



City Council Meeting MINUTES

Tuesday, February 25, 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 SAN JOSE CITY COUNCIL

20-016 - Closed Session: Cancelled.

The Council of the City of San José convened in Closed Session on Tuesday, February 25, 2020, at 1:33 p.m. in the Council Chambers at City Hall. Mayor Sam Liccardo called the meeting to order.

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

Absent: Councilmembers - Arenas. (Excused)

- **Invocation (District 2)**

The South Bay Trombone Choir performed “Achieved is the Glorious Work” by Haydn for the Invocation.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Orders of the Day**

Upon motion by Councilmember Vice Mayor Chappie Jones, seconded by Councilmember Magdalena Carrasco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.4 to be heard before Item 3.3, and with the inclusion of Commendation Item 1.4.

Added under Item 6.2 "Actions Related to the Commercial Solid Waste Agreements", Parts (C) and (D) 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 the Council are Present at the Meeting, a Unanimous Vote of those Members Present that there is a Need to take Immediate Action. Council's Rules of Conduct, Resolution No. 79367, Rule 3(d).
(10-0-1. Absent: Arenas.)

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

- 1.1 Mayor Sam Liccardo and Councilmember Raul Peralez declared March 7, 2020 as National Play Outside Day and recognized San José Earthquakes for hosting Free Play days across the Bay Area. (Peralez)
- 1.2 Mayor Sam Liccardo and Councilmember Magdalena Carrasco presented a Proclamation recognizing February 2020 as Dental Health Awareness Month in the City of San José. (Arenas)
- 1.3 Mayor Sam Liccardo and Councilmember Maya Esparza presented a Commendation to Hien Nguyen for her tireless efforts for her community during and after the 2017 Coyote Creek Flood. (Esparza)
- 1.4 Mayor Sam Liccardo and Councilmember Magdalena Carrasco presented a Commendation to Sonny Madrid and other founding members of Lowrider magazine whose creativity and advocacy helped transform the perception of Chicano and lowrider culture during the 1970's and 1980's. *(Heard in the Evening)*

2. CONSENT CALENDAR

Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Maya Esparza and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Arenas.)

2.1 20-196 Approval of City Council Minutes.

- (a) City Council Study Session: Diridon Station Concept Plan Decision #3 Meeting Minutes of January 28, 2020.
- (b) Regular City Council Meeting Minutes of January 28, 2020.
- (c) Regular City Council Meeting Minutes of February 4, 2020.

Public Comments: Blair Beekman spoke on the importance of the equity study sessions and enhancement of public trust and transparency.

Action: The City Council Minutes were approved. (10-0-1. Absent: Arenas.)

2.2 Final Adoption of Ordinances.

None provided.

2.3 20-197 Approval of Council Committee Minutes.

- (a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of January 22, 2020.
- (b) Regular Community and Economic Development Committee Meeting Minutes of January 27, 2020.

(Item Continued on the Next Page)

2.3 Council Committee Minutes (Cont'd.)

(c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of February 5, 2020.

Action: The City Council Committee Minutes were approved.
(10-0-1. Absent: Arenas.)

2.4 20-199 Mayor and Council Excused Absence Requests.

Request for an excused absence for Mayor Liccardo, from the Regular Meeting of the Rules and Open Government Committee on February 19, 2020 and February 26, 2020, due to personal business.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Mayor)
[Rules Committee referral 2/12/2020 - Item A.1.a]

Action: The Excused Absence Requests were approved.
(10-0-1. Absent: Arenas.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 20-167 Settlement Agreement between City of San José and Brown and Caldwell.

Approve a settlement agreement between the City and Brown and Caldwell in the amount of \$2,750,000 (which includes payment of \$2,500,000 and \$2,500,000 in future professional engineering and consulting services to be provided to the City by Brown and Caldwell) for seismic design issues related to the Digester and Thickener Upgrade Project at the San José/Santa Clara Regional Wastewater Facility, and authorize the City Attorney to execute a Settlement Agreement between the City and Brown and Caldwell.

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

Action: The settlement agreement between the City and Brown and Caldwell was approved.
(10-0-1. Absent: Arenas.)

2.8 20-168 Pond A-18 Surplus Property – Deferred.

Adopt a resolution declaring the City’s Pond A-18 property (Assessor’s Parcel Numbers 015-32-042 and 015-32-043) as exempt surplus land under Cal. Gov. Code §54221 as the land is surplus to the needs of the City.

CEQA: Determination of Consistency with the San José/Santa Clara Water Pollution Control Plant Master Plan Final EIR (Resolution no. 76858), File No. PP20-006. Council District 4. (Environmental Services/Economic Development)

Action: Deferred to 3/3/2020 per Administration.

2.9 20-169 Actions Related to the Purchase Order with Playgrounds Unlimited for Resilient Rubber Playground Resurfacing Services.

