



## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, SEPTEMBER 15, 2015**

The Council of the City of San José convened in Regular Session at 1:32 p.m. in the Council Chambers at City Hall.

Present: Councilmembers - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo (until 5:45 p.m.)

Absent: Councilmembers - All Present.

### CLOSED SESSION

No Closed Session held.

### INVOCATION

The Overfelt High School Band, directed by Mike Gomez, performed "America the Beautiful".

### PLEDGE OF ALLEGIANCE

Mayor Liccardo led the Pledge of Allegiance.

### ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 7.1 heard before Item 3.1 and Item 3.6 not heard before 3:00 p.m.

## CEREMONIAL ITEMS

### **1.1 Presentation of a commendation to the Airport Facilities EmPowerment Team. (City Manager)**

Mayor Sam Liccardo and Assistant City Manager Dave Sykes commended the Airport Facilities EmPowerment Team for their innovative solutions to reduce costs and improve customer service for power chairs located in the Norman Y. Mineta San José International Airport boarding gate areas.

### **1.2 Presentation of a commendation to Alex Matlosz-Cox (Mayor/Carrasco) (Item formerly 1.3)**

Mayor Sam Liccardo and Councilmember Magdalena Carrasco commended Alex Matlosz-Cox for his inspiring and selfless acts of kindness and his call to action to Save the Planet.

## CONSENT CALENDAR

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

### **2.1 Approval of Minutes.**

None provided.

### **2.2 Final Adoption of Ordinances.**

None provided.

### **2.3 Approval of Council Committee Minutes.**

(a) **Transportation and Environment Committee Minutes of August 10, 2015.  
(Kalra)**

[Deferred from 8/25/15 – Item 2.3(a)]

(b) **Rules and Open Government Committee Minutes of August 19, 2015.  
(Mayor)**

(c) **Public Safety, Finance, and Strategic Support Committee Minutes of August 20, 2015. (Oliverio)**

(d) **Community and Economic Development Committee Minutes of August 24, 2015. (Khamis)**

(e) **Rules and Open Government Committee Minutes of August 26, 2015.  
(Mayor)**

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

### **2.3 Approval of Council Committee Minutes (Cont'd.)**

Documents Filed: (1) Transportation and Environment Committee Minutes dated August 10, 2015. (2) Rules and Open Government Committee Report dated August 19, 2015 and August 26, 2015. (3) Public Safety, Finance, and Strategic Support Committee Minutes dated August 20, 2015. (4) Community and Economic Development Committee Minutes dated August 24, 2015. (5) Letters to the Public Record from David Wall, dated August 13 and April 23, 2015.

Public Comment: David Wall referenced his letters of April 23, 2015 and August 13, 2015, regarding "The Ghetto Life" and Mayor Sam Liccardo's trip to London.

Action: The Committee Reports were approved. (11-0.)

### **2.4 Mayor and Council Excused Absence Requests.**

None provided.

### **2.5 City Council Travel Reports.**

None provided.

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

None provided.

### **2.7 As recommended by the Rules and Open Government Committee on September 2, 2015:**

- (a) Retroactively approve the 2<sup>nd</sup> Annual San José-Guadalajara Sister City Reception that was held on August 28, 2015 as a City Council sponsored Special Event and approve the expenditure of funds; and**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Carrasco)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 2, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The 2<sup>nd</sup> Annual San José-Guadalajara Sister City Reception as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was retroactively approved. (11-0.)

**2.8 As recommended by the Rules and Open Government Committee on September 2, 2015:**

- (a) Approve the District 2 Village Fest scheduled for September 19, 2015 as a City Council sponsored Event and approve the expenditure of funds; and**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Kalra)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 2, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The District 2 Village Fest as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

**2.9 As recommended by the Rules and Open Government Committee on August 26, 2015:**

- (a) Approve the Southern Division STOP-IT Identity Theft Symposium scheduled for September 26, 2015 as a City Council sponsored Special Event and approve the expenditure of funds; and**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 2, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Southern Division STOP-IT Identity Theft Symposium as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

**2.10 (a) Approve the Ethiopian Flag Raising Ceremony scheduled for September 9, 2015 as a City Council sponsored Event and approve the expenditure of funds; and**

- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Kalra)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 2, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Ethiopian Flag Raising Ceremony as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

- 2.11 Approve travel by Mayor Liccardo to Denver, CO from September 16, 2015 to September 17, 2015 to attend the Silicon Valley Chamber of Commerce Study Mission. Source of Funds: Mayor/Council Travel Fund. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor) Approved.**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated September 1, 2015 requesting authorization to travel as designee of the City of San José to attend the Silicon Valley Chamber of Commerce Study Mission.

