



# City Council Meeting

## Draft Minutes/Synopsis

**Tuesday, April 24, 2018**

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



## MINUTES OF THE CITY COUNCIL MEETING

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, APRIL 24, 2018**

The Council of the City of San José convened in Closed Session at 9:35 AM. in the Council Chambers at City Hall. (See Page 18 for Closed Session Minutes)

Present: Councilmembers - Liccardo, Jones, Jimenez, Peralez, Diep, Carrasco, Davis, Nguyen, Arenas, Rocha, Khamis.

Absent: Councilmembers - All present.

By unanimous consent, Council recessed from the Closed Session at 11:10 AM and reconvened to Regular Session at 1:32 PM in the Council Chambers.

Present: Councilmembers - Liccardo, Jones, Jimenez, Peralez, Diep, Carrasco, Davis, Nguyen, Arenas, Rocha, Khamis.

Absent: Councilmembers - All present.

### INVOCATION

Ande Burns from the Children's Musical Theater, provided the Invocation.

### PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

### ORDERS OF THE DAY

The Orders of the Day and the Amended Agenda were unanimously approved with no changes. (11-0.)

#### • Closed Session Report

City Manager David Sykes reported the appointment of Matt Cano as Public Works Director.

### 1. CEREMONIAL ITEMS

- 1.1 Mayor Sam Liccardo and Councilmember Sylvia Arenas presented a proclamation for "Arbor Day" to demonstrate support for environmental protection and sustainability through the planting of trees in the City of San José.
- 1.2 Mayor Sam Liccardo and Councilmember Sylvia Arenas presented a proclamation recognizing April 2018 as Month of the Young Child in the City of San José.

Access the video, the agenda, and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/civiccentertv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

- 1.3 Mayor Sam Liccardo and Councilmember Tam Nguyen presented a commendation to Tommy Tran for earning a perfect score on his Advanced Placement Calculus Exam in May 2017.  
**Heard in the evening**
- 1.4 Mayor Sam Liccardo and Councilmember Johnny Khamis presented a commendation to Code One Programming for their dedication to inspire young minds to become programmers through their free computer science and coding classes offered to students of all ages.  
**Heard in the evening**
- 1.5 Mayor Sam Liccardo and Councilmember Raul Perez presented a proclamation recognizing the fourth annual San José Green Trips Challenge, a City staff competition taking place during the month of May that promotes transit, cycling, walking, and carpooling as environmentally-friendly transportation options and helps set an example for the community to follow.
- 1.6 Mayor Sam Liccardo and Councilmember Sergio Jimenez presented a commendation to Walter Wilson for his quick actions of pulling a woman from a car seconds before it was hit by a moving train.  
**Heard in the evening.**

## **2. CONSENT CALENDAR**

Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones, and carried unanimously, the Consent Calendar was approved, with items 2.3 and 2.10 pulled, and the below listed actions taken as indicated.

(11-0)

### **2.1 18-556 Approval of City Council Minutes.**

#### **Recommendation:**

(a) Regular Council Meeting Minutes of November 7, 2017.

(b) Regular Council Meeting Minutes of November 14, 2017.

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

Public Comments: Blair Beekman offered comments on the Regular Council Meeting Minutes of November 7, 2017.

Action: The Regular Council Meeting Minutes of November 7, 2017, and Regular the Council Meeting Minutes of November 14, 2017 were approved.

(11-0).

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

### **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 18-525 Ordinance Modifying the Types of Eligible Medical Plans to be Offered to Retirees.**

**Recommendation:** Approve an ordinance amending Section 3.24.2290 of Chapter 3.24 of Title 3, Sections 3.28.1980 and 3.28.1990 of Chapter 3.28 of Title 3, and Sections 3.36.1930 and 3.36.1940 of Chapter 3.36 of Title 3 of the San José Municipal Code to modify the types of eligible medical plans to be offered to retirees and survivors in the City's retirement plans that provide retiree healthcare to include (1) Medical Plans offered to active City employees, (2) Medicare Medical Plans, and (3) Medical Plans not offered to active City employees.

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

Action: Ordinance No. 30087 passed for publication.  
(11-0)

**2.8 18-520 Agreement with History San José for Maintenance of City-Owned Historical Facilities.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement with History San José, from July 1, 2018 to June 30, 2038, for the operations and maintenance of the City-owned historical facilities within History Park at Kelly Park and the Peralta Adobe - Fallon House Historic Site, as well as management of the City's historic collections for an annual amount not to exceed \$784,000, subject to annual appropriations as approved by City Council.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council Districts 3 and 7.  
(Economic Development)

**Deferred to 5/1/18 per Administration.**

Action: Resolution No. 78557 was adopted.  
(11-0)

**2.9 18-560 Agreement with the San José Public Library Foundation for the Administration of SJ Learns.**

**Recommendation:** Adopt a resolution authorizing the City Manager to execute an Agreement with the San José Public Library Foundation to administer the funding of the SJ Learns Program as a fiscal agent from May 1, 2018 through June 30, 2019, in an amount not to exceed \$1,000,000.

