



# **City Council Meeting**

# **Administrative Draft**

## **Tuesday, April 24, 2018**

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

- **Call to Order and Roll Call**

9:30 a.m.- Closed Session, Call to Order in Council Chambers  
Open Session, Labor Negotiations Update (See Item 3.2)  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
See Separate Agenda

1:30 p.m.- Regular Session, Council Chambers, City Hall

6:00 p.m.- Public Hearings, Council Chambers, City Hall

- **Invocation (District 4)**

Andy Burns, Children's Musical Theater

- **Pledge of Allegiance**

- **Orders of the Day**

To be heard after Ceremonial Items

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

- **Closed Session Report**

To be heard after Ceremonial Items

## **1. CEREMONIAL ITEMS**

- |            |               |  |
|------------|---------------|--|
| <b>1.1</b> | <b>18-524</b> | Presentation of a proclamation for "Arbor Day" to demonstrate support for environmental protection and sustainability through the planting of trees in the City of San José. (Arenas)  |
| <b>1.2</b> | <b>18-552</b> | Presentation of a proclamation recognizing April 2018 as Month of the Young Child in the City of San José. (Arenas)  |
| <b>1.3</b> | <b>18-553</b> | Presentation of a commendation to Tommy Tran for earning a perfect score on his Advanced Placement Calculus Exam in April 2018. (Nguyen)<br><b>TO BE HEARD IN THE EVENING</b>  |
| <b>1.4</b> | <b>18-554</b> | Presentation of a commendation to Code One Programming for their dedication to inspire young minds to become programmers through their free computer science and coding classes offered to students of all ages. (Khamis)<br><b>TO BE HEARD IN THE EVENING</b> |

## **2. CONSENT CALENDAR**

**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

### **2.1 18-556 Approval of City Council Minutes.**

**Recommendation:** (a) Regular Council Meeting Minutes of November 7, 2017.  
(b) Regular Council Meeting Minutes of November 14, 2017.  
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

### **2.2 Final Adoption of Ordinances.**

### **2.3 Approval of Council Committee Minutes.**

### **2.4 Mayor and Council Excused Absence Requests.**

### **2.5 City Council Travel Reports.**

### **2.6 Report from the Council Liaison to the Retirement Boards.**

### **2.7 18-525 Ordinance Modifying the Types of Eligible Medical Plans to be Offered to Retirees.**

**Recommendation:** Approve an ordinance amending Section 3.24.2290 of Chapter 3.24 of Title 3, Sections 3.28.1980 and 3.28.1990 of Chapter 3.28 of Title 3, and Sections 3.36.1930 and 3.36.1940 of Chapter 3.36 of Title 3 of the San José Municipal Code to modify the types of eligible medical plans to be offered to Retirees.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)

### **2.8 18-520 Agreement with History San José for Maintenance of City-Owned Historical Facilities.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement with History San José, from July 1, 2018 to June 30, 2038, for the operations and maintenance of the City-owned historical facilities within History Park at Kelly Park and the Peralta Adobe - Fallon House Historic Site, as well as management of the City's historic collections for an annual amount not to exceed \$784,000, subject to annual appropriations as approved by City Council.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council Districts 3 and 7. (Economic Development)

**2.9 18-560 Agreement with the San José Public Library Foundation for the Administration of SJ Learns.**

**Recommendation:** Approve an Agreement with the San José Public Library Foundation to administer the funding of the SJ Learns Program as a fiscal agent retroactive from February 1, 2018 through June 30, 2019, in an amount not to exceed \$1,000,000.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Library)

### **3. STRATEGIC SUPPORT**

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

**3.2 Labor Negotiations Update.**

**Recommendation:** Accept Labor Negotiations Update.  
**TO BE HEARD AT 9:30 A.M.**

**3.3 18-559 Approval of Revised Code of Ethics Policy, Gift Policy, and Council Policy 0-15.**

**Recommendation:** Adopt a resolution:  
(a) Approving the revised Code of Ethics Policy;  
(b) Approving the revised Gift Policy; and  
(c) Approving the revised Council Policy 0-15.  
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)

### **4. COMMUNITY & ECONOMIC DEVELOPMENT**

**4.1 18-522 Actions Related to the New San José Hotel Business Improvement District and Levy Assessments in the San José Hotel Business Improvement District for Fiscal Year 2018-2019.**