Action: The travel authorization was approved. (11-0.)

- 2.12 Approve travel by Mayor Liccardo to Washington, D.C. on September 29, 2015 to October 1, 2015 to attend the Silicon Valley Leadership Group Fall Advocacy Trip. Source of Funds: Metropolitan Transportation Commission. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated September 1, 2015 requesting authorization to travel as an MTC representative for the Silicon Valley Leadership Group Fall Advocacy Trip.

Action: The travel authorization was approved. (11-0.)

- 2.13 Approve travel by Mayor Liccardo to London, England from October 16, 2015 to October 21, 2015 to attend the City Lab – Urban Solutions to Global Challenges event. Source of Funds: Bloomberg Philanthropies. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, dated September 1, 2015 requesting authorization to travel to attend the City Lab – Urban Solutions to Global Challenges event.

Action: The travel authorization was approved. (11-0.)

- 2.14 As recommended by the Rules and Open Government Committee on August 26, 2015:**

- (a) Approve the Vietnamese New Year Flag Raising Ceremony as a City Council sponsored Event scheduled on February 8, 2016 and approve the expenditure of funds; and**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Mayor/T. Nguyen/M. Nguyen)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 2, 2015, transmitting the recommendations of the Rules and Open Government Committee.

**2.14 (Cont'd.)**

Action: The Vietnamese New Year Flag Raising Ceremony as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

**2.15 As recommended by the Rules and Open Government Committee on August 26, 2015:**

- (a) Approve the Azerbaijan Flag Raising Ceremony as a City Council sponsored Event scheduled on October 14, 2015 and approve the expenditure of funds; and**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (T. Nguyen)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated September 2, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Azerbaijan Flag Raising Ceremony as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved. (11-0.)

**2.16 Adopt a resolution authorizing the City Manager to negotiate and execute a long-term Parking Agreement for up to 15 years with SF1 111 N. Market St., LLC, for the issuance of up to 20 parking permits for use at the Market/San Pedro Square Garage. CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for the same use. Council District 3. (Transportation)**

Documents Filed: Memorandum from Interim Director of Transportation Jim Ortbal, dated August 24, 2015, recommending adoption of a resolution.

Action: Resolution No. 77516, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Long-Term Parking Agreement with SF1 111 N. Market St., LLC for the Issuance of up to 20 Parking Permits for Use at the Market/San Pedro Square Garage for up to 15 Years", was adopted. (11-0.)

- 2.17 (a) Authorize travel for Assistant City Manager David Sykes to travel to Denver, Colorado on September 16-18, 2015 to participate in the San José Silicon Valley Chamber of Commerce Study Mission.**
- (b) Approve the use of City funds for the Assistant City Manager at the published Chamber of Commerce package rate.**

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

Action: Dropped per Administration.

## STRATEGIC SUPPORT SERVICES

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

City Manager Norberto Dueñas discussed the City's water-saving measures, such as turf conversion policies, use of recycled water and the challenge of keeping track of our water usage.

### 3.2 Accept Labor Negotiations Update.

There was no report.

### 3.3 Adopt a Statement of Policy and City Council Questions related to the selection of a permanent Fire Chief, as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)

Documents Filed: (1) Memorandum from City Manager Norberto Dueñas, dated September 4, 2015, requesting the City Council's input to the City Manager for the selection of Fire Chief in compliance with the City Charter. (2) Memorandum from Mayor Sam Liccardo, dated September 14, 2015 recommending questions to be asked of the candidates.

Public Comment: David Wall offered his opinion that firefighters are underpaid.

Motion: Vice Mayor Rose Herrera moved approval of Mayor Sam Liccardo's memorandum of September 14, 2015, recommending questions as indicated below in "Action". Councilmember Tam Nguyen seconded the motion.

