

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, JANUARY 27, 2015**

The Council of the City of San José convened in Regular Session at 9:07 a.m. in the Council Chambers at City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

### STRATEGIC SUPPORT SERVICES

#### **3.2 Accept Labor Negotiations Update.**

There was no report.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:08 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 Subsection (d)(1) with respect to initiation of litigation in one (1) matter. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) City of San José v. Office of the Commissioner of Baseball, et al; Names of Parties Involved: City of San José, City of San José as Successor Agency to the Redevelopment Agency of the City of San José, San José Diridon Authority, Office of the Commissioner of Baseball, an unincorporated association doing business as Major League Baseball, Allan Huber “Bud” Selig; Court: United States Court of Appeals, Ninth Circuit; Case No: C-13-02787 RMW and 14-15139; Amount of Money or Other Relief Sought: Damages According to Proof. (2) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof. (3) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21,

## **CLOSED SESSION (Cont'd.)**

City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (4) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (5) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-972-M; Amount of Money or Other Relief Sought: Damages According to Proof. (6) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (7) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court:

## **CLOSED SESSION (Cont'd.)**

Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: (1) Property: San José Arena, 525 Santa Clara Street, San José, California. Negotiating Parties: Nanci Klein, Jim Shannon, Bill Hughes, Patricia Deignan for City of San José and Jim Goddard, Sean Morely, Lucy LoFrumento for San José Arena Management; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on comparable rental values. (2) Property: 88 East San Fernando Street, San José, California; Negotiation Parties: Jim Ortbal and Laura Wells for City of San José and Richard Keit for the Successor Agency to the Redevelopment Agency of the City of San José; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on comparable property values. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Interim 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 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

## **CLOSED SESSION (Cont'd.)**

Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:24 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chambers.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

## **INVOCATION**

Rabbi Josh Berkenwald, Congregation Sinai-San José offered the Invocation. (District 1)

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

## **CLOSED SESSION REPORT**

City Attorney Richard Doyle disclosed the following Closed Session actions of January 27, 2015:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: San José Police Officers' Association v. City, et al.

Adverse Party of Parties: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-10 and related actions.

## **CLOSED SESSION REPORT (Cont'd.)**

Substance of Litigation: Appeal of attorneys' fee award in Measure B cases.

Council Vote:

Ayes: Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Noes: None.

Not Present: None.

Abstain: None.

## **CEREMONIAL ITEM**

### **1.2 Presentation of a proclamation recognizing January 27, 2015 as "International Holocaust Remembrance Day" in the City of San José. (Herrera)**

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized January 27, 2015 as "International Holocaust Remembrance Day" in the City of San José. Vice Mayor Rose Herrera pointed out that today was the Seventieth Anniversary of the liberation of Auschwitz by the Soviet Army.

Mr. Jack Shipper presented a heartbreaking account of his experiences during the war.

## **CONSENT CALENDAR**

Upon motion by Council Member Johnny Khamis, seconded by Council Member Chappie Jones and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Herrera.)

### **2.1 Approval of minutes.**

- (a) Regular Minutes of October 7, 2014.**
- (b) Regular Minutes of October 21, 2014.**
- (c) Work Force Support and Development Strategy Study Session of October 24, 2014.**
- (d) Regular Minutes of October 28, 2014.**

Documents Filed: (1) The Regular Minutes dated October 7, 2014, October 21, 2014 and October 28, 2014. (2) The Work Force Support and Development Strategy Study Session dated October 24, 2014.

Action: The Council Minutes were approved. (10-0-1. Absent: Herrera.)

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 29529 – Amending Title 23 of the San José Municipal Code (the Sign Code) as follows: to amend Part 1 of Chapter 23.02 to add new Sections 23.02.015 to define Airport Influence Area, 23.02.355 to define Non-Commercial Speech, 23.02.367 to define Large Outdoor Stadium Space, 23.02.485 to define Scoreboard Sign and 23.02.525 to define Sponsorship Marketing Plan; to amend Part 2 of Chapter 23.02 to make minor corrections to Section 23.02.905 Limitations on Programmable Electronic Signs, revise Sections 23.02.910 Computation of Area of Sign, 23.02.1010 Prohibited Signs, Prohibited Displays, and Section 23.1190 No Limitation on Message; and to amend Part 1 of Chapter 23.04 to add new Section 23.04.032, Large Outdoor Stadium Space, to allow more overall signage for large outdoor stadium spaces, including larger and additional attached signs and greater flexibility in placement of such signs, an additional rooftop sign and increasing the total square footage for rooftop signs, a larger freestanding programmable electronic sign displaying messaging pursuant to a sponsorship marketing plan, a new programmable electronic scoreboard sign displaying messaging pursuant to a sponsorship marketing plan, freestanding banner signs; and to make other nonsubstantive, ministerial, technical, or typographical changes to said Chapters 23.02 and 23.04 of Title 23 of the San José Municipal Code.**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29529 executed on January 16, 2015, submitted by the City Clerk.

