



MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 01, 2015

The Council of the City of San José convened in Regular Session at 9:31 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 9:37 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (c) with respect to initiation of litigation in two (2) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Skeen; Amount of Money or Other Relief Sought: Administrative Appeal. (2) In re: Claim of Soto. (3) Lam v. City of San José, et al. Names of Parties Involved: Hung Lam, individually, through his next friend, Kathy Lam, City of San José, Larry Esquivel and Dondi West; Court: United States District Court, Northern District of California, San José Division; Case No. 14-CV-00877 PSG; 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) 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. (6) San José Police Officers' Association v. City, et al; Names

CLOSED SESSION (Cont'd.)

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. (7) 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. (8) 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. (9) 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. (10) 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. (11) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) 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. (13) 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

CLOSED SESSION (Cont'd.)

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.

By unanimous consent, Council recessed from the Closed Session at 10:59 a.m. and reconvened to Regular Session at 1:33 p.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra (1:42 p.m.), Khamis, M. Nguyen, T. Nguyen, Oliverio (1:49 p.m.), Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

INVOCATION

Reverend Chon Nguyen, Lieu Quan Buddhist Cultural Center offered the Invocation.
(Mayor)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo, accompanied by Lynnhaven Elementary School Students, led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.4 deferred to December 8, 2015 and Item 3.6(b) deferred with no specific date. (10-0-1. Absent: Oliverio.)

Council Member Johnny Khamis expressed opposition to adding Item 3.5 to the Agenda at this time.

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried, Item 3.5 was added to the Agenda. (9-1-1. Noes: Khamis. Absent: Oliverio.)

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: James Anthony, Sensible San José, suggested that the current ordinance for medical marijuana was not working and an alternative for an initiative was placed on the June 7, 2016 Ballot.

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 Council Minutes.

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

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

Documents Filed: (1) The Regular Minutes dated August 4, 2014, August 11, 2015, August 18, 2015 and August 25, 2015. (2) The Special Minutes dated August 14, 2015.

2.1 (Cont'd.)

Action: The Council Meeting Minutes were approved. (11-0.)

2.2 Final adoption of ordinances.

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

Documents Filed: Proof of Publication of the Title of Ordinance No. 29649 executed on November 23, 2015, submitted by the City Clerk.

Action: Ordinance No. 29649 was adopted. (11-0.)

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

Documents Filed: Proof of Publication of the Title of Ordinance No. 29650 executed on November 23, 2015, submitted by the City Clerk.

Action: Ordinance No. 29650 was adopted. (11-0.)

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

Documents Filed: Proof of Publication of the Title of Ordinance No. 29651 executed on November 23, 2015, submitted by the City Clerk.

Action: Ordinance No. 29651 was adopted. (11-0.)

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

Documents Filed: Proof of Publication of the Title of Ordinance No. 29652 executed on November 23, 2015, submitted by the City Clerk.

Action: Ordinance No. 29652 was adopted. (11-0.)

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

Documents Filed: Proof of Publication of the Title of Ordinance No. 29653 executed on November 23, 2015, submitted by the City Clerk.

Action: Ordinance No. 29653 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

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

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

Documents Filed: (1) The Transportation and Environment Committee Minutes dated November 2, 2015. (2) The Rules and Open Government Committee Minutes dated November 4, 2015. (3) The Neighborhood Services and Education Committee Minutes dated November 12, 2015.

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

2.4 Mayor and Council Excused Absence Requests.

(a) Request for Travel and Excused Absence.

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

Action: Item 2.4 was dropped.

2.5 City Council Travel Reports.

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

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

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

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated October 20, 2016, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated November 20, 2015, expressing concurrence with the Staff recommendations.

2.7 (Cont'd.)

Action: Resolution No. 77587, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute a Second Amendment to the Legal Services Agreement with Hawkins, Delafield & Wood LLP to Modify the Initial Term of December 1, 2014 through December 1, 2015 to December 1, 2014 through June 20, 2016 to Coincide with the Fiscal Year Appropriations Which Will Increase the Amount Available in the Initial Term to \$700,000 and To Modify the Number of Option Terms from Two Terms to One Term Without Increasing the Total Maximum Amount of Compensation of \$1,000,000 Available Under the Contract, Subject to Appropriation of Funds by City Council To Support the San José – Santa Clara Regional Wastewater Facility Capital Improvement Program", was adopted. (11-0.)

