title 20 of the San José Municipal Code to issue permits for temporary outdoor uses of private property within the Special Event Zone during the time period beginning at six o'clock (6:00) a.m. on Monday, February 1, 2016 and ending at six o'clock (6:00) p.m. on Tuesday, February 9, 2016, relative to the use of these areas in conjunction with the 2016 National Football League's Super Bowl 50 related activities and events. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approval of City actions with a potential change in the environment. (City Attorney/Economic Development)

The memorandum from Mayor Sam Liccardo and Council Members Peralez, Kalra, Oliverio and Rocha, dated November 25, 2015, was approved, accepting the Staff recommendation as outlined in the City Attorney's memorandum dated November 19, 2015, with direction to consider designating an area outside the boundaries of the Special Event Zone and within the Greater Downtown area for local mobile peddlers who are affected by the Special Event Zone Ordinance.

Ordinance No. 29657 passed for publication.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Audit of Team San José Performance 2014-15.

Recommendation: As recommended by the Community and Economic Development Committee on November 16, 2015, accept the Audit Report on Team San José Performance 2014-15. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports that involve no approval of City actions with a potential change in the environment. (City Auditor)

[Community and Economic Development Committee referral 11/16/15 – Item (d)(4)]

The memorandum from Mayor Sam Liccardo, dated November 25, 2015, was approved, accepting the City Auditor’s Audit Report on Team San José’s Performance 2014-15, including:

- (1) Direction to the City Manager to work with Team San José and the City’s industry advisor (Conventions, Sports and Leisure) to ascertain:**
 - (a) How the City and Team San José can better attract a higher proportion of high profile, tech focused conferences to the San José Convention Center.**
 - (b) How the City can appropriately measure and incentivize Team San José to attract high profile, tech focused conferences to the San José Convention Center.**

Staff was further directed to have a Performance Goals/Incentives discussion with Team San José and to return to Community and Economic Development Committee in Spring 2016.

4.4 Actions Related to the Master Encroachment Permit with Google Fiber, Inc.

Recommendation:

- (a) Accept staff report on the status of the Google Fiber Project.**

Accepted.

- (b) Adopt a resolution adopting the Mitigated Negative Declaration for the Google Fiber Project and related Mitigation Monitoring and Reporting Program, in accordance with the California Environmental Quality Act.**

Resolution No. 77591 adopted.

- (c) Approve a Master Encroachment Permit between the City of San José and Google Fiber, Inc. (Google Fiber) for the installation of a community-wide, residential high-speed fiber network service.**

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Actions Related to the Master Encroachment Permit with Google Fiber, Inc. (Cont'd.)

- (d) Adopt a resolution authorizing the City Manager or his designee to:
- (1) Negotiate and execute Network Hut License Agreements and all other documents necessary to complete the transaction with Google Fiber for two City-owned sites located at the intersections of Bird Avenue and Virginia Street, Assessor's Parcel Number (APN) 264-41-074, and Santa Teresa Boulevard and State Route 85 South off-ramp, APN 464-28-010.
 - (2) Negotiate and execute all necessary ingress, egress, and power connection easements for the Network Hut sites located at the intersections of Bird Avenue and Virginia Street, and Santa Teresa Boulevard and State Route 85 South off-ramp.

CEQA: Initial Study/Mitigated Negative Declaration Google Fiber Project, File Nos. PP15-049, CP15-068 and CP15-069. (City Manager/Public Works/Economic Development)

Resolution No. 77592 adopted.

4.5 Actions Related to the Funding Commitment to Abode Services for Acquisition of the 56 Unit Santa Clara Inn for Transitional and Short-Term Housing for the Homeless.

Recommendation:

- (a) Adopt a resolution:
- (1) Approving a funding commitment to Abode Services or its designated affiliate for up to \$8,650,000 in the form of an acquisition/permanent loan for the purchase and operations of the Santa Clara Inn, located at 2188 The Alameda.
 - (2) Authorizing a Loan to Value of more than 100%.
 - (3) Authorizing the Director of Housing to negotiate and execute all legal documents to effectuate this action.

Resolution No. 77593 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the Multi-Source Housing Asset Fund:
- (1) Increase the appropriation to the Housing Department for Housing Loans and Grants in the amount of \$6,885,000.
 - (2) Decrease the Housing Project Reserve appropriation in the amount of \$6,885,000.

CEQA: Exempt, Guidelines Section 15301. Existing Facilities, File No. PP15-100. Council District 6. (Housing/City Manager)

Ordinance No. 29658 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Report on the Regional Responses and Local Coordination to Address Homelessness.