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

Action: Resolution No. 78558 was adopted.  
(11-0)

**2.10 18-595 Compensation and Benefit Changes for Council Appointees.**

**Recommendation:** As recommended by the Rules and Open and Government Committee on April 18, 2018, adopt a resolution approving:

(a) Compensation and benefit changes for Council Appointees consistent with compensation and benefit changes to Executive Management (Unit 99) for Fiscal Years 2018-2019, 2019-2020, and 2020-2021. The City of San José Pay Plan shall be amended, if necessary.

(b) A 2.5% merit increase effective July 1, 2018 for the City Manager, City Attorney, City Clerk, and City Auditor.

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

[Rules Committee referral 4/18/18 - Item A.1.a]

Mayor Sam Liccardo provided an update on the Compensation and Benefit Changes for Council Appointees.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones, and carried unanimously, staff report was approved, and Resolution No. 78559 was adopted.  
(11-0)

**3. STRATEGIC SUPPORT****3.1 Report of the City Manager, David Sykes (Verbal Report)****3.2 Labor Negotiations Update.**

**Recommendation:** Accept Labor Negotiations Update.  
**Heard at 9:30 A.M.**

**3.3 18-559 Approval of Revised Code of Ethics Policy, Gift Policy, and Council Policy 0-15.**

**Recommendation:** Adopt a resolution:

(a) Approving the revised Code of Ethics Policy;

(b) Approving the revised Gift Policy; and

(c) Approving the revised Council Policy 0-15.

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

There was no presentation for this item.

Action: Upon motion by Councilmember Johnny Khamis to move approval, seconded by Councilmember Dev Davis, and carried unanimously, Resolution No. 78560 was adopted, and staff report was approved.  
(11-0)

#### **4. COMMUNITY & ECONOMIC DEVELOPMENT**

##### **4.1 18-522 Actions Related to the New San José Hotel Business Improvement District and Levy Assessments in the San José Hotel Business Improvement District for Fiscal Year 2018-2019.**

###### **Recommendation:**

- (a) Public Hearing to consider the establishment of the San José Hotel Business Improvement District (SJHBID). This is the second of two public comment meetings required under the Property and Business Improvement Law of 1994, Streets and Highways Code Section 36600 et seq., to establish the proposed SJHBID.
- (b) Public Hearing to approve the budget and the levy of assessments for the SJHBID beginning Fiscal Year 2018-2019.
- (c) Adopt a resolution of formation establishing the SJHBID and approving the budget and authorizing the levy of assessments beginning Fiscal Year 2018-2019.
- CEQA: Statutorily Exempt, File No. PP08-048, CEQA Guidelines Section 15061(b)(3), CEQA only applies to projects which have potential for causing a significant effect on the environment. (Economic Development)

There was no presentation for this item.

Action: Upon motion by Councilmember Don Rocha to move approval, seconded by Councilmember Lan Diep, and carried unanimously, staff recommendation was approved, and Resolution No. 78561 was adopted.

(11-0)

##### **4.2 18-548 Actions Related to the Report on the Downtown Wayfinding System.**

###### **Recommendation:**

- (a) Accept the report on the Downtown Wayfinding System, which includes findings and recommendations for a wayfinding program for Downtown San José and a commitment to collaborate with the Regional Mapping and Wayfinding Partnership led by the Metropolitan Transportation Commission.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a Master Consulting Agreement with City ID LLC for wayfinding and placemaking design services for an initial three-year term ending June 2021 for an aggregate maximum compensation not to exceed \$2,000,000, subject to the appropriation of funds; the City has budgeted \$550,000 for work under this agreement, and will need to identify additional funds to complete work beyond that amount.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3.  
(Economic Development/Transportation)

Economic Development Director, Kim Walesh; Economic Development Office' Sal Alvarez, Transportation Director Jim Ortbal and Planning and Sustainability Manager Jessica Zenk, gave a presentation and responded to questions.

Public Comments: Blair Beekman offered comments on the Report

Action: Upon motion by Councilmember Raul Peralez to move approval, seconded by Councilmember Dev Davis, and carried unanimously, staff recommendation was approved, and Resolution No. 78562 was adopted.