Councilmember Raul Peralez requested an amendment to the motion to include additional questions as indicated in "Action". The amendment to the motion was accepted by Vice Mayor Rose Herrera and Councilmember Tam Nguyen.

Councilmember Johnny Khamis requested an additional amendment to include questions as indicated in "Action". The amendment to the motion was accepted by Vice Mayor Rose Herrera and Councilmember Tam Nguyen.

Action: On a call for the question, the Statement of Policy and questions related to the selection of the Fire Chief were adopted, including questions as presented by Mayor Sam Liccardo in his memorandum dated September 14, 2015: (1) In addition to first response, should the San José Fire Department (SJFD) consider the business of transporting patients?; (2) How can SJFD most readily achieve performance improvements in response times or other important measures of service?; (3) How would you reduce costs (e.g. to reinvest savings in critical staffing, or where performance can be improved), and what are the risks and benefits to your strategy? And including questions as presented by Councilmember Johnny Khamis: (1) How do you propose to strike a balance on response times and still maintain a robust fire prevention strategy? (2) Can you explain how you

### 3.3 (Cont'd.)

would implement a comprehensive risk-based approach to inspections and ensure that line staff have the proper oversight to follow up on outstanding code violations?; (3) How would you propose to utilize a CRT model and taking advantage of emergency volunteer centers?; Also including questions as presented by Councilmember Raul Peralez: (1) How can volunteers play a role in helping out the San José Fire Department? (2) How can the Fire Department effectively extend outreach to educate the general public, especially hard to reach at-risk communities? (11-0.)

### 3.4 **Adopt a Statement of Policy and City Council Questions related to the selection of a permanent Director of Housing, as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated September 4, 2015, requesting the City Council's input to the City Manager for the selection of Housing Director in compliance with the City Charter.

Motion: Vice Mayor Rose Herrera moved approval of the Staff's recommendations, including questions as recommended by Mayor Sam Liccardo as indicated below in "Action". Councilmember Donald Rocha seconded the motion.

Public Comment: Moria Merriweather offered criticism of the encampment abatement program. David Wall criticized the excess use of taxpayer's money.

Action: On a call for the question, the motion carried unanimously, the Statement of Policy and City Council Questions related to the selection of a permanent Director of Housing, as described in the memorandum to Council, in compliance with City Charter Section 411.1 was adopted, including questions presented by Mayor Sam Liccardo: (1) Why has San José not opted into Zero: 2016 California Community Solutions Campaign, given the resources available to the City if included?; and (2) How would you rebuild relationships with private sector market rate housing developers to create affordable housing through private-public partnerships? (3) How would you propose the use of data analytics to better provide service to the homeless and how best to leverage these tools? (11-0.)

### 3.5 **Adopt a resolution affirming the City of San José as a Welcoming City. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (City Manager)**

Documents Filed: City Council Action Request from Zulma Maciel, Assistant to the City manager, dated September 15, 2015, recommending adoption of a resolution.

Councilmember Magdalena Carrasco provided an overview of the program.

### 3.5 (Cont'd.)

Public Comment: Offering support to the resolution affirming City of San José as a Welcoming City and development of an immigrant integration plan, were Mohua Chatterjee, Shilpa Sachdev, Avinash Londa, Diana Castillo, Shaun Cartwright, Perry Mistry; and Jaime Alvarado, Sacred Heart. David Wall expressed criticism of illegal immigrants.

Action: Upon motion by Councilmember Ash Kalra, seconded by Councilmember Raul Peralez, and carried unanimously, Resolution No. 77517, entitled: "A Resolution of the Council of the City of San José Affirming the City of San José as a Welcoming City", was adopted. (10-1. Noes: Oliverio.)

