



City Council Meeting MINUTES

Tuesday, September 29, 2020

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
LAN DIEP, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
JOHNNY KHAMIS, DISTRICT 10



MINUTES OF THE CITY COUNCIL

SEPTEMBER 29, 2020

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.

20-1133 [See Page 16 for Closed Session Minutes](#)

The Council of the City of San José reconvened on Tuesday, September 29, 2020 at 1:30 p.m.

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

Absent: Councilmembers - All Present.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 8)**

Jody Ngo, UStar Productions, offered a video featuring the La Raza Club from Overfelt High School, which showcased the Mid Autumn Festival.

- **Orders of the Day**

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sergio Jimenez, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with the Joint City of San José Council/Financing Authority heard immediately following the Consent Calendar, and with Councilmember comments limited to 15 minutes per item per Councilmember, with a total of 30 minutes for Items 4.1 and 4.2. (11-0.)

Public Comments: Blair Beekman offered suggestions on setting time for council comment.

Mayor Sam Liccardo announced the selection of Assistant City Attorney Nora Frimann to the position of San José City Attorney.

- Closed Session Report - None provided.

1. CEREMONIAL ITEMS

None provided.

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. (11-0.)

Public Comment: (1) Blair Beekman offered comments on renewable energy and sustainability. (2) JT expressed criticism with a comment made by Councilmember Maya Esparza.

Councilmember Maya Esparza corrected the caller on misinterpreting her comment, qualifying she stated the Council should not choose expediency over transparency.

2.1 Approval of City Council Minutes.

None provided.

2.2 20-1139 Final Adoption of Ordinances.

(a) **Ordinance No. 30479** - An Ordinance if the City of San José Rezoning Certain Real Property if Approximately 0.16-Gross Acre Situated on the West Side of Meridian Avenue Approximately 470 Feet South of Fruitdale Avenue (931 Meridian Avenue) (APN: 284-03-011) from the R-M Multiple Residence Zoning District to the CP Commercial Pedestrian Zoning District.
[Passed for Publication on 9/15/2020 - Item 10.1(a) (20-1053)]

(b) **Ordinance No. 30480** - An Ordinance of the City of San José Amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to Amend Chapter 20.30, Part 2, Section 20.30.460 to Require All Accessory Buildings Meet Certain Requirements; Amend Section 20.30.470 to Allow Any Exterior Alteration is Only Limited Accommodating Ingress/Egress Requirements; Amend Section 20.30.480 to Allow Accessory Dwelling Units to Be Attached to Another Detached Accessory Dwelling Unit; Amend Part 2.5 Section 20.80.150 to Revise the Definition of Incidental Transient Occupancy; Amend Part 9 Section 20.80.700 to Allow Home Occupation in an Accessory Dwelling Unit; and to Add Clarifying Language to Section 20.30.100 and Table 20.50 of Chapter 20.30, Section 20.40.100 and

(Item Continued on the Next Page)

2.2 (Cont'd.)

Table 20.90 of Chapter 20.40, Section 20.50.100 and Table 20-110 of Chapter 20.50, and Section 20.75.200 and Table 20.156 of Chapter 20.75; and 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 9/15/2020 - Item 10.1(b) (20-1054)]

Action: **Ordinance No. 30479** and **Ordinance No. 30480** were adopted. (11-0.)

2.3 20-1160 Approval of Council Committee Minutes.

(a) Regular Neighborhood Services and Education Committee Meeting Minutes of August 13, 2020.

(b) Regular Neighborhood Services and Education Committee Meeting Minutes of September 10, 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 20-1134 Amendment to Agreement with Hall Energy Law PC for Legal Services Related to Power Procurement for San José Clean Energy.

Adopt a resolution authorizing the City Attorney to negotiate and execute a third amendment to the agreement with Hall Energy Law PC for legal services related to power procurement for San José Clean Energy for Fiscal Years 2020 through 2023 and increasing the amount of compensation by \$400,000 for a total amount not to exceed \$720,000.

