



Special City Council Meeting MINUTES

Wednesday, April 1, 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

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. 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 Special Session on Wednesday, April 1, 2020, at 2:00 p.m.

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

Absent: Councilmembers - All Present.

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, David Sykes

(a) City Manager’s COVID-19 Update (Verbal Report)

(b) City Manager’s Report on Other City Matters (Verbal Report)

City Manager, David Sykes, Deputy City Manager, Kip Harkness and Chief of Staff, Office of the City Manager, Lee Wilcox, provided the presentation.

Public Comments: (1) Katherine Hedges urged policies that allow sick leave for everyone. (2) Earl Moody expressed concerns for a senior family members and other vulnerable members of the public. (3) Blair Beekman addressed daycare planning for children and consistency in our processes.

Extensive discussion followed, and staff responded to questions from Council.

3.2 20-419 Paid Sick Leave Ordinance

As referred by the Rules and Open Government on March 25, 2020:
(a) Consider and discuss a sick leave benefit as set forth in Mayor Liccardo’s March 24, 2020 Sick Leave Ordinance Memo to the Rules and Open Government Committee for San Jose employers that are lawfully permitted to continue operations under the County and State stay-home mandates.

3.2 (Cont'd.)

(b) Direct the City Attorney to draft an urgency ordinance pursuant to the discussion and direction on Mayor Liccardo's March 24, 2020 Sick Leave Ordinance Memo to the Rules and Open Government Committee for the April 7, 2020 City Council meeting.

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. (Liccardo)

[Rules Committee referral 3/18/2020 - Item G.3; 3/25/2020 - Item G.2]

Deputy City Manager/Director of Economic Development Kim Walesh and Senior Deputy City Attorney, Suzanne Hutchins offered a presentation on the topic, and Senior Deputy City Attorney, Glenn Schwarzbach and Assistant City Attorney Ed Moran responded to questions and further outlined the proposed ordinance.

Public Comments: Sixteen members of the public offered opinions and commentary regarding the proposed ordinance, covering topics such as a more permanent sick leave plan, payroll protection and hardship exemptions, and the need for fast food franchises to adhere to safety measures.

Additionally, comments received by a special public comment email during the meeting from four members of the public were read into the record by City Clerk Toni J. Taber, CMC, each elaborating on the need for sick leave benefits as proposed.

Motion: Councilmember Maya Esparza moved approval of the following memoranda, with adjustments as noted. The motion was seconded by Councilmember Sylvia Arenas:

Memorandum from Mayor Liccardo dated March 25, 2020 directing the City Manager to ensure that the City fills gaps in the Families First Corona Virus Response Act (FFCRA) to protect the public health and safety, by: 1. Return at the next Council meeting to enact, pursuant to the City's emergency powers, an urgency ordinance that requires employers that are lawfully permitted to continue operations under the County and State stay-home mandates to provide sick leave of: • An immediate grant of 40 hours of sick leave; • An additional hour of sick leave for every two hours worked, up to a cap of 80 hours sick leave is reached; until the expiration of the City's state of emergency. 2. The following employers will be exempt from this mandate: • Any employer that has already enacted a policy that provides a maximum paid personal leave of at least 160 hours, including PTO & Vacation (or some other level that staff has deemed to be substantially higher than standard comprehensive leave caps for California employers); • Any employer not permitted to operate or employ people at a California work site pursuant to current State/County public health mandates; 3. Staff should further consider and propose to Council whether to impose a lower cap or exemption for small employers, at a threshold it shall propose to Council, after consultation with public health officials or experts. 4. Any proposal for imposition of sick leave mandates in the City of San Jose beyond the duration of the State of Emergency should be referred to the Council's standard prioritization process, for staff and Council to evaluate, and to allow for input from the public and our employers. 5. Direct the City Manager, through the Office of Economic Development, to • Ensure that all small and medium-sized businesses receive, along with any outreach relating to this requirement, information about ■ eligibility for federal tax

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3.2 (Cont'd.)

credits made available through recent legislation that will offset the cost of the federal and local mandate, ■ Small Business Administration loans, ■ no-interest loans through SiliconValleyStrong funds, and other federal and state and philanthropic programs; Create a process by which the City can rapidly notify San Jose residents of those necessary service employers-such as Costco, Safeway, or residential construction contractors-that are hiring in light of current shifts in the economy under the recent mandates, through the Silicon ValleyStrong.org website, Work2Future, and other recognized communication channels.

Including the memorandum from Councilmembers Magdalena Carrasco, Maya Esparza and Sylvia Arenas, dated March 27, 2020, directing staff to accept the 3/25/20 memo from Mayor Sam Liccardo with the following adjustments: i. Replace #1 with the following: "Return at the next Council meeting to enact, pursuant to the City's emergency powers, an urgency ordinance that requires employers that are lawfully permitted to continue operations under the County and State stay-home mandates, in line with recently passed federal law, to provide immediate sick leave of: 80 hours of paid sick time (the equivalent of 10 eight-hour days) for full-time employees; and For all part-time workers, the number of hours that an employee works on average, over a 2-week period." ii. Replace #2 with the following: "The following employers will be exempt from this mandate: "• Any employer that has already enacted a policy that provides access to flexible paid personal leave of at least 80 hours, including sick days, PTO & Vacation, for all employees who have access to equal to the amount described above at the time such an ordinance goes into effect If any employees have access to less than the total paid leave described above at the time the ordinance goes into effect, the employer should be required to provide additional paid time off, which could be accessed only during the duration of the emergency and used before using other available leave, to equal the total hours of paid sick leave described above. • Any employer not permitted to operate or employ people at a California work site pursuant to current State/County public health mandates;" iii. Add the following: "6. Paid sick leave should be available to all employees, as provided under Sections 27503 and 245.5(a)(2) of the California Labor Code, who have worked at least two hours within the geographic boundaries of San Jose for an employer."

Also including items 3-5 of the memorandum from Vice Mayor Jones, and Councilmembers Khamis and Foley as follows: **3.** Prioritize no-interest loans or grants for small businesses that comply with this ordinance through the Silicon Valley Strong Fund. **4.** Provide communication and easy-to-understand information and in multiple languages, via direct mail, in addition to other communications channels, to small and medium-sized businesses on: • Eligibility for federal tax credits made available through recent legislation that will offset the cost of the federal and local mandates. • Small Business Administration loans and technical assistance, such as: o Paycheck Protection Program under the CARES Act which provides forgivable loans under \$10 million via SBA 7(a) lending partners which would be treated like grants as long as business owners prove those dollars went exclusively toward employee payroll, mortgage, rent and utilities for payments. o Economic Injury Disaster Loans & Emergency Economic Injury Grants up to \$2 million. • The prioritization of grants through Silicon Valley Strong Fund. • Other federal, state, and local philanthropic programs, e.g. Facebook Small Business Grant Program, Google Small Business Grant Program **5.** Perform the needed analysis, implement stakeholder engagement, and monitor state and federal legislation before returning to City Council on April 7, 2020.

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3.2 (Cont'd.)

Additionally, Mayor Sam Liccardo offered a friendly amendment to include a termination date coterminous with the federal statute for the conclusion of the emergency declaration. The friendly amendment was accepted.

- **Open Forum**

Public Comment: Blair Beekman addressed sensible ways to fight the panic, urging principled and responsible ways in this time of emergency.

- **Adjournment**

The Council of the City of San José adjourned at 6:19 p.m. to a meeting of the Rules and Open Government Committee, to be continued remotely.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/01-7-20 MIN