

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 19, 2019

The Council of the City of San José convened in Regular Session at 9:10 a.m. in the Council Chambers at City Hall.

9:10 a.m.- Closed Session, Call to Order in Council Chambers

Liccardo (9:25); Diep (9:40); Esparza (9:30)

18-1777 Closed Session Agenda

1:33 p.m.- Regular Session, Council Chambers, City Hall (special time)

Absent Councilmembers: All Present.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:34 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Existing Litigation/Initiated Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) In re: Claim of Dellinger; Court: Workers Compensation Appeals Court; Case No. ADJ2582686: Amount of Money or Other Relief Sought: Benefits; (2) Haag, et al. v. City; Names Of Partie(s) Involved: Timothy Haag, Carlos, Jonathan Savage, David Ennes, Alan Gonzales, Darren Wallace, Aaron Aguilar, Sean Ain, Bryan M. Aquino, Jesse D. Baliscao, David Barmore, Wesley Barone, Scott D. Bell, Nick Bellow, Holger Blech, Travis Boelter, Aaron Booth, Jeremy Broce, Casey Brosnan, Brendan Buller, Mark Buttitta, Dominick Carilli, Fred Carrasco, Clay S. Cartson, Federico Comandante, Neil M. Connelly, Marco A. Cornelio, Jesus Corona, Thomas Y. Correa, Christopher Cunningham, Sean P. Dilloughery, Angel Dizon, Bien Doan, Chris Doty, Brian Dragges, Jonas J. Escalera, Forest Fernandez, Florin Florea, Atanacio Garcia, Andrew Gardanier, Carlos Gomez, Chad Goytia, Iurii Guskov, Robert Gutierrez, Scott Hamilton, Kiah Harper, Jeffrey D. Heald, Blake Hiatt, Michael Hildalgo, Thanh C. Ho, Derek Isozaki, Daniel Kent, Joseh King, Keith A. Kirmse, John H. Lee, David E. Lerma, Rocky Ling, Thomas Lo, Victor Ooesche, Nick Long, Jeff Lowrimore, Michael Maas, Brian Madison, Mary McCarthy, Robert C. McKnight, Matthew McVey, Maria Minoia, David M. Moseley, Michael Moses, Patrick Mulcahy, Benjamin Naranjo, Tom Newland, Michael Oliver, Jon Olson, Spencer Parker, Anselmo Pereira, Manuel M. Pereira, Jr., James D. Poblete, Mark Puddincombe, Mark A. Ramirez, Ray Ramos, Dustin Reich, Ray Ro, Peter L. Roman, Anthony Rosa, Richard B. Rosenquist, Scott Rosingana, Jason Schaefer, John W. Senkier, Jeffrey A. Silva, Greg Sniffen, Charles Soriano, Kirk Spillner, Shawn Tacklind, Joshua R. Thomas, Mark Thomas, Glen Thompson, Patrick Tognozzi, William Tognozzi, Oscar Tovar, Eunico Trinidad, Robert Van Peteghem, Victor Velasquez, Scott Walker, Mark Warene, Eddie L. Warner, Nicholas Wilder, Joseph Zavattero and Mike Zerweck, City of San José; Court: U.S. District Court, Northern District of California; Case

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

CLOSED SESSION (Cont'd.)

No. 3:18-CV-01270 MMC; Amount of Money or Other Relief Sought: Damages according to proof; (B) To confer with Legal Counsel – Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(4): Matter(s) to be discussed: 4 (four); (C) Public Employment/Public Employee Recruitment/Appointment Pursuant to Government Code Section 54957: Department or Agency: City Auditor's Office; Title: City Auditor.

By unanimous consent, Council recessed from the Closed Session at 11:50 a.m.; Council reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

INVOCATION (District 3)

Jason Franks of the San José Digital Arts Program introduced Jacob Anguiano who performed an original song "Sunset".

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 1.1 Mayor Sam Liccardo presented a commendation to San José Climate Smart Champions. (Mayor)
- 1.2 Mayor Sam Liccardo and Councilmember Dev Davis presented a proclamation to Red Cross Month. (Davis)
- 1.3 Mayor Sam Liccardo and Councilmember Magdalena Carrasco presented a commendation to Tyler Gordon for making art an escape, sharing his art with others and helping his community. (Carrasco)

CONSENT CALENDAR

Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated.
(11-0.)

2.1 19-136 Approval of City Council Minutes.

- (a) Regular City Council Meeting Minutes of August 14, 2018.
 - (b) Regular City Council Meeting Minutes of September 11, 2018.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Documents Filed: Regular City Council Meeting Minutes dated August 14, 2018 and September 11, 2018.

