



City Council Meeting

Draft Minutes/Synopsis

Tuesday, March 10, 2020

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



MINUTES OF THE CITY COUNCIL MEETING

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 10, 2020

The Council of the City of San José Closed Session was cancelled per County of Santa Clara Public Health advisory to postpone or cancel gatherings and community events with large numbers of people to curtail spread of the novel coronavirus (COVID-19) and reduce the number of people infected.

By unanimous consent, Council convened to Regular Session at 1:32 PM in the Council Chambers.

Present: Councilmembers - Liccardo, Jones, Jimenez, Peralez, Diep, (1:51 PM); Carrasco, Davis, Esparza, Arenas, Foley, Arenas, Khamis.

Absent: Councilmembers - All present.

INVOCATION

Mike McGee, Santa Clara County Poet Laureate, 2018 2019, provided the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Dev Davis, and carried unanimously, the Orders of the Day and the Amended Agenda were accepted, with the addition of Item 3.5: "Ratification and Extension of Proclamation of Local Emergency Due to Confirmation From the Santa Clara County Department of Public Health That Community Transmission of the 2019 Novel Coronavirus (COVID-19) is Happening at the Local Level" and the addition of NEW ITEM 8.3: "Actions Related to Income Loss and Evictions Due to Novel Coronavirus" TO BE ADDED UNDER ORDERS OF THE DAY, REQUIRING A DETERMINATION BY A TWO-THIRDS (2/3) VOTE OF THE MEMBERS OF THE COUNCIL PRESENT AT THE MEETING, OR, IF LESS THAN TWO-THIRDS (2/3) OF THE MEMBERS OF THE COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION.

Council's Rules of Conduct, Resolution No. 79367, Rule 3(d).

(10-1. Absent: Diep)

• CLOSED SESSION REPORT

No report. City Manager David Sykes deferred his comments until Item 3.5.

Access the video, the agenda, and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/civiccenterv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

• **Adjournment**

This meeting will be adjourned in honor of Dr. Jerrold “Jerry” Hiura. Dr. Jerry was an important and spirited community leader, a tireless force in San José's arts and cultural community and also a popular family dentist. Dr. Jerry was among the first appointees to City of San José's Arts Commission, and a co-founder of the Contemporary Asian Theatre Scene (CATS). He spent his life passionately involved in bringing diversity to organizations at the local and state levels, with a particular interest in promoting the work and growth of Asian artists. At the time of his passing, he and his wife Lucia Cha were serving as trustees on the board of San Jose Museum of Art. Dr. Jerry's memory is cherished by his wife Lucia Cha, mother Dorothy, sister Barbara Hiura, and also leaves behind step children, their spouses and grandchildren.

1. CEREMONIAL ITEMS

- 1.1 Mayor Sam and Councilmember Dev Davis presented a proclamation recognizing March as National Nutrition Month.
- 1.2 Mayor Sam Liccardo presented a proclamation declaring March 11, 2020 as National 311 Day to recognize the significant contributions of our emergency and non-emergency contact representatives.
- 1.3 Mayor Sam Liccardo and Councilmember Dev Davis presented a proclamation recognizing March as American Red Cross Month.
Heard in the evening.

2. CONSENT CALENDAR

Councilmember Lan Diep joined the meeting at approximately 1:51 PM.

Public Comments: Blair Beekman commented on items 2.1 and 2.3 of consent calendar.

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sylvia Arenas, and carried unanimously, the Consent Calendar was approved, with item 2.10 pulled, to be rescheduled and the below listed actions taken as indicated.

(11-0)

2.1 20-242 Approval of City Council Minutes.

Recommendation:

- (a) Regular Council Meeting Minutes of April 24, 2018.
 (b) Regular Council Meeting Minutes of May 8, 2018.
 (c) City Council Special Meeting: San José Sexual Assault Response and Strategy Meeting Minutes of November 12, 2019.
 (d) Regular City Council Meeting Minutes of February 25, 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 Regular Council Meeting Minutes of April 24, 2018, Regular Council Meeting Minutes of May 8, 2018, City Council Special Meeting: San José Sexual Assault Response and Strategy Meeting Minutes of November 12, 2019, and Regular City Council Meeting Minutes of February 25, 2020, were approved.

2.2 20-232 Final Adoption of Ordinances.

Recommendation: (a) **Ord No. 30368** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Norm's Recycling LLC.
[Passed for Publication on 2/25/2020 - Item 6.5(b)(1) (20-180)]

Action: Ordinance No. 30368 was adopted.

(b) **Ord No. 30369** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Garden of Eden Landscapes, Inc. DBA Ground Force Enterprises.
[Passed for Publication on 2/25/2020 - Item 6.5(b)(2) (20-180)]

Action: Ordinance No. 30369 was adopted.

