



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 27, 2015

The Council of the City of San José convened in Regular Session at 9:12 a.m. in the Council Chamber at City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. 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 9:18 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9(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) Heather Seacrist v. City, et al. Names of Parties Involved: Heather Seacrist, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-264010; Amount of Money or Other Relief Sought: Damages according to proof. (2) City v. RossDrulisCusenbery Architecture, Inc., et al. Names of Parties Involved: City of San José, RossDrulisCusenbery Architecture, Inc. aka Michael Ross Charles Drulis Architects and Planners, a purported California corporation and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-237767; Amount of Money or Other Relief Sought: Damages according to proof. (3) 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. (4) 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-996-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-924-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, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570, H040979, H042074; 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 capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928, H040979, H042074;

CLOSED SESSION (Cont'd.)

Amount of Money or Other Relief Sought: Challenge to Measure B. (13) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (14) San José Retired Employees Association, et al V. City of San José, et al. Names of Parties Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-2680085; Amount of Money or Other Relief Sought: Change to City Medical Plan. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing 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 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.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:30 a.m. and reconvened to Regular Session at 1:31 p.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Peralez, Oliverio (1:53 p.m.), Rocha; Liccardo.

Absent: Council Members - All Present.

INVOCATION

School of Rock performed "Jumpin' Jack Flash" for the Invocation. (District 9)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Heard after Ceremonial Items.

Upon motion by Vice Mayor Rose Herrera, seconded by Mayor Sam Liccardo and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Items 3.3 and 3.5 were deferred to November 10, 2015 and Public Comment was heard on Item 3.3. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing October 2015 as Crime Prevention Month in the City of San José. (Herrera)

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized October 2015 as Crime Prevention Month in San José.

1.2 Presentation of a proclamation declaring October 2015 as the National Arts and Humanities Month in the City of San José. (Carrasco)

Mayor Sam Liccardo and Council Member Magdalena Carrasco recognized October 2015 as the National Arts and Humanities Month in the City of San José.

1.3 Presentation of proclamation to recognize October 18-24, 2015 as Freedom from Workplace Bullies Week in the City of San José. (Peralez)

Mayor Sam Liccardo and Council Member Raul Peralez recognized October 18 through October 24, 2015 as “Freedom from Workplace Bullies Week” in San José.

CONSENT CALENDAR

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

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 29642 – An ordinance of the City of San José amending Sections 12.02.040, 12.02.050, 12.02.070, and 12.02.090 of Chapter 12.02, Sections 12.04.025, 12.04.060, 12.04.100, and 12.04.120 of Chapter 12.04, Section 12.05.080 of Chapter 12.05, Sections 12.06.210, 12.06.290, 12.06.295, 12.06.600, 12.06.610, 12.06.710, 12.06.720, 12.06.910, 12.06.920, 12.06.930, 12.06.1000, 12.06.1010, and deleting Section 12.06.140 and Part 5 of Chapter 12.06 and 12.06.620 of Title 12 of the San José Municipal Code relating to municipal elections and campaign and officeholder contributions. CEQA: Not a Project, File No. PP10-068(c), Code or Policy change that involve no change in the physical environment.**

Documents Filed: Supplemental memorandum from City Attorney Richard Doyle, dated October 23, 2015, explaining a substantial change made to Title 12 Section 12.06.910 of the San José Municipal Code in response to direction by Council on October 20, 2015.

Action: Ordinance No. 29642 was adopted. (11-0.)

- (b) **ORD. NO. 29640 – An ordinance rezoning the real property located north of East Hamilton Avenue and east of South Bascom Avenue (2055, 2085, 2105, 2125, and 2145 East Hamilton Avenue and 1550 South Bascom Avenue) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District on an approximately 24.6 acre site. CEQA Addendum to the PDC83-034 Greylands Business Park EIR (Resolutions No. 56883), File No. PDC15-030 & PD15-026, Council District 6. (Planning Building and Code Enforcement)**

Action: Ordinance No. 29640 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