(11-0)

## 4.3 18-521

**Amendments to Procedures for Removal of Rent Stabilized Units from the Rental Market (Ellis Act Ordinance).****Recommendation:**

- (a) Accept the staff report.
- (b) Approve an ordinance amending Part 11 of Chapter 17.23 of Title 17 of the San José Municipal Code to:
  - (1) Modify the re-control provisions to subject the greater of either the number of apartments removed from the market, or 50% of new apartments built to the apartment Rent Ordinance (ARO).
  - (2) Modify the re-control provisions to subject additional apartments beyond the base units to the current annual general increase of 5%.
  - (3) Allow an exemption from the re-control provisions if at least twenty (20) newly constructed rental units are being created. The re-control requirement under this Section will be waived if the property owner:
    - (i) Develops fifteen percent (15%) of the newly constructed units as on-site affordable rental units consistent with the standards and affordability restriction requirements in the Inclusionary Housing Ordinance, Chapter 5.08 of Title 5 of the San José Municipal Code and its implementing guidelines; and
    - (ii) Develops an additional five percent (5%) of the newly constructed units as on-site affordable rental units restricted at 100% of area median income, but otherwise consistent with the standards in the Inclusionary Housing Ordinance and implementing guidelines.
  - (4) Include apartment buildings with three units under the Ellis Act.
  - (5) Allow non-ARO apartments with three units or more built after 1979 to provide 120-day notification to their tenants and the City and to provide relocation consultant services to impacted tenants.

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

**Heard last**

Housing Director, Jackie Morales-Ferrand; Housing Development Deputy Director, Rachel VanderVeen and Deputy City Attorney, Shasta Greene, and Deputy City Attorney, Charles Oshinagua gave a presentation and responded to questions.

Councilmember Don Rocha left the meeting at approximately 5:35pm

Public Comments: Offering comments on the Amendments to Procedures for Removal of Rent Stabilized Units from the Rental Market (Ellis Act Ordinance) were: Lauren Shields, (representing SURJ @Sacred Heart); Tori Truscheit, (representing SURJ @Sacred Heart); Sandy Perry, (representing Affordable Housing Network); Jen Myhne, (representing SURJ @Sacred Heart); Lauren Renaud, (representing SURJ @Sacred Heart); Bridget MacKay, (representing Property Owner); Ms. Lubow, Jairo Hernandez, (representing Debug); Milt Krantz, (representing PACT); Shevlin De La Rosa, (PACT); Gustavo Gonzalez, Neil Collins, (representing Santa Clara County Association of Realtors); Bob Brownstein, Kathyn Hedges, (PACT); Susan Price, (representing PACT); Seigi Tadokoro, Dave Einsbach, Lani Ballard, (SURJ); Patty Dignan,