Action: Ordinance No. 29529 was adopted. (10-0-1. Absent: Herrera.)

**2.3 Approval of Council Committee Reports.**

- (a) **Rules and Open Government Committee Report of January 7, 2015. (Mayor)**

Documents Filed: Rules and Open Government Committee Report dated January 7, 2015.

Action: The Council Committee Report was approved. (10-0-1. Absent: Herrera.)

**2.4 Request for an excused absence for Vice Mayor Herrera from the Regular Meeting of the Rules and Open Government Committee on January 14, 2015 due to Authorized City Business: 2015 Women’s Policy Summit. (Herrera)**

Documents Filed: Memorandum from Vice Mayor Rose Herrera, dated January 12, 2015, requesting an excused absence due to authorized City business.

Action: The absence for Vice Mayor Rose Herrera was excused. (10-0-1. Absent: Herrera.)

**2.5 City Council Travel Reports.**

There were none.

**2.6 Report from the Council Liaison to the Retirement Boards.**

Council Member Johnny Khamis presented a brief report on the Federated and Police/Fire Retirement Boards and provided an update on Cheiron and its completed annual evaluation of the City's pension plans for both boards.

**2.7 Approve a Fourth Amendment to the AMS-SJC JV Airport Retail Concession Agreement to add a duty free/duty paid store, establish the percentage fee for duty free/duty paid revenue, extend the Agreement for four years, from July 1, 2020 through June 30, 2024, and to provide that the Director of Aviation may terminate any or all of Concessionaire's individual concession locations at the Airport at any time upon 180 days notice during the final two years of the term from July 1, 2022 to June 30, 2024. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)**

Documents Filed: Memorandum from Director of Aviation Kim Becker Aguirre, dated January 5, 2015, recommending approval of a fourth amendment to the agreement.

Action: A Fourth Amendment to the AMS-SJC JV Airport Retail Concession Agreement to add a duty free/duty paid store, establish the percentage fee for duty free/duty paid revenue, extend the Agreement for four years, from July 1, 2020 through June 30, 2024, and to provide that the Director of Aviation may terminate any or all of Concessionaire's individual concession locations at the Airport at any time upon 180 days notice during the final two years of the term from July 1, 2022 to June 30, 2024, was approved. (10-0-1. Absent: Herrera.)

**2.8 Adopt a resolution authorizing the City Manager to:**

- (a) Execute the First Amendment to Agreement with Resource Development Associates, Inc. for a Comprehensive Retrospective and Prospective Evaluation Consultant of the Mayor's Gang Prevention Task Force to modify the scope of services, extend the term by one year to December 31, 2016, and update the schedules of performance and compensation, at no additional cost to the City.**
- (b) Negotiate and execute future amendments to the Agreement with Resource Development Associates to modify the scope of services, extend the term and update the schedules of performance and compensation, as necessary to produce a final Comprehensive Retrospective and Prospective Evaluation of the Mayor's Gang Prevention Task Force for submittal to the Department of Justice, at no additional cost to the City.**

**CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)**

Action: Deferred to February 03, 2015 per Administration.

**2.9 Approve the Downtown San José Property-Based Business Improvement District Annual Financial Report for FY 2013-14. The report provides information to the public and the property owners in the District regarding the use of the assessments and the management and operations of the District. CEQA: Exempt, File No. PP12-053. (Transportation)**

Documents Filed: City Council Action Request from Director of Transportation Hans Larsen, dated January 5, 2015, recommending approval of the report.

Mayor Sam Liccardo congratulated and thanked the Downtown property owners, the Downtown Association and the City Association Green Team for this effort.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the Downtown San José Property-Based Business Improvement District Annual Financial Report for FY 2013-14, was approved. (10-0-1. Absent: Kalra.)