**Recommendation:** (a) Public Hearing to consider the establishment of the San José Hotel Business Improvement District (SJHBID). This is the second of two public comment meetings required under the Property and Business Improvement Law of 1994, Streets and Highways Code Section 36600 et seq., to establish the proposed SJHBID.  
(b) Public Hearing to approve the budget and the levy of assessments for the SJHBID beginning Fiscal Year 2018-2019.  
(c) Adopt a resolution of formation establishing the SJHBID and approving the budget and authorizing the levy of assessments beginning Fiscal Year 2018-2019.  
CEQA: Statutory Exempt, File No. PP08-048, CEQA Guidelines Section 15061(b)(3), CEQA only applies to projects which have potential for causing a significant effect on the environment. (Economic Development)

**4.2 18-548 Actions Related to the Report on the Downtown Wayfinding System.****Recommendation:**

- (a) Accept the report on the Downtown Wayfinding System, which includes findings and recommendations for a wayfinding program for Downtown San José and a commitment to collaborate with the Regional Mapping and Wayfinding Partnership led by the Metropolitan Transportation Commission.
  - (b) Adopt a resolution authorizing the City Manager to negotiate and execute Master Consulting Agreement with City ID LLC for wayfinding and placemaking design services for an initial three-year term ending June 2021 for an aggregate maximum compensation not to exceed \$2,000,000, subject to the appropriation of funds; the City has budgeted \$550,000 for work under this agreement, and will need to identify additional funds to complete work beyond that amount.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3.  
(Economic Development/Transportation)

**4.3 18-521 Amendments to Procedures for Removal of Rent Stabilized Units from the Rental Market (Ellis Act Ordinance).****Recommendation:**

- (a) Accept the staff report.
- (b) Approve an ordinance amending the re-control provisions in Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to:
  - (1) Subject the greater of either the number of apartments removed from the market, or 50% of new apartments built to the Apartment Rent Ordinance (ARO).
  - (2) Subject additional apartments beyond the base units to the current annual general increase of 5%.
  - (3) Allow an exemption from the re-control provisions if at least twenty (20) newly constructed rental units are being created. The re-control requirement under this Section will be waived if the property owner:
    - (i) Develops fifteen percent (15%) of the newly constructed units as on-site affordable rental units consistent with the standards and affordability restriction requirements in the Inclusionary Housing Ordinance, Chapter 5.08 of Title 5 of the San José Municipal Code and its implementing guidelines; and
    - (ii) Develops an additional five percent (5%) of the newly constructed units as on-site affordable rental units restricted at 100% of area median income, but otherwise consistent with the standards in the Inclusionary Housing Ordinance and implementing guidelines.
  - (4) Include apartments buildings with three units under the Ellis Act.
  - (5) Allow non-ARO apartments with three units or more built after 1979 to provide 120-day notification to their tenants and the City and to provide relocation consultant services to impacted tenants.

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

**RECOMMEND TO BE HEARD NOT BEFORE 3:00 P.M. PER  
ADMINISTRATION**

**4.4 18-549 Amendments to the Tenant Protection Ordinance - Title 17 for Immigration and Criminal Activity.**

**Recommendation:**

Accept the staff report and approve an ordinance amending the provisions in Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to:

- (a) Include a provision that prohibits landlords from disclosing or threatening to disclose tenants' and/or associates of tenants' immigration or citizenship status to authorities for the purposes or intent of retaliation, harassment, intimidation, or recovering possession of a rental unit consistent with Civil Code 1940.35(a), as amended; and
- (b) Include "Felony Conviction" as a separate just cause basis for eviction to allow a landlord to serve a Notice of Termination of Tenancy when a tenant has been convicted, for a serious felony as defined by Penal Code Section 1192.7(c), as amended, or a violent felony as defined by Penal Code Section 667.5(c), that was committed during his or her tenancy and on the premises. Require that landlords, prior to serving a Notice of Termination of Tenancy, provide tenant households a written notice to remove the tenant who was convicted from the unit or the tenant's name from the lease agreement within a reasonable time, using one of the following methods:

- (1) Filing a restraining order or providing evidence of similar steps being taken to remove them from the household; or

- (2) Removing the member of the household who was convicted and providing written notice to the landlord that said tenant has been removed.

