



City Council Meeting MINUTES

**Tuesday, January 26, 2021
1:30 PM**

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



MINUTES OF THE CITY COUNCIL

JANUARY 26, 2021

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.

21-011 CLOSED SESSION: Canceled.

The Council of the City of San José convened into Open Session at 1:32 p.m.

- **Call to Order and Roll Call**

Present: Councilmembers - Carrasco, Davis, Mahan, Jimenez, Jones, Cohen, Esparza, Peralez, Foley; Liccardo.

Absent: Councilmembers - All present.

6:00 p.m. - Evening Session –*The previously scheduled Evening Session was cancelled.*

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 1)**

Lakshmi Subramanian, vocalist with Eclipse Now provided a Hindu invocation promoting peace, hope and efficiency and a chant for global well-being.

- **Orders of the Day**

Upon motion by Councilmember Maya Esparza, seconded by Vice Mayor Chappie Jones and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

Councilmember Magdalena Carrasco expressed words of remembrance of the many Santa Clara County residents who have passed away during this pandemic. This meeting will be adjourned in their honor.

- Closed Session Report

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

Upon motion by Councilmember Matt Mahan, seconded by Councilmember Dev Davis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

Public Comments: (1) Blair Beekman indicated that the City Charter Commission Meeting could not be accessed via Zoom. (2) Paul Soto spoke to restrictive covenants and redlining policies that the City is responsible for, and generational impacts of this system.

2.1 Approval of City Council Minutes.

- (a) City Council Regular Meeting Minutes of October 6, 2020.
- (b) City Council Regular Meeting Minutes of October 27, 2020.
- (c) City Council Regular Meeting Minutes of November 3, 2020.
- (d) City Council Regular Meeting Minutes of November 17, 2020.

Action: The Council Minutes were approved. (11-0.)

2.2 21-144 Final Adoption of Ordinances.

- (a) Ordinance No. 30516 - An Ordinance of the City of San José Amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (a) Amend Part 4.5, Accessory Dwelling Units, to Make Minor Clarifying Text Alterations and Updates Consistent with State Law within Sections 20.30.460, ‘Single-Family Dwelling’ Lot, 20.30.470, ‘Junior Accessory Dwelling Units - Single-Family Dwelling Lot,’ 20.30.480, ‘Two-Family and Multi-Family Dwelling Lots, and 20.30.495, ‘Tiny Home on Wheels (THOW);’ (b) Add Notes Specifying Permitting Requirements for Transitional Housing Uses within Tables 20-50, 20-90, 20-140 and 20-156 Amending Sections 20.30.100, 20.40.100, 20.70.100 and 20.75.200; (c) Incorporate Minor Text Alterations to Table 20-156 Amending Section 20.75.200 to Add Permitting Requirements for Social Service Agency Uses; (d) Amend Table 20-100 in Section 20.40.200 to Allow Property in the Commercial Neighborhood Zoning District to Utilize Urban Village Plan Development Standards; (e) Amend Chapter 20.100, Part 9,

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2.2 (Cont'd.)

Single-Family House Permit, to Make Minor Clarifying Changes Related to Infill Single-Family Additions within Section 20.100.1040, 'Additional Development Requiring a Single-Family House Permit,' and (f) to Make Other Technical, Non-Substantive, or Formatting Changes within Those Sections of Title 20 of the San José Municipal Code. [Passed for Publication on 1/12/2021- Item 10.1(b) (21-045)]

Action: **Ordinance No. 30516** was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

- (a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of December 2, 2020.
- (b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of December 9, 2020.
- (c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of January 6, 2021.
- (d) Regular Community and Economic Development Committee Meeting Minutes of November 23, 2020.
- (e) Regular Transportation and Environment Committee Meeting Minutes of December 7, 2020.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: The Council Committee Minutes were approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 21-141 Retroactive Approval of the Small Business Advisory Task Force (SBATF) Virtual Membership Recognition Event Sponsored by Council District 1 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 January 6, 2021:

- (a) Retroactively Approve the Small Business Advisory Task Force (SBATF) Virtual Membership Recognition Event scheduled on December 10, 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.

Action: The City Council Sponsored Special Event was approved. (11-0.)

2.8 21-143 Appoint Members to Redistricting Commission.

(a) Appoint the following Commissioners designated by the Mayor and City Council and, to permit the public to submit comment on the Commissioners, return on January 26, 2021 for final appointment:

- (1) District 1 Seat: Appoint Jonathan Brun;
- (2) District 2 Seat: Appoint Enedina Cardenas;
- (3) District 3 Seat: Appoint Daisy Castro;
- (4) District 4 Seat: Appoint Kaitlyn Tran;
- (5) District 5 Seat: Appoint Ramon Martinez;
- (6) District 6 Seat: Appoint Andrew Ditlevsen;
- (7) District 7 Seat: Appoint Fred Sidbury;
- (8) District 8 Seat: Appoint Sylvia Alvarez;
- (9) District 9 Seat: Appoint BJ Fadem;
- (10) District 10 Seat: Appoint Lenka Wright; and
- (11) Citywide Chair: Appoint Teresa Alvarado.

