



# City Council Meeting

## Draft Minutes/Synopsis

**Tuesday, May 19, 2020**

SAM LICCARDO, MAYOR  
CHAPPIE JONES, VICE MAYOR, DISTRICT 1  
SERGIO JIMENEZ, DISTRICT 2  
RAUL PERALEZ, DISTRICT 3  
LAN DIEP, DISTRICT 4  
MAGDALENA CARRASCO, DISTRICT 5  
DEV DAVIS, DISTRICT 6  
MAYA ESPARZA, DISTRICT 7  
SYLVIA ARENAS, DISTRICT 8  
PAM FOLEY, DISTRICT 9  
JOHNNY KHAMIS, DISTRICT 10



**MINUTES OF THE CITY COUNCIL MEETING**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, MAY 19, 2020**

*Consistent with the California Governor’s Executive Order No. N-29-20, Resolution No. 79450 from the City of San José and the Santa Clara County Health Officer’s March 16, 2020 Shelter in Place Order, the City Council Meeting was not physically open to the public; it was teleconferenced from remote locations. Public comments were accepted via eComment, email, by phone and webinar.*

The Council meeting was teleconferenced from remote locations. The Council of the City of San José convened in a Regular Session at 1:01 PM on Tuesday, May 19, 2020. (See Page ?? for Closed Session Minutes)

Present: Councilmembers - Liccardo, Jones, Jimenez, Peralez, Diep, Carrasco, Davis, Esparza, Arenas, Foley, Khamis.

Absent: Councilmembers - All Present.

**• CALL TO ORDER AND ROLL CALL: 1:01 PM.**

**INVOCATION**

(District 5)

**PLEDGE OF ALLEGIANCE**

Mayor Liccardo led the Pledge of Allegiance.

**ORDERS OF THE DAY**

Upon motion by Councilmember Dev Davis, to move approval, seconded by Vice Mayor Chappie Jones, and carried unanimously, the Orders of the Day and the Amended Agenda were accepted, with Item 8.1 deferred to 6/16/20; and item 3.4 added, [\* SEE AMENDED ITEM 3.4, “REPORT ON DIGITAL ACCESS AND INCLUSION AND AMENDMENT TO THE AGREEMENT WITH CALIFORNIA EMERGING TECHNOLOGY FUND FOR THE DIGITAL INCLUSION FUND” TO BE ADDED UNDER ORDERS OF THE DAY, REQUIRES A DETERMINATION BY A TWO-THIRDS (2/3) VOTE OF THE MEMBERS OF THE COUNCIL PRESENT AT THE MEETING, OR, IF LESS THAN TWO THIRDS (2/3) OF THE MEMBERS OF TH COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION. Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.1.E.3; Council’s Rules of Conduct, Resolution No. 79367, Rule 3(d). (11-0)

**• CLOSED SESSION REPORT**

No report.

**1. CEREMONIAL ITEMS**

None presented.

**2. CONSENT CALENDAR**

Public Comments: Blair Beekman offered comments in relation to item 2.6, and noted that the use of concepts such as equity will be a great way to make decisions in the next few years.

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Dev Davis, and carried unanimously, the Consent Calendar was approved, with items 2.8, 2.18 and 2.19 pulled, and the below listed actions taken as indicated.

(11-0)

**2.1 Approval of City Council Minutes.**

**2.2 20-574 Final Adoption of Ordinances.**

**Recommendation:** Ord No. 30416, An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 9.3 Gross Acres Situated at the Northeasterly Corner of Trinidad Drive and Akio Way (6835 Trinidad Drive) (APN: 701-07-016) from the R-1-5 Single-Family Residence Zoning District to the Public/Quasi-Public Zoning District. [Passed for Publication on 5/12/2020 - Item 10.1(b) (20-528)]

Action: Ordinance No. 30416, was adopted.

**2.3 Approval of Council Committee Minutes.**

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

**2.5 City Council Travel Reports.**

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

**2.7 20-541 Report on Bids and Award of Contract for the 9115 - Administration Building Roof Replacement Project at the San José-Santa Clara Regional Wastewater Facility.**

**Recommendation:** (a) Report on bids and award of a construction contract for 9115-Administration Building Roof Replacement Project to the low bidder, Stronger Building Services, in the amount of \$590,000.  
(b) Approve a 20 percent construction contingency in the amount of \$118,000.  
CEQA: Categorically Exempt, File No. PP19-074, CEQA Guidelines Section 15301, Existing Facilities. (Environmental Services)

Action: The Report on Bids and Award of Contract for the 9115 Administration Building Roof Replacement Project at the San José Santa Clara Regional Wastewater Facility, was approved.

**2.8 20-559 Investment Report for the Quarter Ended March 31, 2020.****Recommendation:**

Accept the Third Quarter (period ending March 31, 2020) Investment Report for Fiscal Year 2019-2020.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)

Finance Director Julia Cooper was available to respond to questions.

Public Comments: Offering comments on the Investment Report for the Quarter Ended March 31, 2020 were: Paul Kelly, (San Jose Police Association President); Jean Cohen, (representing UA Local 393); Brenda Rodriguez, Blair Beekman, Jeff Buchannan, Bob Brownstein, Last four digits of telephone # 1367, (Lillian), and Wendi Mahaney, (FIRST 5 Early Learning Deputy Chief).

Councilmember Sergio Jimenez differentiated between cyclical downturns and structural deficits and stages, as well as sought answers to the definition of where we find ourselves today as a City.

Action: The motion by Councilmember Silvia Arenas to move her memo, seconded by Councilmember Maya Esparza, was superseded by next motion.