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

**RECOMMEND TO BE HEARD NOT BEFORE 3:00 P.M. PER ADMINISTRATION**

**4.5 18-550 Amendments to the Apartment Rent Ordinance - Title 17 for Utility Pass Throughs to Tenants.**

**Recommendation:**

(a) Accept the staff report on submetering, submetering incentives, and pass throughs of utility costs, including Ratio Utility Billing System (RUBS).

(b) Approve an ordinance amending Part 3 of Chapter 17.23 of Title 17 of the San José Municipal Code to:

- (1) Clarify that the pass through of utility charges to tenants via RUBS or other unmetered allocations is not allowed;

- (2) Allow landlords with written utility pass through contracts for water, sewer and/or garbage in place prior to January 1, 2018, to petition for a one-time rent increase equal to the lesser of:

- (i) The average monthly charges for water, sewer and/or garbage passed through to the tenant over the 2017 calendar year; or

- (ii) An amount equal to the sum of the 2018 Santa Clara County Housing Authority Utility Allowance rates for multifamily water, sewer and garbage costs; and

(3) Allow landlords with written gas and/or electric pass through contracts in place prior to January 1, 2018 to petition for a one-time increase if a landlord's units are not separately metered for gas and electricity and the landlord has complied with the requirements of Civil Code Section 1940.9. The increase shall be the lesser of:

(i) The average monthly charges passed through to the tenant over the 2017 calendar year; or

(ii) An amount equal to the sum of the 2018 Santa Clara County Housing Authority Utility Allowance rates for multifamily gas and electric costs.

(c) Direct staff to submit the revisions to the Regulations implementing the limited term one-time rent increase petition process to the City Manager for approval.

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

**RECOMMEND TO BE HEARD NOT BEFORE 3:00 P.M. PER  
ADMINISTRATION**

#### **4.6 18-551**

#### **Actions Related to the Source of Income Discrimination Ordinance and Fair Housing Ordinance.**

##### **Recommendation:**

Accept the staff report, and:

(a) Direct the City Attorney Office to develop a source of income discrimination ordinance including, but not limited to, staff's recommended provisions on the definition of source of income, prohibited activities, applicability, and enforcement.

(b) Direct the Housing Department to implement an education and outreach plan in coordination with Santa Clara County Housing Authority that considers process improvements and incentives to increase rental subsidy utilization.

(c) Direct the Housing Department to explore the feasibility of a local Fair Housing Ordinance and return to the City Council with a recommendation.

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

**RECOMMEND TO BE HEARD NOT BEFORE 3:00 P.M. PER  
ADMINISTRATION**

## **5. NEIGHBORHOOD SERVICES**

## **6. TRANSPORTATION & AVIATION SERVICES**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

### **7.1 18-475 Agreement with Agreement with Black & Veatch for the 8142 - Yard Piping Improvements Project at the San José-Santa Clara Regional Wastewater Facility.**

**Recommendation:** Approve a Master Consultant Agreement with Black & Veatch to provide owner's advisor services for the 8142 - Yard Piping Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2026, in a total amount not to exceed \$9,750,000, subject to the appropriation of funds. CEQA: Statutory Exempt, File No. PP18-016, Section 15262, Feasibility and Planning Studies with respect to the scope of work that is limited to this action and Section 15061(b)(3), CEQA only applies to projects which have the potential for causing a significant effect on the environment. (Environmental Services/Public Works)

## **8. PUBLIC SAFETY**

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

- Open Forum

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.*

- Council will recess until 6:00 p.m.

## **10. LAND USE**

**Notice to the public:** There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

### **10.1 Land Use on Consent Calendar**

#### **18-526 Conforming Rezoning for Real Property Located at 0 Wabash Street (C18-002).**

**Recommendation:** Consideration of an ordinance of the City of San José rezoning a 0.14-gross acre site, located on the south side of Wabash Street, approximately 400 feet westerly of Archer Street, located on the south side of Wabash Street (0 Wabash Street) from CN Commercial Neighborhood to R-1-8 Single-Family Residence (Anna Wu, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Impact Report (Resolution No. 76041) and Supplemental Impact Report (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement) C18-002 - Council District 4



**END OF CONSENT CALENDAR**

**10 Land Use - Regular Agenda**

- Open Forum

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.*

- Adjournment