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

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

Action: *Item 2.8 was renumbered to Item 3.6. See Item 3.6 for action.*

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

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

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

Documents Filed: Memorandum from Director of Employee Relations Jennifer Schembri and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated November 12, 2015, recommending adoption of a resolution and appropriation ordinance amendments.

Mayor Sam Liccardo and City Manager Norberto Dueñas acknowledged the work of the Public Safety Radio Dispatchers.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, Resolution No. 77588, entitled: "A Resolution of the Council of the City of San José Approving the Terms of Agreement Between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 (MEF) Related to the Public Safety Radio Dispatcher Classification Series" and Ordinance No. 29654, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for Fire Department Personal Services; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

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

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated November 18, 2015, recommending approval of the lease.

Action: A five-year lease with RPRO152N3, LLC for the use of approximately 3,288 square feet of office space located at 152 N 3rd Street, Suite 602 at a rental rate of \$86,014 for the first year of the lease, \$89,455 for the second year, \$93,033 for the third year, \$96,754 for the fourth year, and \$100,624 for the fifth year with total rent for the five-year term in the amount of \$465,880 was approved. (11-0.)

- 2.11 (a) **Award of a Construction Contract for 7946 – Process Water Pumps Replacement Project to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$382,100.**
- (b) **Approval of a construction contingency of 15 percent in the amount of \$57,315.**

CEQA: Exempt, Guidelines Section 15301. Existing Facilities, File No. PP13-039. (Environmental Services)

Documents Filed: (1) City Council Action Request from Director of Environmental Services Kerrie Romanow, dated November 10, 2015, recommending award of the contract to the low bidder with related contingency. (2) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated November 20, 2015, expressing concurrence with the Staff recommendations.

Action: The Construction Contract for 7946 – Process Water Pumps Replacement Project to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$382,100, with related contingency was approved. (11-0.)

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

- (a) **Execute an Open Purchase Order with ABB Inc. (Wicklisse, OH) for hardware repair, replacement, and rebuilding services for the Distributed Control Systems at the Regional Wastewater Facility, for the term December 1, 2015 through November 30, 2016, in an amount not to exceed \$750,000 per year.**
- (b) **Execute change orders to purchase additional parts and services subject to the appropriations of funds.**
- (c) **Execute additional purchase orders for the subsequent annual purchase of hardware repair, replacement, and rebuilding services through November 30, 2018 subject to the appropriation of funds.**

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

Documents Filed: (1) City Council Action Request from Director of Finance Julia H. Cooper, dated November 10, 2015, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated November 20, 2015, expressing concurrence with the Staff recommendations.

Action: Resolution No. 77589, entitled: “A Resolution of the Council of the City of San José To Authorize the City Manager to Execute: (1) An Open Purchase Order with ABB. Inc. for Equipment and Maintenance Services for the Distributed Control Systems at the Regional Wastewater Facility for December 1, 2015 Through November 30, 2016, (2) Change Order for Additional Parts and Services, and (3) Additional Annual Purchase Orders for Equipment and Maintenance Services Through November 30, 2018; Subject to the Appropriation of Funds”, was adopted. (11-0.)

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

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

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

Documents Filed: Replacement memorandum from Chief of Police Larry Esquivel and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated November 25, 2015, noting that the appropriation adjustments have been revised upward from \$160,000 to \$305,000, and recommending adoption of appropriation ordinance amendments.

Action: Ordinance No. 29655, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for the Police Department Operation Center; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0.)

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

Documents Filed: Memorandum from Interim Director of Transportation James Ortbal, dated November 9, 2015, recommending adoption of a resolution.

Mayor Sam Liccardo and Council Members Ash Kalra and Raul Peralez thanked and congratulated Staff.

Action: Upon motion by Council Member Raul Peralez, seconded by Council Member Magdalena Carrasco and carried unanimously, Resolution No. 77590, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Enter Into a Coordination Agreement With Bay Area Motivate, LLC, the Metropolitan Transportation Commission and Partner Cities to Expand the Bay Area Bike Share Program", was adopted. (11-0.)

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

Documents Filed: Memorandum from Interim Director of Transportation James Ortbal, dated November 9, 2015, recommending approval of an agreement.

Action: An agreement between the City of San José and HMH Engineers for consultant services for the US 101/Blossom Hill Road Interchange Improvement project for an amount not to exceed \$1,585,100 and for a term beginning on the date of full execution of the agreement to June 30, 2018 was approved. (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 the excellent work of Code Enforcement Staff who demonstrated outstanding professionalism and sensitivity on Wednesday, November 25, 2015 in which their proactive actions helped protect the safety of the residents and kept six families in their homes for the Thanksgiving Holiday.