Recommendation: Accept the Housing Department’s report on coordination with the work of the County of Santa Clara’s Housing Task Force, the County’s exploration of the feasibility of sanctioned encampments, and staff’s examination of the proposed City of Los Angeles “State of Emergency” declaration. CEQA: Not a Project, File No. PP10-069 (a), Staff Reports that involve no approvals of any City Actions with a potential change in the environment. (Housing)

The memorandum from Council Members Jones, Carrasco, Nguyen and Rocha, dated November 25, 2015, was approved:

- (1) Accepting the Housing Department’s November 9, 2015 memorandum on regional responses and local coordination to address homelessness.**
- (2) Direction to the City Manager to explore a pilot sanctioned encampment in San José or on county property beginning in January and report back to the Council at the December 8, 2015 or December 15, 2015 Meeting. Findings should include looking at the feasibility, site selection, cost and options for implementing the pilot.**
- (3) Staff was further directed to return to Council on December 8, 2015 with discussion of an urgency ordinance for use of places of worship.**

Noes: Liccardo.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Amendments to the Master Agreement for the Regional Wastewater Facility.

Recommendation:

- (a) Accept the staff report regarding the status of the proposed amendments to the Master Agreement for the San José-Santa Clara Regional Wastewater Facility.**
- (b) Direct staff to return with the draft Amendment and Restatement of the Master Agreements to include only the amendments that would be necessary to secure State Revolving Fund loans and short term financing for the Tributary Agencies’ obligation for the capital projects in 2015-2016.**

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Amendments to the Master Agreement for the Regional Wastewater Facility. (Cont'd.)

- (c) Direct staff to coordinate with the City of Santa Clara to evaluate the scope of the proposed amendments to the existing master agreements with the tributary agencies, and return to the City Council with recommendations on whether to proceed with negotiations, and a process and budget to negotiate the amendments as part of the 2015-2016 mid-year budget process.

CEQA Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Informational Memos that involve no approvals of any City Actions with a potential change in the environment. (Environmental Services)

Approved.

7.2 Agreement with CDM Smith Inc. for Engineering and Construction Management Services for the 7701 – Headworks Project at the Regional Wastewater Facility.

Recommendation: Approve a Master Consultant Agreement with CDM Smith Inc. to provide engineering and construction management services for the Headworks Improvements (including Headworks Critical Improvements) and New Headworks at the San José-Santa Clara Regional Wastewater Facility for a period beginning on the date of execution through December 31, 2022 in a total amount not to exceed \$9,670,000, subject to the appropriation of funds. CEQA: Exempt, CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Environmental Services)

Approved.

7.3 Actions Related to the Design-Build Contract for the Cogeneration Facility Project at the Regional Wastewater Facility.

Recommendation: Consider the Mitigated Negative Declaration in accordance with CEQA and adopt a resolution:

- (a) Approving the final proposer ranking for design-build firms for the Cogeneration Facility at the San José – Santa Clara Regional Wastewater Facility.
- (b) Authorizing the City Manager to negotiate the design-build contract for the Cogeneration Facility Project with CH2M HILL Engineers, Inc. (CH2M HILL).
- (c) Authorizing the City Manager to terminate negotiations with CH2M HILL, and to negotiate the design-build contract for the Cogeneration Facility Project with the second-ranked proposer, in the event that the City Manager determines that the City and CH2M HILL cannot agree upon the terms of the design-build contract.
- (d) Incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting program for the Project.

CEQA: Mitigated Negative Declaration for the San José/Santa Clara Regional Wastewater Facility Cogeneration Project, File No. PP14-005, adopted May 23, 2014. (Environmental Services/Public Works)

Resolution No. 77594 adopted.

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY CONSENT CALENDAR

Mayor Sam Liccardo convened the Successor Agency to the Redevelopment Agency of the City of San José at 1:59 p.m.

9.1 Amendment to the Assignment Agreement with County of Santa Clara for the North San Pedro Project.

Recommendation: Approve the First Amendment to Assignment Agreement between the County of Santa Clara (“County”) and the Successor Agency to the Redevelopment Agency of the City of San José (“Successor Agency”) assigning a portion of the Successor Agency’s remaining interest in the Net Sales Proceeds from the sale of real property for the North San Pedro Project to the County in exchange for the release of the lien of the County Deed of Trust from 201 N. Market Street (“Old Fire Station No.1”) and 96 South Almaden Avenue (“Plaza Hotel”). CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts that involve no change to the physical environment. Council District 3. (Finance/Successor Agency)

(Deferred from 11/17/15 – Item 9.1)

Approved.

Noes: Oliverio.

Mayor Sam Liccardo adjourned the Successor Agency to the Redevelopment Agency of the City of San José at 2:00 p.m.

- **Open Forum**
Expressing support and urging Council to modify the rent ordinance were Kathleen McDonald, Ben O’Hara, Jayden Lee, Victor Lecha and Katie Martin, South Bay Tenants Union.

Shaunn Cartwright advocated on behalf of the homeless.

- **Adjournment**
The Council of the City of San José was adjourned at 9:30 p.m.