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. 79730** regarding an amending to an agreement with Hall Energy Law PC was adopted. (11-0.)

2.8 20-1138 Boards and Commissions Appointments.

Approve the following Boards and Commissions appointments:

(a) Housing and Community Development Commission:

(1) District 8 Seat: Huy Tran to a term ending June 30, 2023.

(b) Human Services Commission:

(1) Citywide Seat: Katherine Reyes to a term ending December 31, 2022.

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

Action: The Board and Commission appointments were approved. (11-0.)

2.9 20-1121 Award of a Construction Contract for Alma Ave Pavement Rehabilitation Project.

(a) Approve award of a construction contract for the Alma Ave Pavement Rehabilitation Project, to the low bidder, J.J.R. Construction, Inc. in the amount of \$939,015.

(b) Approve an approximate 15% contingency in the amount of \$140,852.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 3, 6, 7. (Transportation)

Action: The Award of a construction contract to J.J.R. Construction Inc. was approved. (11-0.)

2.10 20-1191 Approval of the 2020 Coastal Clean Up Month Sponsored by Mayor 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 September 23, 2020:

(a) Approve the Coastal Cleanup Month activities scheduled during the month of September 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. (Mayor)
[Rules Committee referral 9/23/2020- Item G.1.a.]

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

2.11 20-1192 Conflict of Interest Code Biennial Update.

Adopt a resolution amending the Conflict of Interest Code for the City of San José.

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

(City Clerk)

[Rules Committee referral 9/23/2020- Item A.1.a.]

Action: **Resolution No. 79731** amending the Conflict of Interest Code was adopted. (11-0.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 20-1123 Temporary Expansion of Business Tax Financial Hardship Exemptions.

Approve an ordinance amending Chapter 4.76 of Title 4 of the San José Municipal Code to add a new Section 4.76.345.6 to temporarily expand, retroactive to October 1, 2020, eligibility for the existing financial hardship exemptions for low revenue generating small businesses and small business owners with limited household incomes to include all persons engaged in business in the City who satisfy certain financial hardship requirements.

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. (Finance)

Director of Finance Julia H. Cooper and Finance Deputy Director Rick Bruneau offered a presentation.

Public comment: (1) Blair Beekman spoke to AB 3088, the COVID Tenant Relief Act, and its need for expansion. (2) Paul Soto complained the metric used for this study does not reflect the current poverty level.

Finance Deputy Director Rick Bruneau responded to Mr. Soto's assertions and noted the source of the poverty level metric used.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Maya Esparza And carried unanimously, **Ordinance No. 30483** amending Chapter 4.76 of Title 4 of the San José Municipal Code was passed for publication. (11-0.)

3.4 20-1127

Vacation of a Portion of Marburg Way with Reservation of a Public Sanitary Sewer Easement Within the Area Being Vacated. - DEFERRED

Conduct a Public Hearing and adopt a resolution to authorize the following:

- (a) Approve the report of the Director of Public Works setting forth the facts justifying the vacation of a portion of Marburg Way with the reservation of a public sanitary sewer easement within the vacated area (“Subject Portion”);
- (b) Vacate the Subject Portion which is unnecessary for current or prospective public use as a street;
- (c) Direct the City Clerk to record a certified copy of the resolution of vacation for the Subject Portion with the Office of the Recorder, County of Santa Clara;
- (d) Declare the Subject Portion of the City-owned Marburg Way as “exempt surplus land” to the needs of the City under Cal. Gov. Code §54221(f)(1)(D) as the land is not necessary for the City of San José’s use and is being transferred to another local agency for a necessary use; and
- (e) Direct the City Manager to negotiate and execute a Purchase and Sale Agreement and Quitclaim Deed, and all other necessary documents to effectuate the transfer to the Santa Clara Valley Transportation Authority from the City of San José, for the sale of the Subject Portion of the surplus City-owned Marburg Way for \$1 by direct negotiation under San José Municipal Code Section 4.20.080 as the transferee is a governmental agency.