(c) **Ord No. 30371** - An Ordinance of the City of San José Amending Section 23.04.038 (North San José Signage Area) and Section 23.04.124 (Downtown Sign Zone) of Chapter 23.04 of Title 23 of the San José Municipal Code to Modify Permit Provisions for New Supergraphic Signs; Amending Section 23.04.156 of Part 2.5 (Urban Mixed-Use Sign Development Zone) of Chapter 23.04 of Title 23 to Allow Skyline Signs; and to Make Other Non-Substantive, Ministerial, Technical, or Typographical Changes to Chapter 23.04 of Title 23 of the San José Municipal Code.
[Passed for Publication on 2/25/2020 - Item 10.1(a) (20-186)]

Action: Ordinance No. 30371 was adopted.

(d) **Ord No. 30372** - An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code (Zoning Ordinance) to: Change Permit Requirements for Drinking Establishment in Conjunction with a Winery Brewery or Distillery an Off-Sale of Alcoholic Beverages as Incidental to a Winery Brewery or Distillery in the Commercial, Industrial, and Downtown Zoning Districts in Table 20-90 in Section 20.40.100 of Chapter 20.40, Table 20-110 in Section 20.50.100 of Chapter 20.50, and Table 20-140 in Section 20.70.100 of Chapter 20.70; Amend Table 20-90 in Section 20.40.100 of Chapter 20.40, and Table 20-140 in Section 20.70.100 of Chapter 20.70 to Include Taproom or Tasting Room with Off-Sale of Alcohol; Amend the Parking Requirement for Medical or Dental Clinic/Out-Patient Facility in Table 20-140 of Section 20.70.100; Amend Section 20.50.110 Commercial Support to Include the Administrative Permit for Off-Sale of Alcohol; Amend Section 20.80.900 to Include a Section for Off-Sale of Alcoholic Beverages in Conjunction with Wineries, Breweries, and Distilleries; Add Part 5.75 Taproom or Tasting Room with Off-Sale of Alcoholic Beverages to Chapter 20.80; Add a Parking Requirement for Taproom or Tasting Room Use in Table 20-190 in Chapter 20.90; Update the Definition for drinking Establishment in Section 20.200.1273 of Chapter 20.200; and Make Other Technical, Non-Substantive, or Formatting Changes Within those Sections of Title 20 of the San José Municipal Code. [Passed for Publication on 2/25/2020 - Item 10.1 (b) (20-187)]

Action: Ordinance No. 30372 was adopted.

(e) **Ord No. 30373** - An Ordinance of the City of San José Amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to Amend Section 20.30.600 Table 20-80 to Add Clarifying Language to the Corner Lot Side Setback Area Definition and Standards; Amend Section 20.80.1410 to Clarify the Term “Director;” Amend Section 20.80.1440 to Add Lawful Non-Residential Uses into Residential Zoning Districts for the Outdoor Private Property Special Events Permit Process; Amend Section 20.80.1450 to Add Clarifying Language which Defines Setbacks for Lawful Non-Residential Uses; Amend Section 20.80.1460 to Include Downtown Zoning Districts and Reduce Setbacks for Outdoor Private Property Special Events in Commercially Zoned Districts within Designated Neighborhood Business Districts when in Compliance with Residential Standards under this Part; Amend Section 20.80.1460 and 20.80.1470 to Increase the Number of Outdoor Private Property Special Events which can Take Place in Commercial and Industrial Zoning Districts; Amend Section 20.80.1510 to Increase the Permit Acceptance or Denial Period from Thirty (30) to Forty-Five (45) Days; and to Make Other Technical, Non-Substantive, or Formatting Changes within Those Sections of Title 20 of the San José Municipal Code. [Passed for Publication on 2/25/2020 - Item 10.1(c) (20-188)]

Action: Ordinance No. 30373 was adopted.

(f) **Ord No. 30374** - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.86-Gross Acre Situated on the Southeast Corner of Stockton Avenue and West Julian Street (292 Stockton Avenue) (APN 259-28-028), from the Hi Heavy Industrial Zoning District to the DC Downtown Primary Commercial Zoning District. [Passed for Publication on 2/25/2020 - Item 10.2 (b)(2) (20-189)]

Action: Ordinance No. 30374 was adopted.

2.3 20-254

Approval of Council Committee Minutes

Recommendation:

- (a) Regular AD-HOC Committee on Development Services Meeting Minutes of January 24, 2019.
 - (b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of April 3, 2019.
 - (c) Regular Smart Cities and Service Improvements Committee Meeting Minutes of April 4, 2019.
 - (d) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of April 10, 2019.
 - (e) Regular Neighborhood Services and Education Committee Meeting Minutes of April 11, 2019.
 - (f) Regular Neighborhood Services and Education Committee Meeting Minutes of February 13, 2020.
 - (g) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of February 19, 2020.
 - (h) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of February 20, 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.

2.4 20 268 Mayor and Council Excused Absence Requests.

Recommendation: Request for an excused absence for Councilmember for Sylvia Arenas, from the Regular Meeting of the Rules and Open Government Committee on March 4, 2020, due to illness.

(b) Request for an excused absence for Mayor Liccardo, from the Regular Meeting of the Rules and Open Government Committee on April 1, 2020, due to personal business. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Arenas and Mayor) [Rules Committee referral 3/4/2020 - Item A.1.a]

Action: Mayor and Council Excused Absence Requests was approved.