Action: The substitute motion by Councilmember Johnny Khamis to move approval of staff memo, seconded by Councilmember Dev Davis, was carried unanimously, and staff report accepted, with direction to do a high level analysis.  
(11-0)

**2.9 20-543 Amendment to the Vendor Agreement with P&A Administrative Services, Inc. for Flexible Spending Benefits, Commuter Benefit, and Cobra Administration for City Employees and their Dependents.****Recommendation:**

Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Vendor Agreement with P&A Administrative Services, Inc. for flexible spending benefits and Internal Revenue Code Section 125 plan administration services for City employees and their dependents to add the scope of services from the existing agreement with P&A Administrative Services, Inc. for Commuter and Consolidated Omnibus Budget Reconciliation Act (COBRA) administration, to extend the term of the Agreement from December 31, 2020 to December 31, 2023, and to increase the not to exceed amount from \$283,500 to a revised total not to exceed amount of \$489,000.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
(Human Resources)

**Deferred to 6/2/2020 Per Administration**

**2.10 20-542 Report on Bids and Award of Contract for the 9105 - Cast Iron Sewer Replacement Fiscal Year 2019-2020 Package I.**

**Recommendation:** (a) Report on bids and award of contract for the 9105 - Cast Iron Sewer Replacement FY 2019-2020 Package I to the low bidder, Bay Pacific Pipelines, Inc., for the base bid in the amount of \$1,233,040.  
(b) Approve a contingency in the amount of \$123,304.  
CEQA: Categorically Exempt, File No. PP17-031, CEQA Guidelines Section 15301, Existing Facilities. Council Districts 2 and 10. (Public Works)

Action: The Report on Bids and Award of Contract for the 9105 Cast Iron Sewer Replacement Fiscal Year 2019 2020 Package I, was approved.

**2.11 20-545 Summary Vacation of a Portion of South 6th Street with the Reservation of Public Service Easements Within the Area Being Vacated Between East Virginia Street and Interstate 280.**

**Recommendation:** Adopt a resolution:  
(a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a portion of South 6th Street between East Virginia Street and Interstate 280 (“Subject Portion”) with the reservation of public service easements over a portion of the area being vacated;  
(b) Summarily vacating the Subject Portion, which has been impassible for vehicular travel and for which the City has not expended any public money for maintenance for a period of five years; and  
(c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.  
CEQA: Mitigated Negative Declaration for Virginia Studios Project, File No. H17-019. Council District 3. (Public Works)

Action: Resolution No. 79520, was adopted.

**2.12 20-546 Report on Bids and Award of Contract for the 9238 - Sanitary Sewer Repairs FY 2018-2019 Package IV.**

**Recommendation:** Report on bids and award of contract for the 9238 - Sanitary Sewer Repairs FY 2018-2019 Package IV project to the low bidder, Ranger Pipelines, Inc., in the amount of \$1,298,550 and approval of a contingency in the amount of \$129,855.  
CEQA: Categorically Exempt, File No. PP17-029, CEQA Guidelines Section 15301, Existing Facilities 15302, Replacement, or Reconstruction. Council Districts 3 and 6. (Public Works)

Action: The Report on Bids and Award of Contract for the 9238 Sanitary Sewer Repairs FY 2018 2019 Package IV, was approved.

**2.13 20-547 Report on Bids and Award of contract for the 9338 - Cast Iron Sewer Replacement FY 2019-2020 Package IV.**

**Recommendation:** Report on bids and award of contract for the 9338 - Cast Iron Sewer Replacement FY 2019-2020 Package IV project to the low bidder, Casey Construction, Inc., in the amount of \$1,665,708 and approval of a contingency in the amount of \$166,571. CEQA: Categorically Exempt, File No. PP17-031, CEQA Guidelines Section 15301, Existing Facilities. Council Districts 2 and 8. (Public Works)

Action: The Report on Bids and Award of contract for the 9338 Cast Iron Sewer Replacement FY 2019 2020 Package IV, was approved.

**2.14 20-549 2020 Local Streets Microsurfacing Project.**

**Recommendation:** (a) Approve award of a construction contract for the 2020 Local Streets Microsurfacing Project, to the low bidder, Graham Contractors, Inc., in the amount of \$3,100,886. (b) Approve an approximate ten percent contingency in the amount of \$310,000. CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

Action: The 2020 Local Streets Microsurfacing Project, was approved.

**2.15 20-550 2020 Major Streets Sealing Project.**

**Recommendation:** (a) Approve award of a construction contract for the 2020 Major Streets Sealing Project, to the low bidder, VSS International, Inc. in the amount of \$2,781,120. (b) Approve an approximate five percent contingency in the amount of \$139,100. CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 2, 3, 5, 7, 8, 10. (Transportation)

Action: The 2020 Major Streets Sealing Project, was approved.

**2.16 20-551 Bicycle and Pedestrian Project Grants for Fiscal Year 2020-2021 Transportation Development Act.**

**Recommendation:** Adopt a resolution:  
(a) Authorizing the City Manager or designee to submit a request to the Metropolitan Transportation Commission ("MTC") for the allocation of Fiscal Year 2020-2021 Transportation Development Act, Article 3 ("TDA3") State grant funding in the amount of \$1,058,096 for bicycle and pedestrian projects;  
(b) Making the certifications and assurances required under the TDA3 grant; and  
(c) Authorizing the City Manager or designee to accept TDA3 grant funding awarded from MTC, and to negotiate and execute any grant documents to effectuate the grant. CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301, Existing Facilities. (Transportation)

Action: Resolution No. 79521, was adopted.

**2.17 20-577****VEBA Advisory Committee Appointment.****Recommendation:**

As recommended by the Rules and Open Government Committee on May 13, 2020, approve the appointment of Benjamin Lam, nominated by the Police Officers' Association as the Police Officers' Association active employee member, to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee for a term beginning June 1, 2020 and ending May 31, 2024.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)  
[Rules Committee referral 5/13/2020 - Item F.1]

Action: The VEBA Advisory Committee Appointment, was approved.

**2.18 20-579****Approval of Affordable Housing Month Sponsored by Council District 3 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.****Recommendation:**

As recommended by the Rules and Open Government Committee on May 13, 2020:  
(a) Approve Affordable Housing Month scheduled on Tuesday, May 19, 2020 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. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Peralez)  
[Rules Committee referral 5/13/20 - Item G.1.a]

Councilmember Raul Peralez addressed the need to recognize affordable housing month with a proclamation. Many regional housing leaders throughout Silicon Valley are working collaboratively to bring the need for affordable housing to the forefront of discussion in our region through these organizations led by Silicon Valley@Home.

Public Comments: Catherine Hedges (representing PACT and Catalyze SV offered comments on the Affordable Housing Month Council District 3 Special Event, and highlighted some Affordable Housing Programs scheduled for Thursday at 4:00PM.

Action: Upon motion by Councilmember Raul Peralez to move approval, seconded by Councilmember Dev Davis, and carried unanimously, the Affordable Housing Month Council District 3 Special Event was approved, and expenditure of funds; and acceptance of donations from various individuals, businesses, or community groups to support the event, was approved.