(b) Adopt a resolution establishing additional requirements for the Redistricting Advisory Commission, in accordance with Council direction from October 27, 2020, and establishing the timeline for the Commission to submit its report and recommendations to Council in accordance with Charter section 403.

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

Councilmember Maya Esparza pulled this item to express concerns regarding a potential commissioner that has been expressing opinions before data has been presented, noting commissioners should base their decisions after an analysis of all information. City Attorney, Nora Frimann indicated that staff will add to the draft presented to include language to that effect. Mayor Sam Liccardo seconded the motion.

Motion: Councilmember Maya Esparza moved approval of the Redistricting Commission appointments, with changes to the resolution as indicated below in action, including a second to the motion by Mayor Sam Liccardo with the inclusion that commissioners may express their opinions during meeting, with a fair exchange of ideas.

2.8 (Cont'd.)

Action: On a call for the question, all appointments to the Redistricting Commission were approved, and (b) **Resolution No. 79867** establishing additional requirements for the Redistricting Advisory Commission was adopted, with the inclusion that Commission Members maintain an open mind, basing their decisions once all facts have been considered. (11-0.)

- 2.9 21-114 Terms of a Side Letter Agreement Between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 (MEF).**
Adopt a resolution approving the terms of a Side Letter Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) to provide a temporary, two-year, increase of 2.5% to the Communications Dispatcher Training Pay described in Article 12.15 of the MEF Memorandum of Agreement, to a total of 7.5%.

Action: **Resolution No. 79868** approving the terms of a Side Letter Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) was adopted. (11-0.)

- 2.10 21-115 Retroactive Approval of City Hall Tower and Rotunda Lighting Events During January 2021 And February 2021.**
Retroactively approve City Hall Tower and Rotunda lighting scheduled from January 17, 2021 through February 25, 2021 in colors associated with the celebration of Martin Luther King Jr. Day, Tết Vietnamese and Chinese New Year festivals as a Ceremonial Item.

Action: The City Council Sponsored Special Event was retroactively approved. (11-0.)

- 2.11 21-116 Approval of Unemployment Insurance Fund and Self-Insured Medical Fund Appropriation Adjustments.**
(a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Unemployment Insurance Fund:
(1) Increase the Payment of Claims appropriation by \$1,210,000; and
(2) Increase the estimate for Transfers and Reimbursements by \$1,210,000.
(b) Adopt the following Appropriation Ordinance amendments in the Self-Insured Medical Fund:
(1) Establish a Transfer to the Unemployment Insurance Fund in the amount of \$850,000; and
(2) Decrease the Ending Fund Balance by \$850,000.
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. (Human Resources/City Manager)

Action: (a) **Appropriation Ordinance No. 30519** and **Funding Sources Resolution No. 79869;** and (b) **Appropriation Ordinance 30520** providing approval of Unemployment Insurance Fund and Self-Insured Medical Fund Appropriation Adjustments were adopted. (11-0.)

2.12 21-145

Amendment to Rules of Conduct Resolution, and City Council Appointments of Standing Committees and Boards, Commissions and Committees and Assignments.

(a) Adopt a resolution amending the Council’s Rules for the Conduct of its Meetings, Superseding Resolution No. 79367, to amend Rules 9(d) and 9(h) to change the authority to appoint Standing Committee members, including the Chairperson and Vice Chairperson of each Standing Committee, from the Mayor to the Council, upon recommendation by the Mayor.

(b) Discuss, amend and/or approve the Mayor’s Appointments for each of the Standing Committees, as described in Exhibit “A” of the Mayor’s Memorandum.

(c) Except for appointments which the Mayor has sole authority to appoint pursuant to statute, organization by laws, or other governing documents, discuss, amend and/or approve Councilmembers to each of the Boards, Commissions or Committees and assignments, as described in Exhibit “B” of the Mayor’s Memorandum.

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

[Items (b) and (c) continued from 1/12/2021 - Item 2.9 (21-008)]

Councilmember Magdalena Carrasco disclosed a Brown Act violation regarding a conversation with Councilmember Maya Esparza.

Motion: Vice Mayor Chappie Jones moved approval of the joint memorandum he produced with Mayor Sam Liccardo, Councilmember Pam Foley and Councilmember Sergio Jimenez, dated January 22, 2021. Councilmember Matt Mahan seconded the motion.

Substitute Motion: Councilmember Maya Esparza moved a substitute motion to approve the joint memorandum, items 1-4; Councilmember Sylvia Arenas memorandum; #2 of Councilmember David Cohen’s memorandum; #1 from Councilmember Maya Esparza’s memorandum and with Councilmember Pam Foley to replace Councilmember Sylvia Arenas on the Transportation and Environment Committee, and Councilmember Sylvia Arenas to replace Councilmember Maya Esparza on the Rules and Open Government Committee.

Action: On a call for the motion, the substitute motion carried unanimously, with (a) **Resolution No. 79870** adopted, superseding Resolution No. 79367, with actions taken to amend the Mayor’s Appointments, regarding the City Council Appointments of Vice Mayor and Members of Committees and Boards approved, including:

(Item Continued on the Next Page)

2.12 (Cont'd.)