**2.10 As recommended by the Rules and Open Government Committee on January 14, 2015, direct the City Administration to seek a sponsor for State legislation to allow local regulation of certain pedestrian right of ways, such as staircases, under the California Vehicle Code. CEQA: Not a Project, File No. PP10-068, General policy making (City Attorney)**

**[Rules Committee referral 1/14/15 – Item G(2)]**

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated January 15, 2015, transmitting the recommendations of the Rules and Open Government Committee. (2) Statement of Conflict of Interest from Council Member Johnny Khamis, dated January 27, 2015, disclosing that he owns real property on Communications Hill.

Council Member Johnny Khamis recused himself from participating in the Council discussion and voting due to a conflict of interest.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Tom Brown, Tuscany Hills Homeowners Association, summarized the types of issues the residents have been experiencing such as noise and graffiti and expressed support to the value of the staircase. Ross Signorino spoke off topic.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Chappie Jones and carried unanimously, the City Administration was directed to seek a sponsor for State legislation to allow local regulation of certain pedestrian right of ways, such as staircases, under the California Vehicle Code. (10-0-0-1. Abstain: Khamis.)

**2.11 As recommended by the Rules and Open Government Committee on January 14, 2015:**

- (a) Approve the African American History Month Flag Raising scheduled on February 6, 2015 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.**

**CEQA: Not a Project. (Kalra)**

**[Rules Committee referral 1/14/15 – Item G(3)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated January 15, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The African American History Month Flag Raising as a City Council sponsored Special Event was approved and expenditure of funds and acceptance of donations from various individuals, businesses and community groups to support this event were authorized. (10-0-1. Absent: Herrera.)

**2.12 As recommended by the Rules and Open Government Committee on January 21, 2015:**

- (a) Approve the District 8 Senior Health Fair and Walk scheduled on Saturday, May 30, 2015 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project. (Herrera)**

**[Rules and Open Government Committee 1/21/15 – Item G(3)]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated January 23, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 8 Senior Health Fair and Walk scheduled on Saturday, May 30, 2015 as a City Council sponsored Special Event was approved and expenditure of funds and acceptance of donations from various individuals, businesses and community groups to support this event were authorized. (10-0-1. Absent: Herrera.)

**2.13 As recommended by the Rules and Open Government Committee on January 21, 2015:**

- (a) Approve Vice Mayor Rose Herrera as Vice Chair of the Rules and Open Government Committee.**
- (b) Eliminate the appointments to the Santa Clara Valley Water District Watershed Committees (Coyote, Guadalupe, and West Valley) made during the January 6, 2015 Council meeting as they have been consolidated into the Water Commission.**

- 2.13 (c) At the Council Member's request, rescind the appointment of Council Member Raul Peralez to the Valley *Transportation* Authority Policy Advisory Committee.
- (d) Approve Council Member Chappie Jones' appointment to Valley *Transportation* Authority Policy Advisory Committee.
- (e) Approve Council Member Magdalena Carrasco to the Mayor's Gang Force Prevention Task Force.

(Mayor)

[Rules and Open Government Committee 1/21/15 – G(4)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated January 23, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Mayor Sam Liccardo requested one change for the maker of the motion of Item 2.13. Mayor Sam Liccardo recommended that Council Member Raul Peralez be rescinded from the appointment to the Valley Transportation Authority Policy Advisory Committee and be replaced with Council Member Chappie Jones.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the recommendations of the Rules and Open Government Committee, including the revisions by Mayor Sam Liccardo, were approved. (11-0.)

## END OF CONSENT CALENDAR

### STRATEGIC SUPPORT SERVICES

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

Interim City Manager Norberto Dueñas announced that the City of San José and the County of Santa Clara have partnered to conduct the 2015 Homeless Census and Survey with more than three hundred thirty volunteers, including Mayor Sam Liccardo and Council Member Raul Peralez.

Council Member Pierluigi Oliverio requested that the City Manager present an update on the County's formal response to provide approximately Twenty Million Dollars committed to the homeless.

#### 3.3 As recommended by the Public Safety, Finance, and Strategic Support Committee on December 11, 2014, accept the Audit of Accounts Receivables. CEQA: Not a Project, File No. PP10-069(a), Staff reports. (City Auditor) (Deferred from 1/13/15 – Item 3.3)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 22, 2014, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

### 3.3 (Cont'd.)

City Auditor Sharon W. Erickson offered the report on the Audit of Accounts Receivables. Director of Finance Julia H. Cooper presented the response from the Administration. Chief Information Officer Vijay Sammeta responded to Council questions and concerns.