Adopt a resolution authorizing the City Manager to:

(a) Execute a Purchase Order with Playgrounds Unlimited (Tracy, CA) for resilient rubber playground resurfacing services for the Department of Parks, Recreation, and Neighborhood Services for an initial twelve-month period, starting on or about March 1, 2020 and ending on or about February 28, 2021, for a total cumulative compensation not-to-exceed amount of \$500,000; and

(b) Exercise up to four additional one-year options to extend the initial term of the purchase order with the last option year ending on or about February 28, 2025, subject to the annual appropriation of funds.

CEQA: Categorically Exempt, File No. PP18-007, CEQA Guidelines Section 15301, Existing Facilities. (Finance)

Action: **Resolution No. 79411** related to Actions Related to the Purchase Order with Playgrounds Unlimited was adopted. (10-0-1. Absent: Arenas.)

2.10 20-170 Actions Related to the Purchase Orders with Sheldrake and Mumford, Inc. and Vintage Contractors, Inc. for Basketball and Tennis Court Resurfacing Services.

Adopt a resolution authorizing the City Manager to:

(a) Execute purchase orders with Sheldrake and Mumford, Inc. (Livermore, CA) and Vintage Contractors, Inc. (San Francisco, CA) for basketball and tennis court resurfacing services for the Department of Parks, Recreation, and Neighborhood Services for an initial twelve-month period, starting on or about March 1, 2020 and ending on or about February 28, 2021, for a total cumulative compensation not-to-exceed amount of \$500,000; and

(b) Exercise up to four additional one-year options to extend the initial term of the purchase orders with the last option year ending on or about February 28, 2025, subject to the annual appropriation of funds.

CEQA: Categorically Exempt, File No. PP19-013, CEQA Guidelines Section 15301, Existing Facilities. (Finance)

Action: **Resolution No. 79412** Related to the Purchase Orders with Sheldrake and Mumford, Inc. and Vintage Contractors, Inc. was adopted. (10-0-1. Absent: Arenas.)

2.11 20-171 Memorandum of Understanding with the City of Santa Clara for the Proposed Coleman Highline Office Development Project.

Approve a Memorandum of Understanding between the City of San José and the City of Santa Clara regarding Responsibilities for Construction Permits and Inspection Activities for the Proposed Coleman Highline Office Development Project by Coleman Airport Partners Tranche 2, LLC.

CEQA: Determination of Consistency with the FMC/Coleman Avenue Environmental Impact Report (Resolution No. 71716), the Airport West Stadium and Great Oaks Place Project Environmental Impact Report (Resolution No. 75309), the Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), the Envision San Jose 2040 General Plan Final Supplemental Environmental Impact Report (Resolution No. 77617), and addenda thereto. Council District 3. (Planning, Building and Code Enforcement)

Action: The memorandum of Understanding between the City of San José and the City of Santa Clara was approved.
(10-0-1. Absent: Arenas.)

2.12 20-172 Actions Related to the Senate Bill 2 Planning Grant Program from the California Department of Housing and Community Development.

Adopt a resolution authorizing the City Manager or designee to:
(a) Apply for the Senate Bill 2 Planning Grant administered by the California Department of Housing and Community Development; and
(b) If awarded, negotiate and execute grant agreement(s) to effectuate the grant.

CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application, and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Planning, Building and Code Enforcement)

Action: **Resolution No. 79413** adopting actions Related to the Senate Bill 2 Planning Grant Program from the California Department of Housing and Community Development was adopted.
(10-0-1. Absent: Arenas.)

2.13 20-166 Approval of the 15th Annual Santos Family Car Show sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Approve the 15th Annual Santos Family Car Show scheduled on September 5, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.
(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. (Diep)

Action: The City Council Sponsored Special Event was approved.
(10-0-1. Absent: Arenas.)

2.14 20-198 Boards and Commissions Appointments.

Approve the following Measure T Community Oversight Committee appointment:

(a) District 5 Seat: Appoint Ellen Talbo

CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no changes to the physical environment. (City Clerk)

Action: Ellen Talbo was appointed to the District 5 Seat of the Measure T Community Oversight Committee. (10-0-1. Absent: Arenas.)

2.15 20-190 Retroactive Approval of Vietnamese Lunar New Year-Tet Festival Community Event 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.

(a) Retroactively approve the Vietnamese Lunar New Year Tet-Festival scheduled on Friday, January 24, 2020 through Sunday, January 26, 2020 and January 31, 2020 through Sunday, February 2, 2020 at Eastridge Mall as a City Council sponsored Special Event and approve the expenditure of funds.

(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 02/12/2020 - Item G.1(a)]

Action: The City Council Sponsored Special Event was retroactively approved. (10-0-1. Absent: Arenas.)