CEQA: Determination of Consistency with the BART Extension to Milpitas, San José, and Santa Clara Final EIR, BART Extension to Milpitas, San José, and Santa Clara Final Supplemental EIR, and BART Silicon Valley Phase 1 -Berryessa Extension Final 2nd Supplemental EIR, and Addenda thereto, Resolution No. 76126. Council District 3. (Economic Development/Public Works)

DEFERRED TO 10/6/2020 PER ADMINISTRATION

Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Note and the Loan of the Proceeds Thereof for the Financing of Page Street Studios Development. - DEFERRED

(a) Adopt a resolution:

(1) Authorizing the issuance of tax-exempt multifamily housing revenue note designated as "City of San José California Multifamily Housing Revenue Note (Page Street Studios), Series 2020B-1 and Series 2020B-2 in an aggregate principal amount not to exceed \$29,500,000 (together, the "Series 2020B Note");

(2) Approving a loan of Series 2020B Note proceeds to Page Street, L.P., a California limited partnership sponsored by Charities Housing Development Corporation a California nonprofit corporation, to finance the acquisition, construction and development of the 82-apartment multifamily rental housing development known as the Page Street Studios located at 329-353 Page Street in San José (the "Development");

(3) Approving in substantially final form the Funding Loan Agreement, Borrower Loan Agreement, and Regulatory Agreement and Declaration of Restrictive Covenants (the "Series 2020B Note Documents"); and

(4) Authorizing and directing the City Manager, Director of Housing, the Director of Finance, Assistant Director of Finance, the Deputy Director of Debt and Treasury Management and Debt Administrator or their designees, to execute and deliver the Series 2020B Note Documents and related or ancillary to the Series 2020B Note Documents.

(b) Adopt a resolution:

(1) Authorizing a change in City Loan terms to allow an increase in the Development's rents and income to increase to up to 60% of Area Median Income (low income) for new tenants in the event of the expiration or termination of Section 8 subsidy contracts, and for all tenants in the event of a foreclosure, to the extent the City has determined such increase is needed for feasibility of the Development and allowed by other funds; and

(2) Authorizing the Director of Housing to negotiate and execute loan documents, amendments, and all other documents related to the above change to the City Loan terms.

CEQA: Mitigated Negative Declaration, Page Street Housing Project, File Nos. SP17-037 and AT18-012, dated 10/19/18. Council District 6. (Housing/Finance)

DEFERRED TO 10/27/2020 PER ADMINISTRATION

3.6 20-1129

Approval of the Issuance of a Tax-Exempt Multifamily Housing Revenue Note and the Loan of the Proceeds Thereof for the Financing of Alum Rock Family Housing. - DEFERRED

(a) Adopt a resolution:

(1) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José, California Multifamily Housing Revenue Note (Alum Rock Family Housing), Series 2020A” (the “2020 Note”) in a principal amount not to exceed \$36,855,974;

(2) Approving the loan of 2020 Note proceeds to Alum Rock Family Housing, L.P., a California limited partnership created by Affirmed Housing Group, a California for-profit corporation, to finance the construction and development of an 87-apartment multifamily development known as Alum Rock Family Housing located at 2380 Alum Rock Avenue, in San José (the “Development”);

(3) Approving in substantially final form the Funding Loan Agreement, the Borrower Loan Agreement and Regulatory Agreement and Declaration of Restrictive Covenants (collectively, the “2020 Note Documents”);

(4) Authorizing a reduction in the City’s issuance and annual monitoring fees in the approximate amount of \$600,000 during the term of the 2020 Note notwithstanding the City’s Policy for Issuance of Multifamily Housing Revenue Bonds, as provided below; and

(5) Authorizing and directing the City Manager, Director of Housing, Director of Finance, or their designees, to execute and deliver the 2020 Note Documents together with any documents ancillary to the 2020 Note Documents.