### 3.6 As recommended by the Rules and Open Government Committee on September 2, 2015:

- (a) **Direct the City Manager to prepare Request for Proposals (RFP) for a professional, non-biased consultant for the Minimum Wage Study and engage key stakeholders including the South Bay Labor Council, Chamber of Commerce and other subject matter experts.**
- (b) **Hire an independent, widely-regarded economist/economics firm to:**
  - (1) **Assess the net economic benefit of an increase of the minimum wage to current wage earners at or near the minimum wage;**
  - (2) **Assess the net economic impact of a minimum wage increase on San José residents with the highest unemployment and underemployment rates, such as residents under 24, residents lacking a college degree, residents having prior criminal convictions, and others with significant barriers to employment, incorporating the experience of local agencies like Work2Future;**
  - (3) **Assess the net economic impact on small businesses;**
  - (4) **Estimate likely aggregate job loss/creation as a result of the increase; and**
  - (5) **Assist the City Council and the region to assess:**
    - (a) **A lower "training wage" for youth under the age of 18, to ensure a pathway to careers for young people needing to get their "foot in the door";**
    - (b) **An exemption for organizations employing persons, in the "hard-to employ" such as parolees, homeless, and emancipated foster youth, and providing unique training to those members of our community;**
    - (c) **A "ramp-up" period for small businesses, e.g., those employers with fewer than 15 employees, and/or earning below a predetermined threshold of gross revenue, or for all usinesses;**
    - (d) **An exemption for the employment of verifiable immediate or extended family members; and**
    - (e) **Other exemptions that might be appropriate.**

3.6 (Cont'd.)

- (c) Pending Council determination of prioritization, and prior to spending resources on this effort, return to Council with a report on the status of a statewide initiative is being circulated for signatures now by the SEIU to increase the state of California's minimum wage to \$15 by 2021. Where polling suggests likely passage of a statewide measure, assess whether any local ordinance would be unnecessary or duplicative in effort.
- (d) As part of this effort, enlist the Mayor and Council in active engagement with neighboring cities in Santa Clara County to determine how the Valley can "move together" to raise the minimum wage for the benefit of struggling residents. Work through Councilmember Jones and the Cities Association of Santa Clara County to obtain concurrence of mayors and councils throughout the County, and include the County to ensure consistency in unincorporated areas.

**CEQA: Not a Project, File No. PP10-066(f), Lease of existing space for the same use.**

Documents Filed: (1) Joint memorandum from Councilmember Ash Kalra, Councilmember Raul Peralez, Councilmember Magdalena Carrasco, Councilmember Donald Rocha and Councilmember Tam Nguyen, dated September 11, 2015, recommending the Staff's study of a minimum wage increase with additional direction. (2) Memorandum from Councilmember Johnny Khamis dated September 11, 2015, providing recommendations for the proposed analysis. (3) Memorandum from City Clerk Toni J. Taber, dated September 11, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Public Comment: Offering support to a minimum wage increase and support with no exemptions, were: Ella Myers-Lipton, Brian O'Neill, Scott Myers-Lipton, Salvador Bustamante, Victor Lecha III, Shanta Franco-Clausen, Maria Noel Fernandez, Omar Vasquez, Wendy Ho, Gail Osmer, Robert Aguirre, Matt Lopez, Michael Johnson, Laura Lopez, Angelica Ramos, Diane Fisher, Jerry Wilburn, Tanya York, Jessica Lynam, Susan Cartwright, Claudia Shope, Linda Donnelly, Joe Young, Moria Merriweather, Rebeca Armendariz, Alan Gallegos, Meghan Fraley, Perry Mistry, Henry Montgomery and Soledad. David Wall expressed criticism of the plan.

Motion: Councilmember Chappie Jones moved approval of Staff recommendations, including the memorandum from Councilmember Ash Kalra, Councilmember Raul Peralez, Councilmember Magdalena Carrasco and Councilmember Tam Nguyen, dated September 11, 2015.

Councilmember Pierluigi Oliverio requested an amendment to the motion that the Wage Study explore a range of \$15 to \$20. Councilmember Chappie Jones and Vice Mayor Rose Herrera accepted the amendment to the motion.

3.6 (Cont'd.)

Deputy City Manager/Director of Economic Development Kim Walesh and Chief Economist John Lang responded to questions. Council discussion followed.

Councilmember Johnny Khamis requested an amendment to motion, asking that his memorandum dated September 11, 2015 be included. Councilmember Chappie Jones and Vice Mayor Rose Herrera accepted the amendment to the motion.

