



City Council Meeting SYNOPSIS

Tuesday, May 4, 2021

Virtual Meeting - <https://sanjoseca.zoom.us/j/91325378626>

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



- **Call to Order and Roll Call**

9:31 a.m. - Closed Session, Call to Order.

Councilmembers Absent: Esparza, Arenas (10:29 a.m.).

1:32 p.m. - Regular Session

Councilmembers Absent: Esparza.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 5)**

Jesus Covarrubias a professor at San Jose City College offered the invocation.

- **Orders of the Day**

The Orders of the Day were approved.

Councilmember Magdalena Carrasco offered that today's meeting would be adjourned in memory of Natalia Smüt Lopez.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

2. CONSENT CALENDAR

2.1 Approval of City Council Minutes.

2.2 21-952

Final Adoption of Ordinances.

Ordinance No. 30562 - An Ordinance of the City of San José Prezoning Certain Real Property of Approximately 0.28 Gross Acre, Situated on the Northeast Corner of Woodard Road and Calico Avenue (15415 Woodard Road) (APN: 414-27-018) from Unincorporated Territory within the County of Santa Clara to the R-1-8 Single-Family Residence Zoning District.[Passed for Publication on 4/20/2021- Item 10.1(a) (21-741)]

Action: City of San José **Ordinance No. 30562** Prezoning Certain Real Property situated on the Northeast Corner of Woodard Road and Calico Avenue (15415 Woodard Road) was passed for publication. (10-0-1. Absent: Esparza)

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 21-950

Amendment to Agreement with Keyes & Fox, LLP for Legal Services Related to the San José Clean Energy Program.

Adopt a resolution authorizing the City Attorney to negotiate and execute a fifth amendment to the agreement with Keyes & Fox, LLP for legal services related to the San José Clean Energy program, increasing the amount of compensation by \$250,000 for a total amount not to exceed \$570,000. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Action: **Resolution No. 79984** authorizing the City Attorney to negotiate and execute a fifth amendment to the agreement with Keyes & Fox, LLP for legal services related to the San José Clean Energy program was adopted. (10-0-1. Absent: Esparza)

2.8 21-1031

Approval of South Bay Clean Creeks Coalition Commendation Sponsored by Council District 3 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on April 28, 2021: (a) Approve the South Bay Clean Creeks Coalition Commendation scheduled on May 4, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Peralez) [Rules Committee referral 4/28/2021 - Item G.1.a]

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

2.9 21-1038

Retroactive Approval of Multiple Dumpster Days and Clean Ups Sponsored by Council District 7 as a City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.

As recommended by the Rules and Open Government Committee on April 28, 2021: (a) Retroactively approve the Dumpster Day held at 3975 Mira Loma Way scheduled on April 10, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; (b) Retroactively approve the Communications Hill E-Waste Drive scheduled on April 10, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; (c) Retroactively approve the Dumpster Day held at Tuers Road and Alvernaz Drive scheduled on April 17, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; (d) Retroactively approve the Lone Bluff Neighborhood Litter Pick Up scheduled on April 17, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; and (e) Approve and accept donations from various individuals, businesses, or community groups to support the events. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Esparza) [Rules Committee referral 4/28/2021 - Item G.1.c]

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

2.10 21-1024

Retroactive Approval of Two Dumpster Days Sponsored by Council District 5 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.

(a) Retroactively Approve the Dumpster Day Event scheduled on April 10, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; (b) Retroactively Approve the Dumpster Day Event scheduled on April 24, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; and (c) Approve and accept donations from various individuals, businesses, or community groups to support the events. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco) [Rules Committee referral 4/28/2021 - Item A.1.a]

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

2.11 21-1045

Approval of Melanoma Awareness Month Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on April 28, 2021: (a) Approve the Melanoma Awareness Month scheduled on May 4, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary

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2.11 (Cont'd.)

Special Events resulting in no changes to the physical environment. (Carrasco) [Rules Committee referral 4/28/2021- Item G.1.b]

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

2.12 21-1059

AB 367 (Garcia): Menstrual Products.