- 3.3 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)**

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Chappie Jones, Raul Peralez and Manh Nguyen, dated November 25, 2015, recommending acceptance of the Auditor's Report with further direction. (2) Memorandum from Council Member Tam Nguyen, dated November 25, 2015, recommending acceptance of the Auditor's Report with direction. (3) Memorandum from Council Member Pierluigi Oliverio, dated November 25, 2015, recommending acceptance of the Auditor's Report with direction. (4) Memorandum from Council Member Johnny Khamis, dated December 1, 2015, recommending acceptance of the Auditor's Report with direction. (5) Memorandum from City Clerk Toni J. Taber, CMC, dated September 24, 2015, transmitting the Auditor's Report and the recommendations of the Public Safety, Finance and Strategic Support Committee. (5) Ten emails from the public all dated December 1, 2015 regarding the Auditor's Report.

3.3 (Cont'd.)

City Auditor Sharon W. Erickson offered the report on Police Hiring. Deputy Chief Phan Ngo provided the response to the audit of Police Hiring.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: James Gonzales, Police Officers' Association (POA) affirmed that the POA is committed to rebuilding the Police Department and working together with the City focusing on the new policies that the Council has approved that will bring people back to San José and fill the Police Academies. Shawna Rose Nixon pointed out that this is an important issue because San José residents are concerned there are not enough Police Officers in the neighborhoods.

City Auditor Sharon W. Erickson, Chief of Police Larry Esquivel and Deputy Chief Phan Ngo responded to Council questions and concerns.

Extensive Council discussion ensued.

Motion: Vice Mayor Rose Herrera moved approval of the memorandum she cosigned with Mayor Sam Liccardo, Chappie Jones, Raul Peralez and Manh Nguyen, dated November 25, 2015, the memorandum from Council Member Tam Nguyen, dated November 25, 2015 and the memorandum from Council Member Johnny Khamis dated December 1, 2015. The memorandum from Council Member Pierluigi Oliverio was referred to the February 18, 2016 Public Safety, Finance and Strategic Support Committee to explore alternatives. Council Member Pierluigi Oliverio seconded the motion.

Vice Mayor Rose Herrera requested to amend the motion to bifurcate the motion into two parts in order to vote on the memorandum from Council Member Johnny Khamis separately. Council Member Pierluigi Oliverio accepted the amendment.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Jones, Peralez and M. Nguyen, dated November 25, 2015, was approved: (1) Accept the City Auditor's Audit Police Hiring: Additional Efforts to Recruit Qualified Candidates Urgently Needed to Fill Vacancies and the Police Chief's Response to the Audit of Police Hiring dated September 9, 2015. (2) Direct the City Manager to develop a comprehensive recruitment plan in partnership with the San Jose Police Officers Association (POA), focused on lateral officers and new recruits, and report back to the City Council by February 9, 2016. The recruitment plan should incorporate the following: (a) Specific steps that San José Police Department (SJPD) will take to increase the number of qualified applicants who are women or persons of color. The plan should incorporate outreach and marketing to underrepresented community groups, particularly within Santa Clara County, including: i. Explore strategies to expand the Law Enforcement Unit Cadet Program or some similar internship model, with particular emphasis on women and communities of color, including consideration of stipends or payment. ii. An assessment

3.3 (Action Cont'd.)