2.16 20-192 Retroactive Approval of Winter Walk and Senior Resource Fair Sponsored by Council Districts 10, 9, and 2 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Retroactively approve the 13th Annual Winter Walk and Senior Resource Fair scheduled on Friday, February 21, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(c) Approve the purchase of various items and gift cards, under \$50 each, for the prize drawing.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Khamis)
[Rules Committee referral 02/12/2020 - Item G.1(b)]

Action: The City Council Sponsored Special Event was retroactively approved. (10-0-1. Absent: Arenas.)

2.17 20-209

Approval of Coffee with the Chief Sponsored by Council District 2 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Approve the Coffee with the Chief scheduled on February 29, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.

(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. (Jimenez)

[Rules Committee referral 02/19/2020 - Item G.1(a)]

Action: The City Council Sponsored Special Event was approved.
(10-0-1. Absent: Arenas.)

2.18 20-210

Retroactive Approval of State of the District Sponsored by Council District 6 as a City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.

(a) Retroactively approve State of the District held on January 29, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.

(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. (Davis)

[Rules Committee referral 02/19/2020 - Item A.1.a]

Action: The City Council Sponsored Special Event was retroactively approved.
(10-0-1. Absent: Arenas.)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, David Sykes (Verbal Report)

None provided.

3.2 Labor Negotiations Update.

None provided.

2020-2021 Council Priority Setting.

Approve the following elements of the 2020-2021 Council Policy

Priority Setting session:

(a) Remove the following priorities from the 2019-2020 Council Policy

Priority List as complete:

- (1) Priority #3, Disadvantaged Business Enterprises
- (2) Priority #7, Accessory Dwelling Units and Garage Conversion Ordinance
- (3) Priority #10, Safe Parking Program
- (4) Priority #15, Family-Friendly City-Paid Family Leave
- (5) Priority #18, Sanctioned Encampments
- (6) Priority #22, Develop Innovative Strategies to Hire Crossing Guards
- (7) Priority #24, Food & Clothing Distribution at City Parks
- (8) Priority # 25, Private Property Graffiti Abatement Ordinance

(b) Combine the following priorities from the 2019-2020 Council Policy Priority List as the work is overlapping and interdependent:

- (1) Priority #12, Universal Development Fee
- (2) Priority #21, Impact Fee Deferred Payment Program for Housing

(c) Remove the following items from the 2019-2020 Council Policy Priority List as the work is multi-year and ongoing in nature:

- (1) Priority #8, North San José Review

(d) Approve new items for the 2020-2021 Council Policy Priority List.

(e) Rank items on the 2020-2021 Council Policy Priority List.

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

Chief of Staff, Office of the City Manager, Lee Wilcox and Assistant to the City Manager, Michelle McGurk, outlined the process for the priority setting session and responded to questions from Council.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Maya Esparza and carried unanimously, the removal of noted items from the Priority List, combination of overlapping priorities from the 2019-2020 Priority List, removal of those items deemed multi-year and complete, and freezing the Top 10 from 2019-2020, was approved.

(10-0-1. Absent: Arenas.)

Public Comments: Eighty-eight members of the public offered opinions regarding items they feel should be prioritized.

Round 1 voting followed, with the preliminary ranking of items A-Y.

Council recessed at 5:53 p.m. while votes were being tabulated. Council session resumed at 6:25 p.m. with all Councilmembers, excluding Councilmember Sylvia Arenas, present.

Staff continued with additional information regarding the prioritization list and voting results.

Mayor Sam Liccardo clarified that any item with five votes or more for a total of seven votes (noted below in “Action”) would move on to priority setting. Due to the absence of Councilmember Sylvia Arenas, the threshold was lowered to five votes.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, the following items from Round 1 were moved on to priority setting Round 2: (B) Explore Procurement of a Polypropylene Plastic Purification Plant, (D) Public Safety Power Shutoffs: Making San Jose Grid Resilient, Item 5b, (E) Flavored Tobacco and E-Cigarettes, (O) Update Council Policy 5-6, Traffic Calming Policy for Residential Neighborhoods, (R) Single-Use Plastic Ban, (U) Private Percent for Art, and (X) Citywide Transit First Policy Framework. (10-0-1. Absent: Arenas.)

Council Policy Prioritization Process – Round 2 Voting was Presented as follows:

Round 2: Priority Ranking Results

	ITEMS	VOTES
11	Anti-Displacement Preference Ordinance	6
12	Flavored Tobacco and E-Cigarettes, Items 1, 2, and 3/ Protecting Our Youth from the E- Cigarette Epidemic (COMBINED)	6
13	Update Council Policy 5-6, Traffic Calming Policy for Residential Neighborhoods	5
14	Citywide Transit First Policy Framework	4
15	Public Safety Power Shutoffs: Making San José Grid Resilient, Item 5b (bond financing)	4
16	Update the Council's Wage Theft Prevention Policy	4
17	Downtown Zoning Code Update	3
18	Smoke-Free Housing	3
19	Explore Procurement of a Polypropylene Plastic Purification Plant	2
20	Private Percent for Art	2
21	Update Urban Design Guidelines	1
22	Single-Use Plastic Ban	0

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3.3 2020-2021 Council Priority Setting (Cont'd.)