2.5 City Council Travel Reports.**2.6 Report from the Council Liaison to the Retirement Boards.****2.7 20-213 Amendment to the Lease of Airport Premises Agreement with Smiths Detection, Inc.**

Recommendation: Approve a Third Amendment to Lease of Airport Premises with Smiths Detection, Inc. to extend the term for three years, from March 16, 2020 to March 15, 2023, with annual revenue to the City of approximately \$47,070.

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

Action: A Third Amendment to Lease of Airport Premises with Smiths Detection, Inc. was approved.

2.8 20-237 Approval of the Dumpster Day Event Sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

Recommendation: (a) Approve the Dumpster Day event scheduled on March 14, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.

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

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Diep)

[Rules Committee referral 02/26/2020 - Item G.1(a)]

Action: The Dumpster Day Special Event was approved, expenditure of funds and authorization to accept donations from various individuals, businesses, or community groups to support the event was approved.

2.9 20-278 Retroactive Approval of the Dumpster Day Event Sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

Recommendation: (a) Retroactively Approve the Dumpster Day Event scheduled on February 1, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Diep)
[Rules Committee referral 03/04/2020- Item G.1(d)]

Action: The Dumpster Day Special Event was retroactively approved, expenditure of funds and authorization to accept donations from various individuals, businesses, or community groups to support the event was approved.

2.10 20-287 Approval of the History of Inequity in San José Panel Discussion Sponsored by Council District 2,3,5,7 and 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

Recommendation: (a) Approve the History of Inequity in San José Panel Discussion scheduled on March 18, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Jimenez, Peralez, Carrasco, Esparza, and Arenas)
[Rules Committee referral 03/04/2020- Item G.1(e)]

Action: The History of Inequity in San José Panel Discussion Special Event was pulled and postponed, with notation that a new date will be rescheduled.

2.11 20-296 Approval of the Berryessa Annual Art Festival Sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

Recommendation: (a) Approve the Berryessa Annual Art Festival scheduled on May 9, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Diep)
[Rules Committee referral 03/04/2020- Item G.1(f)]

Action: The Berryessa Annual Art Festival Special Event was retroactively approved, expenditure of funds and authorization to accept donations from various individuals, businesses, or community groups to support the event was approved.

2.12 20-239 Request for Travel for Mayor and Council.

Recommendation: Authorize travel, accept travel payments to the City of San José, approve use of the Mayor/Council Travel Budget, and designate Vice Mayor Chappie Jones as the City representative to attend the National League of Cities Congressional City Conference event in Washington D.C. from March 8 - 11, 2020, and excuse absence from the Regular Meeting of the City Council on March 10, 2020 and the Rules Committee Meeting on March 11, 2020. Source of Fund: Mayor and Council Travel Budget and National League of Cities.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Jones)
[Rules Committee referral 3/4/2020 - Item A.1.a]

Action: Request for Travel for Mayor and Council was dropped.

3. STRATEGIC SUPPORT**3.1 Report of the City Manager, David Sykes (Verbal Report)**

No report.

3.2 Labor Negotiations Update.

None provided.

3.3 20-224 Second Quarter Financial Reports for Fiscal Year 2019-2020.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on February 20, 2020, accept the Second Quarter (period ending December 31, 2019) Financial Reports for Fiscal Year 2019-2020 for the following programs:
(a) Debt Management
(b) Investment Management
(c) Revenue Management; and
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)
[Public Safety, Finance, and Strategic Support Committee referral - 2/20/20 - Item (d)2]

There was no presentation for this item.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Johnny Khamis, and carried unanimously, the Second Quarter Financial Reports for Fiscal Year 2019-2020, was approved.
(10-1. Absent: Peralez)

3.4 20-228

City of San José Investment Policy Annual Review.**Recommendation:**

As recommended by the Public Safety, Finance, and Strategic Support Committee on February 20, 2020, adopt a resolution to approve the proposed revisions to Council Policy 1-12, "City of San José Investment Policy."

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

(Finance)

[Public Safety, Finance, and Strategic Support Committee referral - 2/20/20 - Item (d)3]

There was no presentation for this item. Finance Director Julia Cooper responded to questions.

Public Comments: Blair Beekman commented on fossil fuel and local community energy.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, Resolution 79424 was adopted, and the City of San José Investment Policy Annual Review, was approved, including approval of the memorandum by Mayor Liccardo, and Councilmembers Jimenez, Peralez, and Davis to:

Approve the proposed revisions to Council Policy 1-12, "City of San Jose Investment Policy," with the following additions:

1. Return to the City Council with language for a potential amendment to Subsection 22 (Social Responsibility) that includes:

- a. The City shall make no new direct investments in entities that directly engage in the exploration, production, refining, or marketing of fossil fuels.

(11-0)

3.5 20-306

Ratification and Extension of Proclamation of Local Emergency Due to Confirmation from the Santa Clara County Department of Public Health That Community Transmission of the 2019 Novel Coronavirus (COVID-19) is Happening at the Local Level.

Recommendation:

(a) Adopt a resolution ratifying and extending the Director of Emergency Services' Proclamation of March 6, 2020 of the existence of a local emergency resulting from community spread of the coronavirus, also known as COVID-19, in the City of San José.

(b) Receive staff's update on the status of the spread of coronavirus, its impact on the City of San José, and response efforts.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15269, Emergency Projects Undertaken for Specific Actions Necessary to Prevent or Mitigate an Emergency.

(City Manager)

(Item Continued on the Next Page)

3.5 20-306 Ratification and Extension of Proclamation of Local Emergency Due to (Cont'd)

City Manager David Sykes, and Deputy City Manager Kip Harkness provided an update on coronavirus, citing guidance received from the Santa Clara County Department of Public Health that community transmission of the 2019 Novel Coronavirus (COVID-19) is happening at the local level.

Public Comments: Offering comments were. Rose Herrera, (former Vice Mayor); Robert Aguirre, Shawn Cartwright, and Scott Largent.

Action: Upon motion by Councilmember Dev Davis to move approval, seconded by Councilmember Magdalena Carrasco, and carried unanimously, Resolution No. **79425** was adopted, and staff recommendation was approved.
(11-0)

4. PUBLIC SAFETY SERVICES**5. TRANSPORTATION & AVIATION SERVICES****6. ENVIRONMENTAL & UTILITY SERVICES****7. NEIGHBORHOOD SERVICES****8. COMMUNITY & ECONOMIC DEVELOPMENT****8.1 20-214 Hammer Theatre Center Operations and Maintenance Agreement.**

Recommendation: As recommended by the Community and Economic Development Committee on February 24, 2020, accept the report and adopt a resolution authorizing the City Manager to negotiate and execute an agreement with San Jose State University for the operations and maintenance of the Hammer Theatre Center for a 15-year term with two additional 10 year options to renew starting July 1, 2020, for an annual amount of \$315,000 with adjustments according to the consumer price index, subject to the appropriation of funds by the City Council.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Economic Development)
[Community and Economic Development Committee referral 2/24/20 - Item (d)2]

Cultural Affairs Director Kerry Adams Hapner, Program Coordinator Karen Park, Hammer Theatre Center Executive Director Christopher Burrill, and College of Humanities and the Arts Dean, Dr. Shannon Miller, gave a presentation and responded to questions.

Action: Upon motion by Councilmember Raul Peralez to move approval, seconded by Councilmember Pam Foley, and carried unanimously, Resolution 79426 was adopted, and staff report, was approved.
(10-1. Absent: Jimenez)

8.2 20-215

TEFRA Hearing for California Statewide Communities Development Authority's Issuance of Tax-Exempt Multifamily Revenue Bonds to Acquire and Rehabilitate the Valley Palms Apartments.

Heard in the evening

Recommendation:

(a) Hold a Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") public hearing for the issuance not to exceed \$120,000,000 in tax-exempt private-activity bonds by the California Statewide Community Development Authority to finance the Project and to pay certain expenses incurred in connection with the issuance of the bonds.

(b) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by the California Statewide Community Development Authority in a principal amount not to exceed \$120,000,000 to be used to finance the Project and to pay certain expenses incurred in connection with the issuance of the tax-exempt private activity bonds.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities, File No. PP20-010. Council District 7. (Housing)

Heard in the evening.

Housing Director Jacky Morales-Ferrand, Deputy Director Rachel VanderVeen, Police Captain Jason Ta and Deputy City Attorney Shasta Green gave a presentation and responded to questions.

Public Comments: Offering comments were: Lashana Gosford, Maria Reyes, Angel Alvarado, Lucia Navas, Marilu, Raymond Motte, Guadalupe, Andrea Cassena, Mari L., Rita Ibarra, Ali, Angie, Teresa E., Claudia Gonzalez, and Gabriela V.

KDF Owner and Management Representative Mark Hyatt responded to questions, concern and allegations of poor management and neglect.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Vice Mayor Chappie Jones, and carried unanimously, Resolution 79427 **was** adopted, and staff report, was accepted, including approval of the memorandum from Councilmember Esparza to:

1. Accept the staff recommendation relative to the TEFRA Hearing for California Statewide Communities Development Authority's Issuance of Tax-Exempt Multifamily Revenue Bonds to Acquire and Rehabilitate the Valley Palms Apartments, including approval of the proposed Regulatory Agreement between the City of San Jose and KDF Properties, LLC.
2. Direct Staff to return to Council to provide updates on the status of the Regulatory Agreement implementation at 6 months, 12 months, and 18 months, including updates on:
 - a. the installations of security cameras and exterior lighting.
 - b. the expanded family resource center and soccer field.
 - c. replacement of the property management company.
 - d. Any additional negotiations between the Owner and County of Santa Clara (and any successor public entity services funder)
 - e. agreed upon security levels and ongoing collaboration with SJPD.