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## 4.3 18-521

**Amendments to Procedures for Removal of Rent Stabilized Units from (Cont'd)**

(representing Sacred Heart); Sean Hobbs, (SURJ); Sean Rhinehart, Doug Goss, Chava Bustamante, (representing LUNA); Oliver Zan, Nadia Aziz, (LFSV); Kim Guptil, (SURJ); Mary Helen Dougherty, (SURP); Ken Schneebelli; Jeff Zell, Robert Vessey, Donna Furuta, (representing PACT); Mary Idso, Anna Korski, Miranda Martone, Maryela Perez, (representing YWCA); Robert Imhoff, Jessica Vollmer, (representing WPUSA); Kimi Huang, Abiola Awolowo, Robert Aguirre, Jose Valle, Fernando Perez, Alexander Woolner, Derek Stanhill, Tami Daniels, Ernesto Perez, (PACT); Gigi Bolanos, Connor O'sullivan, Diana Salazar, Mariela Garcia, (representing Sacred Heart); Alexis Castellanos-Mendez, Nicolas Hurley; Peggy Allwell, Nassim Nuori, (Green Party of Santa Clara), Jenny Zhao, (representing BAHN); Veronica Eldredge, Austin Block, (representing SURJ) Raul Richardson, Gloria Zamudio, Sheryl Varen, (representing Sacred Heart); Diana Castillo; (representing LFSV); Michael Paradela, Joseph Young, (representing Sacred Heart); Jose Rangel, Eunice Hernandez, (representing Sacred Heart); Luz Mendoza, Gabriel Hernandez, (representing Somos Mayfair); Maria Estaer Gonzalez, (representing Solidarida); Matthew Reed, (representing SiliconValley@Home); Mario Agular, (representing Homeless Student Alliance); Albert Tobias, Martha Orellana, Delma Ivonne Hernandez Villasenor, (representing LUNA); Mona, (representing DeBug); Anne Sherman, Collin Forgey, Greg Miller, Eileen Hunter, Lydia Gail, (representing Sacred Heart); Suli, (Sacred Heart); Maria Gutierrez, (Sacred Heart); Bonflio Garcia, Shirley Stager, (PACT); Gloria Quiroz, (representing SEIU Local 101); Laura Clark-Moore, (representing SURJ @Sacred Heart); Betsy Hammer-Carr, Vera Sloan, (Sacred Heart), Ben Vo, Katherine Trowbridge, (Sacred Heart); Stacey Muccino, Sabuhi Siddique, Cristian Ollano, (PACT); Maggie Sulayao, Sal Castro, Alexandra Mejia, Magaly Mata, Tom Scott, Liz Soehngen, Aaron Eckhouse, Caitlin Neiman, (SURJ); Nicole Boaz, (SURJ); Ruth McKinney, Jordan Gonzalez, Elena Alvarado, (Sacred Heart); Maria Tovar, (Sacred Heart); Laura Diaz, Maria Merriweather; Heather Phelps, Amy Lueck, (SURJ); Marce Abel, (SURJ); Lucy Moran, (Sacred Heart); Patricia Santiago, Alex Shoor, Patty Trujillo, Miguel Trujillo, Kelsey Whittington, Anil Babbar, Gabriel Rodarte, (PACT); Odile Estrella, Dan Pan, (representing BAHN); Irene Smith, (representing BAHN); Yolanda Chavez, (representing LUNA); Maria Jimenez, (representing LUNA); Rosa Cordoba, (representing LUNA); Patricia Rojas; Anastasio Maldonado, Elizabeth Agramont, (Sacred Heart), Uriel Valencia, (representing LUNA); Hector Valencia, (representing LUNA); Carly Peach, (SURJ), Phil Mastercola, Tom Skinner, Blair Beekman, Jordan Gonzales, James Scapula, Veronica Martinez, Sharon Marfil, Yolanda Jimenez, Alonara Nieves, Hector Rincon, (Sacred Heart); Rai Jagadev, (representing DeBug); Deb St. Julian, Minerva Rosas, Jon Jon, Alice Lynch, (representing Rapid Response Network); and Rubi Dominguez.

- Council recessed at 5:32 PM
- Council resumed at 6:05 PM

Councilmember Don Rocha returned to the meeting at approximately 7:32PM

Council had a productive and extensive debate.

*(Item Continued on the Next Page)*



## 4.3 18-521

**Amendments to Procedures for Removal of Rent Stabilized Units from (Cont'd)**

Action: The substitute motion by Councilmember Sylvia Arena, seconded by Councilmember Chappie Jones, failed. (5-6. Noes: Jones, Diep, Nguyen, Davis, Khamis, Liccardo)

The underlying motion by Councilmember Lan Diep to move approval, seconded by Councilmember Johnny Khamis, was unanimously carried, staff report was accepted, and Ordinance No. 30088 was passed for publication, including approval of the Memorandum from Mayor Liccardo to:

1. Accept the staff report and recommendation to:

(a) Accept the staff report.

(b) Approve an ordinance amending Part 11 of Chapter 17.23 of Title 17 of the San José Municipal Code to:

(1) Modify the re-control provisions to subject the greater of either the number of apartments removed from the market, *or* 50% of new apartments built to the Apartment Rent Ordinance (ARO).

(2) Modify the re-control provisions to subject additional apartments beyond the base units are limited to the current annual general increase of 5%.

(3) Allow an exemption from the re-control provisions if at least twenty (20) newly constructed rental units are being created. The re-control requirement under this Section will be waived if the property owner:

(i) Develops fifteen percent (15%) of the newly constructed units as on-site Affordable rental units consistent with the standards and affordability restriction requirements in the Inclusionary Housing Ordinance, Chapter 5.08 of Title 5 of the San Jose Municipal Code and its implementing guidelines; and

(ii) Develops an additional five percent (5%) of the newly constructed units as on-site affordable rental units restricted at 100% of area median income, but otherwise consistent with the standards in the Inclusionary Housing Ordinance and implementing guidelines.

(4) Include apartments buildings with three units under the Ellis Act.

(5) Allow non-ARO apartments with three units or more built after 1979 to provide 120-day notification to their tenants and the City and to provide relocation consultant services to impacted tenants.

2. Direct the City Manager to discuss the merits and drawbacks of the following policy approaches relating to older ARO housing stock at upcoming hearings relating to the cost of development and the Affordable Housing Investment Plan, for Council to consider for future prioritization processes:

a. Policies designed to encourage ARO re-developers to elect on-site inclusionary zoning, such as reducing parking requirements, reducing construction fees, and the like; and

*(Item Continued on the Next Page)*

## 4.3 18-521

**Amendments to Procedures for Removal of Rent Stabilized Units from (Cont'd)**

b. Partnership with a nonprofit to create a land bank or similar model, to identify and acquire rent-controlled buildings at risk of conversion, and to finance the rehabilitation of such properties as affordable housing, with priority given to the retrofit of “soft story” and other inherently hazardous buildings; and

c. Policies designed to discourage elimination of ARO housing stock, including but not limited to a conversion ordinance, imposing impact fees where the owner has converted ARO rental properties to condominiums without meeting some affordability standard.

(11-0)

Also approved was Memorandum from Councilmember Rocha directing staff to return with an ordinance that would extend the Tenant Protection Ordinance and the Ellis Act Ordinance to duplexes, such that both ordinances would apply to duplexes in the same way that they are proposed to apply to multifamily units that are not covered by rent control.

(7-4 Noes: Diep, Davis, Nguyen, Khamis)

## 4.4 18-549

**Amendments to the Tenant Protection Ordinance - Title 17 for Immigration and Criminal Activity.****Recommendation:**

Accept the staff report and approve an ordinance amending the provisions in Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to:

(a) Include a provision that prohibits landlords from disclosing or threatening to disclose tenants' and/or associates of tenants' immigration or citizenship status to authorities for the purposes or intent of retaliation, harassment, intimidation, or recovering possession of a rental unit consistent with Civil Code 1940.35(a), as amended; and

(b) Include “Felony Conviction” as a separate just cause basis for eviction to allow a landlord to serve a Notice of Termination of Tenancy when a tenant has been convicted, for a serious felony as defined by Penal Code Section 1192.7(c), as amended, or a violent felony as defined by Penal Code Section 667.5(c), that was committed during his or her tenancy and on the premises. Require that landlords, prior to serving a Notice of Termination of Tenancy, provide tenant households a written notice to remove the tenant who was convicted from the unit or the tenant's name from the lease agreement within a reasonable time, using one of the following methods:

(1) Filing a restraining order or providing evidence of similar steps being taken to remove them from the household; or

(2) Removing the member of the household who was convicted and providing written notice to the landlord that said tenant has been removed.

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

**Heard last.**

*(Item Continued on the Next Page)*

4.4 18-549

**Amendments to the Tenant Protection Ordinance - Title 17 (Cont'd)**

Council had a productive and extensive debate.

Action: The substitute motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Don Rocha, failed. (5-6. Noes: Jones, Diep, Nguyen, Davis, Khamis, Liccardo)

The underlying motion by Councilmember Chappie Jones to move approval, seconded by Councilmember Johnny Khamis, was unanimously carried, staff report was accepted, and Ordinance No. 30089 was passed for publication, including approval of the Memorandum from Councilmember Chappie Jones to:

Modify the Tenant Protection Ordinance (TPO) to:

1. Include a provision that prohibits landlords from disclosing or threatening to disclose tenants' and/or associates of tenants' immigration or citizenship status to authorities for the purposes or intent of retaliation, harassment, intimidation, or recovering possession of a rental unit consistent with Civil Code 1940.35(a), as amended; and

2. Include "Criminal Activity", as a separate just cause basis for eviction to allow a landlord to serve a Notice of Termination of Tenancy when a tenant has been ruled in a preliminary hearing to be "held to answer", pursuant to Penal Code Section 872, for a serious felony as defined by California Penal Code Section 1192.7(c), as amended, or a violent felony as defined by Penal Code Section 667.5(c), that was committed during his or her tenancy and within a 1,000 ft. radius of the premises.

Include an "opportunity to cure" that would require that landlords, prior to serving a Notice of Termination of Tenancy, provide tenant households a written notice to remove the tenant who was held to answer from the unit or the tenant's name from the lease agreement within a reasonable time, using one of the following methods:

- a. Filing a restraining order or providing evidence of similar steps being taken to remove the tenant held to answer from the household; OR
- b. Removing the member of the household held to answer and providing written notice to the landlord that said tenant has been removed.

Also approved were items 1(a), 1(c) and 2, with amends to #3, plus modification with 5(a), 5(b) 6(a) and 6(b) of the Memorandum by Mayor Liccardo to:

Accept the staff report and approve an ordinance amending the provisions in Part 12 of Chapter 17.23 of Title 17 of the San Jose Municipal Code to:

1. Include, as a separate just cause basis for eviction, to allow a landlord to serve a Notice of Termination of Tenancy when a tenant has committed a serious felony, as defined by Penal Code Section 1192.7(c), or a violent felony as defined by Penal Code Section 667.5(c), as long as:

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## 4.4 18-549

**Amendments to the Tenant Protection Ordinance - Title 17 (Cont'd)**

- a. The person allegedly committing the crime was indicted by a grand jury or “held to answer” for that crime pursuant to Penal Code Section 872;
  - c. The felony was committed by an adult; and
5. Include provisions that protect tenants who are immigrants and tenants who are victims of domestic violence by:
- a. Prohibiting landlords from harassing, intimidating, threatening, or evicting a tenant because of their immigration or citizenship status and from disclosing the immigration or citizenship status of a tenant to any immigration authority or law enforcement agency, except to comply with a legal obligation under federal law, or subpoena, warrant, or court order, in compliance with Civil Code Section 1940.35(a), Code of Civil Procedure Section 1161.4, and Penal Code Section 518-19; and
  - b. Requiring landlords to post a notice in common areas, in the three most commonly-spoken languages, stating: It is illegal for a landlord to harass, intimidate, threaten, or evict a tenant because of their immigration or citizenship status. It is also illegal for a landlord to disclose the immigration or citizenship status of a tenant to any immigration authority or law enforcement agency, except to comply with a legal obligation under federal law, or subpoena, warrant, or court order; and
6. Including provisions protecting victims of domestic violence by:
- a. Adding a provision that states that nothing in the ordinance “shall abrogate the protections afforded to survivors of violence consistent with California Code of Civil Procedure Section 1161.3, as amended, and the Violence Against Women Act, Public Law 103-322, as amended,” as recommended by staff; and
  - b. Allowing victims who have been residing in a unit with the leaseholder who is the alleged abuser a mechanism by which they can take over the lease, to the extent allowed by California law.

Additional clarification was provided that 5(b) and 6(b) of Mayor’s memo would need to return to Council and be renoticed; and specifically prohibit the use of past criminal history committed prior to the individual’s tenancy as the basis for this just cause basis; and the Ordinance shall require landlords to allow a right to repossession of the unit where an acquittal or dismissal of the tenant’s felony charges results—subject to consent of any co-tenants—or rental of the next available unit, unless otherwise legally prohibited.

(7-4. Noes: Jimenez, Peralez, Carrasco, Rocha)

## 4.5 18-550

**Amendments to the Apartment Rent Ordinance - Title 17 for Utility Pass Throughs.****Recommendation:**

- (a) Accept the staff report on submetering, submetering incentives, and pass throughs of utility costs, including Ratio Utility Billing System (RUBS).
- (b) Approve an ordinance amending Part 3 of Chapter 17.23 of Title 17 of the San José Municipal Code to:
  - (1) Clarify that the pass through of utility charges to tenants via RUBS or other unmetered allocations is not allowed;

*(Item Continued on the Next Page)*

4.5 18-550

**Amendments to the Apartment Rent Ordinance - Title 17 for Utility Pass (Cont'd)**

(2) Allow landlords with written utility pass through contracts for water, sewer and/or garbage in place prior to January 1, 2018, to petition for a one-time rent increase equal to the lesser of:

(i) The average monthly charges for water, sewer and/or garbage passed through to the tenant over the 2017 calendar year; or

(ii) An amount equal to the sum of the 2018 Santa Clara County Housing Authority Utility Allowance rates for multifamily water, sewer and garbage costs; and

(3) Allow landlords with written gas and/or electric pass through contracts in place prior to January 1, 2018 to petition for a one-time increase if a landlord's units are not separately metered for gas and electricity and the landlord has complied with the requirements of Civil Code Section 1940.9. The increase shall be the lesser of:

(i) The average monthly charges passed through to the tenant over the 2017 calendar year; or

(ii) An amount equal to the sum of the 2018 Santa Clara County Housing Authority Utility Allowance rates for multifamily gas and electric costs.

(c) Direct staff to submit the revisions to the Regulations implementing the limited term one-time rent increase petition process to the City Manager for approval.

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

**Heard last.**

Council had a productive and extensive debate.

Action: The motion by Councilmember Chappie Jones to move approval, seconded by Councilmember Dev Davis, failed. (4-7. Liccardo, Jimenez, Peralez, Diep, Carrasco, Rocha, Khamis)

The motion by Councilmember Raul Peralez to move approval, seconded by Councilmember Don Rocha, was unanimously carried, staff report was accepted, and Ordinance No. 30090 was passed for publication, including approval of the Memorandum by Mayor Liccardo to Adopt staff recommendation including staff Supplemental memorandum on submetering, submetering incentives, and pass throughs of utility costs, including Ratio Utility Billing System (RUBS), and:

1. Approve an ordinance amending Part 3 of Chapter 17.23 of Title 17 of the San José Municipal Code to:

A. Clarify that the pass through of utility charges to tenants via RUBS or other unmetered allocations is not allowed;

B. Allow landlords with written utility pass through contracts for water, sewer, and/or garbage in place prior to January 1, 2018, to petition for a one-time rent increase equal to the lesser of:

i. The average monthly charges for water, sewer and/or garbage passed through to the tenant over the 2017 calendar year; or

ii. An amount equal to the sum of the 2018 Santa Clara County Housing Authority Utility Allowance rates for multifamily water, sewer, and garbage costs; and

*(Item Continued on the Next Page)*

4.5 18-550

**Amendments to the Apartment Rent Ordinance - Title 17 for Utility Pass (Cont'd)**

C. Allow landlords with written gas and/or electric pass through contracts in place prior to January 1, 2018 to petition for a one-time increase if a landlord's units are not separately metered for gas and electricity and the landlord has complied with the requirements of Civil Code Section 1940.9. The increase shall be the lesser of:

i. The average monthly charges passed through to the tenant over the 2017 calendar year; or

ii. An amount equal to the sum of the 2018 Santa Clara County Housing Authority Utility Allowance rates for multifamily gas and electric costs.

2. Direct staff to submit the revisions to the Regulations implementing the limited term onetime rent increase petition process to the City Manager for approval.

Also approved is direction to staff to work with the City Attorney's Office to return as soon as possible with a further amendment to Section 17.23.315 of the Apartment Rent Ordinance modifying the date on which existing written RUBS pass through agreements are no longer effective and changing the timing regarding petitions for the one-time offset rent increase, specifically:

1) All verbal RUBS agreements are void upon the effective date of the ordinance amendment;

2) All written RUBS agreements or amendments executed after January 1, 2018 are void upon the effective date of the ordinance amendment;

3) The petition filing period for RUBS petitions will be July 1, 2018 to October 31, 2018, no longer linked to the rent registry process; and

4) All pre-existing written RUBS Agreements will be void following the decision of a Petition Examiner determining the outcome of the offset petition.

If the landlord does not file a petition, the existing written RUBS shall be void after October 31, 2018.

This was further modified with approval of staff recommendation, affirming that Ratio Utility Billing System (RUBS) contracts for San Jose's Apartment Rent Ordinance (ARO) units remain null and void, but allowing for a one-time adjustment for units with existing contracts.

2. Direct the City Manager to:

a. Return through the prioritization process for Housing and/or PBCE and ESD Staff to explore additional incentives to facilitate retrofits for sub-metering existing multi-family buildings, including but not limited to:

- Permit fee waivers;
- Use of San Jose Clean Energy net revenues for low-cost loans or grants;
- Facilitation of combining energy-efficiency retrofits with sub-metering through PACE programs;
- City facilitation/negotiation of "group discounts" for San Jose properties with participating contractors; and/or
- Better communication of information about existing incentive programs through PG&E, BAAQMD, AEA, and other agencies.

(10-1 Noes: Jones)

**4.6 18-551 Actions Related to the Source of Income Discrimination Ordinance and Fair Housing Ordinance.**

**Recommendation:** Accept the staff report, and:  
(a) Direct the City Attorney Office to develop a source of income discrimination ordinance including, but not limited to, staff's recommended provisions on the definition of source of income, prohibited activities, applicability, and enforcement.  
(b) Direct the Housing Department to implement an education and outreach plan in coordination with Santa Clara County Housing Authority that considers process improvements and incentives to increase rental subsidy utilization.  
(c) Direct the Housing Department to explore the feasibility of a local Fair Housing Ordinance and return to the City Council with a recommendation.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Housing)

Action: Dropped.

**5. NEIGHBORHOOD SERVICES**

**6. TRANSPORTATION & AVIATION SERVICES**

**7. ENVIRONMENTAL & UTILITY SERVICES**

**7.1 18-475 Agreement with Black & Veatch for the 8142 - Yard Piping Improvements Project at the San José-Santa Clara Regional Wastewater Facility.**

**Recommendation:** Approve a Master Consultant Agreement with Black & Veatch to provide owner's advisor services for the 8142 - Yard Piping Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2026, in a total amount not to exceed \$9,750,000, subject to the appropriation of funds.  
CEQA: Statutorily Exempt, File No. PP18-016, Section 15262, Feasibility and Planning Studies with respect to the scope of work that is limited to this action and Section 15061(b)(3), CEQA only applies to projects which have the potential for causing a significant effect on the environment. (Environmental Services/Public Works)

Environmental Services Deputy Director Julian Nguyen, Public Works Principal Engineer John Cannon, and Waste Water Program Manager, Collin Page gave a presentation and responded to questions.