of whether outreach to diverse communities, drawn from local leadership, could help SJPD recruitment. iii. Appropriate marketing of the salary bonus recently enhanced by the 2015 POA Agreement for second-language fluency, particularly for Spanish or Vietnamese speakers. iv. Strategies and measurement of results specific to sub-categories of applicants that satisfy community-specific needs in the department, such as Vietnamese speakers and Spanish-speakers, women and youth. (2) (b) Consistent with Recommendation# 4 in this memorandum, the total expenditure of all budgeted FY 2015-2016 Non-Personal funding of \$600,000 for recruitment and hiring, with budget monitoring reports to the Public Safety, Finance and Strategic Support. (c) A hiring strategy for civilians in the SJPD Recruiting Unit, to address deficiencies suggested in Recommendation #2(a). The strategy should identify any resources needed through the 2016-17 budget process to ensure that the Unit builds expertise that is sufficiently specialized, experienced, and continuous in such areas as marketing, social media, event planning, and recruiting. (d) An assessment of how the application process can be streamlined for applicants. (e) An assessment of whether additional measures suggested by Recommendation 13(b)-such as altering the sequence of physical conditioning tests--might enable more people to succeed in meeting fitness standards. (f) Specific outreach to veterans, particularly upon the department's adoption of requirements that will allow the substitution of military service for college credit. (3) Direct the City Manager to negotiate a more substantial one-time bonus for existing officers who recruit candidates to serve in the SJPD. (4) Direct the City Manager to report to the Public Safety, Finance and Strategic Support Committee, on the Police Academy recruitment cycle, with a Recruitment Activity Report beginning in Spring 2016. The report should include the following: (a) Funds expended to date in recruiting and hiring, and the uses of funds. (b) The nature, intended audiences, and outcomes of various communication and marketing activities such as, but not limited to, advertising on radio, billboards, signage on city owned vehicles, and other advertising. (c) Use and analysis of data identifying those specific marketing and outreach activities that yield the best results, and to assess optimal marginal allocation of future resources. (d) Data describing measurements of results specific to the ethnic and gender make-up of subcategories of academy entrants. (e) Data describing the reasons officers are resigning from the department (e.g. retirement, moving to another city department, resignation in lieu of termination, etc.). (f) The status of efforts to boost applications and hiring of women, veterans, and a diverse applicant pool by re-focusing marketing, as suggested above. The memorandum from Council Member Tam Nguyen, dated November 25, 2015, was approved: (1) Accept the City Auditor's Report. (2) Direct the City Manager to provide a more comprehensive report of the gender and ethnicity diversity within the Police Department and of recruits in addition to an action plan to achieve recruiting goals. The memorandum from Council Member Pierluigi Oliverio, dated November 25, 2015, was approved and referred to the Public Safety, Finance and Strategic Support Committee in February 2016 to explore alternatives: (1) Accept the audit report and city staff response. (2) Direct the City Manager to negotiate an agreement with both the California Highway Patrol and Sheriff to augment the San José Police Department. (11-0.)

3.3 (Action Cont'd.)

On a call for the question, the second motion failed, the memorandum from Council Member Johnny Khamis, dated December 1, 2015, was not approved. (5-6. Noes: Carrasco, Jones, Kalra, M. Nguyen, Peralez, Rocha.)

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

CEQA: Addendum to a Negative Declaration, File No. PP11-076. (City Manager)

Documents Filed: Memorandum from Mayor Sam Liccardo, dated November 25, 2015, recommending deferring to a later date.

Action: Deferred to December 8, 2015 per Orders of the Day.

- 3.5 **Direct the City Attorney to join in the filing of an amicus brief authored by Cities United for Immigration Action (CUIA) in the U.S. Supreme Court, in support of President Obama's November 2014 executive action on immigration.**
- CEQA: Not a Project, File No. PP10-069(c), City Organizational and Administrative Activities that involve no approval of City actions with a potential change in the environment. (Mayor)**

Documents Filed: Memorandum from Mayor Sam Liccardo, Council Members Magdalena Carrasco, Raul Peralez, Manh Nguyen and Tam Nguyen, dated November 18, 2015, recommending directing the City Attorney to join in the filing of an amicus brief authored by Cities United for Immigration Action in the U.S. Supreme Court, in support of President Obama's November 2014 executive action on immigration.

Council Member Johnny Khamis expressed his opposition to become involved in National issues.

3.5 (Cont'd.)

Action: On a call for the question, the motion carried, the City Attorney was directed to join in the filing of an amicus brief authored by Cities United for Immigration Action in the U.S. Supreme Court, in support of President Obama's November 2014 executive action on immigration. (9-2. Noes: Khamis, Oliverio.)

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

Note: Item 3.6 was renumbered from Item 2.8.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the 10-day noticing requirement was waived. (10-0-1. Absent: Kalra.)

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

Action: Item 3.6(b) was deferred per Orders of the Day.

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

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

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated November 30, 2015, recommending that Council waive the 10-day noticing requirement, appoint one employee representative to the Board of Administration for the Federated City Employee Retirement System and one Fire Department employee representative to the Board of Administration for the Police and Fire Department Retirement.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, Andrew Gardanier was appointed to the Board of Administration for the Police and Fire Department Retirement to a term ending November 30, 2019. (10-0-1. Absent: Kalra.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Approve the three-year agreement with San José State University to operate and maintain the Hammer Theatre Center for an annual amount of \$285,000 with changes to the business terms to recognize the California State University wage and compensation structure and existing Collective Bargaining Agreements and to modify the structure of the Theatre Advisory Working Group.**
- (b) **Adopt the following 2015-2016 Appropriation Ordinance Amendments in the General Fund:**
- (1) **Establish a capital appropriation to the Office of Economic Development for Hammer Theater Center Capital Improvements in the amount of \$500,000.**
 - (2) **Decrease the Earmarked Reserve for Cultural Facilities Capital Maintenance in the amount of \$500,000.**

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

Documents Filed: (1) Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated November 10, 2015, recommending approval of the agreement and adoption of appropriation ordinance amendments. (2) Staff presentation dated December 1, 2015 summarizing the Hammer Theatre Reuse.