As recommended by the Rules and Open Government Committee on April 28, 2021, adopt a position of support for AB 367 (C. Garcia) on supplying no-cost menstrual products. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative activities resulting in no changes to the physical environment. (City Manager) [Rules Committee referral 4/28/2021 - Item G.2]

Action: A position of support for AB 367 (C. Garcia) on supplying no-cost menstrual Products was adopted, including the acceptance of the memorandum from Councilmember Raul Peralez, dated March 23, 2021, recommending to add Assembly Bill 367, the Menstrual Equality Act, under this year's list of legislative priorities. (10-0-1. Absent: Esparza)

2.13 21-1065

H.R. 831 (Peters): Health STATISTICS Act of 2021.

As recommended by the Rules and Open Government Committee on April 28, 2021, adopt a position of support for H.R. 831 (Peters) on the development of certain public health data standards, epidemiological surveillance grants, and a data linkage demonstration project. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative activities resulting in no changes to the physical environment. (City Manager) [Rules Committee referral 4/28/2021 - Item G.3]

Action: A position of support for H.R. 831 (Peters), on the development of certain public health data standards, epidemiological surveillance grants, and a data linkage demonstration project was adopted. (10-0-1. Absent: Esparza)

2.14 21-1072

H.R. 1985 (Pascrell): Nursing Home Reform Modernization Act.

As recommended by the Rules and Open Government Committee on April 28, 2021, adopt a position of support for H.R. 1985 (Pascrell). CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative activities resulting in no changes to the physical environment. (City Manager) [Rules Committee referral 4/28/2021 - Item G.4]

Action: A position of support for H.R. 1985 (Pascrell) Nursing Home Reform Modernization Act was adopted. (10-0-1. Absent: Esparza)

3. STRATEGIC SUPPORT

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

City Manager, David Sykes recognized the Unsung Heroes from the EOC Volunteer Branch in Partnership with Silicon Valley Council of Non-Profits: Pablo Haake, Brandy Maldonado, Aurelia Bailey, and Paul Meyere. He thanked them for their constant efforts supporting, coordinating, and recruiting volunteers for the vaccination events.

Chief of Staff, Emergency Operations Center Director, Lee Wilcox and Deputy City Manager, Emergency Operations Center Director, Kip Harkness presented the Covid-19 Update and Emergency Operation Center Update.

Director of Vaccination Task Force, Anh Tran offered the Vaccination Support Update and the updated Vaccination Task Force Roadmap (May-August 2021).

Assistant Director of Human Resources, Kelli Parmley offered the Return to Onsite Work and Reopening of City Facilities Update.

3.2 Labor Negotiations Update.

None provided.

3.3 21-944

COVID-19 Preliminary Operational Assessment Report Revision.

Accept the revised COVID-19 Preliminary Operational Assessment Report, white papers and Operational Adjustment Plan. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: The revised COVID-19 Preliminary Operational Assessment Report was accepted. (10-0-1. Absent: Esparza)

3.4 21-945

Fiscal Recovery Update and Appropriation Actions to Continue the City's COVID-19 Pandemic Response.

(a) Receive a report on the status of the City's fiscal recovery efforts related to the COVID-19 pandemic. (b) Adopt 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the Coronavirus Relief Fund, the Emergency Reserve Fund, and the General Fund as described in Attachment A to the staff memorandum. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Manager)

Action: (a) A report on the status of the City's fiscal recovery efforts related to the COVID-19 pandemic was accepted, (b) Appropriation **Ordinance No. 30564** and Funding Sources **Resolution No. 79985** regarding the amendments in the Coronavirus Relief Fund, the Emergency Reserve Fund, and the General Fund were adopted. (10-0-1. Absent: Esparza)

3.5 21-946 Report on Bids and Award of Contract for the 9110 - Park: Pellier Park Project.