(11-0)

2.19 20-583

**Approval of Mental Health Awareness Month Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

**Recommendation:**

(a) Approve the Mental Health Awareness Month scheduled on Tuesday, May 19, 2020 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. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Arenas)

[Rules Committee referral 5/13/20 - Item A.1.a]

Councilmember Sylvia Arenas addressed City Proclamation relating to this Consent Calendar item, and noted that The National Alliance On Mental Illness has selected the theme "*You Are Not Alone*," for this year's mental health awareness month.

Public Comments: Offering comments on Mental Health Awareness Month were: Steve Eckhart, Robert Aguirre, Ravenna Mboca, Blair Beekman, and Catherine Hedges.

Action: Upon motion by Councilmember Sylvia Arenas to move approval, seconded by Mayor Sam Liccardo, and carried unanimously, the Mental Health Awareness Month Council District 8 Special Event was approved, and expenditure of funds; and acceptance of donations from various individuals, businesses, or community groups to support the event, was approved.

(11-0)

**3. STRATEGIC SUPPORT**

3.1 20-544

**Report of the City Manager, David Sykes.**

**Recommendation:**

(a) City Manager's COVID-19 Update (Verbal Report).  
(b) City Manager's Report on Other City Matters (Verbal Report)

**Heard before Consent**

City Manager David Sykes provided updates regarding the City's response to COVID-19. The City Manager recognized an extra-ordinary individual, Reggie Roberts, from Public Works Department. Reggie has worked for the City of San Jose since 1999, when he started his career in the City's warehouse and transitioned into the Mailroom. In addition to always having a good attitude and great sense of humor, Reggie's work in processing and receiving the City's mail has been vital to organizational operations, in terms of keeping the City functions going. Furthermore, Reggie has undertaken additional duties such as taking on the bids that come in from vendors so the City can accept and process those bids.

Deputy City Manager Kip Harkness, and the leadership team from the City's Emergency Operations Center provided updates, including efforts to expand testing and tracing of COVID-19 cases, the City's road to financial recovery, and progress in supporting development in the City. The key objective is to create a one-team approach.

*(Item Continued on the Next Page)*

**3.1 20-544 Report of the City Manager, David Sykes. (Cont'd)**

Free COVID-19 testing is now available for all residents, asymptomatic or otherwise, at PAL Stadium in East San José and the Santa Clara County Fairgrounds. Testing sites are open Monday through Friday from 9:00 AM. to 3:00 PM. at both locations and residents will need to schedule an appointment to get tested.

Public Comments: Offering comments on the Report of the City Manager were: Jeff Buchannan, (Working Partnerships USA); Blair Beekman, Last four digits of telephone #: 2896, (Mike Mattingly); Last four digits of telephone #: 6137, Un-named female speaker, Robert Aguirre, and Amy Alvarez,

The City Manager's updates and public comments inspired widespread interests.

Action: The motion by Councilmember Maya Esparza to not limit question time for Councilmembers on covid-19 items while the public health order is in place, seconded by Councilmember Sylvia Arenas, was not unanimously carried. (5-0-6. Noes: Liccardo, Jones, Diep, Davis, Foley, Khamis).

Action: The substitute-motion by Councilmember Dev Davis, to limit Council discussion to 10 minutes per Councilmember, seconded by Councilmember Pam Foley, was unanimously adopted. (6-0-5. Noes: Jimenez, Peralez, Carrasco, Esparza, Arenas).

Council subsequently had a productive and extensive debate.

Action: No motion was required. Council accepted the verbal report.

**3.2 Labor Negotiations Update.**

None presented.

**3.3 20-584 Agreement with Santa Clara County for Cost of Distribution of Food and Necessities.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Santa Clara County to reimburse the City for the loaded cost of food and necessities distributed to residents of the unincorporated County through December 31, 2020.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)  
[Rules Committee referral 5/13/20 - Item A.1.a]

There was no presentation for this item.

City Manager David Sykes expressed gratitude to the City's team and partners. Deputy City Manager Angel Rios represented the collective and responded to questions.

*(Item Continued on the Next Page)*

**3.3 20-584 Agreement with Santa Clara County for Cost of Distribution of Food... (Cont'd)**

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded By Mayor Sam Liccardo, and carried unanimously, Resolution No. 79522 was adopted, authorizing the City Manager to negotiate and execute an agreement with Santa Clara County to reimburse the City for the loaded cost of food and necessities Distribute to residents of the unincorporated County through December 31, 2020. (11-0)

**3.4 20-576 Report on Digital Access and Inclusion and Resolution Authorizing City Manager to Negotiate and Execute an Amendment to the Contract with the California Emerging Technology Fund. - Renumbered from Item 7.1****Recommendation:**

(a) Accept the staff and partner agency report on digital access and inclusion, in response to City Council direction from May 5, 2020, including updates on specified topics,

(b) Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement with California Emerging Technology Fund (CETF) to allow for special handling and distribution of funds donated to the Digital Inclusion Fund for the purpose of relieving digital connectivity impacts caused by COVID-19. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Library)

[Council referral 5/5/2020 - Item 3.4 (20-499)]

**[Renumbered from Item 7.1 (20-562)]**

Deputy City Manager Kip Harkness, Santa Clara County Superintendent of Schools Dr. Mary Ann Dewan, California Emerging Technology Fund (CETF) President and CEO Sunne Wright McPeak, East Side Union High School District Superintendent Chris Funk, and City Librarian Jill Bourne, gave a presentation and responded to questions.

Public Comments: Offering comments on the Digital Access and Inclusion for Schools during the Covid-19 Pandemic were: Bonnie Mace, Lorena Chavez, Nina Nguyen, Robert Aguirre, Ken Pyke, Blair Beekman, Tessa Woodmansee, Meena Asobara, Forest Petersen, Peter Ortiz, Hung Ha Huong, Kathryn Hedges, (PACT), Jorge Pacheco Jnr, and Last four digits of telephone #: 3896.

Action: Upon motion by Councilmember Sylvia Arenas to move approval of the multi-signature memo, seconded by Councilmember Maya Esparza, and carried unanimously, Resolution No. 79523 was adopted, including approval of the Memorandum from Mayor Sam Liccardo, Councilmembers Magdalena Carrasco, Maya Esparza, Sylvia Arenas, and Pam Foley to:

1) Direct the City Manager to expand the community wireless network partnership between the City of San Jose and East Side Union High School District (ESUHSD) to incorporate the neighborhoods comprising the attendance areas of Independence High School, Oak Grove High School, and Andrew P. Hill High School, with the following specifications:

*(Item Continued on the Next Page)*

**3.4 20-576****Report on Digital Access and Inclusion and Resolution Authorizing \*Cont'd)**

a) Craft a funding strategy in partnership with ESUHSD, participating elementary school districts, the County Office of Education, the California Emerging Technology Fund, and the Mayor's Office of Technology and Innovation that includes a range of sources, including but not limited to philanthropy, CARES Act funding to school districts, and CDBG funding.

b) Expedite design and construction of the networks to maximize the opportunity of low-income youth to participate academically in the coming school year.