Director of Cultural Affairs Kerry Adams Hapner presented the Report on the Hammer Theatre Reuse. Dr. Lisa Vollendorf, San José State University offered an overview of the Diversified Programming.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to the Staff recommendations were Dr. Susan Martin, Sam Perry, San José State University; Jennifer Thompson, Angela Sarabia, Kevin Jasper, Lisa Laymon, Peter Allen and Michael Mulcahy.

Motion: Council Member Raul Peralez moved approval of the Staff recommendations. Council Member Magdalena Carrasco seconded the motion.

Action: On a call for the question, the motion carried unanimously, the three-year agreement with San José State University to operate and maintain the Hammer Theatre Center for an annual amount of \$285,000 with changes to the business terms to recognize the California State University wage and compensation structure and existing Collective Bargaining Agreements and to modify the structure of the Theatre Advisory Working Group was approved and Ordinance No. 29656, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the General Fund for the Hammer Theater Center Capital Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0.)

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

Documents Filed: (1) Memorandum from Mayor Sam Liccardo and Council Members Peralez, Kalra, Oliverio and Rocha, dated November 25, 2015, recommending approval of the Staff recommendations in the memorandum dated November 19, 2015, including direction to Staff. (2) Memorandum from City Attorney Richard Doyle, dated November 19, 2015, recommending approval of an uncodified ordinance.

Deputy City Manager/Director of Economic Development Kim Walesh and Special Events Director Tammy Turnipseed responded to Council questions and concerns.

Motion: Council Member Raul Peralez moved approval of the Staff recommendations. Council Member Tam Nguyen seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Gail Osmer and Shaunn Cartwright inquired if the current vendors will be able to remain in their area.

Mayor Sam Liccardo requested Staff to respond to the speakers and Deputy City Manager/Director of Economic Development Kim Walesh clarified that there are three stationary hot dog stand peddlers and they are allowed to remain.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo and Council Members Peralez, Kalra, Oliverio and Rocha, dated November 25, 2015, was approved, accepting the Staff recommendation as outlined in the memorandum from City Attorney Richard Doyle, dated November 19, 2015. Staff was directed to consider designating an area outside the boundaries of the Special Event Zone and within the Greater Downtown area for local mobile peddlers who are affected by the Special Event Zone Ordinance. Ordinance No. 29657, entitled: "An Ordinance of the City of San José to Provide For the Designation of Specified Areas of the City of San José as a Special Event Zone to Prohibit Certain Activities on Public Property Including Peddling, Distribution of Merchandise, Goods or Coupons for a Commercial Purpose, the

4.2 (Cont'd.)

Sale of Counterfeit Merchandise, and the Flying of Unmanned Aircraft Systems Within the Special Event Zone and To Provide for the Temporary Suspension of the Authority of the Director of the Office of Cultural Affairs Under Part 16 of Chapter 20.80 of Title 20 of the San Jose Municipal Code To Issue Permits For Temporary Outdoor Uses of Private Property Within the Special Event Zone During the Time Period Beginning at Six O'Clock (6:00) a.m. on Monday, February 1, 2016 and Ending at Six O'Clock (6:00) p.m. on Tuesday, February 9, 2016, Relative to the Use of These Areas in Conjunction with the 2016 National Football League's Super Bowl 50 Related Activities and Events", was passed for publication. (10-0-1. Absent: Kalra.)

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

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated November 25, 2015, recommending acceptance of the City Auditor's Report with direction to the City Manager. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated November 19, 2015, transmitting the recommendations of the Community and Economic Development Committee. (3) Supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Welsh, dated November 25, 2015, providing the most recent available balance of fund collected by both Team San José and San José Theatre Preservation, Inc. for the purpose of theatre improvements and a summary of previous expenditures made with the collected funds.

City Auditor Sharon W. Erickson offered the Audit Report on Team San José Performance 2014-15.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Michael Mulcahy, Team San José Board, spoke in support to the Staff recommendations.