Adopt the prior recommendations and appointments articulated in Mayor's January 12, 2021 memorandum, Items 1-4, with changes as noted: Councilmember Arenas replacing Councilmember Esparza on the Rules Committee, and with Councilmember Foley replacing Councilmember Arenas on the Transportation and Environment Committee.

1. Apprise the council of the Mayor's appointments for the Rules Committee, selecting Councilmember Cohen, Councilmember Davis, *Councilmember Arenas*, Vice Mayor Jones, and Councilmember Peralez. Vice Mayor Jones will serve as Chair, and Councilmember Peralez will serve as Vice Chair.
2. Approve appointment of Councilmember Carrasco to the Valley Transportation Authority board, in place of Councilmember Arenas.
3. Approve appointment of Councilmember Carrasco to the Police Athletic League Board, in place of Councilmember Esparza.
4. Approve the appointment of Councilmember Arenas to serve as Council liaison to the Human Services Commission. Direct Staff to inquire with the members of that Commission to consider whether to rename that body in a manner that more clearly reflects its responsibilities to advise the Council on issues most relevant to members of our community with disabilities.

Including Item #2 from Councilmember David Cohen's memorandum dated January 26, 2021 to Amend paragraph 1 of Rule 9, section (d) of Council Resolution 79367 as proposed in the Staff Resolution.

Also including Councilmember Maya Esparza's recommendation #1 from January 12, 2021 to include amendments to Resolution #79367 and any other relevant statutory provisions with language clarifying that for Council Standing Committees, including the Rules and Open Government Committee, the Mayor makes a recommendation of the slate to the Council, which has the authority to publicly discuss, amend, and approve the final slate of Standing Committee members.

Additionally, including Councilmember Sylvia Arenas memorandum dated January 26, 2021 to

- 1) Direct staff to return with a renaming of the Human Services Commission to "more clearly reflects its responsibilities" as described by the Mayor in his memo. Consider defaulting back to the original naming convention for the commission: "San Jose Human Rights Commission", as well as options such as "Human Rights and Equity Commission" or "Human Rights and Disability Advisory Commission".
- 2) Update the description of the commission to include serving the Office of Racial Equity.
- 3) Pause the committee workplan and meetings until:
 - a) the Office of Racial Equity and the designated Council Liaison are able to revise the workplan closer to align with the Council's Equity Pledge and the Office of Racial Equity's workplan.
 - b) The Council, City Clerk, and appointments commission have engaged in an extensive effort to recruit and fill the vacancies that have prevented quorum from being reached for much of the last couple years.

(11-0.)

2.13 21-118 Report on Bids and Award of Contract for the 6324 - Re-Bid - Coyote Creek Trail: 16th St/William St to Story Road Project.

Report on bids and award of contract for the 6324 - Re-Bid - Coyote Creek Trail: 16th St / William St to Story Road Project to the low bidder, Granite Rock Company, for the base bid and Bid Alternate No. 2 in the amount of \$1,297,875, and approve a ten percent contingency in the amount of \$129,788.

CEQA: Addendum to the Initial Study/Mitigated Negative Declaration for Coyote Creek Trail Master Plan (Story Road to Lower Silver Creek) project, File No. ER20-226. Council Districts 3 and 7. (Public Works)

Councilmember Maya Esparza pulled Item 2.13 to gain historical insight on this property. Staff responded to questions.

Public Comments: (1) Paul Soto spoke on the dismantling of the ‘jungle’. (2) Blair Beekman spoke on open public policy ideas, surveillance and data collection on trails.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sergio Jimenez and carried unanimously, the Report on Bids and Award of a Contract were approved. (11-0.)

2.14 21-119 Master Agreements with Signet Testing Labs, Inc., CTE Cal Inc. and Professional Service Industries, Inc. for Various City Facility Projects.

Approve master agreements with Signet Testing Labs, Inc., CTE Cal Inc. and Professional Service Industries, Inc. for special inspection consultant services from the date of execution through December 31, 2023, with each agreement not to exceed \$1,000,000.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

Action: The Master Agreements with Signet Testing Labs, Inc., CTE Cal Inc. and Professional Service Industries, Inc. were approved. (11-0.)

2.15 21-120 Acceptance of the Retirement Plans’ Comprehensive Annual Financial Reports for Fiscal Years Ending June 30, 2020 and June 30, 2019.

Accept the following annual reports:

(a) Police and Fire Department Retirement Plan Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2020 and June 30, 2019; and

(b) Federated City Employees’ Retirement System Comprehensive Annual Financial Report for the Fiscal Years ended June 30, 2020 and June 30, 2019.

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

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2.15 (Cont'd.)

Councilmember Matt Mahan posed questions to the Director of Retirement Services Roberto Peña.

Public Comments: (1) Paul Soto addressed inequities in the justice system and investments in detention centers. (2) Blair Beekman spoke on open public practice ideas, trust and inclusiveness.

Action: The Retirement Plans' Comprehensive Annual Financial Reports were accepted. (11-0.)