2) Direct staff to collaborate with ESUHSD to explore options to connect all students at Mt. Pleasant High School and Silver Creek High School to the internet.

(11-0)

**3.5 20-581****San José Al Fresco - Allowing Local Businesses to Operate Outdoors.****Recommendation:**

As recommended by the Rules and Open Government Committee on May 13, 2020, direct the City Manager and City Attorney to return to Council with recommendations for an ordinance that anticipates future revisions of County health guidelines to provide local businesses-particularly restaurants- access to public space and private adjacent property for open air operations, with the following considerations:

1. Allow businesses and business districts to apply for temporary use of streets, surface lots, public parking spaces, public recreation space, and adjacent parcels for outdoor dining, exercise classes, and other outdoor business operations that will enable compliance with public health dictates for physical separation.

a. To eliminate financial burden and fees on strapped small businesses, consider:

i. use of federal reimbursement or funding to cover application costs,

or

ii. "by right" permit in designated geographic locations that will not require additional processing.

b. Waive sidewalk café permits/fees to allow restaurants and other appropriate businesses to operate outside seating and service for customers who comply with the county health guidelines.

c. Work with San Jose SPUR to identify ideal geographic locations for use of private parking lots, public parks, alleys, plazas, and streets for outdoor business activities, including outdoor cafes, gyms, yoga studios, and retail. Ensure collaboration with Vice Mayor Jones' Small Business Advisory Task Force, our ethnic Chambers of Commerce, SJDA, the Silicon Valley Recovery Roundtable, the SVO, and neighborhood business districts.

2. Explore ways to permit low-cost infrastructure to designate service areas (e.g. 3D-printed barriers, paint, potted plants, tape, etc.), particularly for legal alcoholic beverage consumption outside of restaurants in accordance with state law.

CEQA: Not a Project, PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Mayor)

[Rules and Open Government referral 5/13/20 - Item G.4]

*(Item Continued on the Next Page)*

## 3.5 20-581

**San José Al Fresco - Allowing Local Businesses to Operate Outdoors. (Cont'd)**

There was no presentation for this item.

Councilmember Dev Davis highlighted her memo's theme, the need to be forward thinking, planning ahead, and to be ready for the Governor when his guidelines are released for reopening in-person dining.

Public Comments: Offering comments on the San José Al Fresco - Allowing Local Businesses to Operate Outdoors were: John Hannigan, Nate LeBlanc, Blair Beekman, Tessa Woodmansee, Rose Herrera, (Former vice mayor); Jason Onlett, and Mike Mullin.

Economic Development Director Kim Walesh responded to questions.

Action: Upon motion by Councilmember Dev Davis to move approval of her memo with Mayor Liccardo, seconded by Councilmember Johnny Khamis, and carried unanimously, the San José Al Fresco - Allowing Local Businesses to Operate Outdoors was accepted, including approval of the Memorandum from Mayor Sam Liccardo and Councilmember Dev Davis to:

Direct the City Manager and City Attorney to return to Council with recommendations for an ordinance that anticipates future revisions of County health guidelines to provide local businesses—particularly restaurants—to access to public space and private adjacent property for open air operations, with the following considerations:

1. Allow businesses and business districts to apply for temporary use of streets, surface lots, public parking spaces, public recreation space, and adjacent parcels for outdoor dining, exercise classes, and other outdoor business operations that will enable compliance with public health dictates for physical separation.

a. To eliminate financial burden and fees on strapped small businesses, consider:  
i. use of federal reimbursement or funding to cover application costs, or  
ii. "by right" permit in designated geographic locations that will not require additional processing.

b. Waive sidewalk café permits/fees to allow restaurants and other appropriate businesses to operate outside seating and service for customers who comply with the county health guidelines.

c. Work with San Jose SPUR to identify ideal geographic locations for use of private parking lots, public parks, alleys, plazas, and streets for outdoor business activities, including outdoor cafes, gyms, yoga studios, and retail. Ensure collaboration with Vice Mayor Jones' Small Business Advisory Task Force, our ethnic Chambers of Commerce, SJDA, the Silicon Valley Recovery Roundtable, the SVO, and neighborhood business districts.

2. Explore ways to permit low-cost infrastructure to designate service areas (e.g. 3D-printed barriers, paint, potted plants, tape, etc.), particularly for legal alcoholic beverage consumption outside of restaurants in accordance with state law.

(11-0)

## 3.6 20-582

**Urgency Ordinance and Companion Ordinance to Require Fabric Face Coverings.****Recommendation:**

As recommended by the Rules and Open Government Committee on May 13, 2020:

(a) Adopt an urgency ordinance adding Chapter 9.61 to Title 9 of the San José Municipal Code that:

(1) Invokes the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health, or safety; and

(2) Mandates the wearing of fabric face coverings across the City of San José when outside of one's home, with specific exceptions, as an additional measure to the County's guidance to stop the spread of COVID-19.

**PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)**

(b) Approve a companion ordinance adding Chapter 9.61 to Title 9 of the San José Municipal Code that mandates the wearing of fabric face coverings across the City of San José when outside of one's home, with specific exceptions, as an additional measure to the County's guidance to stop the spread of COVID-19.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Jones)

[Rules Committee referral 5/13/20 - Item G.6]

There was no presentation for this item.

Public Comments: Offering comments on the Urgency Ordinance and Companion Ordinance to Require Fabric Face Coverings were: Rose Herrera, (Former Vice Mayor), Rachel Cooper, Blair Beekman, Kathryn Hedges, Tessa Woodmansee, Robert Aguirre, M. Alvarez, Brandon Alvarado, Caller 6137, Mike Mattingly, Lilian and Kelly Madeira.

Vice Mayor Chappie Jones addressed following-up on the County's guidelines and the gaps between what their mandates are, and what's proposed in the memo as well as providing direction, moving forward.