Mayor Sam Liccardo mentioned points of his memorandum dated November 25, 2015 and thanked Team San José for their extraordinary performance and great work in activating the downtown hotels, restaurants and entertainment venues with visitors.

Motion: Council Member Raul Peralez moved approval of the memorandum from Mayor Sam Liccardo, dated November 25, 2015, recommending acceptance of the Report from the City Auditor and direction to the City Manager. Vice Mayor Rose Herrera seconded the motion.

Mayor Sam Liccardo requested to amend the motion to include direction to Staff to have a Performance Goals/Incentives discussion with Team San José and to report back to the Community and Economic Development Committee in Spring 2016.

4.3 (Cont'd.)

Action: The memorandum from Mayor Sam Liccardo, dated November 25, 2015, was approved, accepting the City Auditor's Audit Report on Team San José's Performance 2014-15, including: (1) Direction to the City Manager to work with Team San José and the City's industry advisor (Conventions, Sports and Leisure) to ascertain: (a) How the City and Team San José can better attract a higher proportion of high profile, tech focused conferences to the San José Convention Center. (b) How the City can appropriately measure and incentivize Team San José to attract high profile, tech focused conferences to the San José Convention Center. Staff was further directed to have a Performance Goals/Incentives discussion with Team San José and to report back to the Community and Economic Development Committee in Spring 2016. (9-0-2. Absent: Kalra, Khamis.)

- 4.4
- (a) **Accept staff report on the status of the Google Fiber Project.**
 - (b) **Adopt a resolution adopting the Mitigated Negative Declaration for the Google Fiber Project and related Mitigation Monitoring and Reporting Program, in accordance with the California Environmental Quality Act.**
 - (c) **Approve a Master Encroachment Permit between the City of San José and Google Fiber, Inc. (Google Fiber) for the installation of a community-wide, residential high-speed fiber network service.**
 - (d) **Adopt a resolution authorizing the City Manager or his designee to:**
 - (1) **Negotiate and execute Network Hut License Agreements and all other documents necessary to complete the transaction with Google Fiber for two City-owned sites located at the intersections of Bird Avenue and Virginia Street, Assessor's Parcel Number (APN) 264-41-074, and Santa Teresa Boulevard and State Route 85 South off-ramp, APN 464-28-010.**
 - (2) **Negotiate and execute all necessary ingress, egress, and power connection easements for the Network Hut sites located at the intersections of Bird Avenue and Virginia Street, and Santa Teresa Boulevard and State Route 85 South off-ramp.**

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

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng, Director of Communications David Vossbrink and Deputy City Manager/Director of Economic Development Kim Welsh, dated November 17, 2015, recommending acceptance of the report, adoption of resolutions and approval of a Master Encroachment Permit between the City of San José and Google Fiber, Inc. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated November 24, 2015, transmitting responses to comments received during the circulation period of the Initial Study and Mitigated Negative Declaration for the project during October 13, 2015 to November 12, 2015.

Director of Communications David Vossbrink and Director of Public Works Barry Ng presented the report and responded to Council questions and concerns.

4.4 (Cont'd.)

Council discussion ensued.

Mayor Sam Liccardo provided meeting disclosures and opened the floor for public testimony.

Public Comments: Victor Lecha, South Bay Tenants Union, expressed comments about the Google Fiber Project.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Tam Nguyen and carried unanimously, the staff report on the status of the Google Fiber Project was accepted; a Master Encroachment Permit between the City of San José and Google Fiber, Inc. (Google Fiber) for the installation of a community-wide, residential high-speed fiber network service was approved. Resolution No. 77591, entitled: “A Resolution of the Council of the City of San José Adopting the Google Fiber Project Mitigated Negative Declaration, For Which An Initial Study Was Prepared and A Related Mitigation Monitoring and Reporting Program, All in Accordance With the California Environmental Quality Act” and Resolution No. 77592, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Negotiate and Execute Network Hut License Agreements and All Other Documents Necessary to Complete the Transaction With Google Fiber for Two City Owned Sites Located at the Intersections of Bird Avenue and Virginia Street and Santa Teresa Boulevard and State Route 85 South Off Ramp and (2) Negotiate and Execute All Necessary Ingress, Egress and Power Connection Easements for the Network Hut Sites”, were adopted. (9-0-2. Absent: Kalra, Khamis.)

4.5 (a) Adopt a resolution:

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

(b) Adopt the following Appropriation Ordinance amendments in the Multi-Source Housing Asset Fund:

- (1) **Increase the appropriation to the Housing Department for Housing Loans and Grants in the amount of \$6,885,000.**
- (2) **Decrease the Housing Project Reserve appropriation in the amount of \$6,885,000.**

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

4.5 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated November 25, 2015, recommending acceptance of the Staff recommendations. (2) Memorandum from Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated November 13, 2015, recommending adoption of a resolution and appropriation ordinance amendments. (3) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated November 24, 2015, transmitting information about the acquisition of the Santa Clara Inn to house the homeless. (4) Staff presentation dated December 1, 2015 summarizing the Utilization of the Santa Clara Inn for Homeless Housing.

Director of Housing Jacky Morales-Ferrand provided an overview of the Utilization of the Santa Clara Inn for Homeless Housing and responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing support to the Staff recommendations were Katie Martin, Affordable Housing Network; Ramon N. Johnson, Victor Lecha, South Bay Tenants Union; Moria Merriweather, Gabrian Gabriela, Shaunn Cartwright, Irene Reveles, Phil Mastrocola and Jolene Jones, Housing for All Alliance.

Council discussion ensued.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, Resolution No. 77593, entitled: "A Resolution of the Council of the City of San José Approving a Funding Commitment to Abode Services for An Acquisition/Permanent Loan for the Acquisition of the Santa Clara Inn" and Ordinance No. 29658, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Multi Source Housing Fund for Housing Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (9-0-2. Absent: Kalra, Khamis.)

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

Documents Filed: (1) Memorandum from Council Members Jones, Carrasco, Nguyen and Rocha, dated November 25, 2015, recommending acceptance of the Staff report and direction to the City Manager. (2) Memorandum from Director of Housing Jacky Morales-Ferrand, dated November 9, 2015, recommending acceptance of the Staff report. (3) Staff presentation dated December 1, 2015 describing Regional Responses and Local Coordination to Address Homelessness.

4.6 (Cont'd.)

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Speaking in support to the Staff recommendations were Moira Merriweather, Bruce Roberts, Anorea Rodriquez, Joleen Jones, Phil Mastrocola, Brian Rodriquez and Will Weyer, Housing for All Alliance; Andrew Lanier, Casa De Clara; Victor Lecha and Katie Martin, South Bay Tenants Union; Greg Miller, Kathi Hing, Irene Reveles, Shaunn Cartwright, Robert Aguirre, Joseph Davis, Gilroy Compassion Center; Gabriela Gabrian, Dan Gagliardi, Andrew Bigelow, Silicon Valley Debug; Sandy Perry and Anthony King, Affordable Housing Network and Lisa Read.

Extensive Council discussion ensued.

Mayor Sam Liccardo expressed his concern and reservations about the feasibility of sanctioned encampments.

Motion: Council Member Chappie Jones moved approval of the memorandum he cosigned with Council Members Carrasco, Nguyen and Rocha, dated November 25, 2015, recommending acceptance of the Staff report and direction to the City Manager as described below in "Action." Council Member Ash Kalra seconded the motion.

Council Members Raul Peralez, Magdalena Carrasco, Manh Nguyen, and Vice Mayor Rose Herrera expressed support to the motion on the floor.

Mayor Sam Liccardo recommended caution in moving forward in this endeavor.

Action: On a call for the question, the motion carried, the memorandum from Council Members Jones, Carrasco, Nguyen and Rocha, dated November 25, 2015, was approved: (1) Accepting the Housing Department's November 9, 2015 memorandum on regional responses and local coordination to address homelessness. (2) Direction to the City Manager to explore a pilot sanctioned encampment in San José or on county property beginning in January and report back to the Council at the December 8, 2015 or December 15, 2015 Meeting. Findings should include looking at the feasibility, site selection, cost and options for implementing the pilot. (3) Staff was further directed to return to Council on December 8, 2015 with discussion of an urgency ordinance for use of places of worship. (9-1-1. Noes: Liccardo. Absent: Khamis.)