2.16 21-122 **Amendment to Agreement with Arup North America Limited for Development of a Citywide Access and Mobility Plan.**

Approve the First Amendment to the Consultant Agreement with Arup North America Limited for development of a Citywide Access and Mobility Plan to revise the Outreach Phase 2 and Data Acquisition tasks, increase the compensation amounts for the completion of these tasks, and increase the maximum total compensation by \$340,000, from \$1,364,000 to \$1,704,000.

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

Action: The Amendment to Agreement with Arup North America Limited was accepted. (11-0.)

2.17 21-153 **Retroactive Approval of Holiday Grab and Go 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.**

As recommended by the Rules and Open Government Committee on January 13, 2021:

(a) Retroactively approve Holiday Grab and Go Community Event scheduled on Wednesday, December 16, 2020 at Leyva Middle School, Holly Oak School, Montgomery School, Katherine Smith School, & DJ Meyer School 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 1/13/2021- Item G.1.a]

Action: The City Council Sponsored Special Event was retroactively approved. (11-0.)

2.18 21-160 Retroactive Approval of Nationwide Memorial for COVID-19 Victims Tower and Rotunda Lighting Sponsored by Mayor's Office and Council District 8 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 January 13, 2021:

(a) Retroactively Approve the Nationwide Memorial for COVID-19 Victims Tower and Rotunda Lighting scheduled on January 19, 2021 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.

(Mayor and Arenas)

[Rules Committee referral 1/13/2021 - Item G.1.b]

Action: The City Council Sponsored Special Event was retroactively approved. (11-0.)

2.19 21-203 Approval of International Holocaust Remembrance Day 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.

As recommended by the Rules and Open Government Committee on January 20, 2021:

(a) Approve the International Holocaust Remembrance Day scheduled on January 26, 2021 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. (Jimenez)

[Rules Committee referral 1/20/2021 - Item G.1.b]

Councilmember Sergio Jimenez thanked organizations involved in bringing this acknowledgement forward, noting it has been 76 years since the liberation of Auschwitz and recounting the unprecedented tragedy this represents. Ninety-year-old holocaust survivor Tamara Notem recounted her harrowing escape from the Nazi regime.

Public Comments: (1) Dr. Wolfe, whose parents were imprisoned in Auschwitz, described horrors of this tragedy and reminded everyone that 'your freedom can be taken away just like that'. (2) Paul Soto thanked everyone for bringing forth this topic, recounting the pain and tyranny that still resonates within survivors.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Maya Esparza and carried unanimously, the City Council Sponsored Special Event was retroactively approved. (11-0.)

- 2.20 21-210 Approval of the African American History Month Flag Raising Ceremony Sponsored by Council District 1 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services**
As recommended by the Rules and Open Government Committee on January 20, 2021:
(a) Approve the African American History Month Flag Raising Ceremony scheduled on February 3, 2021 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.
(Jones) [Rules Committee referral 1/20/2021 - Item G.1.c]

Action: The City Council Sponsored Special Event was retroactively approved. (11-0.)

- 2.21 21-217 Approval of Vietnamese Heritage and Freedom Flag Raising Sponsored by Mayor's Office 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 January 20, 2021:
(a) Approve the Vietnamese Heritage and Freedom Flag Raising scheduled on February 18, 2021 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.
(Mayor)
[Rules Committee referral 1/20/2021 - Item G.1.d]

Action: The City Council Sponsored Special Event was retroactively approved. (11-0.)

3. STRATEGIC SUPPORT

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

None provided.

3.3 21-123 Annual Report on City Services 2019-2020.

Accept the Annual Report on City Services for 2019-2020.
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 Auditor)

City Auditor Joe Rois provided a presentation.

Public Comments: (1) Soto spoke on rampant COVID conditions created by low income and the need to review data. (2) Blair Beekman addressed community energy and natural disasters. (3) Speaker "5140" spoke to emergency response deficits.

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3.3 (Cont'd.)

City Manager, David Sykes responded to questions regarding enterprise priorities. Staff, including Acting Assistant Police Chief David Tindall, Fire Chief Robert Sapien, Jr., Director of Housing Jacky Morales-Ferrand, Director of Department of Transportation, John Ristow, Library Director Jill Bourne and Deputy Director, Office of Economic Development, Chris Burton responded to questions.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, the Annual Report on City Services for 2019-2020 was accepted. (11-0.)

Mayor Sam Liccardo adjourned for a break at 6:07 p.m., and the Council Meeting reconvened at 6:45 with all Councilmembers present.

3.4 21-124 Statement of Policy and Questions for the Prospective Chief of Police.

Adopt a Statement of Policy and City Council Questions related to the selection of a new Chief of Police in compliance with City Charter Section 411.1.

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

[Deferred from 1/12/2021 Item 3.4 (21-041)]

An introduction was provided, and City Manager, David Sykes announced the withdrawal of two candidates.

Public Comments: (1) Paul Soto expressed the need for a police chief that acknowledges the racism that exists in the PD. (2) Blair Beekman spoke to state-sponsored extremism and spoke to Deputy Chief Mata's potential. (3) Speaker "5140" expressed criticism of the San José PD. (4) Sharon Denoa spoke to the need for a cultural shift with respect to diversity.

Motion: Councilmember Raul Peralez moved approval of the Statement of Policy including City Council Questions related to the selection of a new Chief of Police as provided by the Mayor, Vice Mayor and Councilmembers Arenas, Cohen, Esparza, Jimenez and Peralez. The motion was seconded by Vice Mayor Chappie Jones.

Councilmember Maya Esparza requested a friendly amendment, asking the reason certain applicants withdrew from the process be discussed in either Open or Closed Session. Additionally, Vice Mayor Chappie Jones asked that the City Manager be given flexibility to consolidate or combine similar questions. The friendly amendments were accepted.

Action: On a call for the question, the motion was carried unanimously, the Statement of Policy was adopted, and City Council Questions related to the selection of a new Chief of Police were accepted including questions provided by the Mayor, Vice Mayor and Councilmembers Arenas, Cohen, Esparza, Jimenez and Peralez, with the City Manager allowed flexibility to consolidate or combine similar questions with approval of those providing the questions. City Manager, David Sykes was directed to agendize, for either open or closed session, the reason for the withdrawals of two of the applicants. (11-0.)

3.5 21-142 Actions Related to Agreements for Reimbursement of Food and Necessities Distribution Services. - DEFERRED

(a) Accept the report on the update on the Interagency Food Distribution.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute Agreements for Reimbursement of Food and Necessities Distribution Services with the following cities: Campbell, Cupertino, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, Santa Clara and Sunnyvale, for various meal preparation, delivery and grocery distribution services from March 18, 2020 through September 30, 2020, for \$2,480,000 including the amounts specified in Table 1 of the staff memorandum with each jurisdiction.

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

Action: Deferred to 2/9/2021 per Administration

3.6 21-146 Amendment to City of San José's 2021 Legislative Program.

Amend the City of San José's 2021 Legislative Program to add a vaccine policy on prioritization, access, and outreach for areas hardest hit by the pandemic.

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)

Mayor Sam Liccardo introduced the topic and urged a jobs program for low income young adults related to resiliency, (climate change, COVID, etc.) Chief of Staff, Office of the City Manager, Lee Wilcox, updated the Council on guiding principles.

Public Comments: Paul Soto spoke to pathways to creating programs for youth.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sergio Jimenez and carried unanimously, the City of San José's 2021 Legislative Program, including the vaccine policy, as amended. (11-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 21-121 Award of Construction Contract for the 2021 Monterey Road Resurfacing Project.

(a) Approve award of a construction contract for the 2021 Monterey Road Resurfacing Project to the low bidder, MCK Services, Inc., in the amount of \$6,797,756; and

(b) Approve an approximate 5% contingency in the amount of \$340,000.

CEQA: Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council District 2. (Transportation)

John Ristow, Deputy Director of Department of Transportation responded to questions.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Maya Esparza and carried unanimously, the Construction Contract for the 2021 Monterey Road Resurfacing Project with related contingency was approved. (11-0.)

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 21-125 Amendment to Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. for Engineering Services on the 7448 - Filter Rehabilitation Project at the San José-Santa Clara Regional Wastewater Facility.

Approve a Second Amendment to the Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. for design and engineering services for the Filter Rehabilitation Project at the San José-Santa Clara Regional Wastewater Facility, extending the term of agreement from June 30, 2023 to June 30, 2025 and increasing the maximum total compensation from \$4,950,000 to an amount not to exceed \$7,500,000, subject to the appropriation of funds.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301(b), Existing Facilities, File No. PP17-049. (Environmental Services)

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember David Cohen and carried unanimously, the Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. was approved. (11-0.)

6.2 21-126

Construction Contingency Increase for the 7418 - Cogeneration Facility Project at the San José - Santa Clara Regional Wastewater Facility and Appropriation Amendments.

(a) Approve a \$1,900,000 increase to the owner-controlled construction contingency for the 7418 - Cogeneration Facility Project (“Project”) for a revised contingency in an amount not to exceed \$10,188,000.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute amendments to the Design-Build Contract to include additional work and services required to complete the Project or requested by the City, pay for costs resulting from the COVID-19 pandemic and increase the Guaranteed Maximum Price from \$91,172,000 to \$93,072,000.

(c) Adopt the following 2020-2021 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund:

(1) Decrease the Nitrification Clarifier Rehabilitation appropriation to the Environmental Services Department by \$1,900,000; and

(2) Increase the Energy Generation Improvements appropriation to the Environmental Services Department by \$1,900,000.

CEQA: San José/Santa Clara Regional Wastewater Facility Cogenerator Project Mitigated Negative Declaration, File No. PP14-005 and Addendum Mitigated Negative Declaration, File No. PP16-009.

(Environmental Services/Public Works/City Manager)

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Construction Contingency Increase was approved; (b) **Resolution No. 79871** regarding amendments to the Design-Build Contract, and (c) **Appropriation Ordinance No. 30521** were adopted. (11-0.)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-127

Actions Related to the Agreement with Valley Water District for the South San Francisco Bay Shoreline Project. - DROP

Adopt a resolution authorizing the City Manager, or his designee, to:

(a) Negotiate and execute a funding agreement with the Santa Clara Valley Water District (Valley Water), a Special District created by the Legislature of the State of California, for the Regional Wastewater Facility’s (RWF) payment of project betterment costs for the South San Francisco Bay Shoreline Project (Shoreline Project), in the amount of \$2,000,000, or half of total project betterment costs, whichever is less, subject to the appropriation of funds;

(b) Declare the Legacy Lagoons 16-19 property to Valley Water (portion of APN 015-31-051) as “exempt surplus land” to the needs of the City pursuant to Cal. Gov. Code §54221(f)(1)(D);

(Item Continued on the Next Page)

8.1 (Cont'd.)

- (c) Negotiate and execute an agreement for the transfer of the “exempt surplus land” of the Legacy Lagoons 16-19 property to Valley Water (portion of APN 015-31-051) in accordance with Cal Gov. §54221(f)(1) (D) and San José Municipal Code §4.20.080;
 - (d) Negotiate and execute an agreement for the transfer of project easements to Valley Water for Shoreline Project access, construction staging, and levee protection on RWF lands in exchange for compensation to be established by an appraisal completed by Carneghi, Nakasako, and Associates; and
 - (e) Negotiate and execute all other necessary documents to effectuate the transfer of the Legacy Lagoon 16-19 property and related project easements.
- 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 (Economic Development/Environmental Services)
[Deferred from 12/15/2020 - Item 8.1 (20-1652)]

DROPPED

8.2 21-128

Overruling Objections to the 2021-2022 Hazardous Vegetation Commencement Report and Directing the Removal of Weeds or Refuse.

Conduct a Public Hearing and adopt a resolution:

- (a) Overruling any and all objections to the 2021-2022 Hazardous Vegetation Commencement Report; and
- (b) Directing the Santa Clara County Consumer and Environmental Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Categorically Exempt, File No. PP18-094, CEQA Guidelines Section 15301(h), Existing Facilities. (Planning, Building and Code Enforcement)

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 Pam Foley and carried unanimously, **Resolution No. 79872** Overruling Objections to the 2021 2022 Hazardous Vegetation Commencement Report and Directing the Removal of Weeds or Refuse was adopted. (11-0.)

8.3 21-189

Adoption of 2021 COVID-19 Residential Eviction Moratorium for Tenants Financially Impacted by COVID-19.

(a) Accept the staff report on economic indicators to guide City Council's decision-making regarding the eviction moratorium.

(b) Adopt an Urgency Ordinance enacting a temporary moratorium on no-cause evictions and evictions due to nonpayment of rent for residential tenants and mobilehome owners who have been financially impacted by COVID-19, to be effective through the period of the local State of Emergency or, if earlier, the effective date of any new State legislation providing eviction protections for tenants affected by COVID-19 that preempts this moratorium.

(1) Invoke the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health and/or safety, to include additional provisions protecting against eviction of a tenant for nonpayment of rent, if that tenant meets the criteria listed in the ordinance regarding COVID-19.

PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)

(c) Approve a Companion Ordinance enacting a temporary moratorium on no-cause evictions and evictions due to nonpayment of rent for residential tenants and mobilehome owners who have been financially impacted by COVID-19, to be effective through the period of the local State of Emergency or, if earlier, the effective date of any new State legislation providing eviction protections for tenants affected by COVID-19 that preempts this moratorium.

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

(Housing)

[Rules Committee referral 1/20/2021 - Item A.1.a]

Director of Housing Jacky Morales-Ferrand gave presentation.

Public Comments: Paul Soto spoke to issues regarding the pandemic the components of recovery. Martha O'Connell, Ryan Chazinski, Doug Johnson (Western Manufactured Mobile Home Communities) and Glenna Halcraft spoke in support of Councilmember Pam Foley's memo and urged support of targeted rental assistance. Robert Moore and Greg O'Hagan recommended adopting the same for apartments, and Anil Obar, California Apartment Association, addressed lost rental income. Matthew Reed (Silicon Valley@Home) and Tim Beaubien (Santa Clara County Association of Realtors) expressed support.

Director of Housing Jacky Morales-Ferrand noted that this pertains to the eviction moratorium, but remainder regarding the rent freeze will be agendized separately when it comes before the Rules and Open Government Committee. Assistant to City Manager, Michele McGurk responded to work with non-profits.

(Item Continued on the Next Page)

8.3 (Cont'd.)

Action: Upon motion by Councilmember Maya Esparza, seconded by Vice Mayor Chappie Jones and carried unanimously, the staff report on economic indicators regarding the eviction moratorium was accepted, and (b) **Urgency Ordinance No. 30522** enacting a temporary moratorium on no-cause evictions; and **Ordinance No. 30523** a Companion Ordinance enacting a temporary moratorium on no-cause eviction were adopted. The rent freeze determination will be agendized separately, returning to the Rules and Open Government Committee.

Councilmember Pam Foley requested that staff apply the recommendations found in the letter signed by Ryan Jasinsky of Brandenburg, Staedler & Moore, and Martha O'Connell of GSMOL sent to City Council dated January 24, 2021 to any future extension/renewal of the Rent Increase Moratorium (11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

CONTINUE GENERAL PLAN HEARING (2020 THIRD CYCLE) FROM 12/15/2020

- (a) 21-129 **GPT20-003 & GP20-006 - City-Initiated General Plan Amendment to Make Minor Modifications and Clarifying Revisions to the Envision San José 2040 General Plan.**

Adopt a resolution approving the General Plan Text Amendment to make minor modifications and clarifying revisions to the Envision San José 2040 General Plan and the Midtown Specific Plan.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0). File Nos. GPT20-003; GP20-006. (Planning, Building and Code Enforcement)

[Deferred from 12/15/2020 - Item 10.1(b) (20-1648)]

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Maya Esparza and carried unanimously, **Resolution No. 79873** approving the General Plan Text Amendment to make minor modifications and clarifying revisions to the Envision San José 2040 General Plan and the Midtown Specific Plan was adopted. (11-0.)

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

(b) 21-130 GP20-002 - Privately Initiated General Plan Amendment for Certain Property Located at 1953 Via Reggio Court.

(1) Adopt a resolution adopting the 1953 Via Reggio Court General Plan Amendment Initial Study/Negative Declaration in accordance with the California Environmental Quality Act, as amended.

(2) Adopt a resolution approving the Envision San José 2040 General Plan Land Use/Transportation Diagram Amendment to change the land use designation from Mixed Use Commercial to Urban Residential on an approximately 1.64-gross acre site, located at 1953 Via Reggio Court.

CEQA: Initial Study and Negative Declaration for the 1953 Via Reggio Ct General Plan Amendment Project. Planning Commission recommends approval (7-0). Council District 4. (Planning, Building and Code Enforcement)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Maya Esparza and carried unanimously, (1) **Resolution No. 79874** adopting the 1953 Via Reggio Court General Plan Amendment Initial Study/Negative Declaration in accordance with CEQA; and (2) **Resolution No 79875** approving the Envision San José 2040 General Plan Land Use/Transportation Diagram Amendment, were adopted. (11-0.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 21-136 GP20-003 - General Plan Amendment for Certain Property Located at 1975 Cambrianna Drive. -DEFERRED

(a) Adopt a resolution adopting the Cambrian School District General Plan Amendment Initial Study/Negative Declaration in accordance with the California Environmental Quality Act, as amended.

(b) Adopt a resolution:

(i) Denying the Envision San José 2040 General Plan Land Use/Transportation Diagram Amendment to allow changing the land use designation from Public/Quasi-Public to Residential Neighborhood on an approximately 2.7-gross-acre site, located at 1975 Cambrianna Drive; or

(ii) Approving the Envision San José 2040 General Plan Land Use/Transportation Diagram Amendment to allow changing the land use designation from Public/Quasi-Public to Residential Neighborhood on an approximately 2.7-gross-acre site, located at 1975 Cambrianna Drive.

(c) Add an item to the Housing Crisis Workplan to explore policy changes for public school land conversions that could provide more opportunities for housing and revenue for public school districts. CEQA: Cambrianna Drive General Plan Amendment Initial Study and Negative Declaration. Planning Commission recommends denial (6-0-1, Bonilla absent). Council District 9. (Planning, Building and Code Enforcement)

DEFERRED TO 2/9/2021 PER ADMINISTRATION

10.3 21-137

GP19-012, C19-042, CP20-019 & T20-020 - General Plan Amendment, Conforming Rezoning, Conditional Use Permit, and Vesting Tentative Map for a Residential Care Facility Located at 470 West San Carlos Street.

(a) Adopt a resolution adopting the Delmas Senior Living Facility Project Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and adopting a related Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act, as amended.

(b) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram designation (APN's 264-20-086, 264-20-087, and 264-20-088) from Residential Neighborhood to Downtown on approximately 19,200-gross square feet of the total 39,130-square foot Project Site.

(c) Approve an ordinance rezoning the Project Site as follows:

(1) From the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District on approximately 13,179-gross square feet (APN's 264-20-082, 264-20-083, and 264-20-084), and

(2) From the R-2 Two-Family Residence Zoning District to the DC Downtown Primary Commercial Zoning District over approximately 25,951-gross square feet (APNs 264-20-085, 264-20-086, 264-20-087, and 264-20-088) of the total 39,130-square foot project site.

(d) Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to merge the seven parcels on the project site into one parcel.

(e) Adopt a resolution approving, subject to conditions, a Conditional Use Permit to allow the demolition of existing structures and the construction of a mixed-use project including a 190-bed commercial residential care facility with 116 assisted living residential care guest rooms and 49 memory care guest rooms, four multi-family residential units, and a back-up generator, including a development exception, on the Project Site.

CEQA: Addendum to Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942). Planning Commission recommends approval (6-0-1, Bonilla absent). Council District 3. (Planning, Building and Code Enforcement)

Rosalynn Hughey, Director, Planning, Building and Code Enforcement provided a presentation.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Paul Ring and Tim Woloshyn from Urban Catalyst offered merits to the project. Paul Soto denied it is affordable or senior, and Kathy Sutherland (Diridon Area Neighborhood Group) noted her own doubts and the need for a better Diridon plan; and Jacob Lebin offered concerns, indicating it needs improved interfaces. Ben Leech and Mike Sodergren of the Preservation Action Council of San José opined that structures of merit contribute to character of neighborhood and expressed parking & development concerns. Michael, Gabby Chavez Lopez, Scott Kneiss (San José Downtown Association), Leila Gemelos, and Valerie Englebright (Carlson Management Group) and Matthew Reed (Silicon Valley@Home) expressed support. Alicia Forbrich San José Learning Center noted a need for a senior living center.

10.3 (Cont'd.)

Mayor Sam Liccardo closed the public hearing.

Raul offered accolades and addressed building use. Jason Reyes, Managing Partner from Calson Management provided an overview of the type of licensed facility that is proposed.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, (a) **Resolution No. 79876** adopting the Delmas Senior Living Facility Project Addendum to the Downtown Strategy 2040 Final EIR; and (b) **Resolution No 79877** amending the Envision San José 2040 General Plan Land Use/Transportation Diagram designation, were adopted; and (c) **Ordinance No. 30524**, rezoning the Project Site was passed for publication; (d) **Resolution No. 79878** approving a Vesting Tentative Map, and (e) **Resolution No 79879** approving, subject to conditions, a Conditional Use Permit, were adopted, including provisions as outlined in the joint memorandum from Mayor Sam Liccardo, and Councilmembers Peralez, Davis, Arenas and Mahan, dated January 22, 2021 approving recommendations regarding the General Plan Amendment, Conforming Rezoning, Conditional Use Permit, and Vesting Tentative Map for a Residential Care Facility Located at 470 West San Carlos Street, with direction to the applicant to work with the community to explore enhancements along the southern property line such as green screens, landscaping features to aesthetically soften the transition between the two properties as well as improve privacy. (11-0.)

10.4 21-131 **GP20-001 & C20-007 - Privately Initiated General Plan Amendment (GP20-001) and a Conforming Rezoning (C20-007) on Certain Property Located at 790 Portswood Drive and 0 Bret Hart Drive.**

- (a) Adopt a resolution adopting the Portswood Drive Initial Study/Negative Declaration in accordance with the California Environmental Quality Act, as amended.
- (b) Adopt a resolution approving the Envision San José 2040 General Plan Land Use/Transportation Diagram Amendment to change the land use designation from Transportation Utilities to Residential Neighborhood for 790 Portswood Drive and 0 Bret Hart Drive on an 8.6-gross acre site (File No. GP20-001).
- (c) Approve an ordinance rezoning certain real property located on a portion generally bounded by Brooktree Way, Bret Harte Drive, Queenswood Way, and Hampswood Way; a portion south of Hampswood Way, approximately 260-feet easterly of Hampswood Court; a portion northerly of Portswood Drive, approximately 380-feet easterly of Belder Drive; a portion generally bounded south of Portswood Drive and along the north of Raich Drive into the north terminus of Cahen Drive; a portion generally bounded south of Raich Drive, west of Cahen Drive and north of McKean Road from the A Agricultural Zoning District and properties that do not have an established Zoning District to the R-1-5 Single Family Residence Zoning District on approximately 8.6-gross acres.

(Item Continued on the Next Page)

10.4 (Cont'd.)

CEQA: Initial Study and Negative Declaration for the Portswood Drive Residential General Plan Amendment and Rezoning Project. Planning Commission recommends approval (6-0-1; Bonilla absent). Council District: 10 (Planning, Building and Code Enforcement)

Rosalynn Hughey, Director, Planning, Building and Code Enforcement offered a presentation and responded to questions.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Denise Cunningham from Summerhill homes spoke to merits of project. Paul Soto and Brian Darby addressed the housing shortage and need for multi-family housing.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Matt Mahan, seconded by Vice Mayor Chappie Jones and carried unanimously, (a) **Resolution No. 79880** adopting the Portswood Drive Initial Study/Negative Declaration in accordance with the EIR as amended; and (b) **Resolution No 79881** approving the Envision San José 2040 General Plan Land Use/Transportation Diagram Amendment, were adopted; and (c) **Ordinance No. 30525**, rezoning certain real property, was passed for publication. (11-0.)

CONTINUE GENERAL PLAN HEARING (2020 THIRD CYCLE) TO 2/9/2021

Open Forum

1. Paul Soto spoke on challenges of homelessness, addressed redlining and advocated for a liaison to the homeless community.
2. Brian Darby spoke to holding people accountable for the January 6 attack on the Capitol. He thanked Council for their hard work, those keeping the mobile home parks intact and spoke to the importance of community.
3. Mike Sodergren queried access to facilities at 470 West San Carlos Street.

Adjournment

Mayor Sam Liccardo adjourned the meeting of the City Council at 9:45 p.m. in memory of the many Santa Clara County residents who have passed away during this pandemic. They were grandparents, parents, sons, and daughters. Many of them put their life on the line as first responders, health care professionals, and essential workers. Unfortunately, they are no longer with us. However, we must always honor their memory. As a nation, a state, and a city, we remember the thousands of lives lost to this disease.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/01262021 MIN