(b) Adopt a resolution:

(1) Authorizing a change in City Loan terms to allow an increase in the Development’s rents and income up to 60% AMI (low-income) for new tenants in subsidized apartments in the event of expiration or termination of Project Based Vouchers, and for all tenants in the event of foreclosure, to the extent the City has determined such increase is needed for feasibility of the Development and allowed by other funds; and

(2) Authorizing the Director of Housing, or Designee, to negotiate and execute loan documents, amendments, and all other documents related to this action.

CEQA: Statutorily Exempt per Public Resources Code Section 21080(b) (1) and CEQA Guidelines Section 15369, File No. ER20-109. Council District 5. (Housing/Finance)

DEFERRED TO 10/27/2020 PER ADMINISTRATION

4. PUBLIC SAFETY SERVICES

- 4.1 20-1124 Independent Police Auditor 2019 Year End Report.**
Accept the 2019 Independent Police Auditor Year End Report.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Independent Police Auditor)
Not heard before 4:00 P.M.
HEARD CONCURRENTLY WITH ITEM 4.2

A joint presentation for Items 4.1 and 4.2 was offered by Auditor for the Independent Police Auditor's Office Shivaun Nurre and Acting Chief of Police David Knopf; staff responded to questions from Council and discussion ensued.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Maya Esparza and carried unanimously, the Independent Police Auditor 2019 Year End Report was accepted. (11-0.)

- 4.2 20-1125 San José Police Department Internal Affairs Unit - 2019 Department Initiated Investigations Report.**
Accept the San José Police Department's Internal Affairs Unit report on Department Initiated Investigations for calendar year 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. (Police)
Not heard before 4:00 P.M.
HEARD CONCURRENTLY WITH ITEM 4.1

Police Lieutenant Stan McFadden provided a presentation and responded to questions.

Public Comments: Six members of the public offered comments, criticism, and recommendations.

The City Council recessed at 5:13 p.m. and reconvened at 6 p.m. with all Council Members present.

Council discussion continued.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Maya Esparza and carried unanimously, the San José Police Department Internal Affairs Unit - 2019 Department Initiated Investigations Report was accepted. (11-0.)

- 4.3 20-1126 Police Reforms Process and Timeline.**
Accept the update on actions related to:
(a) The sequencing and coordination of major Police Reforms Work Plan elements, including the use of force review and reimagining community safety work, with the recruitment efforts for a new Chief of Police;
(b) Framing the use of force and reimagining community safety community engagement process; and

(Item Continued on the Next Page)

4.3 (Cont'd.)

(c) Consultant timing to conduct a use of force review and make recommendations on additional amendments to the San Jose Police Department Duty Manual or other protocols that further align San Jose with 21st Century Policing best practices.

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/Independent Police Auditor)

Not heard before 4:00 P.M.

Assistant City Manager Jennifer Maguire, Deputy City Manager Angel Rios, Jr., and Auditor for the Independent Police Auditor's Office Shivaun Nurre provided the presentation and responded to extensive questioning from the Council.

Public Comments: Six members of the public offered comments, criticism, and recommendations.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Maya Esparza and carried unanimously, the Police Reforms Process and Timeline was accepted. (11-0.)

5. TRANSPORTATION & AVIATION SERVICES

5.1 20-1159 Better Bike Plan 2025. - DEFERRED

As recommended by the Transportation and Environment Committee on August 31, 2020, accept the Better Bike Plan 2025.

CEQA: Determination of Consistency to the Envision General Plan 2040 Final Programmatic Environmental Impact Report, File No.

ER20-156. (Transportation)

[Transportation and Environment Committee referral 8/31/2020 - Item (d)1]

DEFERRED TO 10/6/2020 PER ADMINISTRATION

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

(a) 20-1130 C20-013 and SP20-027 - Conforming Rezoning and Special Use Permit on Certain Real Property Located at 796 Delmas Avenue.