**(a) Transportation and Environment Committee Minutes of October 5, 2015.
(Kalra)**

**(b) Rules and Open Government Committee Minutes of October 7, 2015.
(Mayor)**

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

Documents Filed: (1) The Transportation and Environment Committee Minutes dated October 5, 2015. (2) The Rules and Open Government Committee Minutes dated October 7, 2015.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed comments related to the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program Semi-Annual Status Report.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Council Committee Minutes were approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 (a) City Council Travel Report on Levitt Pavilion Tour. CEQA: Not a Project, File No. PP10-069(a), Informational Memos that involve no approvals of any City Actions. (Peralez/Carrasco)

Documents Filed: Memorandum from Council Member Raul Peralez and Council Member Magdalena Carrasco, dated October 21, 2015, providing a summary travel report from their Levitt Pavilion Tour on September 19, 2015.

Council Member Raul Peralez and Council Member Magdalena Carrasco visited the Levitt Pavilion Tour on September 19, 2015 to learn how the local partnerships and funding were leveraged, about creative best practices for public space activation and how local communities have been able to adopt and customize the model to meet the local culture of their own town.

Mayor Sam Liccardo traveled to New York City on September 28, 2015 to speak at the Clinton Global Initiative Annual Meeting. Mayor Liccardo attended the Silicon Valley Leadership Group Fall Advocacy trip to Washington D.C. on September 29, 2015 through October 1, 2015. Mayor Liccardo also participated in the City Lab – Urban Solutions to Global Challenges event in London, England on October 16, 2015 through October 21, 2015.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Approve a Grant Agreement with Children's Discovery Museum in an amount not to exceed \$350,000 for fabrication and installation of an architectural fence around expansion improvements at Discovery Meadow in Guadalupe River Park. CEQA: Final EIR for San José Downtown Strategy 2000 Plan, Resolution No. 72767, as addended. Council District 3. (Economic Development)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated October 5, 2015, recommending approval of a grant agreement.

Director of Cultural Affairs Kerry Adams Hapner responded to questions from Council Member Johnny Khamis.

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, a Grant Agreement with Children's Discovery Museum in an amount not to exceed \$350,000 for fabrication and installation of an architectural fence around expansion improvements at Discovery Meadow in Guadalupe River Park was approved. (11-0.)

2.8 Adopt a resolution authorizing the City Manager to:

- (a) Execute an Open Purchase Order with Radonich Corporation, doing business as Cal Coast Telecom, (San José, CA) for Fiber Installation and Perimeter Reinforcement Services at the Norman Y. Mineta San José International Airport, in an amount not to exceed \$519,143.**
- (b) Approve a contingency of \$52,000 and execute change orders for any unforeseen changes or requirements that may arise prior to the completion of services.**

CEQA: Determination of Consistency with the San José International Airport Master Plan Update Final EIR (Resolution Nos. 67380 and 71451), File No. PP15-053. (Finance)

Action: Deferred to November 03, 2015 per Administration.

2.9 Accept the report on the Request for Proposal for the purchase of a Garage Level Space Counting System and adopt a resolution authorizing the City Manager to:

- (a) Execute an Agreement with Q-Free TCS, Inc. (Sudbury, MA) for the purchase and implementation of a Garage Level Space Counting System including hardware, software, related professional services, taxes, maintenance and support, for an initial five-year term ending October 31, 2020, with a maximum compensation not-to-exceed amount of \$381,224, for the initial five-year term, subject to the annual appropriation of funds.**

- 2.9 (b) Execute change orders to cover any unanticipated changes or requirements in the system design and implementation, not to exceed \$40,000, subject to the appropriation of funds.
- (c) Execute one-year options to extend the term of the Agreement to provide ongoing maintenance and support, after the initial five-year term, subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts that involve no physical change to the environment. Council District 3. (Finance)

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated October 5, 2015, recommending acceptance of the report and adoption of a resolution.

Action: The Request for Proposal for the purchase of a Garage Level Space Counting System was accepted and Resolution No. 77563, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Q-Free ICS, Inc. for the Purchase and Implementation of a Garage Level Space Counting System for an Initial Five Year Term Ending October 31, 2020 With a Maximum Compensation Not To Exceed Amount of \$381,224 for the Initial Five Year Term; Execute Change Orders for a Not To Exceed Contingency Amount of \$40,000 and Execute One Year Options to Extend the Term to Provide Ongoing Maintenance and Support, Subject to the Appropriations of Funds", was adopted. (11-0.)