Police Chief Eddie Garcia expressed concern about policing and the credibility of law enforcement in the aftermath of this pandemic, enforcement associated with the proposed ordinance as well as differentiated between not wearing masks as a public health issue and treating it as a public safety issue.

Councilmember Sergio Jimenez explored techniques where, at Council's behest, the City Attorney can envision writing an Ordinance in line with the County's order.

City Attorney Rick Doyle emphasized the plausible study of the County's order and the likelihood of returning with recommendations for Council consideration.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Sergio Jimenez, and carried unanimously, the Urgency Ordinance and Companion Ordinance to Require Fabric Face Coverings was deferred to the June 2, 2020 meeting, with the City Attorney directed to return on June 2, 2020 with a revised Ordinance, taking input from Councilmember Jimenez' proposal as well as any such additional observations and input that may presented for Council consideration by the City Attorney.

(11-0)

#### **4. PUBLIC SAFETY SERVICES**

##### **4.1 20-548 Actions Related to the Berryessa/North San José BART Station Law Enforcement Services.**

##### **Recommendation:**

Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement for Supplemental Law Enforcement Support Services with the Santa Clara Valley Transportation Authority in the amount of \$4,345,697 for an initial 2-year term (on or about July 1, 2020 to June 30, 2022); and
- (b) Exercise up to 4 one-year extensions for a total not-to-exceed amount of \$13,159,156, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

(Police)

Police Chief Eddie Garcia, Police Department's Mike Khim and Police Administrative Officer Heidi York gave a presentation and responded to questions.

Public Comments: Blair Beekman offered comments on San Jose's Parking Lots and Garages, and hopes that we can work towards better practices to protect our futures.

Action: Upon motion by Councilmember Lan Diep to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, Resolution No. 79524 was adopted, and staff report, approved.

(10-0-1. Absent: Foley)

#### **5. TRANSPORTATION & AVIATION SERVICES**

#### **6. ENVIRONMENTAL & UTILITY SERVICES**

##### **6.1 20-552 Commercial Solid Waste Customer Service Rates.**

##### **Recommendation:**

- (a) Hold a Public Hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services.

- (b) Adopt a resolution increasing the Maximum Commercial Solid Waste Services Rates in the City of San José by 4.90 percent pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organics processing services.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Environmental Services)

Mayor Liccardo declared the Public Hearing open. Environment Services Director Kerri Romanow was available to respond to questions.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, staff report was accepted, and Resolution No. 79525 was adopted.

(11-0)

## **7. NEIGHBORHOOD SERVICES**

### **7.1 20-562 Report on Digital Access and Inclusion and Resolution Authorizing City Manager to Negotiate and Execute an Amendment to the Contract with the California Emerging Technology Fund. - Renumbered to Item 3.4**

#### **Recommendation:**

(a) Accept the staff and partner agency report on digital access and inclusion, in response to City Council direction from May 5, 2020, including updates on specified topics,

(b) Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement with California Emerging Technology Fund (CETF) to allow for special handling and distribution of funds donated to the Digital Inclusion Fund for the purpose of relieving digital connectivity impacts caused by COVID-19. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Library)

[Council referral 5/5/2020 - Item 3.4 (20-499)]

**[Renumbered to Item 3.4 (20-576)]**

Deputy City Manager Kip Harkness, Santa Clara County Superintendent of Schools Dr. Mary Ann Dewan, California Emerging Technology Fund (CETF) President and CEO Sunne Wright McPeak, East Side Union High School District Superintendent Chris Funk, and City Librarian Jill Bourne, gave a presentation and responded to questions.

Public Comments: Offering comments were: Bonnie Mace, Lorena Chavez, Nina Nguyen, Robert Aguirre, Ken Pyke, Blair Beekman, Tessa Woodmansee, Meena Asobara, Forest Petersen, Peter Ortiz, Hung Ha Huong, Kathryn Hedges, (PACT), Jorge Pacheco Jnr, and Last four digits of telephone #: 3896.

Action: Upon substitute motion by Councilmember Sylvia Arenas to move approval, of the multi-signature memo, seconded by Councilmember Maya Esparza, and carried unanimously, Resolution No. 79523 was adopted, including approval of the Memorandum from Mayor Sam Liccardo, Councilmembers Carrasco, Esparza, Arenas, and Foley to:

1) Direct the City Manager to expand the community wireless network partnership between the City of San Jose and East Side Union High School District (ESUHSD) to incorporate the neighborhoods comprising the attendance areas of Independence High School, Oak Grove High School, and Andrew P. Hill High School, with the following specifications:

a) Craft a funding strategy in partnership with ESUHSD, participating elementary school districts, the County Office of Education, the California Emerging Technology Fund, and the Mayor's Office of Technology and Innovation that includes a range of sources, including but not limited to philanthropy, CARES Act funding to school districts, and CDBG funding.

b) Expedite design and construction of the networks to maximize the opportunity of low-income youth to participate academically in the coming school year.

2) Direct staff to collaborate with ESUHSD to explore options to connect all students at Mt. Pleasant High School and Silver Creek High School to the internet.

(11-0)

## 7.2 20-553

**Actions Related to the Digital Literacy Program Quality Standards.****Recommendation:**

(a) Accept the staff report on the development of digital literacy quality standards for all City-sponsored programs that serve all ages, as specified by the Education and Digital Literacy Strategy.

(b) Accept the report on the status of the progress of the current cohort of grantees through the San José Digital Inclusion Fund.

(c) Adopt the Digital Literacy Quality Standards Citywide.

(d) Direct staff to return to the Neighborhood Services and Education Committee in spring 2021 to report on progress implementing the Digital Literacy Quality Standards.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

(Library)

Library Education and Programming Services Manager Samantha Kramer and Digital Inclusion Partnership's Charlene Travis, gave a presentation and responded to questions.

Public Comments: Mike Mattingly offered comments on Actions Related to the Digital Literacy Program Quality Standards.

Action: Upon motion by Councilmember Sylvia Arenas to move approval of staff report for adapting to covid-19 in connecting our communities when our communities are not connected, and for thinking outside of the box to figure out who still needs internet connection, seconded by Councilmember Maya Esparza, and carried unanimously, Actions Related to the Digital Literacy Program Quality Standards was accepted, Including approval of staff recommendation to:

(a) Accept the staff report on the development of digital literacy quality standards for all City sponsored programs that serve all ages, as specified by the Education and Digital Literacy Strategy; and

(b) Accept the report on the status of the progress of the current cohort of grantees through the San José Digital Inclusion Fund, and;

(c) Adopt the Digital Literacy Quality Standards Citywide; and

(d) Direct staff to return to the Neighborhood Services and Education Committee in Spring 2021 to report on progress implementing the Digital Literacy Quality Standards.

This was modified with acceptance of Councilmember Esparza's friendly amendment for info memo providing a status update on the year one implementation of the Digital Inclusion Grants that were issued, and how that is coming together because we may still be recovering from Covid-19 at the time.

(11-0)

**8. COMMUNITY & ECONOMIC DEVELOPMENT****8.1 20-555 TEFRA Hearing on the Issuance of Tax-Exempt Multifamily Revenue Bonds for the Markham Plaza II Apartments Located at 2010 Monterey Road.****Recommendation:**

(a) Hold a Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") public hearing for the issuance of not to exceed \$25,000,000 in tax-exempt private-activity bonds by City to finance the acquisition by Markham Plaza II, LP and rehabilitation of the Markham Plaza II Apartments, formerly Tully Gardens II Apartments, a 152-unit apartment complex located at 2010 Monterey Road in San José (the "Development").

(b) Adopt a resolution approving the issuance of Revenue Bonds by the City in an aggregate principal amount not to exceed \$25,000,000 to finance the acquisition and rehabilitation of a 152-unit multifamily rental housing facility for the benefit of Markham Plaza II, LP, a California limited partnership, or an entity to be created by Core Affordable Housing, LLC (or an affiliate), and certain other matters relating thereto.

(c) Adopt a resolution authorizing:

(1) A change in the existing affordability restriction for Markham Plaza II Apartments (formerly Tully Gardens II Apartments) to allow a change from 151 units affordable to extremely low-income ("ELI") households at up to 30% of Area Median Income ("AMI") and one unrestricted manager's unit to 76 units affordable to ELI households at up to 30% of AMI and 75 units to be restricted affordable to very low-income households for new or over income tenants only at up to 35% of AMI;

(2) An increase to rents and income up to 60% AMI (low-income) for all units in the event of foreclosure or for subsidized units in the event of the expiration or involuntary termination of subsidy contracts, provided the City has determined the increase is needed for feasibility of the Development and allowed by other funds;

(3) The extension of the existing City's loan term by an additional 17 years, until the 55th anniversary of the closing of the bond financing, and a decrease in the City's loan interest rate from 4.77% fixed, compounded annually to 3% fixed, compounded annually;

(4) The subordination of the City's Deeds of Trust to a County option to purchase the land, provided that the City shall have a right of first refusal to purchase the land; and

(5) The Director of Housing to negotiate and execute any City loan documents, grant documents, amendments, and all other documents related to these actions.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

Council District 7. (Housing/Finance)

Action: Deferred to 6/16/20 per Orders of the Day.

## 8.2 20-554 Actions Related to the Refinancing Conditions for El Paseo Apartments.

### **Recommendation:** Adopt a resolution:

- (a) Consenting to the refinancing and subordination of the existing City loan and the City grant for the El Paseo Apartments, a 98- single room efficiency unit affordable apartment development (Project) located at 4980 Hamilton Avenue (Property) to a new Fannie Mae-backed senior loan in the amount of approximately \$6,500,000, including the withdrawal of no more than \$2,282,170 in refinancing proceeds by the Property's owner, El Paseo Apartments, L.P. (Owner), an affiliate of the San José-based nonprofit developer First Community Housing (Sponsor);
- (b) Allowing the Owner to receive half of the refinancing proceeds in the amount of \$1,141,355; and
- (c) Authorizing the Director of Housing to negotiate and execute amendments to the City's existing loan documents on the Project, in order to enable refinancing of the Project's senior loan and partial repayment of the City loan in the amount of \$1,141,355.

CEQA: Not a Project, File No. PP17-008, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 1. (Housing)

There was no presentation for this item.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Pam Foley, and carried unanimously, Resolution No. 79526 was adopted.

(11-0)

## 8.3 20-568 Amendments to the Eviction Moratorium Ordinance and Extension of Moratorium.

### **Recommendation:**

- (a) Adopt an Urgency Ordinance amending the provisions of the COVID-19 Eviction Moratorium Ordinance, Ordinance No. 30382, to include the following:
  - (1) Invoke the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health or safety, to include additional provisions protecting against eviction of a tenant for nonpayment of rent, if that tenant meets the criteria listed in the ordinance regarding COVID-19;
  - (2) Extending the time for the tenant to notify their landlord of their status as an Affected Tenant to seven days after the notice of termination is served;
  - (3) Prohibiting retaliation against Affected Tenants;
  - (4) Prohibiting a Landlord from serving a notice in bad faith, or influencing or attempting to influence an Affected Tenant to vacate a Rental Unit through fraud, intimidation or coercion;
  - (5) Including in the definition of Affected Tenant those who lost income due to being infected with COVID-19 or caring for someone in the household who was infected;

*(Item Continued on the Next Page)*

## 8.3 20-568

**Amendments to the Eviction Moratorium Ordinance and Extension of... (Cont'd)**

(6) Prohibiting late fees, interest, or penalties charged against an Affected Tenant during the moratorium; and

(7) Establishing a repayment period until December 31, 2020 for Affected Tenants to repay their past due rent accruing during the moratorium and extend the Ordinance effective date to correspond with this deadline.

**PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)**

Housing Director Jacky Morales-Ferrand, Deputy Director Rachel VanderVeen and Deputy City Attorney Chris Alexander, gave a presentation and responded to questions.

Public Comments: Offering comments on the Amendments to the Eviction Moratorium Ordinance and Extension of Moratorium were: Robert Aguirre, Anil Barber, Kathryn Hedges, (PACT); Jaylene Gomes, Blair Beekman, Mike Trujillo, Tessa Woodmansee, Mike Mattingly, Bruce Roberts, and Jeffery Buchanan.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, Urgency Ordinance No. 30419 was adopted, including approval of Mayor Liccardo 's memo to:

1. Accept Staff's recommendations (a)1-(a)5 as amendments to the Eviction Moratorium and recommendation (b) extending the Eviction Moratorium to June 30, 2020.
2. Amend Section 11, "Repayment of Unpaid Rent accruing during the COVID-19 Moratorium," of the Eviction Moratorium Ordinance to enable additional time for repayment, such that the Eviction Moratorium Ordinance would state:
  - a. Affected Tenants shall have 12 months following the expiration of the Eviction Moratorium ("repayment period") to repay any past due rent accruing during the period of the COVID-19 Eviction Moratorium established by Council Resolution 79446 and further amended by Council.
  - b. For a period of six months following the expiration of the Eviction Moratorium, Affected Tenants shall not be subject to eviction for nonpayment of rent for failure to pay the past due rent accrued during the Eviction Moratorium if the Affected Tenants comply with section (c), below.
  - c. Fifty percent (50%) of the past due rent balance accrued during the Eviction Moratorium shall become due and payable within six months of the repayment period. The remaining 50% of the past due rent shall become due and payable by the end of the 12-month repayment period.

*(Item Continued on the Next Page)*

**8.3 20-568****Amendments to the Eviction Moratorium Ordinance and Extension of... (Cont'd)**

d. Nothing in these ordinances shall preclude any voluntary agreement made between the landlord and Affected Tenant if different repayment terms are, or previously have been, reached between them. In such a case, the terms of the voluntary agreement, if lawful, shall govern. (with edit to D as follows: delete "or previous have been reached."

3. Amend the effective date of the Ordinances to be 12 months following expiration of the Eviction Moratorium in order to include the repayment period.

4. Direct the City Manager and the intergovernmental relations (IGR) team to work with State and federal legislators on rental assistance to be included in legislation related to Budget and/or COVID-19 assistance packages.

This was modified with friendly amendments to:

Add additional language to Section 11 of the eviction moratorium Ordinance to include a requirement that that prior to making a voluntary repayment agreement, the landlord must provide the tenants with a disclosure providing information on rights and responsibilities under the Eviction Moratorium on a form provided by the Housing Department.

This was further modified with approval of Councilmember Khamis friendly amendments to:

Direct staff to return with a recommendation on the position of pending state and federal legislation that provides support for the rental community related to the impacts of COVID-19, including California Senate Bill 1410 establishing a COVID-19 Emergency Rental Assistance Program, and SB-1431 to allow owners to apply for tax reassessment due to diminished value related to laws to keep tenants housed during pandemic.

This was added with approval of Councilmember Maya Esparza's friendly amendment to:

Accept, in addition to the above, any information relating to Representative Omar's Bill, (Federal Bill H.R. 6515, also known as the Rent and Mortgage Cancellation Act of 2020), along with Federal Bills S. 3685/H.R. 6820, (or the Emergency Rental Assistance and Rental Market Stabilization Act.)

Additional clarification was given to staff to bring back for Council consideration, any other legislations that supports these objectives.  
(11-0)

*(Item Continued on the Next Page)*

**8.3 20-568****Amendments to the Eviction Moratorium Ordinance and Extension of... (Cont'd)**

(b) Approve a Companion Ordinance amending the provisions of the COVID-19 Eviction Moratorium Ordinance, Ordinance No. 30382, to include the following:

- (1) Extending the time for the tenant to notify their landlord of their status as an Affected Tenant to seven days after the notice of termination is served;
- (2) Prohibiting retaliation against Affected Tenants;
- (3) Prohibiting a Landlord from serving a notice in bad faith, or influencing or attempting to influence an Affected Tenant to vacate a Rental Unit through fraud, intimidation or coercion;
- (4) Including in the definition of Affected Tenant those who lost income due to being infected with COVID-19 or caring for someone in the household who was infected;
- (5) Prohibiting late fees, interest, or penalties charged against an Affected Tenant during the moratorium; and
- (6) Establishing a repayment period until December 31, 2020 for Affected Tenants to repay their past due rent accruing during the moratorium and extend the Ordinance effective date to correspond with this deadline.

Action: Companion Ordinance No. 30420 was passed for publication.  
(11-0)

(c) Adopt a resolution extending the moratorium on evictions to June 30, 2020.  
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.  
(Housing)  
[Rules Committee referral 5/6/20 - Item A.1.a]

Action: Resolution No. 79527, was adopted.

**8.4 20-575****Amendment to the Apartment Rent Ordinance Due to COVID-19 Pandemic to Allow a Temporary Reduction of Rent.****Recommendation:**

Approve an Ordinance amending the Apartment Rent Ordinance, Chapter 17.23 of Title 17 of the San José Municipal Code to provide the following:

- (a) Landlords who enter into reduced rent agreements with their tenants pursuant to the COVID-19 Rent Increase Moratorium Ordinance, Ordinance No. 30405, may base their Annual General Increase upon the previously charged contract rent and not on the monthly rent charged under those reduced rent agreements executed pursuant to the COVID-19 Rent Increase Moratorium; and
- (b) This amendment will be effective for twelve months after expiration of the COVID-19 Rent Increase Moratorium.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.  
(Housing)  
[Rules Committee referral 5/6/2020 - Item A.1.a]  
[Deferred from 5/12/2020 - Item 8.3 (20-564)]

*(Item Continued on the Next Page)*

**8.4 20-575 Amendment to the Apartment Rent Ordinance Due to COVID-19... (Cont'd)**

There was no presentation for this item.

Public Comments: Offering comments on the Amendment to the Apartment Rent Ordinance Due to COVID-19 Pandemic to Allow a Temporary Reduction of Rent, were: Robert Aguirre, and Kathryn Hedges.

Action: Upon motion by Councilmember Johnny Khamis, to move approval, seconded by Councilmember Dev Davis, and carried unanimously, Ordinance No. 30421, was passed for publication.

(11-0)

**9. REDEVELOPMENT – SUCCESSOR AGENCY****10. LAND USE****10.1 Land Use on Consent Calendar****(a) 20-567 PP20-009 - Amendment to Title 20 (The Zoning Ordinance).****Recommendation:**

- (a) Approve an ordinance of the City of San José amending Chapter 20.190 of Title 20 of the San José Municipal Code to extend the applicability of City density bonus development incentives and to update the City's density bonus ordinance in conformance with state law; amending Chapter 20.30, Chapter 20.40, Chapter 20.70, Chapter 20.75 and Chapter 20.200 to enumerate and add a definition for Permanent Supportive Housing and Low Barrier Navigation Center; adding Chapter 20.195 to implement ministerial approvals required by California Government Code Section 65650 et. seq., 65660 et. seq., and 65913.4; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.
- (b) As recommended by the Rules and Open Government Committee on May 13, 2020:
- (1) Direct staff to investigate whether additional amendments to the Zoning Code are necessary to clarify the intent behind AB 101 and AB 2162. Specifically:
- a. Determine whether AB 2162 applies more broadly to zones where multi-family residential is allowed as a conditional or special use, including mixed-use residential/commercial as a conditional or special use.
  - b. Determine whether AB 101 requires Low Barrier Navigation Center as a by-right use in residential zones where multifamily uses are permitted.
  - c. Return to Council with these amendments, or the results of this investigation, before the summer recess.
- (2) Direct staff to return to Council with the following additional modifications to the Zoning Code before the end of the year to be more explicitly consistent with Senate Bill 2 (2007), add Transitional Housing, as defined in Ordinance No. 28680, to the land use tables for all residential and mixed-use Zoning Districts. Transitional Housing should remain a permitted use in all residential zones, as required by Ordinance No. 28680, and be allowed as a conditional or special use in appropriate non-residential zoning districts, as determined by staff.