(a) Approve an ordinance rezoning that certain real property located on the northeast corner of Delmas Avenue and West Virginia Street from the R-2 Two-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District on an approximately 0.18-gross acre site.

(b) Adopt a resolution approving, subject to conditions, a Special Use Permit to allow an existing commercial building to be occupied with a church/religious assembly use located on the northeast corner of Delmas Avenue and West Virginia Street (796 Delmas Avenue).

CEQA: Categorically Exempt pursuant to CEQA Guidelines Section 15301(a) for Existing Facilities. Council District 3. (Planning, Building and Code Enforcement)

Public Comments: (1) Kevin Christman expressed disapproval and urged the City to gather more input from the Gardner neighborhood and surrounding communities. (2) Paul Soto declared an encroachment of gentrification. (3) Robert opined deceptive practices, citing the use was presented as a yoga studio. (4) Qan Cao espoused benefits of meditation training offered. (5) Dzung spoke in support. (6) Yadira Cazares asked that parking and traffic impacts be addressed.

Rosalynn Hughey, Director, Planning, Building and Code Enforcement responded to questions regarding zoning for church/assembly use and noted no public meetings had been held and had not been required, but an on-site sign has been posted at the subject site since April.

Councilmember Magdalena Carrasco recommended deferral of this item until the community had fully engaged.

Council engaged representative for the temple, Dzung Huu Nguyen, with questions regarding the project.

Motion: Councilmember Raul Peralez moved a one-week deferral of this item to allow for community outreach, indicating his office would lead on the community engagement process and return at the October 6 Council Meeting for resolution. Councilmember Pam Foley seconded the motion.

Action: On a call for the question, the motion carried unanimously, with Item 10.1(a) to be deferred to the Council Meeting of October 6, 2020 to allow for community outreach. (11-0.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 20-1131 CP19-021 - Administrative Hearing on the Appeal of the Planning Commission's Approval of Conditional Use Permit No. CP19-021 for the Bascom Residential Care Facility Project.

(a) Conduct an Administrative Hearing to consider the Appeal of the Planning Commission's approval of Conditional Use Permit No. CP19-021, for the Bascom Residential Care Facility Project, which permits the demolition of four commercial buildings totaling approximately 6,030 square feet, and the removal of two ordinance-size trees and four non-ordinance sized trees for the construction of a one to three-story, 83-unit state-licensed Residential Care Facility for the Elderly with approximately 72,380 square feet of above grade floor area and an approximately 30,240 square feet of basement containing 7,750 square feet of activity rooms, staff room, utility rooms, and 22,450 square feet of parking and circulation on an approximately 1.23-gross acre site located to the west of South Bascom Avenue, approximately 177 feet southerly of Dry Creek road (2375 and 2395 South Bascom Avenue).

(b) Adopt a resolution denying the permit appeal and approving, subject to conditions, Conditional Use Permit No. CP19-021, for the Bascom Residential Care Facility Project, which permits the demolition of four commercial buildings totaling approximately 6,030 square feet, and the removal of two ordinance-size trees and four non-ordinance sized trees for the construction of a one to three-story, 83-unit state-licensed Residential Care Facility for the Elderly with approximately 72,380 square feet of above grade floor area and an approximately 30,240 square feet of basement containing 7,750 square feet of activity rooms, staff room, utility rooms, and 22,450 square feet of parking and circulation on an approximately 1.23-gross acre site located to the west of South Bascom Avenue, approximately 177 feet southerly of Dry Creek road (2375 and 2395 South Bascom Avenue).

CEQA: Mitigated Negative Declaration for the Bascom Residential Care Facility Project. Council District 9. (Planning, Building and Code Enforcement)

Rosalynn Hughey, Director, Planning, Building and Code Enforcement provided a presentation and noted that due to an administrative oversight, Condition No. 37 was added to the Resolution pursuant to the Housing Department's request.