ENVIRONMENTAL & UTILITY SERVICES

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

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

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

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated October 30, 2015, recommending acceptance of the Staff report with direction to Staff. (2) Supplemental memorandum from Director of Environmental Services Kerrie Romanow, dated November 23, 2015, transmitting a requested revision from the Treatment Plant Advisory Committee to Item (c) as stated above. (3) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated November 20, 2015, expressing concurrence with the Staff recommendations.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, the Staff report regarding the status of the proposed amendments to the Master Agreement for the San José-Santa Clara Regional Wastewater Facility was approved. Staff was directed to return with the draft Amendment and Restatement of the Master Agreements to include only the amendments that would be necessary to secure State Revolving Fund loans and short term financing for the Tributary Agencies' obligation for the capital projects in 2015-2016 and to coordinate with the City of Santa Clara to evaluate the scope of the proposed amendments to the existing master agreements with the tributary agencies, and return to the City Council with recommendations on whether to proceed with negotiations, and a process and budget to negotiate the amendments as part of the 2015-2016 mid-year budget process. (10-0-1. Absent: Khamis.)

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

Documents Filed: (1) Memorandum from Director of Environmental Services Kerrie Romanow, dated October 29, 2015, recommending approval of a Master Consultant Agreement. (2) Staff presentation dated December 1, 2015 summarizing the Engineering and Construction Management Services Agreement for Headworks. (3) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated November 20, 2015, expressing concurrence with the Staff recommendations.

7.2 (Cont'd.)

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Vice Mayor Rose Herrera and carried unanimously, a Master Consultant Agreement with CDM Smith Inc. to provide engineering and construction management services for the Headworks Improvements (including Headworks Critical Improvements) and New Headworks at the San José-Santa Clara Regional Wastewater Facility for a period beginning on the date of execution through December 31, 2022 in a total amount not to exceed \$9,670,000, subject to the appropriation of funds was approved. (10-0-1. Absent: Khamis.)

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

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

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

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng and Director of Environmental Services Kerrie Romanow, dated October 29, 2015, recommending adoption of a resolution. (2) Staff presentation dated December 1, 2015 summarizing the Cogeneration Facility Project Selection of Design-Builder. (3) Letter from the Treatment Plant Advisory Committee, Jamie L. Matthews, Chair, dated November 20, 2015, expressing concurrence with the Staff recommendations.

Action: Upon motion by Council Member Pierluigi Oliverio, seconded by Council Member Raul Peralez and carried unanimously, Resolution No. 77594, entitled: “A Resolution of the Council of the City of San José Approving the Final Rankings of the Design-Build Entities that Responded to the Request for Proposals for the Cogeneration Facility Project and Authorizing the City Manager to Negotiate a Design-Build Contract for the Project with CH2M Hill Engineers, Inc.”, was adopted. (10-0-1. Absent: Khamis.)

REDEVELOPMENT – SUCCESSOR AGENCY CONSENT CALENDAR

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

- 9.1 Approve the First Amendment to Assignment Agreement between the County of Santa Clara (“County”) and the Successor Agency to the Redevelopment Agency of the City of San José (“Successor Agency”) assigning a portion of the Successor Agency’s remaining interest in the Net Sales Proceeds from the sale of real property for the North San Pedro Project to the County in exchange for the release of the lien of the County Deed of Trust from 201 N. Market Street (“Old Fire Station No.1”) and 96 South Almaden Avenue (“Plaza Hotel”). CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts that involve no change to the physical environment. Council District 3. (Finance/Successor Agency) (Deferred from 11/17/15 – Item 9.1)**

Documents Filed: (1) Memorandum from Director of Finance Julia H. Cooper and Successor to the Redevelopment Agency Managing Director Richard A. Keit, dated October 26, 2015, recommending approval of the First Amendment to Assignment Agreement. (2) Supplemental memorandum from Successor to the Redevelopment Agency Managing Director Richard A. Keit and Director of Finance Julia H. Cooper, dated November 24, 2015, submitting a revised First Amendment to Assignment Agreement reflecting a deletion of the property located at 226 Balbach Avenue and the Oversight Board unanimously passed the agreement with that elimination.

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

Council Member Pierluigi Oliverio expressed opposition to sacrificing General Fund monies.

Action: On a call for the question, the motion carried, the First Amendment to Assignment Agreement between the County of Santa Clara (“County”) and the Successor Agency to the Redevelopment Agency of the City of San José (“Successor Agency”) assigning a portion of the Successor Agency’s remaining interest in the Net Sales Proceeds from the sale of real property for the North San Pedro Project to the County in exchange for the release of the lien of the County Deed of Trust from 201 N. Market Street (“Old Fire Station No.1”) and 96 South Almaden Avenue (“Plaza Hotel”) was approved. (10-1. Noes: Oliverio.)

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

OPEN FORUM

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

Shaunn Cartwright advocated on behalf of the homeless.

ADJOURNMENT

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

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/12-01-15 MIN