*(Item Continued on the Next Page)*

**(a) 20-567 PP20-009 - Amendment to Title 20 (The Zoning Ordinance). (Cont'd)**

(3) Direct staff to identify any obstacles to the establishment of emergency shelter, transitional housing, and permanent supportive housing in the Zoning Code or in other City regulations and return to Council with recommendations for modifications intended to streamline and facilitate the establishment of emergency shelter, including the addition of beds to existing shelters, and the creation of transitional and permanent supportive housing.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. Planning Commission recommends approval (7-0).

(Planning, Building and Code Enforcement)

[Deferred from 4/14/2020 - Item 10.1(c) (20-432); 4/28/2020 - Item 10.1(b) (20-480); 5/12/2020 - Item 10.1(d) (20-535)]

[Rules and Open Government referral 5/13/20 - Item G.2 (2(a)(b)(c), 3(a), 4)]

**Heard Immediately After Consent**

Councilmember Sergio Jimenez noted the coordination of his memo with the Planning Department and observed that it has been greenlighted except item 3b, which will be sent to priority setting.

Action: Upon motion by Councilmember Sergio Jimenez to move approval of his memo along with the other accompanying conditions, seconded by Vice Mayor Chappie Jones, and carried unanimously, Ordinance No. 30422, was passed for publication.  
(11-0)

**END OF CONSENT CALENDAR****10 Land Use - Regular Agenda**

None presented.

**MINUTES OF SAN JOSE CITY COUNCIL CLOSED SESSION AGENDA**

The Council meeting was teleconferenced from remote locations. The Council of the City of San José convened for Closed Session by teleconference at 9:32AM on Tuesday, May 19, 2020.

Present: Councilmembers - Liccardo, Jones, Jimenez, Peralez, Diep, Carrasco, Davis, Esparza, Arenas, Foley, Khamis.

Absent: Councilmembers - All present.

Upon motion unanimously adopted, Council recessed at 9:32 AM. to a Closed Session by Teleconference to (A) confer with Legal Counsel anticipated litigation: Initiation of litigation pursuant to Section 54956.9(d)(4) of the Government Code: Number of matter(s) to be discussed: 2. (B) confer with Legal Counsel - existing litigation pursuant to sections 54956.9(d)(1): 1. Case Name: Bushey v. Bushey, et al. Name(s) of Parties(s) Involved: SHANNON BUSHEY, REGISTRAR OF VOTERS FOR THE COUNTY OF SANTA CLARA, in her official capacity; TONI TABER, CITY CLERK FOR THE CITY OF SAN JOSE, in her official capacity. Court: Superior Court of the State of California, County of Santa Clara. Case No.: 20-CV-365450. Amount of Money or Other Relief Sought: Petition for Writ of Mandate. 2. Case Name: City v. Monsanto Company, et al. Name(s) of Parties(s) Involved: CITY OF SAN JOSE; MONSANTO COMPANY; SOLUTIA, INC.; PHARMACIA CORP.; and DOES 1-100. Court: U.S. District Court, Northern District of California. Case No.: 15-CV-03178-EJD. Amount of Money or Other Relief Sought: Damages according to proof. 3. Case Name: Sutter's Place, Inc. dba Bay 101 v. City Name(s) of Parties(s) Involved: SUTTER'S PLACE, INC. dba BAY 101; CITY OF SAN JOSE; the DIVISION OF GAMING CONTROL. Court: Superior Court of California, County of Santa Clara. Case No.: 1-13-CV-258057. Amount of Money or Other Relief Sought: Damages according to proof. (C) confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: 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 - City of San Jose and Association of Building, Mechanical and Electrical Inspectors (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 — City of San Jose and Association of Engineers & Architects (AEA). (3) City of San Jose - Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: City of San Jose - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Name of Existing Contract or MOA: Benefit & Compensation Summary-City of San Jose and City Association of Management Personnel Agreement. (5) International Association of Firefighters, Local 230 (IAFF0); 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, (IAFF), Local 230. (6) International Brotherhood of Electrical Workers, Local 332 (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and Local 332 (IBEW).

*(Item Continued on the Next Page)*

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

(7) 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 — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO. (8) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3 (OE#3). (9) Organization or Name and Title of Unrepresented Employees: Peace Officer Park Ranger Association (POPRA). Nature of negotiations: wages/salaries, hours, working conditions, etc. Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Peace Officer Park Ranger Association. (10) San José Police Officers' Association (SJPOA). Nature of Negotiations: wages/salaries, hours, working conditions, etc. Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and San José Polices' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement -- City of San Jose and ALP.

By unanimous consent, Council recessed from the Closed Session 11:46 AM to reconvene to Regular Session at 1:01 PM by teleconference.

**• OPEN FORUM**

1. Blair Beekman commented on human needs and stated that better human ideals being held hostage by this pandemic.
2. Kathryn hedges expressed concern about City Housing and stated that the security guards are completely running rampant.
3. Robert Aguirre observed that we need some representation of un-housed people on the Council; maybe in advisory role, because many decisions are being made that affect the people that are not represented.
4. Tessa Woodmansee noted that: we should have public comments in the beginning of the meetings because it encourages democratic participation. 5, Mike Mattingly questioned the need for more restraint, if we are having huge success and stated that we have been duped by people like John Hopkins University and Bloomberg.

• **ADJOURNMENT**

Mayor Liccardo adjourned the Council Meeting session at 11:55 PM

Minutes Recorded, Prepared and Respectfully Submitted by,

**DRAFT**

Toni J. Taber, CMC  
City Clerk

lo/5-19-20 MIN

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

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

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

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