Mayor Sam Liccardo opened the public hearing.

Public Comments: (1) Appellant Brett Townsend noted that due to the flow of traffic, the proposed easement is not adequate for current access. (2) Applicant Paul Bunton spoke to merits of project. Ken Tsukahara, Donna D Loreto, Garretta Annable and Kathryn Hedges, and a fifth speaker spoke to liabilities of the project. Paul Soto spoke to racial inequities.

Mayor Sam Liccardo closed the public hearing.

10.2 (Cont'd.)

Council members followed up with questions and discussion whether the Permit Appeal negates the Conditional Use Permit findings. They discussed staffs' recommendation that the proposed project is consistent with the goals and policies of the General Plan, Commercial Pedestrian Zoning District, Commercial Design Guidelines, and City Council policies.

Action: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Chappie Jones carried unanimously, **Resolution No. 79732** was adopted, denying the permit appeal and approving, subject to conditions, Conditional Use Permit No. CP19-021, for the Bascom Residential Care Facility Project. (11-0.)

OPEN FORUM

1. Blair Beekman advocated for open democratic practices and opportunities espoused by the United Nations and World Health Organization.
2. Robert Geary suggested the city set up a commission for the unhoused so they may be adequately represented and the need for IPA agreements be memorialized in writing.
3. A member of the public spoke on necessity for street repair and less high-density housing and complained of a lack of city management.
4. Kathryn Hedges advocated for community involvement by the unhoused and disabled community.
5. JT addressed obstacles to the police chief promotion.

ADJOURNMENT

The Council of the City of San José adjourned at 8:48 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/09-29-20 MIN

JOINT CITY OF SAN JOSE CITY COUNCIL/FINANCING AUTHORITY

SEPTEMBER 29, 2020

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 Joint Council meeting was not physically open to the public. Public comments were accepted via eComment, email, by phone and webinar.

The Council meeting was teleconferenced from remote locations.

The Joint City of San José Council/Financing Authority convened on Tuesday, September 29, 2020 at 2:19 p.m.

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

Absent: Councilmembers - All Present.

1. 20-1132 Amendment to Certain Agreements Related to the Interim Financing Program to Finance Capital Improvements at the San José-Santa Clara Regional Wastewater Facility.

(a) Adopt a resolution of the City Council approving and authorizing the execution and delivery of a Second Amendment to the Credit Agreement and a Second Amended and Restated Fee Letter Agreement with Wells Fargo Bank, National Association, related to the issuance by the City of San José Financing Authority of its Subordinate Wastewater Revenue Notes in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time for the purpose of financing or refinancing Wastewater System and Treatment Plant Projects to extend the term of the Credit Agreement and the Notes and to revise the calculation of interest and fees for the Notes and authorizing other related actions in connection therewith.

(b) Adopt a resolution of the City of San José Financing Authority Board approving and authorizing the execution and delivery of a Second Amendment to the Credit Agreement and a Second Amended and Restated Fee Letter Agreement with Wells Fargo Bank, National Association related to the issuance by the City of San José Financing Authority of its Subordinate Wastewater Revenue Notes in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time for the purpose of financing or refinancing Wastewater System and Treatment Plant Projects to extend the term of the Credit Agreement and the Notes and to revise the calculation of interest and fees for the Notes and authorizing other related actions in connection therewith.

(Item Continued on the Next Page)

1. 20-1132 (Cont'd.)

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; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Finance/Environmental Services)

Heard Immediately After Consent

No presentation was given.