(Item Continued on the Next Page)

8.2 20-215**TEFRA Hearing for California Statewide Communities Development (Cont'd)**

- f. the updated property management plan that includes a resident grievance process, a tenant participation plan, procedures for handling late rent payments, resident use of community facilities, and protocol for access for resident service providers
- g. anonymous resident survey regarding Project Access and the improvement plan.
- h. Availability of the current form lease/rental agreement in Spanish and Vietnamese.
- i. General maintenance of the Project as per item "1c" in Exhibit E, City of San Jose Requirements for the Regulatory Agreement.

Also approved was additional clarifications to include changes to security, changes staff made to family resource center access, changes related to resident survey, and to direct the City sit down with the County and KDF properties.

(11-0)

8.3 20-307**Actions Related to Income Loss and Evictions Due to Novel Coronavirus****Recommendation:**

- (a) Direct the City Attorney to prepare a resolution, an ordinance, and a companion urgency ordinance providing for a temporary moratorium on evictions in the City of San Jose for renters on the basis of nonpayment of rent ("affected renters") where that failure to pay rent results from wage loss resulting from the novel coronavirus (COVID-19) pandemic, under the following conditions:
 - (1) Ordinance will become effective upon Council adoption of a resolution declaring that the moratorium is effective due to the declaration of the County Public Health Officer, or other State or Federal Authority, of an emergency related to COVID-19;
 - (2) The temporary moratorium shall remain in effect for a period of thirty (30) days from the Council resolution, but the City Manager shall return to enable Council to consider an extension to a longer period as the circumstances dictate;
 - (3) The temporary moratorium must not extend beyond the duration of the City's Resolution, but may be extended for a longer period by agreement of the Council;
 - (4) Affected renters must demonstrate substantial loss of income, through documentation or other objectively verifiable means, resulting from the COVID-19 pandemic or the declaration of the County Public Health Officer, or other State or Federal Authority e.g., from (a) job loss, (b) a reduction of compensated hours of work, (c) store, restaurant, or office closure, (d) the need to miss work to care for a home-bound school-age child, or (e) other similarly-caused loss of income that resulted since the City's Resolution;
 - (5) Affected renters must notify their landlords on or before the day that rent is due that they have substantial loss of income as a result of the declared emergency related to COVID-19, resulting in business closure, substantial loss of compensable hours of work and wages, or layoffs.
 - (6) The legislation shall include findings of potential job loss, wage loss, or other impacts for specific industries-such as hotels, conventions,-or theaters:-resulted from the COVID-19 pandemic.
- (b) Direct the City Attorney to evaluate the potential for including in such legislation a 120-day period for affected tenants to become current on past due rent.

(Item Continued on the Next Page)

8.3 20-307

Actions Related to Income Loss and Evictions Due to Novel (Cont'd)

(c) Direct the City Manager to work with the Apartment Association in advocating with the relevant organizations for temporary relief for burdened, unpaid landlords from the burden of such costs as property taxes, utility charges, and foreclosure.

CEQA: Not a Project, PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact on the environment, and PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Mayor)

There was no presentation for this item.

Public Comments: Offering comments on Actions Related to Income Loss and Evictions Due to Novel Coronavirus were: George Rossy, Yolanda Chavez, Ellie, David, Patricia Mendoza, Tim Beaubien, Cheryl L., Michael Fitzgerald, Andrew Fitzgerald, Jeffrey Buchannan, Anil Babbar, Poncho Guevara, Cindy Bautista, Lucy, David Eisbach, Blair Beekman, Robert Aguirre, Estefania, and Annette Kirkham.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Raul Peralez, and carried unanimously, staff recommendation, was approved, with additional clarification that staff come back next week with specifics, including budgetary impacts.

This was amended with approval of Memorandum from Councilmember Lan Diep as an advisory, (rather than binding), to:

Adopt Mayor Liccardo's memo with these additional directions:

1. The following shall be deemed as adequate proof to qualify for relief under this urgency ordinance when presented with evidence of substantial loss-of-income:
 - a. Letters from employers citing Coronavirus as a reason for reduced work hours;
 - b. Letters from clients or customers citing Coronavirus as a reason for reducing or canceling purchase orders, requests of services-for-hire, or other profit-generating contracts;
 - c. Letters from schools citing Coronavirus as a reason to keep students at home, thus creating a need for childcare; and
 - d. Letters from a doctor recommending rest at home for school-aged children or seniors due to Coronavirus;
2. The City shall make findings of fact and take notice of objective news reports regarding the detrimental impacts of Coronavirus upon San Jose's economy so that individuals in industries recognized as impacted will automatically satisfy the causation requirement for relief under this urgency ordinance;
3. While paystubs are the best proof of income, time cards shall be acceptable if paystubs are not yet available at the time relief is sought;

(Item Continued on the Next Page)

8.3 20-307**Actions Related to Income Loss and Evictions Due to Novel (Cont'd)**

4. In measuring substantial loss-of-income, claimants will have the choice of comparing earnings of the month when losses are claimed against the earnings of the previous month or the median average of earnings for the three months immediately prior. If this urgency ordinance is extended and relief is sought for additional consecutive months, future losses shall be measured against the same baseline of expected income chosen initially;

5. Renters must make a good faith effort to pay any portion of rent that they are able with their reduced income, after accounting for recurring personal expenses and without having to dip into personal savings; and

6. For the purposes of this urgency ordinance, only earned monthly income will be considered in assessing an individual's ability to pay rent - personal savings, investments, or the value of property in their possession will not be relevant.
(10-1. Absent: Khamis)

9. REDEVELOPMENT – SUCCESSOR AGENCY**• Open Forum**

Blair Beekman commented on Coronavirus, the impending recession, and State-sponsored terrorism.

- Council recessed at 6:03 PM.
- Council reconvened at 6:31 PM.

10. LAND USE**10.1 Land Use on Consent Calendar**

- (a) 20-216 C19-028 - Conforming Rezoning for Real Property located at 460 Lincoln Avenue.

Recommendation:

Approve an ordinance rezoning the approximately 2.49-acre site on that certain real property located on the southeast corner of Auzerais Avenue and Lincoln Avenue (460 Lincoln Avenue) from the HI Heavy Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Planning Director recommends approval. Council District 6.

(Planning, Building and Code Enforcement)

There was no presentation for this item.

Action: Upon motion by Councilmember Dev Davis to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, Ordinance No. 30377 was passed for publication, and staff report was approved.

(10-1. Absent: Esparza)

- (b) 20-217 **C19-037 - Conforming Rezoning for Real Property located at 332 North Second Street.**

Recommendation: Approve an ordinance rezoning two contiguous properties, each approximately 0.21-gross acres, on that certain real property located on the east side of North Second Street, approximately 330 feet north of West Julian Street, at 332 and 334 North Second Street, from the LI Light Industrial Zoning District to the CN Commercial Neighborhood Zoning District.
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 Director recommends approval. Council District 3.
(Planning, Building and Code Enforcement)

Action: Ordinance No. 30378 was passed for publication.

- (c) 20-218 **C19-044 - Conforming Rezoning for Real Property located at 821 Coleman Avenue.**

Recommendation: Approve an ordinance rezoning an approximately 0.23-gross acre site, on that certain real property located on the southwest side of Coleman Avenue, approximately 200 feet northwest of Emory Street, at 821 Coleman Avenue, from the R-2 Two Family Residence Zoning District to the LI Light Industrial Zoning District.
CEQA: Categorically Exempt, CEQA Guidelines Section 15303(c) for New Construction or Conversion of Small Structures. File No. C19-044. Planning Director recommends approval. Council District 3.
(Planning, Building and Code Enforcement)

Action: Ordinance No. 30379 was passed for publication.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

OPEN GENERAL PLAN HEARING (2020 FIRST CYCLE).

10.2 20-219

GPT19-003/GP19-005/GP19-006 - General Plan Text Amendment, General Plan Amendment for Real Property Located at 625 Hillsdale Avenue, and General Plan Amendment for Real Property Located at 500 Nicholson Lane (Council Policy Priority #2 - Mobilehome Conversions).

Recommendation:

(a) Adopt a resolution adopting the General Plan Text Amendment to add a new land use designation entitled “Mobilehome Park” to Chapter 5 (“Interconnected City”) of the Envision San José 2040 General Plan (File No. GPT19-003);

Planning, Building and Code Enforcement Director Rosalynn Hughey, and Deputy Director Michael Brilliot, gave a presentation and responded to questions.

Public Comments: Offering comments were: Sam Saiu, Becky Lake, Bob Anido, Glenna Howcroft, Don Murdoch, Peter and Lynn, Jake Tonkel, Vincent Flores, Juan Martinez, Nancy Stevens, Teresa Mulligan, Saul Srour, Joanne Payton, Jeffery Buchannan, Alice Rosenbach, Louise Morris, Teresa Rim, Bill Ashby, Heidi Vos Salza Marianne Humes, Barbara Crum, Antonio Mora, Gary Smith, Trinidad Martinez, Huy Tran, Annette Kirkham, (Representing Law Foundation Of Silicon Valley); Jim Canova, William Scotio, Marg Cimafranca, Sally Lieber, Remedios Serrano, Sergio, Dexter Goody, Debbie Clark, Colleen Anderson, Antonio Bastida, Roseanne Hernandez, Angelica Pantoja, Patrick Grimes, Maria Munoz, Marcelo Delao, Dianne Whitfield, Pablo, Charlotte Johnston, Lee Ellak, Carol Todd, Janis Brenzin, Álvaro Regalado, Mark Mollineaux, Ngoc Nguyen, Mynu Nguyen, Stacey Becker, Valentin Rosas, Christina Lemon, Diane Donegan, Van Dorr, Joseph Oullette, Erendira Guzman, Jenny Chiew, Kevin Truong, Lan Nguyen, Hun Mingh, Rexna Sanchez, Mitch Mankin, Huesca Castro, Diane Everton, Dylan Sanchez, Wei Chih Liu, Martha O’Connell, Emily, Xianhang Si, Hanx Hung Hsiu, and Sandy Perry.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Pam Foley, and carried unanimously, Resolution 79428 was adopted, including approval of the memorandum from Councilmembers Jimenez, Peralez, Esparza, and Foley to:

1. Accept recommendations A, B, C, and D (2) of the Planning Commission's recommendations, dated February 26, 2020;
2. Direct staff to begin necessary environmental reviews and work to amend the Envision 2040 General Plan to apply the "Mobile Home Park" land use designation to the remaining 56 mobile home parks in the City. Staff should bring these resolutions back no later than March 2021;
3. Direct staff to study the inclusion of mobile home parks as it considers potential future affordable housing preservation policies and investments as part of the City's Anti-Displacement Strategy.