Motion: Councilmember Sergio Jimenez moved approval of his memorandum dated February 21, 2020 regarding re-evaluating the priority-setting process. Councilmember Raul Peralez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and Councilmember Sergio Jimenez memorandum, dated February 21, 2020 was approved, directing staff to explore additional potential modifications to the Priority Setting process, incorporating the following elements and suggestions. Any changes will not be implemented until the next Priority Setting session, in 2021.

(1) Alignment with Council Reorganization and Budget (a) Evaluate the desirability of establishing a 2-year Priority Setting cycle. The process could begin shortly after the reorganization of the Council and conclude with the adoption of the budget. This would provide staff with two fiscal years to accomplish the priorities. (b) Continue aligning the Priority Setting process with the budget process to ensure priorities are integrated into the budget. (c) Continue providing annual progress reports, at minimum, coinciding with the Mid-Year Budget Review or another appropriate opportunity. These may allow for minor modifications to the priorities as needed.

(2) Strategic Planning (a) Explore opportunities to incorporate greater strategic planning into the Priority Setting process. For example, consider a 2-step process in which the Council first establishes high-level, thematic goals, potentially with measurable outcomes. Then, the Council identifies specific projects that would achieve those thematic goals. (b) Priority projects unrelated to the thematic goals may be added to the workplan if sufficient resources and staff capacity are available

(3) Assessment of Resources and Staff Capacity (a) To provide a more transparent and realistic assessment of available resources and staff capacity, include other ongoing projects in the workplan that is developed through the Priority Setting process. These projects would include those identified in the General Plan, Climate Smart San Jose, the Housing Crisis Workplan, and other major plans, initiatives, and programs that contribute to staff workload. (b) Organize priority projects, including those identified through 3(a), by City Service Area (CSA). This will help ensure a more equitable distribution of projects across City departments.

(10-0-1. Absent: Arenas.)

Actions Related to the Grant Agreements with California Emerging Technology Fund from the Digital Inclusion Fund.

Adopt a resolution:

(a) Approving the award of Digital Inclusion grants to the following organizations in the amounts specified:

- (1) Ace Charter Schools \$50,000
- (2) Alum Rock Union School District \$125,000
- (3) Catholic Charities of Santa Clara County \$100,000
- (4) Cristo Rey San José High School \$25,000
- (5) First Community Housing \$75,000
- (6) Goodwill of Silicon Valley \$25,000
- (7) Hoover PTA \$25,000
- (8) International Children Assistance Network, Inc. (ICAN) \$20,000
- (9) Indian Health Center of Santa Clara Valley \$37,500
- (10) International Rescue Committee, Inc. (IRC) \$10,000
- (11) Lit Lab \$37,500
- (12) Latinos United for New America (LUNA) \$20,000
- (13) NPower, Inc. \$25,000
- (14) Rocketship Education dba Rocketship Public Schools \$25,000
- (15) Sacred Heart Community Service \$50,000
- (16) The San José Library Foundation \$150,000
- (17) San José Community Media Access Corp. \$5,000
- (18) City of San José Parks, Recreation and Neighborhood Services (PRNS) \$25,000
- (19) Step Up And Do Something! Inc. \$5,000
- (20) Street Code Academy \$5,000
- (21) Tech Exchange (The Oakland Public Education Fund) \$100,000
- (22) Third Street Community Center \$10,000
- (23) The Vietnamese Voluntary Foundation, Inc. (VIVO) \$50,000

(b) Authorizing the City Manager to approve the form of the grant agreements between the grantees and the City’s fiscal agent, California Emerging Technology Fund (CETF) with the City as a third-party beneficiary;

(c) Authorizing the City Manager to negotiate and execute an amendment to the City’s agreement with CETF to clarify the administration of the grant awards; and

(d) Authorizing a \$1,000,000 payment from the Digital Inclusion Fund to CETF to distribute the grant awards to the grantees pursuant to the agreement with CETF.

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

Director of Civic Innovation, Dolan Beckel provided opening comments, and staff, including J. Guevara, Broadband Manager, Office of Civic Innovation; Charlene Tatis, San José Digital Inclusion Director, CETF; Sunne Wright McPeak, President and CEO, California Emerging Technology Fund (CETF) offered a presentation.

3.4 (Cont'd.)

Public Comments: Offering support to the staff recommendations were: Dr. Mary Ann Dewan (SCCOE), Lennie Gutierrez (San Jose Digital Advisory Board), Rosemary Baez (Third Street Community Center), Quyen Vuong (ICAN), Gerardo Loera (Indian Health Center), Wendi Gurahoo (Library Commission), Blair Beekman, and Bao Trien (Vivo).