Action: On a call for the question, the motion carried unanimously, and recommendations as brought forward by the Rules and Open Government Committee on September 2, 2015 were accepted, with direction that the Minimum Wage Study explore a range of \$15 to \$20, including recommendations as outlined in the memorandum from Councilmembers Kalra, Peralez, Carrasco, Rocha and Tam Nguyen, dated September 11, 2015; and as presented in Councilmember Johnny Khamis memorandum, dated September 11, 2015, that the study should also include an examination of the effect of this increase on the public benefits that worker(s) may be receiving, fully considering the interplay between public support payments and the minimum wage. (11-0.)

3.7 **As recommended by the Public Safety, Finance, and Strategic Support Committee on August 20, 2015, accept the Fourth Quarter (period ending June 30, 2015) Financial Reports for Fiscal Year 2014-2015 for the following programs:**

- (a) **Debt Management Report;**
- (b) **Investment Report; and**
- (c) **Revenue Collection Report.**

**Not a Project, File No. PP10-069(a), Staff reports that involve no approvals of any City actions. (Finance)**

Documents Filed: Memorandum from City Clerk Toni Taber, dated September 2, 2015, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Tam Nguyen and carried unanimously, the Fourth Quarter (period ending June 30, 2015) Financial Reports for Fiscal Year 2014-2015 for the (a) Debt Management Report; (b) Investment Report; and (c) Revenue Collection Report, were approved. (10-0-1. Absent: Jones.)

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

- (a) **Execute a purchase order with Badger Meter (Milwaukee, WI) for the purchase of approximately 12,000 remote read water meters in an amount not-to-exceed \$2,860,000;**
- (b) **Execute a purchase order with Stoloski & Gonzalez (Half Moon Bay, CA) for the installation of approximately 12,000 water meters in an amount not-to-exceed \$900,000; and**
- (c) **Purchase and install additional water meters from Badger Meter and Stoloski & Gonzalez, respectively, on an as required basis, subject to the appropriation of funds.**

3.8 (Cont'd.)

**CEQA: Categorically Exempt, File No. PP15-079, CEQA Guidelines Section 15303, New construction of small structures. (Finance)**

Documents Filed: (1) City Council Action Request from Director of Finance Julia H. Cooper, dated September 15, 2015, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing executed on September 10, 2015, submitted by the City Clerk.

Mayor Liccardo opened the public hearing.

Public Comment: David Wall offered criticism of the project; Robert Aguirre emphasized that this may result in the loss of jobs, and Blair Beekman opined that the public process was not initiated.

Mayor Liccardo closed the public hearing.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Councilmember Donald Rocha and carried unanimously, Resolution No. 77518, entitled: "A Resolution of the Council of the City of San José Execute a Purchase Order with Badger Meter for the Purchase of Approximately 12,000 Remote Read Water meters in an Amount Not to Exceed \$2,860,000 and Execute a Purchase Order with Stoloski & Gonzalez for the Installation of Approximately 12,000 Water Meters in an Amount Not to Exceed \$900,000", was adopted, with the clarification that authority is granted to install approximately 12,500 water meters, as indicated in the Issuance of City of San Jose Financing Authority Commercial Paper Program For Water Utility System Meter Replacements. (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

4.1 (a) **Adopt a resolution:**

- (1) **Approving an early disbursement of the existing \$8,000,000 construction-permanent loan commitment, in the form of a land acquisition loan of up to \$5,000,000 that will refinance an existing land acquisition loan in order to support development of the Second Street Studio Apartments, an affordable multifamily rental development offering permanent supportive housing for the homeless to be located at 1140 South Second Street at Keyes Street and developed by a legal affiliate of First Community Housing Corporation (Developer);**
- (2) **Approving an increase of up to a \$6,452,000 to the existing City Council-approved construction-permanent loan commitment of \$8,000,000, for a total of up to \$14,452,000 of Low and Moderate Income Housing Asset Funds to Developer; and**
- (3) **Approving an increase of up to \$500,000 to the existing predevelopment loan.**

4.1 (Cont'd.)

(b) **Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:**

- (1) **Increase the Housing Loans and Grants appropriation to the Housing Department in the amount of \$6,000,000; and**
- (2) **Decrease the Housing Project Reserve appropriation in the amount of \$6,000,000.**

**CEQA: Mitigated Negative Declaration, File No. PDC07-086, adopted 8/26/2008. Council District 3. (Housing/City Manager) (Deferred from 8/25/15 – Item 4.2)**

Documents Filed: Joint memorandum from Interim Director of Housing Jacky Morales Ferrand and Senior Deputy City Manager Jennifer Maguire, recommending adoption of recommending adoption of a resolution and appropriation ordinance amendments.