(11-0)

(b) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Urban Residential and Residential Neighborhood to Mobilehome Park for 625 Hillsdale Avenue on a 21.71 gross acre site (File No. GP19-005); and

Action: Resolution No. 79429 was adopted.

(Item Continued on the Next Page)

10.2 20-219

GPT19-003/GP19-005/GP19-006 - General Plan Text Amendment, (Cont'd)

(c) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Urban Residential to Mobilehome Park for 500 Nicholson Lane on an 83.43 gross acre site (File No. GP19-006).

(d) In addition to the above, the Planning Commission further recommended that the City Council:

(1) Consider a City-initiated General Plan amendment and direct staff to return to Council to consider applying the Mobilehome Park land use designation to the remaining 56 mobilehome parks in the City; and

(2) Consider amendments to the General Plan and/or City Council Policy 6-33 and direct staff to return to Council to consider additional amendments to better protect existing mobilehome residents by ensuring residents receive just compensation in the event of a conversion, with the criteria being, at a minimum, comparable to what was received by residents at the Winchester Ranch Mobilehome Park, and to include strategies to ensure mobilehome units lost are replaced with deed restricted on-site, affordable housing.

(e) Determine that the Council Policy Priority #2 is completed and will be removed from the 2020-2021 Council Policy Priority List.

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. File No. GPT19-003/GP19-005/GP19-006. Council Districts 7 and 4. Planning Commission recommends approval (6-0-1, Oliviero absent). (Planning, Building and Code Enforcement)

Action: Resolution No. 79430 was adopted, and staff report, accepted.

CLOSE GENERAL PLAN HEARING (2020 FIRST CYCLE).

10.3 20-220

PD18-040 - Administrative Hearing on the Appeals of the Planning Director's Consideration of the Harker Middle School Expansion Project Mitigated Negative Declaration in accordance with CEQA and approval of the Planned Development Permit No. PD18-040.

Recommendation:

(a) Conduct an Administrative Hearing to consider the Appeals of the Planning Director's (i) adoption of the Harker Middle School Expansion Project Mitigated Negative Declaration in accordance with CEQA and (ii) approval of the Planned Development Permit No. PD18-040 for the Harker Middle School Project, which permits the demolition of three existing academic building, and a portion of an auditorium/gym building totaling approximately 19,000 square feet and the construction of a 2-story classroom building, an addition to the existing auditorium/gym resulting in approximately 20,542 square foot building, and site improvements including the removal of fifteen ordinance size trees, circulation improvements including the installation of a traffic light on Union Avenue, landscaping and the addition of sports courts and a field for a private middle school with up to 600 students on an approximately 7.7-gross acres lot located at 4525 Union Avenue.

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10.3 20-220

PD18-040 - Administrative Hearing on the Appeals of the Planning (Cont'd)

Planning, Building and Code Enforcement Director Rosalynn Hughey, Deputy Director Michael Brilliot, and Division Manager Jared Hart gave a presentation and responded to questions.

Public Comments: Offering comments were: Brian Ahr, Sujatha and Arne Donovan.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Johnny Khamis, and carried unanimously, the staff report was approved, including approval of the memorandum from Councilmember Foley to approve the staff recommendation and approve the Planned Development Permit (PD18-040) for The Harker School expansion project, with the following amendments:

1. Condition 11 - Neighborhood Coordination:

- a. The Harker School Communication Plan will include a 1500ft radius for mailing communication, and a posting on the School web site. Additionally, the Applicant will maintain a list for electronic communication and will include anyone interested in receiving updates.
- b. Prior to construction, the school shall send a one-time mailer to all properties in the area between Highway 85, Bascom Avenue, Camden Avenue and Leigh, inviting neighbors to subscribe to the Harker mailing or emailing list. The school shall maintain a mailing list and email list of neighborhood residents that would like to be kept informed of school activities, including special events.
- c. The Harker School (Applicant) will conduct community meetings:
 - i. Spring; (prior to construction), Fall 2020 (update), Spring 2021 (prior to operation)
 - ii. During the first year of operations as a middle school, the Applicant will host community meetings: October 2021, January 2022, April 2022
 - iii. Following the first year of operation meetings will commence annually, during the Fall semester.
- d. Amend condition 11 to include: The Applicant will communicate preferred transportation routes to their families prior to each semester (including Summer session).

2. Permit Conditions: a. Amend condition 10 to include: The Applicant using the Communication Plan, will communicate 12 special event dates annually, prior to the school year. Any amendments to the special event calendar will be communicated with the neighborhood 60 days prior to the proposed change.
- a. The Applicant will review the start times of neighboring schools in the area and determine a time between 8:00am and 8:30am that will result in minimal impact to the community. This time will be reviewed annually to offset any changes at the neighboring schools.”

(Item Continued on the Next Page)

10.3 20-220

PD18-040 - Administrative Hearing on the Appeals of the Planning (Cont'd)

b. Condition 15: The Applicant will conduct counts of the number of pedestrians entering and exiting the site. Such counts will be conducted four times per year for the lifetime of the project, and will be posted on the School's web site and transmitted electronically.

c. Any window on floor two, facing the neighborhood in the academic building, will be constructed of obscured glass from the classroom floor to a minimum 7ft in height.

d. Trees will be planted between the newly constructed academic building and the property line to create a natural privacy screen, and obstruct the view of the building from the neighboring homes. Trees will be a minimum 15ft in height prior to planting.

e. All outdoor lighting will be LED, and equipped with motion sensor, or similar technology, to allow for dimming when no motion is present.

3. Transportation:

a. Add a condition to include the installation of a crosswalk at the intersection of Union Avenue and Barrett Avenue prior to the operation as a middle school, to provide a safe route to cross Barrett Avenue.

b. Add a condition to include the completion of a traffic analysis prior to construction for Barrett Avenue, and Jacksol Drive. The traffic analysis will capture speed and 24-hour volume data. The traffic analysis should occur Monday-Thursday, during the academic school year. Any further traffic analysis will be completed at the discretion of the Director.

(9-2. Absent: Carrasco, Esparza)

(b) Adopt a resolution denying the environmental appeal and upholding the Planning Director's adoption of the Harker Middle School Expansion Project Mitigated Negative Declaration, and finding that:

(1) The City Council has read and considered the Initial Study/Mitigated Negative Declaration (IS/MND) for the Harker Middle School Project and related administrative record in connection with Planned Development Permit No. PD 18-040;

(2) The Harker Middle School IS/MND was prepared in compliance with the California Environmental Quality Act (CEQA) of 1970, as amended, together with State and local implementation guidelines;

(3) Adoption of the Harker Middle School Project MND reflects the independent judgement and analysis of the City of San José; and

(4) Preparation of a new environmental document is not required because the IS/MND thoroughly and adequately analyzed the project and the environmental appeal does not raise any new significant impacts that have not already been analyzed in the IS/MND in accordance with Public Resources Code (PRC) Section 21166, or CEQA Guidelines Section 15162.

Action: Resolution No. 79431 was adopted.

(c) Adopt a resolution denying the permit appeal and approving the Planned Development Permit No. PD18-040, for the Harker Middle School Project, to allow the demolition of three existing academic buildings and a portion of an auditorium/gym building totaling approximately 19,000 square feet and the construction of an approximately 39,000-square foot, 2-story classroom building, an addition to the existing auditorium/gym resulting in an approximately 20,542 square foot building, and site improvements including the removal of fifteen ordinance-size trees, circulation improvements including installation of a traffic light on Union Avenue, landscaping, and the addition of sports courts and a field for a private middle school with up to 600 students on an approximately 7.7-gross acre site, on the West side of Union Avenue, 100 feet southerly of Barrett Avenue, (4525 Union Avenue).

CEQA: Harker Middle School Expansion Project Mitigated Negative Declaration, File No. PD18-040. Council District 9. (Planning, Building and Code Enforcement)

Action: Resolution No. 79432 was adopted.

• **Notice of City Engineer's Pending Decision on Final Maps**

FOR APPROVAL:

Tract: 10518

Location: Ringwood Ave/ Murphy Ave. (East Corner) 1508 Murphy Ave.

District: 4

Lots/Units: 1/5

Type: SFD

Proposed Decision: Approved

Developer: HD Family LLC

• **OPEN FORUM**

There were no cards.

• **ADJOURNMENT**

This meeting is adjourned in honor of Dr. Jerrold “Jerry” Hiura. Dr. Jerry was an important and spirited community leader, a tireless force in San José’s arts and cultural community and also a popular family dentist. Dr. Jerry was among the first appointees to City of San José’s Arts Commission, and a co-founder of the Contemporary Asian Theatre Scene (CATS). He spent his life passionately involved in bringing diversity to organizations at the local and state levels, with a particular interest in promoting the work and growth of Asian artists. At the time of his passing, he and his wife Lucia Cha were serving as trustees on the board of San Jose Museum of Art. Dr. Jerry’s memory is cherished by his wife Lucia Cha, mother Dorothy, sister Barbara Hiura, and leaves behind step children, their spouses, and grandchildren.

Mayor Liccardo adjourned the Council Meeting session at 11:29 PM.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

lo/3-10-20 MIN

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On occasion the City Council may consider agenda items out of order.