2.10 Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective November 8, 2015, to change the salary ranges for the following classifications:
- (1) Supervising Applications Analyst (3154)
 - (2) Senior Systems Applications Programmer FT/PT(1345/1346)
 - (3) Network Engineer FT/PT, Network Engineer C FT/PT(1328/1329/8555/8556)
 - (4) Information Systems Analyst (1355)
 - (5) Engineer I/II (3812/3813)
 - (6) Associate Engineer (3814)
 - (7) Senior Engineer (3815)
 - (8) Park Ranger FT/PT (2423/2424)
 - (9) Police Data Specialist I/II FT/PT (1181/1182/1183/1184)
 - (10) Heavy Equipment Operator (3343)
 - (11) Senior Heavy Equipment Operator (3345)
 - (12) Senior Maintenance Worker (3115)
 - (13) Senior Development Officer (4226)
 - (14) Legal Administrative Assistant I/II FT/PT (1167/1153/1168/1154)
- (b) Amend the City of San José Pay Plan effective November 8, 2015, to create the classification Senior Community Service Officer (6113).

CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making Municipal Code, Title 3, Personnel. (Human Resources)

2.10 (Cont'd.)

Documents Filed: Memorandum from Director of Human Resources Joseph Angelo, dated October 6, 2015, recommending adoption of a resolution.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed support to the Staff recommendations.

Action: Upon motion by Council Member Donald Rocha, seconded by Council Member Pierluigi Oliverio and carried unanimously, Resolution No. 77564, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan for Various Job Classifications", was adopted. (11-0.)

2.11 **Adopt a resolution authorizing the City Manager to negotiate and execute the Second Amendment to an Agreement between the City of San José and North American Youth Activities LLC, dba Kidz Love Soccer to increase the compensation by \$175,000 for a total amount not to exceed \$925,000. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts for services that involve no physical changes to the environment. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated October 5, 2015, recommending adoption of a resolution.

Action: Resolution No. 77565, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement Between the City of San José and North American Youth Activities LLC, DBA Kidz Love Soccer to Increase the Compensation by \$175,000 for a Total Amount Not To Exceed \$925,000", was adopted. (11-0.)

2.12 **Consideration of adoption of a resolution approving a Planned Development Permit to effectuate Planned Development Zoning PDC15-030 and allow the construction of an approximately 20,000-square foot assembly building, an approximately 3,555-square foot metal space frame with canopy, the removal of seven ordinance-sized trees, and Saturday construction hours. CEQA: Addendum to the PDC83-034 Greylands Business Park EIR, File No. PDC15-030 & PD15-026. (Planning, Building and Code Enforcement)– District 6**

Documents Filed: Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC15-030 dated September 28, 2015.

2.12 (Cont'd.)

Action: Upon motion by Council Member Donald Rocha, seconded by Council Member Chappie Jones and carried unanimously, Resolution No. 77566, entitled: "A Resolution of the Council of the City of San José Granting, Subject to Conditions, A Planned Development Permit to Effectuate Planned Development Zoning PDC15-030 and Allow the Construction of an Approximately 20,000 Square Foot Assembly Building, An Approximately 3,555 Square Foot Metal Space Frame with Canopy, the removal of Seven Ordinance Sized Trees and Saturday Construction Hours on an Approximately 24,6 Gross Acre Site Located North of East Hamilton Avenue and East of South Bascom Avenue (2055, 2085, 2105, 2125 and 2145 East Hamilton Avenue and 1550 South Bascom Avenue)", was adopted. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas recognized and commended Park Ranger Clifford Del Carlo for his prompt efforts to save a gentleman's life, after the fifty-five year old man went into cardiac arrest while bicycling at Alum Rock Park, Eagle Rock Trail. Ranger Del Carlo set up his equipment and began ventilating the patient while waiting for emergency medical assistance to arrive. The patient is recuperating at a Cardiac Rehabilitation Facility.