Public Comments: 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 Councilmember Johnny Khamis, seconded by Councilmember Pam Foley and carried unanimously, City Council (a) **Resolution No. 79733**, approving and authorizing the execution and delivery of a Second Amendment to the Credit Agreement and a Second Amended and Restated Fee Letter Agreement with Wells Fargo Bank, National Association; and (b) **Financing Authority Resolution No. 150**, approving and authorizing the execution and delivery of a Second Amendment to the Credit Agreement and a Second Amended and Restated Fee Letter Agreement with Wells Fargo Bank were adopted. (11-0.)

ADJOURNMENT

The Joint meeting was adjourned at 2:20 p.m., and the meeting of the City of San José City Council was reconvened.

CLOSED SESSION MINUTES

TUESDAY, SEPTEMBER 29, 2020

The Council of the City of San José convened into Closed Session at 9:31 a.m.
The Session was teleconferenced from remote locations.

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

Absent: Councilmembers - All Present.

Items discussed:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code:

Number of matter(s) to be discussed: 1

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

1. Case Name: Ho, Richard v. City of San Jose; Miraido Village LLC, et al.
Name(s) of Parties(s) RICHARD HO; THE CITY OF SAN JOSE; MIRAIDO VILLAGE LLC; and DOES 1 to 50
Court: Superior Court of California, County of Santa Clara
Case No: 19CV359154
Amount of Money or Other Relief Sought: Damages according to proof
2. Case Name: Santa Cruz, Marissa and Paea I'suva Tukuafu v. City of San Jose; [FNU] Thompson; Saul Sepeda, et al.
Name(s) of Parties(s) MARISSA SANTA CRUZ; PAEA I'SUVA TUKUAFU; CITY OF SAN JOSE; [FNU] THOMPSON; SAUL SEPEDA; and DOES 1-10, inclusive
Court: US District Court Northern District of California
Case No: 5:20-cv-00351-NC
Amount of Money or Other Relief Sought: Damages according to proof
3. Case Name: City v. CSAA Insurance Exchange, et al.
Name(s) of Parties(s) CITY OF SAN JOSE, CSAA INSURANCE EXCHANGE; and DOES 1-10, inclusive
Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction

Case No: 1-15-CV-284966

Amount of Money or Damages according to proof
Other Relief Sought:

4. Case Name: San Jose Mercury News LLC v. City, et al.

Name(s) of Parties(s) SAN JOSE MERCURY NEWS, LLC, CITY OF SAN JOSE;
Involved: SAN JOSE POLICE DEPARTMENT; EDGARDO GARCIA,
IN HIS CAPACITY AS CHIEF OF POLICE, SAN JOSE
POLICE DEPARTMENT; and DOES 1-20

Court: Superior Court of the State of California, County of Santa
Clara

Case No.: 20-CV-368449

Amount of Money or Damages according to proof
Other Relief Sought:

**C. CONFERENCE WITH REAL PROPERTY DESIGNATED REPRESENTATIVES
PURSUANT TO GOVERNMENT CODE SECTION 54956.8:**

1. Property Street Address, 300 Enzo Drive, San Jose
Parcel Number, or Other
Unique Reference of
Property:

Negotiating Parties: Nanci Klein for the City of San José (Buyer
and
George Mersho (Seller)

Under Negotiation: The direction will concern price and terms of
payment.

Likely Range of Value of Property: Negotiated price based on appraisal and
comparable property values.

2. Property Street Address, APN 678-05-063 (unaddressed), 5.16 acres off
Parcel Number, or Other Enzo Drive and Eden Park Place
Unique Reference of
Property:

Negotiating Parties: Nanci Klein for the City of San José (Buyer
and
Eric Kim (Seller)

Under Negotiation: The direction will concern price and terms of
payment.

Likely Range of Value of Property: Negotiated price based on appraisal and
comparable property values.

D. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6:

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or Name and Title of Unrepresented Employees: **Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

2. Organization or Name and Title of Unrepresented Employees: **San José Police Officers' Association (SJPOA)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and San José Polices' Association

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

The Closed Session adjourned at 12:14 p.m. to reconvene in Open Session at 1:30 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk