



CITY COUNCIL MEETING

Draft Minutes

Adjourned Regular Meeting & Special Meeting

Friday, August 10, 2018

10:00 AM

LOCATION:

Council Chambers- 200 E. Santa Clara Street

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

- **Call to Order and Roll Call**

10:00 a.m. - Regular Session.

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

Absent Councilmembers: All present.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Orders of the Day**

None provided.

3. STRATEGIC SUPPORT

3.1 Potential General Obligation Bond Ballot Measure: Disaster Preparedness, Public Safety, and Infrastructure Bond.

- (a) Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 6, 2018, to submit to the electors of the City of San José a general obligation bond measure with the following statement of the measure to be printed in the ballot: Disaster Preparedness, Public Safety, and Infrastructure Bond To:
 - Upgrade 911 communications, police, fire, and paramedics facilities to improve emergency and disaster response;
 - Repair deteriorating bridges vulnerable to earthquakes;
 - Repave streets and potholes in the worst condition;
 - Prevent flooding and water supply contamination;
 - Repair critical infrastructure;
 - Shall San Jose issue \$650,000,000 in general obligation bonds with an average levy of 11 cents per \$1,000 of assessed value, averaging \$34,208,000 annually until repaid, requiring community oversight and annual audits? (YES/NO)
- (b) To save \$89,000 in City costs on the bond measure, approve a Resolution directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San Jose Mercury News, a newspaper of general circulation within the City of San Jose, instead of printing the full text of the measure in the Sample Ballot
- (c) Allow rebuttal arguments, pursuant to Elections Code Section 9285;
- (d) Authorize the Mayor to submit a ballot argument in support of the bond measure, pursuant to Elections Code Section 9282;
- (e) Direct the City Attorney to prepare an Impartial Analysis of the measure, where, as authorized under Elections Code Section 9280, the following statement will be printed in the Impartial Analysis to be prepared by the City Attorney: “If you would like to

- read the full text of the measure, see <http://www.sanjoseca.gov/index.aspx?nid=5694> or call 408-535-1260 and a copy will be sent at no cost to you.”; and
- (f) Direct the City Clerk to take all other actions necessary to place this measure on the November 6, 2018 ballot.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager) [City Council 8/7/18 - Item 3.4]

No presentation from staff was provided during this item.

Public comment for this item was offered at the August 7, 2018 City Council Meeting.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 78739** was adopted, the general obligation bond measure: Disaster Preparedness, Public Safety, and Infrastructure Bond was approved to be printed on the ballot, regarding the Special Municipal Election to be held on November 6, 2018.

And,

Including the approval of the memorandum authored by Mayor Sam Liccardo, dated August 10, 2018 recommending the following:

- A. Approve the Administration’s new memoranda for items 3.1 and 3.2, with the following modifications:
1. Amend the draft Resolution for the Affordable Housing Bond as follows, with the italicized portion reflecting an addition and the strike-through representing a deletion:
 - i. Paragraph I.A. shall state: “The measure will authorize the City to issue up to \$450 million principal amount of municipal General Obligation Bonds (the “Bonds”), for the purpose of financing the cost of land or improvement of land for, without limitation, providing housing affordable for working families; veterans; seniors; teachers; nurses, paramedics, and other workers; individuals with disabilities; domestic violence survivors; and the homeless, *with at least \$150 million (one third) of the proceeds of the Bonds being used for housing affordable for families and individuals earning up to 30% of the area median income (AMI), and at least \$75 million (approximately 16%) of the proceeds of the Bonds being used for housing affordable for households earning between 80% and 120% of AMI. which may include building and rehabilitating housing that is affordable for working families and individuals earning up to 80% of the area median income (AMI) and allowing the use of no more than 20% of the proceeds of the Bonds (\$90 million principal amount assuming the full authorization of \$450 million principal amount is issued, for households earning up to 120% of the AMI.* Funds may be used to: to (a) acquire land for the development of housing; (b) construct new housing; and (c) acquire and rehabilitate existing apartments or homes to create housing that is restricted to be affordable for the long-term (collectively, the “Projects”). The City Council finds each of the proposed categories of Projects are improvements necessary for carrying out the City’s objects, purposes and powers with respect to addressing the City’s need for affordable housing, as described above, for the preservation of public health,

- peace and safety.”
- ii. Amend the full text of the bond measure to reflect the amended Resolution.
2. Amend the draft Resolution for the Disaster Preparedness, Public Safety, and Infrastructure Bond as follows, with the italicized portion reflecting an addition:
 - i. Paragraph I.A.4. shall state: “Preventing flooding and water quality contamination, including the acquisition of open space in *Coyote Valley* for these purposes. . .”
 - ii. Amend the full text of the bond measure to reflect the amended Resolution.

(10-0-1; Absent: Rocha)

3.2 Potential General Obligation Bond Ballot Measure: Affordable Housing Bond.

- (a) Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 6, 2018, to submit to the electors of the City of San José a general obligation bond measure with the following statement of the measure to be printed in the ballot: Affordable Housing Bond to provide housing affordable for:
 - working families,
 - veterans,
 - seniors,
 - teachers, nurses, paramedics, and other workers; and
 - helping homeless residents get off of local streets and out of neighborhood parks and creeks;

Shall San Jose issue \$450,000,000 in general obligation bonds with an average levy of 8 cents per \$1,000 of assessed value, averaging \$26,217,000 annually until repaid, requiring community oversight and annual audits? (YES/NO)
- (b) To save \$89,000 in City costs on the bond measure, approve a Resolution directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San Jose Mercury News, a newspaper of general circulation within the City of San Jose, instead of printing the full text of the measure in the Sample Ballot;
- (c) Allow rebuttal arguments, pursuant to Elections Code Section 9285;
- (d) Authorize the Mayor to submit a ballot argument in support of the bond measure, pursuant to Elections Code Section 9282;
- (e) Direct the City Attorney to prepare an Impartial Analysis of the measure, where, as authorized under Elections Code Section 9280, the following statement will be printed in the Impartial Analysis to be prepared by the City Attorney: “If you would like to read the full text of the measure, see <http://www.sanjoseca.gov/index.aspx?nid=5694> or call 408-535-1260 and a copy will be sent at no cost to you.”; and
- (f) Direct the City Clerk to perform all other actions necessary to place the measure on the November 6, 2018 ballot.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager) [City Council 8/7/18 - Item 3.4]

No presentation from staff was provided during this item.

Public comment for this item was offered at the August 7, 2018 City Council Meeting.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. 78741** was adopted, the General Obligation Bond Ballot Measure: Affordable Housing Bond was approved to be printed on the ballot, regarding the Special Municipal Election to be held on November 6, 2018.

And,

Including the approval of the memorandum authored by Mayor Sam Liccardo, dated August 10, 2018 recommending the following:

- A. Approve the Administration's new memoranda for items 3.1 and 3.2, with the following modifications:
 1. Amend the draft Resolution for the Affordable Housing Bond as follows, with the italicized portion reflecting an addition and the strike-through representing a deletion:
 - i. Paragraph I.A. shall state: "The measure will authorize the City to issue up to \$450 million principal amount of municipal General Obligation Bonds (the "Bonds"), for the purpose of financing the cost of land or improvement of land for, without limitation, providing housing affordable for working families; veterans; seniors; teachers; nurses, paramedics, and other workers; individuals with disabilities; domestic violence survivors; and the homeless, *with at least \$150 million (one third) of the proceeds of the Bonds being used for housing affordable for families and individuals earning up to 30% of the area median income (AMI), and at least \$75 million (approximately 16%) of the proceeds of the Bonds being used for housing affordable for households earning between 80% and 120% of AMI. which may include building and rehabilitating housing that is affordable for working families and individuals earning up to 80% of the area median income (AMI) and allowing the use of no more than 20% of the proceeds of the Bonds (\$90 million principal amount* assuming the full authorization of \$450 million principal amount is issued, for households earning up to 120% of the AMI. Funds may be used to: to (a) acquire land for the development of housing; (b) construct new housing; and (c) acquire and rehabilitate existing apartments or homes to create housing that is restricted to be affordable for the long-term (collectively, the "Projects"). The City Council finds each of the proposed categories of Projects are improvements necessary for carrying out the City's objects, purposes and powers with respect to addressing the City's need for affordable housing, as described above, for the preservation of public health, peace and safety."
 - ii. Amend the full text of the bond measure to reflect the amended Resolution.
 2. Amend the draft Resolution for the Disaster Preparedness, Public Safety, and Infrastructure Bond as follows, with the italicized portion reflecting an addition:
 - i. Paragraph I.A.4. shall state: "Preventing flooding and water quality contamination, including the acquisition of open space in *Coyote Valley* for these purposes. . ."
 - ii. Amend the full text of the bond measure to reflect the amended Resolution.

(10-1-0; Noes: Khamis)

Charter Amendment on Salary Setting and Competing Ballot Measures.

- (a) Council discussion of community survey results regarding a potential ballot measure amending the process in which Mayor and Council salaries are set under the City Charter and authorizing the Council to place competing ordinances on a citywide ballot at the same time the Council places a voter-sponsored initiative on the ballot;
- (b) Adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 6, 2018, to submit to the electors of the City of San José a measure to amend the City Charter with the following statement of the measure to be printed in the ballot: 2018 Charter Amendments Shall the City of San José Charter be amended to:
 - Remove the Mayor and Council's ability to approve their salaries;
 - Require the Salary Setting Commission to adjust the base salaries for the Mayor and City Council once every ten years;
 - Limit base salary increases after each 10-year adjustment to annual adjustments for inflation; and
 - Align the City Charter with State law to allow the City Council to place competing ordinances on the same ballot in Municipal Elections? (YES/NO)
- (c) Council discussion and consideration of whether the full text of the proposed City Charter amendment should be printed in the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code 12111, to be incorporated into the resolution calling for the election;
- (d) Council discussion and consideration of whether to print rebuttal arguments in the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code 9285, to be incorporated into the resolution calling for the election;
- (e) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 6, 2018 Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election;
- (f) Council discussion and consideration of whether to direct the City Clerk to transmit a copy of the measure to the City Attorney to prepare an Impartial Analysis, pursuant to Elections Code Section 9280; and
- (g) Direct the City Clerk to take all actions necessary to place this measure on the ballot for a November 6, 2018 Special Municipal Election.

CEQA: Not a Project, PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Manager) [City Council 8/7/18 - Item 3.5]

Lee Wilcox, Chief of Staff, City Manager's Office; Michelle McGurk, Assistant to the City Manager; and Rick Doyle, City Attorney offered the presentation and responded to questions.

Public Comment: Bob, Louise, and David offered public testimony regarding the item.

Councilmember Chappie Jones disclosed that he inadvertently violated the Brown Act with the Mayor regarding the Salary Setting Commission discussion.

Councilmember Raul Peralez, and Councilmember Sergio Jimenez disclosed that they inadvertently violated the Brown Act as well.

Motion: Councilmember Raul Peralez motioned to accept Councilmember Sylvia Arenas'

memorandum dated August 7, 2018, including the requirement for a supermajority vote by the Council to put the competing measure up which would include Peralez's own memorandum dated August 6, 2018, also including certain unspecified language from Mayor Sam Liccardo's memorandum dated August 6, 2018. Councilmember Sylvia Arenas seconded the motion.

Mayor Sam Liccardo requested clarification of the motion.

City Attorney Rick Doyle noted for the record that Council will still have the ability to ask for the California Elections Code 9212 Report.

Substitute Motion: Councilmember Lan Diep motioned to amend the requirement that the Salary Setting Commission adjusts base salaries for the Mayor and City Council once every ten years, to once every two years; to give the Council authority to put competing ballot measures by a simple majority only; and approve recommendations B and C from Mayor Sam Liccardo's memorandum dated August 6, 2018. Councilmember Dev Davis seconded the Substitute Motion.

Friendly Amendment (for Substitute Motion): Mayor Sam Liccardo requested that his memorandum, dated August 6, 2018, be included in its entirety. The maker and seconder of the motion accepted the Friendly Amendment.

Friendly Amendment (for Substitute Motion): Councilmember Tam Nguyen requested a 2/3 vote, or a supermajority vote (seven votes needed instead of eight). Councilmember Lan Diep requested to hear further discussion before accepting the Friendly Amendment.

Friendly Amendment (for Substitute Motion): Councilmember Dev Davis requested that the Salary Setting Commission adjust the base salaries every five years instead of two years. Councilmember Lan Diep requested to hear further discussion before accepting the Friendly Amendment.

Friendly Amendment (for Substitute Motion): Councilmember Chappie Jones requested that the Salary Setting Commission meet every five years to align with the CPI (Consumer Price Index). The maker of the motion and seconder accepted the friendly amendment.

Councilmember Lan Diep clarified his modified Substitute Motion.

Vote on Substitute Motion: On a call to question the Substitute Motion failed for a lack of yes votes. (5-6-0; Noes: Jimenez, Peralez, Carrasco, Nguyen, Arenas, Rocha)

Councilmember Raul Peralez clarified his Amended Motion.

Amended Motion (Restatement): Councilmember Raul Peralez motioned to accept Councilmember Sylvia Arenas' memorandum dated August 7, 2018; including the requirement for a supermajority vote by the Council to put the competing measure up which would include Peralez's own memorandum dated August 6, 2018; also including Mayor Sam Liccardo's memorandum dated August 6, 2018; and the approval of the staff recommendation, including the amended staff recommendation from the Salary Setting Commission to adjust the base salaries for the Mayor and City Council from once every ~~ten~~ *years five years*

City Attorney, Rick Doyle, clarified that the deadline by which the report would be provided to the Council would be no later than the date determined on the ballot, by a Consultant not employed by the City.

Action: On call to question, Councilmember Raul Peralez's motion, carried unanimously, passed, **Resolution No. 78740 was adopted**, with the following approvals; Councilmember Sylvia Arenas' memorandum dated August 7, 2018 was approved, recommending the following:

Accept Mayor's memo and additionally require the following steps before the Council places a competing ballot measure on the ballot:

1. An independent analyst be secured to bring back findings of fact on the community sponsored initiative. The analyst would review objective data from unbiased sources and return with findings tightly focused on this objective data, including:
 - a. The accuracy of the information provided in the initiative
 - b. The economic effects of the initiative for the public at large, and additionally for the proponents and major donors to the initiative.
 - c. Whether the initiative would create a benefit or entitlement that would be legally difficult or impossible to reverse.
2. This report would not include arguments in support or opposition, rationales for a countermeasure, nor value judgements extrapolated from the findings.
3. These findings of fact be reported back to City Council and the initiative's sponsors.
4. Council accept this report by a supermajority of two-thirds before proceeding to consider a competing ballot measure, which could then be adopted by a simple majority.

And

Including the requirement for a supermajority vote by the Council to put the competing measure up;

And

The approval Raul Peralez memorandum dated August 6, 2018, recommending the following;

Require that the City Council have a supermajority or two-thirds vote before placing any competing measure on the ballot.

And

The approval Mayor Sam Liccardo's memorandum dated August 6, 2018, recommending the following;

- A. Adopt a resolution of the City Council calling and giving notice for a Special Municipal Election to be held on November 6, 2018, and to submit to the voters of the City of San Jose a measure to amend the City Charter with the statement of the measure as described in paragraph (b) of the City Manager's July 27, 2018, Memorandum regarding item 3.5.
- B. To save \$89,000 in City costs on this measure, approve a Resolution directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San Jose Mercury News, a newspaper of general circulation within the City of San Jose, instead of printing the full text of the measure in the Sample Ballot;
- C. Allow rebuttal arguments, pursuant to Elections Code Section 9285;
- D. Authorize the Mayor to submit a ballot argument in support of the measure, pursuant to Elections Code Section 9282;
- E. Direct the City Attorney to prepare an Impartial Analysis of the measures, where, as authorized under Elections Code Section 9280, the following statement will be

printed in the Impartial Analysis to be prepared by the City Attorney: "If you would like to read the ____ full text of the measure, see <http://www.sanjoseca.gov/index.aspx?nid=5694> or call 408535-1260 and a copy will be sent at no cost to you."; and

- F. Direct the City Clerk to perform all other actions necessary to place the measure on the November 6, 2018 ballot.

And

The approval of the staff recommendation, including the amended staff recommendation from the Salary Setting Commission to adjust the base salaries for the Mayor and City Council from once every ~~ten years~~ *five years*.

(6-5-0; Noes, Liccardo, Jones, Diep, Davis, Khamis)

- **Open Forum**

1. Richard W. discussed the US-China Green Energy Council, Ballot Measures, and additions he suggests.
2. Blair Beekman spoke about transparency, Bond Measures, and worries he has regarding the topics.

- **Adjournment**

The City Council of the City of San Jose adjourned this meeting at 12:01 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,

DRAFT

Vanessa Velez , Deputy City Clerk
City of San José

Approved at City Clerk on:

06/06/2025

of Actions: 3

Attest By:

Toni Taber, CMC,
City Clerk, City of San José