Report on bids and award of contract for the 9110 - Pellier Park Project to the low bidder, QLM, Inc., in the amount of \$2,144,778, and approve a ten percent contingency in the amount of \$214,478. CEQA: Addendum to the Brandenburg Mixed Use Project/North San Pedro Housing Sites Final Environmental Impact Report (FEIR), File No. PP19-046 and HP19-004. Council District 3. (Public Works)

Action: The report on bids and award of contract for the 9110 - Pellier Park Project was accepted, including the acceptance of the memorandum from Councilmember Raul Peralez, dated May 3, 2021, recommending accepting the staff's report on bids and award of contract for the 9110 – Pellier Park Project. (10-0-1. Absent: Esparza)

3.6 21-951 Community and Economic Recovery Strategy and Approach Study Session.

Community and Economic Recovery Strategy and Approach Study Session: (a) Transition from Emergency Operations Center to Community Healing and Economic Recovery. (b) City Roadmap for Recovery. (1) Principles, structure, and team. (2) Key Initiatives Now, Next Year, Later. (c) COVID-19 Taskforce and Build Back Better Initiative.(d) Conclusions and Next Steps. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: The Community and Economic Recovery Strategy and Approach Study Sessions were accepted, no vote was required.

3.7 21-954 Return Together.

As recommended by the Rules and Open Government Committee on March 24, 2021:(a) City Council take the following action: (1) Adopt an uncodified urgency ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker, and setting forth the facts constituting the urgency; and (2) Approve an uncodified ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker. PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES. City Charter Section 605(d). (b) If the City Council is unable to take the action in part “a” of this recommendation by the required vote of eight (8) City Council members, approve an uncodified ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Peralez, Jimenez and Cohen) [Rules Committee referral 3/24/2021 - Item G.3] [Deferred from 4/13/2021 - Item 3.4 (21-691); 4/27/2021 - Item 3.3 (21-890)]

DEFERRED TO 5/11/2021 PER ADMINISTRATION

3.8 21-955

Public Purpose Bonds Issued by a Joint Powers Authority for Moderate-Income Rental Housing.

Accept the staff report on public purpose bonds issued by a joint power authority (JPA) for moderate-income housing, and direct the Administration not to move forward with releasing a term sheet in order to pursue membership in one or more JPAs for moderate-income housing at this time. CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Finance/Housing) [Deferred from 4/27/2021 - Item 3.7 (21-885)]

DEFERRED TO 5/11/2021 PER ADMINISTRATION

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

7.1 21-948

Urban Confluence Silicon Valley Design Rankings and Future Work Plan.

(a) Accept the staff report on the Urban Confluence Silicon Valley Project including the jury recommended rankings of the three finalists, and acceptance of Breeze of Innovation as the winning design; (b) Approve the expected work plan for next phases of the project; and (c) Acknowledge the staff and budget resources required to move this project forward. CEQA: Not a Project, File No. PP17-007 Preliminary direction to staff and eventual action requires approval from decision-making body; and File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. Council District 3. (Parks, Recreation and Neighborhood Services)

Action: (a) The staff report on the Urban Confluence Silicon Valley Project, including the jury recommended rankings of the three finalists, and the Breeze of Innovation as the winning design were accepted, (b) the expected work plan for next phases of the project was approved, and (c) the staff and budget resources were acknowledged.

Including the acceptance of the memorandum from Councilmember Dev Davis, dated May 03, 2021, recommending to approve staff recommendations with the following modifications: (1) San Jose Light Tower Corporation (SJLTC) will pay for City staff time spent preparing a work plan and any future work on the project with staff providing a clear description of services rendered. (2) City Staff and SJLTC will work together to establish a pay/fee schedule to ensure that the City’s budget is not encumbered or at risk by the Urban Confluence Silicon Valley project. (3) Staff will return to the City Council with ideas for how to mitigate light impacts on wildlife, airport operations, and nearby neighborhoods when the EIR comes to the City Council

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7.1 (Cont'd.)

for certification. (4) Staff will provide updates about the progress of this project to the Neighborhood Services Committee quarterly and Parks Commission periodically.

Councilmember Dev Davis made an amendment to her memorandum to include: clarification with citywide outreach and the city staff will devise an outreach strategy, in hopes that the design before staff receives the environmental impact report will be done to the highest environmental excellence standards to avoid rather than just mitigate the negative impacts on the environment. (10-0-1. Absent: Esparza)

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-949

Approval of a Loan Commitment to The Kelsey Ayer Station, L.P., for the Development of The Kelsey Ayer Station Apartments Located at 447 North First Street.

(a) Adopt a resolution: (1) Approving a total commitment of up to \$15,925,000 with \$10,875,000 in Low and Moderate Income Housing Asset Funds and \$5,100,000 in Inclusionary Fee Funds for an Acquisition & Construction-Permanent Loan to The Kelsey Ayer Station, L P. or an affiliated entity (“The Kelsey” or “Developer”), for The Kelsey Ayer Station Apartments, a new affordable development to be located at 447 North First Street (“Site”), which is being developed to offer 113 rent—and income--restricted apartments for extremely low-income, very low-income and low-income households and two unrestricted manager’s units (“Development”); (2) Authorizing the Director of Housing to acquire the Site from the Developer for a price not to exceed the Acquisition Loan balance at the time of transfer, and to negotiate and execute loan documents, the documents related acquisition and ground leasing of the Site and all other documents, including any amendments thereto, related to the City financing for the Development; (3) Approving a loan-to-value ratio of greater than 100% for this loan; and (4) Making a determination that, consistent with Government Code Section 37364, after acquisition, the Site can be leased to the Developer without first offering the Site to the public for any other use, since the Site will be restricted so as to provide housing affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development or its successors, and that this use is in the City’s best interests. (b) Adopt a resolution allowing an exception to the City’s Policy for the issuance of Multifamily Housing Revenue Bonds for the Kelsey Ayer Station Apartments, to permit the California Housing Finance Agency (CalHFA) to issue Bonds. (c) Adopt the following 2020-2021 Appropriation Ordinance Amendments in the Low and Moderate Income Housing Asset Fund: (1) Decrease the Housing Project Reserve appropriation by \$10,875,000; and (2) Increase the Housing Loans and Grants appropriation to the Housing Department by \$10,875,000 (d) Adopt the following 2020-2021 Appropriation Ordinance Amendments in the Inclusionary Fee Fund: (1) Decrease the Housing Project Reserve appropriation by \$5,100,000; and (2) Establish a Housing Loans and Grants appropriation to the Housing Department in the amount of \$5,100,000. CEQA: Exempt per Public Resources Code Section 21080(b)(1)

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8.1 (Cont'd.)

and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. Council District 3. (Housing/City Manager)

Action: (a) **Resolution No. 79986** regarding the Inclusionary Fee Funds for an Acquisition & Construction-Permanent Loan to The Kelsey Ayer Station, L P, for the Kelsey Ayer Station Apartments, (b) **Resolution No. 79987** regarding an exception to the City's Policy for the issuance of Multifamily Housing Revenue Bonds for the Kelsey Ayer Station Apartments, to permit the California Housing Finance Agency (CalHFA) to issue Bonds, (c) Appropriation **Ordinance No. 30565** regarding amendments in the Low and Moderate Income Housing Asset Fund, and (d) Appropriation **Ordinance No. 30566** regarding amendments in the Inclusionary Fee Fund were adopted. (10-0-1. Absent: Esparza)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10. Land Use - Regular Agenda

• Open Forum

1. Roland thanked the staff for approving Item 7.1 and Councilmember Dev Davis' Memorandum, he also offered research he found regarding the impact of light on birds.
2. Katherine Hedges thanked Councilmember Raul Peralez for sharing the story of his family member with a disability to show his support, connection, and acknowledgment of people with disabilities in Item 8.1 and the need for the City to have an Americans with Disabilities Act (ADA) Coordinator.

• Adjournment

The City Council of San José meeting adjourned at 10:05 p.m. in honor and memory of Natalia Smüt Lopez, an Afro-Rican transgender woman of San José and beloved drag artist and entertainer of the South Bay. Natalia was senselessly killed on April 23 in Milpitas, California. She was best known for her powerful energy, motivating and creative spirit, captivating performances, and for her ability to fearlessly live her truth. She is the 17th victim this year of anti-transgender violence in the U.S. Today, the City of San José remembers, cherishes, honors, and celebrates the life of Natalia Smüt Lopez.