Council Member Pierluigi Oliverio requested that the City Manager circulate an information memorandum indicating who manages the City's Right-of-Way Responsibility for areas under the Caltrans Freeways and Railway Bridges. Council Member Oliverio requested the status on the library volunteers who were to begin working at the libraries in a different capacity beginning October 1, 2015.

3.3 **As recommended by the Rules and Open Government Committee on October 7, 2015, adopt a resolution authorizing parcels that are located in both an unincorporated Santa Clara County and within the sphere of influence of the City of San José to be eligible for incentives under the County's Urban Agriculture Incentive Zone Ordinance. CEQA: Exempt, Guideline Section 15304 Minor Alterations to Land File No. PP15-108. (City Attorney)**

Mayor Sam Liccardo pointed out that the Council will hear public testimony on this item and then will be continued for two weeks to November 10, 2015 in order for City Staff and the County of Santa Clara to collaborate and finalize this project together.

Mayor Sam Liccardo opened the floor for public testimony.

3.3 (Cont'd.)

Public Comments: Expressing comments related to the Urban Agriculture Incentive Zones were Kathy Sutherland, David Wall, Zach Lewis, Brent Carvalho, Paul Monaco, Garden To Table; Cayce Hill, Veggielution Community Farm; Erin Healy, The Health Trust; Eli Zigas, SPUR; Mia Ritter-Whittle, Nadia Stoufflet, Sarah Ribeiro-Broomhead, Yesi Jung, Tori Truscheit, Martha Barahona, Francisco Ambrosio, Lorina Farfan, Lia Hernandez, La Mesa Verde; Laura Padilla, Helen Liao, Raquel Lucina Lane, Sacred Heart; Rodrigo Perez, Leo John Bird, Ryan Sebastian, Treatbut; Cameron Schwab, Barry Swenson Builder and Andrea Rodriguez.

Action: Upon motion by Council Member Raul Peralez, seconded by Council Member Donald Rocha and carried unanimously, Item 3.3 was continued to November 10, 2015. (11-0.)

3.4 **Accept the Semi-Annual Recommendation Follow-Up Report on all Outstanding Audit Recommendations for the Six Months Ended June 30, 2015. CEQA: Not a Project, File NO. PP10-069(a), Staff Reports, Assessments, and Annual Reports that involve no approval of City actions with potential change in the environment. (City Auditor)**

Documents Filed: The Semi-Annual Recommendation Follow-Up Report on all Outstanding Audit Recommendations for the Six Months Ended June 30, 2015 from the Office of the City Auditor dated October 2015.

City Auditor Sharon W. Erickson presented the report.

Mayor Sam Liccardo requested that Staff identify and focus on the five items that have the greatest impact on the General Fund balances and the five items that have the greatest impact on Safety and Services.

Motion: Vice Mayor Rose Herrera moved approval of the Staff Report, including the direction from Mayor Sam Liccardo. Council Member Johnny Khamis seconded the motion.

Mayor Sam Liccardo requested to amend the motion to direct Staff to identify items that require more funding and suggest that those be added and considered through the Budget Process. The amendment was accepted by Vice Mayor Rose Herrera and Council Member Johnny Khamis.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed support to the Staff recommendations.

3.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the Semi-Annual Recommendation Follow-Up Report on all Outstanding Audit Recommendations for the Six Months Ended June 30, 2015 from the Office of the City Auditor dated October 2015 was accepted. Staff was directed to refer to the Rules and Open Government Committee the following: (1) Identify and focus on the five items that have the greatest impact on the General Fund balances and the five items that have the greatest impact on Safety and Services. (2) Identify items that require more funding and suggest that those be added and considered through the Budget Process. (11-0.)

3.5 **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)**

Action: Deferred to November 10, 2015 per Orders of the Day.

3.6 **Accept the staff presentation on Winter Storm Preparedness. CEQA: Not a Project, File No. PP10-069(a), Informational Memos that involve no approvals of any City Actions. (City Manager)**

Documents Filed: (1) Memorandum from Assistant City Manager David Sykes, dated October 5, 2015, recommending acceptance of the Staff presentation. (2) Staff presentation dated October 27, 2015 summarized Winter Storm Preparedness. (3) Letter from Robert Aguirre, Housing For All Alliance, dated October 27, 2015, regarding homelessness and the winter storm preparedness.

City Manager Norberto Dueñas presented introductory remarks.

Assistant City Manager David Sykes, Director of Public Works Barry Ng, Director of Transportation James Ortbal, Director of Housing Jacky Morales-Ferrand and Director of the Office of Emergency Services Ryan Broughton offered the presentation on Winter Storm Preparedness.

Extensive Council discussion ensued.

Motion: Council Member Raul Peralez moved approval to accept the Staff presentation with Staff directed to report to the Public Safety, Finance and Strategic Support Committee on a regular basis with updates on the Emergency Management Process, current resources, priorities and work plan, and a yearly status update. Council Member Tam Nguyen seconded the motion.

3.6 (Cont'd.)

Council Member Pierluigi Oliverio requested to amend the motion to direct the City Attorney to return with an amendment to the ordinance to add places of faith to house the homeless during storms. The amendment was accepted by Council Member Raul Peralez and Council Member Tam Nguyen.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall, Stuart Hayden and Sheryl Clifford expressed support to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, the Staff presentation on Winter Storm Preparedness was accepted. Staff was directed to report to the Public Safety, Finance and Strategic Support Committee on a regular basis with updates on the Emergency Management Process, current resources, priorities and work plan, and a yearly status update. The City Attorney was directed to return with an amendment to the ordinance to add places of faith to house the homeless during storms. (9-0-2. Absent: Carrasco, Rocha.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Adopt a resolution adopting the Mitigated Negative Declaration for the Edenvale Avenue Residential Project.**
- (b) **Consideration of an ordinance rezoning the real property located on an approximately 2.6 gross acre site located on the east side of Edenvale Avenue approximately 1,000 feet north of Chynoweth Avenue (APN 685-03-002) from LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District to allow the construction of 26 single-family residential units and the removal of forty-six (46) ordinance-sized trees.**
- (c) **Consideration of a Planned Development Permit to allow 26 single-family detached residences and the removal of forty-six (46) ordinance-sized trees on an approximately 2.6 gross acre site located on the east side of Edenvale Avenue approximately 1,000 feet north of Chynoweth Avenue (APN 685-03-002)**
- (d) **Consideration of a resolution conditionally approving a Vesting Tentative Subdivision Map to subdivide one approximately 2.6 gross acre parcel located on the east side of Edenvale Avenue approximately 1,000 feet north of Chynoweth Avenue (APN 685-03-002) into 33 separate parcels.**

**CEQA: Mitigated Negative Declaration to be adopted. Planning Commission recommends approval (5-0-1). (Planning, Building and Code Enforcement)
File No. PDC14-060/PD15-019/PT15-023 – District 2**

4.1 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Ash Kalra, dated October 26, 2015, recommending approving the Staff recommendations with additional requirements. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated October 13, 2015, transmitting the Planning Commission recommendation. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PD14-060/PD15-019/PT15-023 dated October 7, 2015. (4) Proof of Publication of Notice of Public Hearing, executed on October 16, 2015, submitted by the City Clerk.

Planning, Building and Code Enforcement Senior Executive Analyst Sylvia Do provided additional information and modifications related to the project.

Mayor Sam Liccardo opened the Public Hearing.

Todd Armstrong, Ponderosa Homes, Applicant, agreed to all the modifications as stated by City Staff.

Public Comments: Laura Monczynski expressed support to the Staff recommendations and requested that Staff keep the area safe for bicycles and walking.

Mayor Sam Liccardo closed the Public Hearing.

Motion: Council Member Ash Kalra moved approval of the Staff recommendations and his memorandum dated October 26, 2015, with additional requirements as described below in "Action". Council Member Pierluigi Oliverio seconded the motion.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Ash Kalra, dated October 26, 2015, was approved, accepting the Staff recommendations with the City Manager directed to: (1) Request the Department of Transportation to evaluate the Edenvale Avenue corridor on either end of the site for potential traffic mitigation measures allowable under local and state law. (2) Add a permit condition that acknowledges the applicant's offer of up to \$50,000 to the City to be used to fund traffic safety or pedestrian improvements along Edenvale Avenue, as may be deemed appropriate. Resolution No. 77567, entitled: "A Resolution of the Council of the City of San José Adopting the Edenvale Avenue Planned Development Rezoning Project Mitigated Negative Declaration, For Which An Initial Study Was Prepared, All in Accordance with the California Environmental Quality Act, As Amended and Adopting a Related Mitigation Monitoring and Reporting Program"; Resolution No. 77568, entitled: "A Resolution of the Council of the City of San José Approving a Planned Development Permit to Allow Development of 26 Single Family Detached Residential Units and the Removal of Forty Six (46) Ordinance Sized Trees On a Gross Acre Site Located at the East Side of Edenvale Approximately 1,000 Feet North of Chynoweth Avenue (APN 685-03-002)"; Resolution No. 77569, entitled: "A Resolution of the Council of the City of San José Approving a Vesting Tentative Map, Subject to Conditions To Allow the

4.1 (Action Cont'd.)

Subdivision of One Lot into 33 Separate Lots for Residential Purposes, On A 2.6 Gross Acre Site Located on the East Side of Edenvale, Approximately 1,000 Feet North of Chynoweth Avenue (0 Edenvale Avenue)", were adopted and Ordinance No. 29644, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 2.6 Gross Acres Situated on the East Side of Edenvale Avenue Approximately 1,000 Feet North of Chynoweth Avenue (APN 685-03-002) from the LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District", was passed for publication. (9-0-2. Absent: Peralez, Rocha.)

4.2 Report on bids and award of contract for the 7726-On-Call General Building Contract for Facilities and Parks, to the low bidder, Tucker Construction, Inc., in the amount of \$3,000,000, with no individual task order for the construction of a public works project to exceed \$100,000. CEQA: Not a Project, PP10-066(c) Agreements and Contracts that involve no physical change to the environment. Clearance limited to award of contract. Environmental review to be determined on a per project basis. (Public Works/ Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Public Works Barry Ng and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated October 5, 2015, recommending approval of the report on bids and award of the contract to the low bidder.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Report on bids and award of contract for the 7726-On-Call General Building Contract for Facilities and Parks, to the low bidder, Tucker Construction, Inc., in the amount of \$3,000,000, with no individual task order for the construction of a public works project to exceed \$100,000, was approved. (9-0-2. Absent: Peralez, Rocha.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Adopt the Odor Control Implementation Plan for the San José-Santa Clara Regional Wastewater Facility.**
- (b) Direct Staff to proceed with implementation of the Phase I odor control improvements, except for the odor control improvements for the Digested Sludge Dewatering Facility project, to achieve the adopted odor goals at the approved fence line for the San José-Santa Clara Regional Wastewater Facility.**
- (c) Defer odor control improvements for the Digested Sludge Dewatering Facility project to mitigate on-site impacts at the southern odor fence line for the purpose of promoting development along the southern fence line until alternate funding sources can be identified to pay for the improvements.**

- 7.1 (d) **Defer consideration of the Phase II odor control improvements until the decommissioning of the lagoons and drying beds have been completed.**
- (e) **Defer consideration of the Phase III odor control improvements until the extent of public access at Pond A18 and the proposed shoreline levee has been determined.**

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. (Environmental Services)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated October 15, 2015, transmitting the recommendations of the Transportation and Environment Committee. (2) Staff presentation dated October 27, 2015 describing the Odor Control Implementation Strategy for the Regional Wastewater Facility.

Assistant Director of Environmental Services Ashwini Kantak and Jay Witherspoon, CH2M Hill presented the report.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed opposition to the Staff recommendations.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Chappie Jones and carried unanimously, the Odor Control Implementation Plan for the San José-Santa Clara Regional Wastewater Facility was adopted. Staff was directed to proceed with implementation of the Phase I odor control improvements, except for the odor control improvements for the Digested Sludge Dewatering Facility project, to achieve the adopted odor goals at the approved fence line for the San José-Santa Clara Regional Wastewater Facility. (8-0-3. Absent: Kalra, Peralez, Rocha.)

- 7.2 (a) **Accept a status report on the City's Illegal Dumping Mitigation Efforts.**
- (b) **Approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to add the definition of illegal dumping and language prohibiting illegal dumping.**
- (c) **Adopt a resolution amending the Administrative Citation Schedule of Fines to add new fines for illegal dumping.**

CEQA: Not a Project, File No. PP10-068, General procedure and policy making that involve no change in the environment. (Environmental Services/Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Council Members Carrasco, Peralez and T. Nguyen, dated October 23, 2015, recommending acceptance of the Staff recommendations with additions. (2) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas and Director of Environmental Services Kerrie Romanow, dated October 5, 2015, recommending acceptance of the status report, approval of an ordinance and adoption of a resolution. (3) Staff presentation dated October 27, 2015 summarizing Illegal Dumping Assessment and Mitigation.

7.2 (Cont'd.)

Director of Environmental Services Kerrie Romanow presented the report on Illegal Dumping Assessment and Mitigation.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Gene Ella Maggiore and David Wall agreed that the fine structure should be higher to discourage illegal dumping.

Director of Environmental Services Kerrie Romanow, Interim Assistant Director of Transportation Kevin O'Connor and Deputy Director of Planning, Building and Code Enforcement Diane Buchanan responded to Council questions and concerns.

Extensive Council discussion ensued.

Motion: Council Member Johnny Khamis moved approval of the memorandum from Council Members Carrasco, Peralez and T. Nguyen, dated October 23, 2015, recommending acceptance of the Staff recommendations with additions. Staff was requested to consider raising the fines to First Violation: \$2,500, Second Violation: \$5,000 and Third Violation: \$10,000. Council Member Magdalena Carrasco seconded the motion.

Vice Mayor Rose Herrera requested to amend the motion to request Staff to consider asking the garbage companies/haulers about better pricing in order to allow for more neighborhood cleanups. The amendment was accepted by Council Member Johnny Khamis and Council Member Magdalena Carrasco.

Council Member Manh Nguyen requested to amend the motion by revising the memorandum from Council Members Carrasco, Peralez and T. Nguyen to direct Staff to develop an educational campaign in languages including Spanish and Vietnamese to inform residents about the need to reduce illegal dumping. The amendment to the memorandum was accepted by Council Member Johnny Khamis and Council Member Magdalena Carrasco.

Action: On a call for the question, the motion carried unanimously, the revised memorandum from Council Members Carrasco, Peralez and T. Nguyen, dated October 23, 2015, was approved, accepting the Staff recommendations, with Staff directed to: (1) ~~To enhance the San José Clean application to make it more interactive by including self reporting features for illegal dumping.~~ (2) Build an interactive reporting tool on the City of San José Website and (3) To develop an educational campaign *in languages including Spanish and Vietnamese* to inform residents about the need to reduce illegal dumping. The Status Report was accepted, Ordinance No. 29645, entitled: "An Ordinance of the City of San José Amending Chapter 9.10 of Title 9 of the San José Municipal Code to Add New Sections 9.10.151 and 9.10.545 To Add the Definition of Illegal Dumping and

7.2 (Cont'd.)

Language Prohibiting Illegal Dumping”, was passed for publication and Resolution No. 77570, entitled: “A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Establish Administrative Fines for Violations Related to Illegal Dumping and Repealing Resolution No. 77378”, was adopted. Staff was requested to consider raising the fines to First Violation: \$2,500, Second Violation: \$5,000 and Third Violation: \$10,000 and to ask the garbage companies/haulers about better pricing in order to allow for more neighborhood cleanups in San José. (7-0-4. Absent: Kalra, Khamis, Peralez, Rocha.)

OPEN FORUM

David Wall commended the efforts of Lieutenant Richard Weger who discovered a stolen car in his neighborhood and was able to return the car to the owner.

ADJOURNMENT

The Council of the City of San José was adjourned at 7:22 p.m. in honor of Dave Fadness, a resident of District 10/Almaden area who was part of the “Responsible San José” initiative to cut costs and would often be seen around his Vista Park neighborhood leading neighborhood clean-ups, painting over graffiti, picking up litter and improving the quality of life for all San José residents.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/10-27-15 MIN