Public Comment: Expressing support to the Staff recommendations were Robert Aguirre, Shaun Cartwright, Phil Olmstead, Phil Mastrocola and Geoffrey Morgan. David Wall criticized the recommendations.

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

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77519, entitled: “A Resolution of the Council of the City of San José Approving an Early Disbursement of the Existing Construction – Permanent Funding Commitment to Refinance an Existing Land Loan and an Increase to the Approved Construction – Permanent Loan Amount and a Predevelopment Loan Increase for the Second Street Studio Apartments”; and Ordinance No. 29612, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Low and Moderate Income Housing Asset Fund for Housing Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

Mayor Sam Liccardo left the meeting at approximately 5:45 p.m. Vice Mayor Rose Herrera chaired the remainder of the meeting.

4.2 **As recommended by the Community and Economic Development Committee on August 24, 2015, accept the staff report on City preparations for events and visitors in San José for Super Bowl 50 the week of January 31, 2016. CEQA: Not a Project, File No. PP10-069(a), Staff reports that involve no approvals of any City actions. (Economic Development)**

Documents Filed: (1) Joint memorandum from Councilmember Raul Peralez, Councilmember Donald Rocha and Councilmember Ash Kalra, dated September 11, 2015, offering support to Staff recommendations with additional direction as indicated. (2) Memorandum from City Clerk Toni Taber, dated September 2, 2015, transmitting the recommendations of the Community and Economic Development Committee.

#### 4.2 (Cont'd.)

Public Comment: Offering comments regarding citizens' rights, safety of residents and the ramifications of sex trafficking, were Blair Beekman, Phil Olmstead, Robert Aguirre, Perry Mistry and Mark Trout. David Wall referred to portions of downtown as a festering slum.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the staff report on City preparations for events and visitors in San José for Super Bowl 50 the week of January 31, 2016, including recommendations as outlined in the joint memorandum from Councilmember Raul Peralez, Councilmember Donald Rocha and Councilmember Ash Kalra, dated September 11, 2015, was approved. 10-0-1. Absent: Liccardo.)

#### 4.3 **Hold a Public Hearing on the FY 2014-2015 Consolidated Annual Performance Evaluation Report and approve the document for submittal to the U.S. Department of Housing and Urban Development by the September 30, 2015 deadline. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City actions. (Housing)**

Documents Filed: (1) Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated August 26, 2015, recommending holding a public hearing. (2) Supplemental memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated September 14, 2015, providing a summary of comments during the public comment period. (3) Three Notices of Availability of the Consolidated Annual Performance and Evaluation Report (CAPER) and Schedule of Public Hearings, dated August 21, 2015 provided by the Housing Department. (4) Proof of Publication of Notice of Public Hearing executed on August 28, 2015, submitted by the City Clerk.

Vice Mayor Rose Herrera opened the public hearing.

Public Comment: David Wall commented that the funding for this project has taken longer than necessary.

Vice Mayor Rose Herrera closed the public hearing.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Magdalena Carrasco and carried unanimously, the FY 2014-2015 Consolidated Annual Performance Evaluation Report was approved with the document for submittal to the U.S. Department of Housing and Urban Development by the September 30, 2015 deadline. (10-0-1. Absent: Liccardo.)

- 4.4 **Approve the Community Development Block Grant, Emergency Solutions Grant, and Housing Trust Fund contracts totaling \$1,266,423 for implementation of the City's Outreach, Shelter and Rapid Re-housing Program for Unhoused Populations to the following agencies, from September 1, 2015 through June 30, 2016, in the following amounts:**
- (a) **\$625,000 to HomeFirst Services of Santa Clara County for outreach and shelter services;**
  - (b) **\$248,968 to People Assisting the Homeless for outreach services; and**
  - (c) **\$392,455 to Bill Wilson Center for rapid re-housing and supportive services.**
- CEQA: Not a Project, File No. PP10-066. Agreements/Contracts. (Housing)**

Documents Filed: Memorandum from Interim Director of Housing Jacky Morales-Ferrand, dated August 24, 2015, recommending approval of grants and funding contracts.