Council discussion ensued.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Council Member Johnny Khamis and carried unanimously, the Audit of Accounts Receivables was accepted. (11-0.)

### 3.4 Accept the following annual reports:

- (a) **Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2014 and June 30, 2013.**
  - (b) **Federated City Employees' Retirement System Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2014 and June 30, 2013.**
- CEQA: Not a Project, File No. PP10-069(a), Annual Reports that involve no approvals of any City Actions. (Retirement)**

Documents Filed: (1) Memorandum from Director of Retirement Services Roberto L. Peña, dated January 5, 2015, recommending acceptance of the reports. (2) The City of San José Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2014 and June 30, 2013. (3) The City of San José Federated City Employees' Retirement System Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2014 and June 30, 2013.

Director of Retirement Services Roberto L. Peña offered a presentation on the Police, Fire and Federated Retirement System Annual Financial Reports and responded to Council questions and concerns.

Extensive Council discussion ensued.

Action: Upon motion by Council Member Chappie Jones, seconded by Vice Mayor Rose Herrera and carried unanimously, the City of San José Police and Fire Department Retirement Plan Comprehensive Annual Financial Report and the City of San José Federated City Employees' Retirement System Retirement Plan Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2014 and June 30, 2013, were accepted. (11-0.)

### 3.5 Discussion continued from the General Fund Structural Budget Deficit History and Service Restoration Priorities and Strategies City Council Study Session on January 20, 2015. (City Manager)

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, Item 3.5 was continued to February 3, 2015. (11-0.)

## NEIGHBORHOOD SERVICES

### 5.3 Direct the City Manager to:

- (a) **Return to the Neighborhood Services & Education Committee, and through the mid-year budget process, to Council, to create a plan to address the imminent flood of inquiries from thousands of our residents who might qualify for relief from deportation under President Barack Obama's recent Executive Action, and under the Deferred Action for Childhood Arrivals.**
- (b) **Bring back a plan to establish an Office of Immigrant Affairs, as well as report back on a potential Welcome Ordinance.**
- (c) **Investigate and outline a plan for coordination with the County of Santa Clara.**
- (d) **Explore and report back to the Council on options of utilizing current City resources.**
- (e) **Report back to the City Council on the costs and scope of work of designating roles to Parks, Recreation and Neighborhood Services staff.**

**CEQA: Not a Project, File No. PP10-068(c), Policies that will have no effect on the environment. (City Manager)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated January 2, 2015, recommending Council consider the memorandum he consigned with Vice Mayor Nguyen and Council Member Khamis, dated November 25, 2014, providing direction to the City Manager as described in "Action". (2) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Chappie Jones, dated January 23, 2015, recommending direction to the City Manager as described in "Action". (3) Memorandum from Council Members Kalra, Peralez, Carrasco and Nguyen, dated January 9, 2015, recommending direction to the City Manager.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: *(Note: Every member of the public that filled out a speaker card has been recorded.)* The following speakers expressed support for Immigrant Services: Shilpa Sachdev, Jeremy Barousse, Mayela Razo, Services, Immigration Rights and Education Network (SIREN); Monica Limas, Yazmin Rios, CET Immigration and Citizenship; Alice Lynch, People Acting in Community Together (PACT); Clarence Madrilejos, Filipino Community Alliance for Immigrant Advancement; Pat Farrow, Lucina Ojeda, Laura Diaz, Carmen Ramirez, Connor Crinion, Gloria Cruz, Soledad Tellez, Lisa Castellanos, Salvador Villalobos, Sacred Heart Community Services; Ruth Silver Taube, Alexander Community Law Center; David Gonzalez, Edgar Estanislao, Ariadna Manzo, Student Advocates for Higher Education (SAHE); Jennifer Cater, Jesus I. Lopez, Josue R. Fuentes, Office of the District Attorney; Teresa Castellanos, Sameena Usman, Council on American Islamic Relations; Silvia Rodriquez, Jesus Cervantes, Sylvia Perez, SEIU; Raymond Sullivan-Blum, Bea Pangilinan, Asian Law Alliance; Savait Martinez, Working Partnerships, USA; Rebecca Lunn and Ray J. Perez.

### 5.3 (Cont'd.)

Mayor Sam Liccardo thanked the members of the community who came to Council this afternoon to speak on this important item.

Motion: Council Member Johnny Khamis moved approval of the memorandum from Mayor Sam Liccardo, dated January 2, 2015, transmitting the memorandum from Vice Mayor Nguyen and Council Members Liccardo and Khamis, dated November 24, 2014; the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Chappie Jones, dated January 23, 2014, with direction to the City Manager and the memorandum from Council Members Kalra, Peralez, Carrasco and Nguyen, dated January 9, 2015, with direction to the City Manager, including not create an office because it might hinder the process and to collaborate with the County, City Attorney and Congressional Leaders. Vice Mayor Rose Herrera seconded the motion.

Council Member Ash Kalra recommended that a plan to establish an Office of Immigrant Affairs and/or a designated point person that has the responsibility for directing and guiding individuals where to find assistance would be an effective way for the City to provide help.

Substitute Motion: Council Member Ash Kalra moved approval of the memorandum from Mayor Sam Liccardo, dated January 2, 2015, recommending approval of the memorandum from Vice Mayor Nguyen and Council Members Liccardo and Khamis, dated November 25, 2014 and the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Chappie Jones, dated January 23, 2015.

Mayor Sam Liccardo recessed the Council meeting at 5:27 p.m. and continued Item 5.3 to the evening. Council returned to Chambers at 7:20 p.m. and Item 5.3 was heard after Ceremonial Item 1.1.

The substitute motion from Council Member Ash Kalra and seconded by Council Member Raul Peralez was on the floor for discussion.

Council debate and discussion ensued.

Vice Mayor Rose Herrera and Council Members Peralez and Matthews expressed support to the substitute motion on the floor.

Mayor Sam Liccardo recommended that Council bifurcate the substitute motion.

Action: On a call for the question, the substitute motion carried and the action was bifurcated as follows: PART ONE: (1) The memorandum from Council Members Kalra, Peralez, Carrasco and Nguyen, dated January 9, 2015, was approved, with the City Manager directed to: (a) *Voted on separately – see PART TWO*. (b) Investigate and outline a plan for coordination with the County of Santa Clara. (c) Explore and report back to the Council on options of utilizing current City sources. (d) Report back to the

### 5.3 (Cont'd.)

Council on the costs and scope of work of designating roles to Parks, Recreation and Neighborhood Services Staff. (2) The memorandum from Mayor Sam Liccardo, dated January 2, 2015, transmitting the memorandum from Vice Mayor Nguyen, Council Members Liccardo and Khamis, dated November 25, 2014, was approved with the following direction: (a) Direct the City Manager to return to the Neighborhood Services and Education Committee and through the mid-year budget process to Council, to create a plan to address the imminent flood of inquiries from thousands of City of San José residents who might qualify for relief from deportation under President Obama's recent Executive Action and under the Deferred Action for Childhood Arrivals (DACA). (b) Specifically the City Manager should assess the resources required to perform several specific tasks critical to ensuring that otherwise law-abiding undocumented immigrants in San José can fully benefit from the Obama Administration's recent actions. In consultation with key partners, including the Santa Clara County Office of Human Relations, the South Bay Immigration Services Network, SIREN and other nonprofit organizations serving immigrants in the community, the City should assess whether its network of existing nonprofits already addresses the impending need and what, if any, role the City should play in such tasks as: (1) Referring residents to competent legal service organizations and U.S. government offices where they can obtain critical services and additional information. (2) Tracking and making public the identity of those organizations and individuals exploiting vulnerable immigrants seeking legal services and to warn residents against the use of those specific providers. (3) Proactively performing outreach in many immigrant communities to ensure that families can take full advantage of the programs under the Executive Action or DACA. (4) Assessing whether the City is taking full advantage of available grant funding from federal sources or foundations to better serve its immigrant communities through City processes, such as by assistant immigrant-led businesses in navigating City Permit processes or ensuring that adults have access to English as a Second Language (ESL) and literacy programs through City libraries. (c) Any funding needs should be raised and discussed during the Council's mid-year budget process in February 2015. (10-1. Noes: Oliverio.)

PART TWO: The City Manager was directed to bring back a plan to establish an Office of Immigrant Affairs, as well as a report back on a potential Welcome Ordinance. (9-2. Noes: Khamis, Oliverio.)