The Mayor and Council offered comments and support to the Smart City Vision.

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 79414** was adopted, including the joint memorandum from Mayor Sam Liccardo and Councilmember Dev Davis, dated February 21, 2020, to: Accept staff recommendation to award \$1M in grants to 23 community based organizations (CBOs) that advance the goals and mission of the Digital Inclusion Fund, with the following additional direction: 1) Continuous improvement: Engage with community stakeholders and experts to ensure ongoing assessment and updates to the grant application, capital allocation methodology, evaluation, and outreach strategy, and communicate our process improvements with all relevant stakeholders. 2) Engaging Council: Present to the Smart Cities Committee regularly regarding metrics, evaluation criteria, and performance, with an annual update to the City Council. 3) Scaling Impact: Support fundraising efforts of the Mayor's Office of Technology and Innovation to supplement the Digital Inclusion Fund, including corporate, philanthropic, as well as state and federal budget requests and potential legislation.

Also including Councilmember Sylvia Arenas memorandum dated February 25, 2020, to: Approve staff recommendations to award a total of \$1 million in Digital Inclusion grants to the twenty-three organizations and: 1. Expand outreach for the next grant cycle to local stakeholders, including neighborhood associations and organizations, through multilingual community meetings to ensure cultural and linguistic competency for the grant application process and grant-funded program improvement monitoring. 2. Prioritize Digital Inclusion Partnerships in areas based on highest need including the 95122 zip code. 3. Add the Digital Inclusion Fund and Digital Inclusion Partnership to the Neighborhood Services and Education Committee Workplan to report on grantee methodology, performance evaluations, and neighborhood feedback. (10-0-1. Absent: Arenas.)

3.5 20-185 Citywide Infrastructure and Deferred Maintenance Backlog Report.

As recommended by the Transportation and Environment Committee on February 3, 2020, accept the status report on the City's Deferred Maintenance and Infrastructure Backlog.

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 Works)

[Transportation and Environment Committee referral 2/3/2020 - Item (d)2]

Action: The Citywide Infrastructure and Deferred Maintenance Backlog Report was accepted. (10-0-1. Absent: Arenas.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 20-176 Application for Electric Transmission Service Interconnection.

Direct the City Manager to prepare and submit, in coordination with the City Attorney's Office, a Wholesale Transmission Service Interconnection Application to Pacific Gas and Electric, and if appropriate, to proceed with any required Pacific Gas and Electric System Impact and Facilities Studies, for the City of San José to provide electric distribution service to the Downtown West Mixed-Use Plan area and potentially the broader area where new development is occurring.

CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.

Council District 3. (Community Energy)

[Deferred from 2/11/2020 Item 6.2 (20-136)]

Director, Community Energy Department, Lori Mitchell provided a presentation and responded to questions. Deputy Director of Community Energy, Kevin O'Connor, responded to questions.

Public Comments: Jeffrey Buchanan, Working Partnerships USA, questioned how labor standards will apply and expressed concerns regarding safety for workers.

The topic of labor standards was addressed by Director, Community Energy Department, Lori Mitchell. Councilmember Johnny Khamis expressed the need for a study session on this topic, and Councilmember Maya Esparza expressed her concerns regarding a city-owned utility.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez and carried, direction regarding the Application for Electric Transmission Service Interconnection was accepted. (9-1-1. Noes: Esparza. Absent: Arenas.)

Actions Related to the Commercial Solid Waste Agreements.

(a) Approve the amended and restated agreement with Allied Waste Services of North America, LLC, dba Allied Waste Services of Santa Clara County to modify the terms for collecting and processing commercial solid waste, recyclables and organic materials and to extend services through June 30, 2032.

(b) Approve the amended and restated agreement with Zero Waste Energy Development Company to modify the terms for processing commercial solid waste, recyclables and organic materials and to extend organic processing services through June 30, 2032.

(c) Approve an ordinance amending Ordinance No. 28937, the Commercial Solid Waste and Recyclable Material Collection Franchise for the North District to Allied Waste Services of North America, LLC dba Allied Waste Services of Santa Clara County to conform its term to the amended and restated franchises agreement.

(d) Approve an ordinance amending Ordinance No. 28936, the Commercial Solid Waste and Recyclable Material Collection Franchise for the South District to Allied Waste Services of North America, LLC dba Allied Waste Services of Santa Clara County to conform its term to the amended and restated franchises agreement.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report and Supplemental Program Environmental Impact Report, and all addenda thereto. File No. ER19-084. (Environmental Services)
[Deferred from 1/28/2020 - Item 6.1 (20-091)]

Director, Environmental Services, Kerrie Romanow, provided a presentation and responded to questions.

Public Comments: Emily Hanson, Zero Waste Energy Development expressed support for the agreement.

Mayor Sam Liccardo expressed concerns regarding compliance and enforcement, given the challenges we have had with compliance in the past. He asked that the motion include clear direction ensuring we have clear, immediate and objective criteria for compliance and imposing sanctions should the service provider fail to perform.

Action: Upon motion by Councilmember Lan Diep, seconded by Vice Mayor Chappie Jones and carried unanimously, actions Related to the Commercial Solid Waste Agreements were approved: **Resolution No. 79415** for Allied Waste Services, **Resolution No. 79416** for Zero Waste Energy Development Company were adopted, with the insurance that clear and objective criteria for compliance and enforcement be included in the language for these agreements. **Ordinance No. 30366** amending Ordinance No. 28937, and **Ordinance No. 30367**, Amending Ordinance No. 28936 were passed for publication. (9-0-2. Absent: Arenas, Carrasco.)

Councilmembers Carrasco and Davis left the meeting at approximately 7:30 p.m.

6.3 20-178 Actions Related to the Amended and Restated Design-Build Contract for Final Design and Construction of the Headworks Project at the San José-Santa Clara Regional Wastewater Facility.

(a) Approve the Amended and Restated Design-Build Contract with CH2M HILL Engineers, Inc. for the final design, construction, commissioning and acceptance testing of the Headworks Project at the San José-Santa Clara Regional Wastewater Facility with a base Guaranteed Maximum Price in an amount not to exceed \$126,874,142.

(b) Approve a ten percent construction contingency in the amount of \$12,688,000 for adjustments to the base Guaranteed Maximum Price in accordance with the Amended and Restated Design-Build Contract.

CEQA: Addendum to the Final Program Environmental Impact Report for the San José/Santa Clara Water Pollution Control Plant Master Plan (Resolution No. 76858), File No. PP19-042. (Environmental Services/Public Works)

Environmental Services Department Director, Mariana Chavez-Vasquez, provided a presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Lan Diep and carried unanimously, actions Related to the Amended and Restated Design-Build Contract for Final Design and Construction of the Headworks Project at the San José-Santa Clara Regional Wastewater Facility were approved. (9-0-3. Absent: Arenas, Carrasco, Davis.)

6.4 20-179 Second Amendment to the Consultant Agreement with Brown and Caldwell for Engineering Services for the Digester and Thickener Facilities Upgrade Project.

Approve the Second Amendment to the Consultant Agreement with Brown and Caldwell for engineering services for the Digester and Thickener Facilities Upgrade project at the San José-Santa Clara Regional Wastewater Facility, modifying the scope of services, extending the term of agreement from June 30, 2020 to June 30, 2022, and increasing the amount of compensation by \$2,530,734 for a total agreement amount not to exceed \$16,548,144, subject to the appropriation of funds.

CEQA: San José-Santa Clara Regional Wastewater Facility Digester and Thickener Facilities Upgrade Project Mitigated Negative Declaration, File No. PP15-055. (Environmental Services)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Lan Diep and carried unanimously, the Second Amendment to the Consultant Agreement with Brown and Caldwell was approved. (8-0-3. Absent: Arenas, Carrasco, Davis.)

6.5 20-180 Actions Related to the Issuance of Non-Exclusive Franchise Agreements for the Collection, Transport, and Disposal of Residential Clean-Out Material and Construction and Demolition Debris.

(a) Conduct a Public Hearing on the applications of the companies listed below for Non-Exclusive Franchises for the non-exclusive collection, transport, and disposal of residential clean-out material and construction and demolition debris.

(b) Approve ordinances granting the franchises.

(c) Approve the Non-Exclusive Franchise Agreements with the following companies for the collection, transport, and disposal of residential clean-out material and construction and demolition debris, each for an initial term from the effective date of the ordinance granting the Non-Exclusive Franchise to June 30, 2020 with the option for a one-year extension through June 30, 2021:

(1) Norm's Recycling, LLC; and

(2) Garden of Eden Landscapes, Inc. DBA Ground Force Enterprises.

CEQA: Categorically Exempt, File No. PP08-228, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services)

Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Maya Esparza and carried unanimously, **Ordinance No. 30368** and **Ordinance No. 30369** were passed for publication, and the Non-Exclusive Franchise Agreements were approved.

(8-0-3. Absent: Arenas, Carrasco, Davis.)

6.6 20-181 Agreement with Valley Water for the Sale of Pond A-18 for the Shoreline Levee Project – Deferred.

Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Valley Water for the sale of Pond A-18 and related easements to support the Shoreline Levee Project consistent with the criteria directed by the Treatment Plant Advisory Committee and Council in October of 2015 and 2017.

CEQA: Determination of Consistency with the San Jose/Santa Clara Water Pollution Control Plant Master Plan Final EIR (Resolution No. 76858) and all addenda thereto. File No. PP20-006. Council District 4. (Environmental Services/Economic Development)

Action: Deferred to 3/3/2020 per Administration.

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 20-182 **Purchase and Sale Agreement with AV San Jose, LLC for Certain Real Property Located at East Alma Avenue and Senter Road.**

(a) Adopt a resolution authorizing the City Manager to negotiate and execute:

(1) An Agreement with AV San Jose, LLC for the purchase by the City of 4.95 acres located at the southwest corner of East Alma Avenue and Senter Road, identified as Assessor's Parcel Number 477-38-016, for a price of \$8,500,000, inclusive of a \$100,000 buyer holdback for qualified environmental remediation expenses; and

(2) All other documents necessary to effectuate the property transfer to the City.

(b) Adopt the following Fiscal Year 2019-2020 Appropriation Ordinance Amendments in the General Fund:

(1) Decrease the Fire Training Center Replacement Reserve in the amount of \$8,500,000; and

(2) Increase the Fire Training Center Relocation City-Wide Capital Improvements appropriation to the Fire Department in the amount of \$8,500,000.

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

Council District 7. (Economic Development/City Manager)

Economic Development Assistant Director, Nanci Klein offered a presentation.

Action: Upon motion by Councilmember Maya Esparza, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 79416** and Appropriation **Ordinance No. 30370** were adopted. (7-0-4. Absent: Arenas, Carrasco, Davis, Peralez.)

8.2 20-183 **Actions Related to the Transfer of Coyote Valley Property to the City.**

Adopt a resolution authorizing the City Manager to:

(a) Complete negotiation of the terms of the transfer of approximately 14.5 acres of property in the Coyote Valley to the City;

(b) Negotiate and execute an amendment to the Coyote Valley Master Transfer and Conservation Agreement among the Peninsula Open Space Authority, the City and the Santa Clara Valley Open Space Authority to revise provisions related to the transfer of approximately 14.5 acres of property in the Coyote Valley to the City; and

(c) Take various actions to effectuate the transfer, including without limitation, execution of the documents related to the transfer.

CEQA: Categorically Exempt, File ER19-064, CEQA Guidelines 15307
Actions by Regulatory Agencies for Protection of Natural Resources

(Item Continued on the Next Page)

8.2 (Cont'd.)

and 15308 Actions by Regulatory Agencies for Protection of the Environment. Council District 2. (Economic Development)

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Johnny Khamis and carried unanimously, **Resolution No. 79417**, Related to the Transfer of Coyote Valley Property to the City was adopted. (8-0-3. Absent: Arenas, Carrasco, Davis.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

- (a) **20-186** **PP19-047 - Amendment to Title 23 of the San José Municipal Code (Sign Code).**

Approve an ordinance amending Section 23.04.038 (North San José Signage Area) and Section 23.04.124 (Downtown Sign Zone) of Chapter 23.04 of Title 23 of the San José Municipal Code to modify permit provisions for Supergraphic Signs; amending Section 23.04.156 of Part 2.5 (Urban Mixed-Use Sign Development Zone) of Chapter 23.04 of Title 23 to allow skyline signs; and to make other non-substantive, ministerial, technical, or typographical changes to Chapter 23.04 of Title 23 of the San José Municipal Code.
CEQA: Determination of Consistency to the Envision San José 2040 General Plan EIR (Resolution No. 76041), Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. File No. PP18-047. (Planning, Building and Code Enforcement)
[Deferred from 2/11/20 - Item 10.1(b) - (20-144)]

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Maya Esparza and carried unanimously, **Ordinance No. 30371**, amending Title 23 of the San José Municipal Code (Sign Code), was passed for publication.
(8-0-3. Absent: Arenas, Carrasco, Davis.)

10.1 Land Use on Consent Calendar (Cont'd.)

(b) **20-187** **PP19-084 - Amendment to Title 20 of the San José Municipal Code (Zoning Ordinance).**

Approve an ordinance of the City of San José amending Title 20 of the San José Municipal Code (Zoning Ordinance) to change permit requirements for drinking establishment in conjunction with a winery, brewery, or distillery and off-sale of alcoholic beverages as incidental to a winery, brewery, or distillery in the Commercial, Industrial, and Downtown Zoning Districts in Table 20-90 in Section 20.40.100 of Chapter 20.40, Table 20-110 in Section 20.50.100 of Chapter 20.50, and Table 20-140 in Section 20.70.100 of Chapter 20.70; amend Table 20-90 in Section 20.40.100 of Chapter 20.40 and Table 20-140 in Section 20.70.100 of Chapter 20.70 to include Taproom or Tasting Room with off-sale of alcohol; amend the parking requirement for medical or dental clinic/out-patient facility in Table 20-140 of Section 20.70.100; amend Section 20.50.110 commercial support to include the Administrative Permit for Off-Sale of Alcohol; amend Section 20.80.900 Alcoholic Beverages in conjunction with wineries, breweries, or distilleries to include a section for Off-Sale of Alcoholic Beverages in conjunction with a winery, brewery, or distillery; add Part 5.75 Taproom or Tasting Room and Off-Sale of Alcoholic Beverages to Chapter 20.80; add a parking requirement for Taproom or Tasting Room use in Table 20-190 in Chapter 20.90; add the definition for Taproom or Tasting Room in Section 20.200.1273 of Chapter 20.200; and make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Envision San José 2040 General Plan Final Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. File No. PP19-084. (Planning, Building and Code Enforcement)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Maya Esparza and carried unanimously, **Ordinance No. 30372** amending Title 20 of the San José Municipal Code (Zoning Ordinance), was passed for publication.

(8-0-3. Absent: Arenas, Carrasco, Davis.)

(c) **20-188** **PP19-085 - Amendment to Title 20 of the San José Municipal Code (Zoning Ordinance).**

Approve an ordinance of the City of San José amending Title 20 of the San Jose Municipal Code to amend Section 20.30.600 Table 20-80 to add clarifying language to the Corner Lot Side Setback Area definition and standards; amend Section 20.80.1440 to add Lawful Non-Residential Uses into Residential Zoning Districts for the Outdoor Private Property Special Events Permit Process; amend Section

(Item Continued on the Next Page)

(c) 20-188 PP19-085 - Amendment to Title 20 of the San José Municipal Code (Cont'd.)

20.80.1450 to add clarifying language which defines setbacks for Lawful Non-Residential uses; amend Section 20.80.1460 to include Downtown Zoning Districts and reduce setbacks for Outdoor Private Property Special Events in commercially zoned districts within designated Neighborhood Business Districts when in compliance with Residential Standards under this part; amend Section 20.80.1460 and 20.80.1470 to increase the number of Outdoor Private Property Special Events which can take place in Commercial and Industrial Zoning Districts; amend Section 20.80.1510 to increase the Permit Acceptance or Denial Period from thirty (30) to forty-five (45) days; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Envision San José 2040 General Plan Final Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. (Planning, Building and Code Enforcement)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Maya Esparza and carried unanimously, **Ordinance No. 30373** amending Title 20 of the San José Municipal Code (Zoning Ordinance) was passed for publication. (8-0-3. Absent: Arenas, Carrasco, Davis.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 20-189 C19-039, SP19-063, T19-050 - Conventional Rezoning, Special Use Permit and Vesting Tentative Map for Certain Real Property Located at 292 Stockton Avenue.

(a) Adopt a resolution adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942) for the Stockton Avenue Hotel and Condominium Project, and associated Mitigation Monitoring and Reporting Program, in accordance with the California Environmental Quality Act, as amended.

(b) Approve an ordinance rezoning certain real property approximately 0.86-gross acres in size from the HI Heavy Industrial Zoning District to the DC Downtown Primary Commercial Zoning District.

(c) Adopt a resolution approving, subject to conditions, the Vesting Tentative Map, to subdivide the building's airspace into one commercial condominium unit for hotel use and 19 residential condominium units above the hotel space.

(d) Adopt a resolution approving, subject to conditions, a Special Use Permit, to allow a mixed-use development consisting of a 303-room hotel and 19 attached condominium residential units within a nine-story, 342,388-square foot building with three levels of underground parking on a 0.86-gross acre site, and to allow the hotel to become a commercial condominium unit.

10.2 (Cont'd.)

CEQA: Stockton Hotel and Condominium Project Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942). File No. C19-039, SP19-063, T19-050. Planning Commission recommends approval (7-0). Council District 3. (Planning, Building and Code Enforcement)

Public Comments: Erik Schoennauer, representing the Applicant, spoke to the merits of the Project.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, **Resolution No. 79418** adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report, **Resolution No. 79419** approving, subject to conditions, the Vesting Tentative Map, and **Resolution No. 79420** approving, subject to conditions, a Special Use Permit, to allow a mixed-use development, were adopted; and **Ordinance No. 30374** rezoning certain real property approximately 0.86-gross acres in size from the HI Heavy Industrial Zoning District to the DC Downtown Primary Commercial Zoning District, was passed for publication. (8-0-3. Absent: Arenas, Carrasco, Davis.)

- **Open Forum**

None provided.

- **Adjournment**

The meeting of the Council of the City of San José was adjourned at 8:15 p.m. in memory of Dr. Willie T. Gaines Jr., Pastor Emeritus, who served as Emmanuel Baptist Church's pastor for 27 years. Pastor Gaines lead a remarkable life, expanding San Jose's Emmanuel Baptist Church from 200 members to over 5,000 and touching the lives of many more. Pastor Gaines leaves to cherish his memory his wife of over 50 years, Alice; his daughter, Galen; a host of relatives, friends, and ministry sons and daughters; and untold numbers who were blessed by his unique personality and down-home wisdom.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/02-25-20 MIN