Public Comment: Expressing support to the Staff recommendations were Robert Aguirre, Shaun Cartwright, Phil Olmstead, Phil Mastrocola and Victor Leche III. David Wall suggested an administrative fund breakdown.

*Item 4.5 was bifurcated into two motions.*

- 4.5 (a) **Adopt an interim ordinance, as an urgency measure, extending the temporary moratorium on the conversion or closure of mobilehome parks to October 30, 2015 pending the review and possible amendment of the land use regulations applicable to such conversions and closures and setting forth the findings to support: 1) the need for the extension of the temporary moratorium; and 2) the need for the urgency measure;**

Documents Filed: (1) Transmittal memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated September 2, 2015, providing the staff report recommending an interim ordinance. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated September 11, 2015 transmitting the Planning Commission recommendation. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated September 9, 2015, recommending extension of an urgency ordinance.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Chappie Jones and carried unanimously, Interim Ordinance No. 29613, entitled: "Extension of an Interim Ordinance of the City of San José Establishing a Temporary Moratorium on the Conversion or Closure of Mobilehome Parks Pending the Review and Possible Amendment of Land Use Regulations Applicable to Such Conversions and Closures and Setting Forth Findings to Support Such Temporary Moratorium and the Effectiveness and Applicability of the Provisions of This Ordinance", was adopted. (10-0-1. Absent: Liccardo.)

- 4.5 (b) **Consideration of an ordinance establishing a temporary six (6) month moratorium on the closure or conversion of Mobilehome Parks to any other use, through February 25, 2016 pending the review and possible amendment of land use regulations related to Mobilehome Park conversions, setting forth the findings to support the temporary moratorium.**

**CEQA: Exempt, Guidelines Sections 15061(b)(3) No Significant Impact on the Environment and 15308 Actions by Regulatory Agencies for Protection of the Environment. (Planning, Building and Code Enforcement/Housing)**

Action: Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Chappie Jones and carried unanimously, Ordinance No. 29614, entitled: "An Ordinance of the City of San José Establishing a Temporary Moratorium on the Conversion or Closure of Mobilehome Parks Pending the Review and Possible Amendment of Land Use Regulations Applicable to Such Conversions and Closures and Setting Forth Findings to Support Such Temporary Moratorium", was adopted. (10-0-1. Absent: Liccardo.)

- 4.6 **Conduct a Public Hearing and consider the adoption of a resolution on the annexation of one (1) unincorporated parcel totaling 0.52 gross acres from the County of Santa Clara to the City of San José, located on the West side of East Hills Drive approximately 250 feet easterly of Dale Drive (3405 East Hills Drive) (Sanchez Jose Life Estate & Et Al, Gonsalez Olga And Guillermo, Owner). CEQA: Exempt. Guidelines Section 15319(b). Annexation of individual small parcels. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Harry Freitas, dated September 1, 2015, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing executed on August 7, 2015, submitted by the City Clerk.

Vice Mayor Rose Herrera opened the public hearing.

Public Comment: Robert Aguirre suggested developing legal campsites on this property.

Vice Mayor Rose Herrera closed the public hearing.

Action: Upon motion by Councilmember Magdalena Carrasco, seconded by Councilmember Pierluigi Oliverio and carried unanimously, Resolution No. 77520, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited and Unincorporated Territory Designated as Story No. 65, Subject to Liability for General Indebtedness of the City", was adopted. (9-0-2. Absent: Liccardo, Peralez.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **As recommended by the Transportation and Environment Committee on June 1, 2015, accept the Audit Report on Curbside Recycling. CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Assessments and Annual Reports. (City Auditor) [Transportation and Environment Committee referral 6/1/15 – Item D(4)] (Deferred from 6/16/15 – Item 7.1 and 8/4/15 – Item 7.1)**

*Item 7.1 was heard directly following the Financing Authority Meeting*

Documents Filed: (1) Joint memorandum from Councilmembers Kalra, Carrasco, Rocha and Khamis, dated September 11, 2015, providing direction to staff regarding curbside recycling. (2) Memorandum from Councilmember Manh Nguyen, dated September 15, 2015 providing additional recommendations for curbside recycling. (3) Statement and Declaration of Conflict of Interest Form from Councilmember Tam Nguyen, dated July 28, 2015, disclosing a conflict of interest. (4) Memorandum from City Clerk Toni Taber, dated June 3, 2015, transmitting the recommendations of the Transportation and Environment Committee.