***Note: The next item heard was Item 4.1.***

## **RECESS/RECONVENE**

The City Council recessed at 5:27 p.m. from the afternoon Council Session and continued Item 5.3, Item 3.5 and Items 4.1 through 9.1 to the Evening Session. The City Council reconvened at 7:20 p.m. in the Council Chambers, City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

## **CEREMONIAL ITEM**

### **1.1 Presentation of a commendation to Commander Krissa A. Baylor, for more than 26 years of outstanding leadership, exceptional service, and commitment to excellence as a member of the United States Navy. (Herrera)**

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended Commander Krissa A. Baylor for her excellent leadership and service.

*Item 5.3 was continued to the evening from the afternoon session. Please see Item 5.3 for the final action.*

## **COMMUNITY & ECONOMIC DEVELOPMENT**

### **4.1 Adopt a resolution:**

- (a) Authorizing the Director of Housing to negotiate and execute:**
  - (1) Shared Housing Affordability Restrictions for affordability restricted properties owned by Housing for Independent People (HIP) for the following properties: 3825 Barker Drive; 3456 Calvin Avenue; 1824 Curtner Avenue; 5629, 5668 and 5684 Hoffman Court; 1231 Minnesota Avenue; and 1713 and 1731 Ross Circle.**
  - (2) Amendments to the City's existing loan documents to allow the HIP's use of project cash flow that would otherwise be due to the City for additional replacement reserve deposits and to fund supportive services as permitted project expenses for the above properties as well as the following properties: 1579 Branham Lane; 239 Burning Tree Drive; 1794 Donna Lane; 1059 Roewill Drive; and 1726 Ross Circle.**
  - (3) Shared Housing Affordability Restrictions as needed for other affordable supportive shared housing projects for formerly homeless households or individuals.**

- 4.1 (b) **Approving conditional grant commitments from the Low and Moderate Income Housing Asset Fund to HIP for up to \$300,000 to cover the soft costs of rehabilitation and an increase to the grant made under the Homeless Housing Program of up to \$200,000 for additional hard costs incurred in the rehabilitation of its existing affordable rental properties: 1059 Roewill Drive; 3825 Barker Drive; 247-249 Muirfield Drive; 1231 Minnesota Avenue; 2551 Sesame Court; 1713 and 1731 Ross Circle; and 5629, 5668 and 5684 Hoffman Court.**

**CEQA: Exempt, File No. PP13-108. Council Districts 1, 2, 5, 6, 8, 9 and 10. (Housing)**

Documents Filed: Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated January 12, 2015, recommending adoption of a resolution and approval of conditional grant commitments.

Interim Director of Housing Jacky Morales-Ferrand responded to Council questions and concerns.

Council Member Johnny Khamis requested that Staff continue to work with his office addressing crime and blight in District 10.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77270, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute Changes to Loans and Affordability Restrictions for the Housing for Independent People Portfolio”, was adopted and conditional grant commitments from the Low and Moderate Income Housing Asset Fund to HIP for up to \$300,000 to cover the soft costs of rehabilitation and an increase to the grant made under the Homeless Housing Program of up to \$200,000 for additional hard costs incurred in the rehabilitation of its existing affordable rental properties: 1059 Roewill Drive; 3825 Barker Drive; 247-249 Muirfield Drive; 1231 Minnesota Avenue; 2551 Sesame Court; 1713 and 1731 Ross Circle; and 5629, 5668 and 5684 Hoffman Court, were approved. (10-0-1. Absent: Nguyen.)

- 4.2 **Approval of City-initiated General Plan text amendment request to revise the Envision San José 2040 General Plan Text to incorporate the Housing Element for 2014-2023, which text amendments include but are not limited to: revising Chapter 7 “Implementation”; adding new Appendices including but not limited to Appendix 11 “Housing Element for 2014-2023”; and revising or deleting references to Appendix C “Housing Element Update 2007-2014,” of the San José 2020 General Plan, all to update demographic and housing data, goals, policies, and implementation actions and to make other minor technical, clarifying and clerical revisions, as necessary, to comply with State Housing Element Law (Government Code Sections 65580-65589.8). CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041, and Addenda thereto; Downtown Strategy 2000 EIR,**

## 4.2 (Cont'd.)

**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. Planning Commission recommends approval (6-0-0). (Planning, Building and Code Enforcement)**

**GPT14-001 - Citywide**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated January 9, 2015, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GPT14-001, dated January 6, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated January 16, 2015, transmitting the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing executed on December 22, 2014, submitted by the City Clerk. (4) Letter from the Law Foundation of Silicon Valley, dated January 26, 2015, expressing comments on the Draft Housing Element.