Action: Upon motion by Councilmember Dev Davis to move approval, seconded by Councilmember Lan Diep, and carried unanimously, staff recommendation was approved, and Resolution No. 78563 was adopted.  
(11-0)

**8. PUBLIC SAFETY**

**9. REDEVELOPMENT – SUCCESSOR AGENCY**

• **OPEN FORUM**

1. Andrew William Murrow. commented on his engagement with the Chief of Police and made references to weapons grade uranium, DNA, and uranium atoms.
2. Blair Beekman offered comments on ‘Big Belly’ and the idea of IoT process.

**10. LAND USE**

**10.1 Land Use on Consent Calendar**

**18-526                    C18-002 - Conforming Rezoning for Real Property Located at 0 Wabash Street.**

**Recommendation:** Consideration of an ordinance of the City of San José rezoning a 0.14-gross acre site, located on the south side of Wabash Street, approximately 400 feet westerly of Archer Street, located on the south side of Wabash Street (0 Wabash Street) from CN Commercial Neighborhood to R-1-8 Single-Family Residence (Anna Wu, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Impact Report (Resolution No. 76041) and Supplemental Impact Report (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)  
C18-002 - Council District 4

There was no presentation for this item.

Action: Upon motion by Councilmember Johnny Khamis to move approval, seconded by Councilmember Dev Davis, and carried unanimously, Ordinance No. 30091 passed for publication  
(10-1. Absent: Rocha)

**END OF CONSENT CALENDAR**

**10 Land Use - Regular Agenda**

**10.2    18-523                    PP18-024 - Amendment to Title 20 (Zoning Ordinance) for the Parklet Program.**

**Recommendation:** Approve an ordinance of the City of San José amending Section 20.100.1420 of Chapter 20.100 of Title 20 of the San José Municipal Code (the Zoning Code) to facilitate the City’ Parklet Program.  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Impact Report (Resolution No. 76041) and Supplemental Impact Report (Resolution No. 77617), and Addenda thereto and does not involve new significant impacts beyond those analyzed in the FEIR or the Supplemental EIR. Pending Planning Commission recommendation (votes 0-0-0).  
(Planning, Building and Code Enforcement)  
PP18-024 – Citywide

Action: Dropped - To be Renoticed.  
[Per Rules Committee referral 4/18/18 – Item A.1.a]



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

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133 to (A) discuss Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957. Department or Agency: Public Works. Title: Director of Public Works. (B) confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Organization or Name and Title of Unrepresented Employees: 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) Organization or Name and Title of Unrepresented Employees: 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) Organization or Name and Title of Unrepresented Employees: 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. Benefit & Compensation Summary. (4) Organization or Name and Title of Unrepresented Employees: 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) Organization or Name and Title of Unrepresented Employees: 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 Confidential Employees' Organization, AFSCME Local 101 and City of San José. (6) Organization or Name and Title of Unrepresented Employees: 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 (IAFF), Local 230. (7) Organization or Name and Title of Unrepresented Employees: 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 Local 332 (IBEW). (8) Organization or Name and Title of Unrepresented Employees: 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 Municipal Employees' Federation, AFSCME Local 101, AFL-CIO. (9) Organization or Name and Title of Unrepresented Employees: 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). (10) Organization or Name and Title of Unrepresented Employees: City of San José and San José Police's Association, (SJPOA); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Memorandum of Agreement — City of San José and Contract or MOA: Association of Legal Professionals of San José. (11) Organization or Name and Title of Unrepresented Employees: 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 between City of San Jose and Association of Legal Professionals of San José (ALP).

Access the video, the agenda, and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/civiccinterty>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

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

By unanimous consent, Council recessed from the Closed Session at 11:02 AM and reconvened to Regular Session at 1:32 PM in the Council Chambers.

Present: Councilmembers - Liccardo, Jones, Arenas, Davis, Diep, Nguyen, Khamis, Jimenez, Carrasco, Peralez, Rocha

Absent: Councilmembers - All present.

**• OPEN FORUM**

1. Blair Beekman offered comments.
2. Sean Cartwright read her letter for the record.
3. Robert Imhoff addressed Vice Mayor Magdalena Carrasco in relation to joint photograph for the record.

**• ADJOURNMENT**

**This meeting is adjourned in memory of Richard Kavanagh, who passed on February 27, 2018. Richard was a longtime resident of District 9, and an active force for good in the community where he served as a volunteer firefighter for many years. It was in that role that Richard met his wife, Helen, whom he married and lived with for over 50 years. He cherished life and loved his wife, their three children and a Maltipoo dog named Rosie. Richard was also a gifted handyman who operated a sprinkler and maintenance business to support his family. After a long battle with cancer, Richard passed away with his beloved wife by his side. Richard's courage, fortitude, and steady hand will be missed by all of us.**

Mayor Liccardo adjourned the Council Meeting session at 10:26 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

**DRAFT**

Toni J. Taber, CMC  
City Clerk

lo/42-24-18 MIN

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