Public Comment: Offering comments and suggestions were Bret Faulkner, Green Team of San José; Emily Finn, Greenwaste Recovery; David Wall; Joel Corona, California Waste Solutions; Steve Jones, Garden City Sanitation; and Terry Brokaw.

City Auditor Sharon Erickson and Environmental Services Director Kerrie Romanow provided a presentation.

Council Member Tam Nguyen recused himself from participating in the Council discussion and action, disclosing that he receives income from California Waste Solutions.

Councilmember Ash Kalra moved approval of Staff recommendations, including the memorandum he coauthored with Councilmembers Kalra, Carrasco, Rocha and Khamis, dated September 11, 2015 and the memorandum from Councilmember Manh Nguyen, dated September 15, 2015. Vice Mayor Rose Herrera seconded the motion.

Action: On a call for the question, the motion carried anonymously, and the Audit for Curbside Recycling was accepted, with the inclusion of the memorandum from Councilmember Manh Nguyen, dated September 15, 2015; and including the memorandum from Councilmembers Kalra, Carrasco, Rocha and Khamis, dated, September 11, 2015, with item (d) from this memorandum to be addressed in Closed Session as soon as possible, and with item (e) to return to Council pursuant to completion of the study. (9-0-1-1. Absent: Liccardo. Abstain: Councilmember Tam Nguyen.)

## PUBLIC SAFETY SERVICES

- 8.1 Review and accept the City of San José's response to the 2014-2015 Santa Clara County Civil Grand Jury's Report entitled "Protecting Our Most Vulnerable Residents." CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approvals of any City actions. (Police)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated September 15, 2015, offering acceptance of the report with additional direction. (2) Memorandum from Chief of Police Larry Esquivel, dated August 24, 2015, recommending the Grand Jury's report. (3) "Conservatorship in Crisis", White Paper prepared for Uniform Law Commission, provided by CEDAR (Coalition for Elder & Dependent Adult Rights).

Public Comment: Urging action towards protecting the elder population were Richard Calhoun (CEDAR), Jennie Warner Linda Kincaid (Coalition for Elders & Dependent Adult Rights), and Mark Trout.

Motion: Vice Mayor Rose Herrera moved approval of the City of San José's response to the 2014-2015 Santa Clara County Civil Grand Jury's Report, including direction as outlined in Mayor Sam Liccardo's memorandum dated September 15, 2015.

Councilmember Raul Peralez asked to include a provision that this item return for follow-up to the Public Safety, Finance and Strategic Support Committee. Vice Mayor Rose Herrera agreed to this provision. Councilmember Raul Peralez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the City of San José's response to the 2014-2015 Santa Clara County Civil Grand Jury's Report entitled "Protecting Our Most Vulnerable Residents" was accepted, with the item to return for follow-up to the Public Safety, Finance and Strategic Support Committee and including Mayor Sam Liccardo's memorandum dated September 15, 2015, to (a) Revise the San José Police Department Duty Manual to explicitly refer to the County Elder Abuse Protocol, and to encompass the intent of California Penal Code Section 368(c), specifically encouraging officers to look for and enforce against abusive conduct by caretakers and conservators that results in isolation, abandonment and other forms of mental suffering against an elder client; and (b) Ensure that appropriate training for police academy recruits and current officers comports with the changes in the Duty Manual for recognizing and responding to Elder and/or Dependent Adult Abuse, was approved. (8-0-3. Absent: Liccardo, T. Nguyen, Rocha.)

## OPEN FORUM

- (1) David Wall offered appreciation to San José Police Lieutenant Rick Weger who recently suppressed criminal activity in his neighborhood.
- (2) Mark Trout opined that vaccinations may cause unnecessary health risks.

**ADJOURNMENT**

The Council of the City of San José adjourned at 7:14 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

rmk/9-15-115MIN