Director of Planning, Building and Code Enforcement Harry Freitas presented the report.

Motion: Council Member Marjorie Matthews moved approval of the Staff recommendations. Vice Mayor Rose Herrera seconded the motion.

Director of Planning, Building and Code Enforcement Harry Freitas and Interim Director of Housing Jacky Morales-Ferrand responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Speaking in support to the Staff recommendations were Dennis Martin, BIA Bay Area; Kent Greathouse, Winchester Ranch Mobilehome Park; Pilar Lorenzana-Campo, representing a Non-Profit Housing Association and Diana Castillo, Law Foundation of Silicon Valley.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77271, entitled: “A Resolution of the Council of the City of San José Specifying the Council’s Determination on Proposed Amendments to the Envision San José 2040 General Plan Pursuant to Title 18 of the San José Municipal Code to Incorporate the 2014-2023 Housing Element and Authorizing the City Manager to Submit the Housing Element to the California Department of Housing and Community Development For A Finding of Substantial Compliance and Certification”, was adopted. (10-0-1. Absent: Nguyen.)

- 4.3 Consideration to modify the policy to: (1) align the San José Flea Market site's transportation impact fee funding schedule with the US-101/Mabury interchange project schedule; (2) restructure the San José Flea Market site's transportation impact fee payment to align with the development of the future San José Flea Market site's phases; (3) ensure that these improved or new interchanges will align with the multimodal goals of the Envision San José 2040 General Plan; and (4) allow other clarifying updates on the planning and implementation of the policy. CEQA: Final Environmental Impact Report for the King and Dobbin Transit Village, Resolution No. 74195.1. (Planning, Building and Code Enforcement)  
US-101/Oakland/Mabury Transportation Development Policy - Districts: 3 and 4**

Documents Filed: Proof of Publication of Notice of Public Hearing executed on December 12, 2014, submitted by the City Clerk.

Action: Item 4.3 was dropped; to be renoticed.

## **NEIGHBORHOOD SERVICES**

- 5.1 Direct the Administration to return to the City Council with a proposed ordinance to exempt from the current prohibition on the discharge of firearms under San José Municipal Code Section 10.32.010 a person who discharges a firearm to kill a wild pig in compliance with certain conditions. CEQA: Exempt, File No. PP13-103. (Public Works)**

Documents Filed: (1) Memorandum from Council Members Khamis and Carrasco, dated January 23, 2015, recommending approval of the Staff recommendations. (2) Memorandum from Interim Director of Public Works Barry Ng, dated January 13, 2015, recommending direction to the Administration.

Upon motion by Council Member Johnny Khamis, seconded by Council Member Pierluigi Oliverio and carried unanimously, the Council waived the ten-day noticing requirement and accepted the late memorandum. (11-0.)

Motion: Council Member Johnny Khamis moved approval of the memorandum he cosigned with Council Member Magdalena Carrasco, dated January 23, 2015, approving the Staff recommendations. Council Member Magdalena Carrasco seconded the motion.

Interim Director of Public Works Barry Ng and Deputy Director of Animal Care and Services Jon Cicirelli responded to Council questions and concerns.

Council Member Marjorie Matthews expressed opposition to the motion on the floor citing that she cannot support a single bullet being fired in the City of San José.

## 5.1 (Cont'd.)

Action: On a call for the question, the motion carried, the memorandum from Council Member Johnny Khamis and Council Member Magdalena Carrasco, dated January 23, 2015, was approved, approving the Staff recommendations. The Administration was directed to return to the City Council with a proposed ordinance to exempt from the current prohibition on the discharge of firearms under San José Municipal Code Section 10.32.010 a person who discharges a firearm to kill a wild pig in compliance with certain conditions. (7-3-1. Noes: Kalra, Matthews, Rocha. Absent: Nguyen.)

## 5.2 Adopt a resolution authorizing the City Manager or designee to:

- (a) **Submit a partnership proposal to secure funding support not to exceed \$1,000,000 from the Santa Clara Valley Water District under the 2015 Safe, Clean Water Partnership Program.**
- (b) **Make the certifications and assurances required as part of the partnership requirements.**
- (c) **Accept any resulting services and/or funding support awarded to the City and negotiate and execute all required documents to effectuate the partnership including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Project.**

**CEQA: Mitigated Negative Declaration, File No. PP-08-014. Council District 7. (Parks, Recreation and Neighborhoods Services)**

Documents Filed: Memorandum from Interim Director of Parks, Recreation and Neighborhood Services Angel Rios, dated January 13, 2015, recommending adoption of a resolution.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Council Member Marjorie Matthews and carried unanimously, Resolution No. 77272, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Partnership Proposal to Secure Funding Support Not To Exceed \$1,000,000 From the Santa Clara Valley Water District Under the 2015 Safe, Clean Water Partnership Program”, was adopted. (10-0-1. Absent: Nguyen.)

## TRANSPORTATION & AVIATION SERVICES

### 6.1 As recommended by the Rules and Open Government Committee on December 10, 2014, modify RFP SJC131415 On-Demand Ground Transportation Management for the San José City Mineta International Airport in order to comply with Council direction from March 4, 2014 to ensure the ability to work at the airport will be distributed equally among the companies as follows:

- (a) **Delete the following language from the RFP: “It is not expected, nor would an option be reviewed and approved by the Airport that calls for an equal/identical number of drivers to be assigned to the Airport per company despite the size of the company.”**

- 6.1 (b) Add the following language to the RFP: “Qualified cab companies will be required to provide an equal number of taxi cabs at the Airport to meet the demand from first to last flight, or from 5:00 a.m. to 12:00 midnight. The cab companies can schedule their drivers by 8 hours or more per day shift to give all of their drivers a chance to work at the Airport.”

(Herrera/Khamis)

[Rules and Open Government Committee 12/10/14 – Item G(5)]

Action: Deferred to February 10, 2015 per Administration.

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 As recommended by the Transportation and Environment Committee on November 3, 2014:

- (a) Accept the updated staff report regarding the attached Sanitary Sewer Flow.  
(b) Approve the proposed changes and policy recommendations for future updates to the revenue program for the San José-Santa Clara Regional Wastewater Facility.

**CEQA: Not a Project, File No PP10-067(a), Increase or Adjustments to Fees, Rates and Fares. (Environmental Services)**

**(Deferred from 12/2/14 – Item 7.4)**

Action: Deferred to March 03, 2015 per Administration.

## REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 Adopt a resolution of the Successor Agency Board authorizing the Managing Director to negotiate and execute:

- (a) A Purchase and Sale Agreement between the Successor Agency to the Redevelopment Agency of the City of San José and the San José Fire Museum to sell the real property located at 201 North Market Street (Assessor Parcel Number 259-33-077) to the San José Fire Museum for a purchase price of \$1,000,000.  
(b) All other documents necessary to complete the transaction.

**CEQA: Downtown Strategy EIR, Resolution No. 72767, adopted 6/21/2005. (Successor Agency to the Redevelopment Agency)**

Documents Filed: Memorandum from Managing Director Richard A. Keit, dated January 9, 2015, recommending adoption of a resolution.

Mayor Sam Liccardo opened the floor for public testimony. John A. McMillan, San José Fire Museum, was unavailable for comment.

Motion: Council Member Pierluigi Oliverio moved approval of the Staff recommendations. Vice Mayor Rose Herrera seconded the motion.

## 9.1 (Cont'd.)

Brief Council discussion ensued.

Action: On a call for the question, the motion carried unanimously, Successor Agency to the Redevelopment Agency Resolution No. 7037, entitled: A Resolution of the Successor Agency to the Redevelopment Agency of the City of San José Authorizing the Managing Director to Negotiate and Execute: (A) A Purchase and Sale Agreement Between the Successor Agency and the San José Fire Museum To Sell the Real Property Located at 201 North Market Street to the San José Fire Museum for a Purchase Price of \$1,000,000, and (B) All Other Documents Necessary to Complete the Transaction”, was adopted. (11-0.)

## OPEN FORUM

Jon Max Reger expressed comments about unfunded retirement healthcare.

## ADJOURNMENT

The Council of the City of San José was adjourned at 9:39 p.m. in memory of Kathryn Sedwick, Division Manager and Chief Plan Check Engineer of the Department of Planning, Building and Code Enforcement, who passed away on December 24, 2014. Her colleagues celebrate her distinguished fourteen year public service career with the City of San José, and thank Kathryn for her outstanding professional contributions and her friendship. (Mayor/City Manager)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

/smd 01-27-15 MIN

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