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

2.2 19-087 Final Adoption of Ordinances.

- (a) Ord No. 30231 - An Ordinance of the City of San José Amending Section 12.06.210 of Chapter 12.06 of Title 12 of the San José Municipal Code to Update the Process and Method for Calculating and Approving a Cost of Living Adjustment for the Campaign Contribution Limit Commencing with the March 3, 2020 Primary Election.

Action: Ordinance No. 30231 was adopted. (11-0.)

2.3 19-135 Approval of Council Committee Minutes.

- (a) Regular Rules and Open Government Committee Meeting Minutes of February 27, 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.

Documents Filed: Rules and Open Government Committee Meeting Minutes dated February 27, 2019.

Action: The Council Committee Meeting 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 19-085 Settlement of Cooper v. City of San José.

Approve a settlement in the amount of \$215,000, and authorize the City Attorney to execute a Settlement Agreement to settle the case of Cooper v. City of San José.

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

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, date March 7, 2019, recommending approval of a settlement agreement. (2) Letter from South Bay Progressive Alliance (SBPA) “Why Create a Public Bank in Santa Clara County”.

Action: The Settlement Agreement of Cooper v. City of San José was approved. (11-0.)

2.8 19-071 Amendment to the Agreement with Raimi + Associates, Inc. for Services in the Diridon Station Area.

Adopt a resolution authorizing the City Manager to execute the Continuation and First Amendment to the Agreement for Consultant Services between the City of San José and Raimi + Associates, Inc. (Raimi) to extend the term through June 30, 2020 and increase compensation to \$505,000 (currently \$230,000) for services including branding and website, civic engagement, and project management, subject to appropriation.

CEQA: Not a Project, File Nos. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Economic Development)

Documents Filed: Joint memorandum from Chief of Staff, Office of the City Manager, Lee Wilcox and Deputy City Manager/Director of Economic Development Kim Walesh, dated March 8, 2019, recommending adoption of a resolution.

Deputy City Manager/Director of Economic Development Kim Walesh read corrected language for the agenda into the record. Chief of Staff, Office of the City Manager, Lee Wilcox responded to questions from Council.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, Resolution No. 79005, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement for Consultant Services Between the City of San José and Raimi + Associates, Inc. (RAIMI) from January 1, 2019 through June 30, 2020 in an Amount Not to Exceed \$275,000 for Services Including Website Maintenance, Civic Engagement, and Project Management, Subject to Appropriation”, was adopted. Staff offered language clarification. Recommendation should read: "Adopt a resolution authorizing the City Manager to execute an Agreement for Consultant Services between the City of San Jose and Raimi + Associates, Inc. (Raimi) January 1, 2019 through June 30, 2020 in an amount not to exceed \$275,000 for services including website maintenance, civic engagement, and project management, subject to appropriation." (11-0.)

2.9 19-072 Report on Bids and Award of Contract for 8716 - South Bay Water Recycling Pump Station 5 VFD Replacement Project.

Report on bids and award of contract for the 8716 - South Bay Water Recycling Pump Station 5 VFD Replacement project to the low bidder, CESCOP dba CAL ELECTRIC, in the amount of \$243,100 and approve a contingency in the amount of \$24,300, for a total of \$267,400.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301, Existing Facilities(b), File No. PP17-068. (Environmental Services)

Documents Filed: Memorandum from Director, Environmental Services, Kerrie Romanow, dated February 27, 2019, recommending approval of a report and award of a contract.

Action: Report on Bids and Award of Contract for 8716 - South Bay Water Recycling Pump Station 5 VFD Replacement Project was approved. (11-0.)

2.10 19-073 Actions Related to the Purchase Order with Six Degrees Consulting for Check Point Technical and Support Services.

Adopt a resolution authorizing the City Manager to:

(a) Execute a Purchase Order with Six Degrees Consulting (Chicago, IL) for Check Point technical services, maintenance, and support for an initial twelve-month period beginning on or about March 25, 2019 and ending on or about March 25, 2020 for a not-to-exceed amount of \$220,062;

(b) Approve a contingency of \$44,000 to amend the Purchase Order as required during the initial term for any unanticipated changes; and

(c) Execute up to four additional one-year option terms to extend services through March 25, 2024, subject to the appropriation of funds.

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

Documents Filed: City Council Action Request from Director of Finance Julia H. Cooper, dated March 8, 2019, recommending adoption of a resolution.

Action: Resolution No. 79006, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to (1) Execute a Purchase Order with Six Degrees Consulting (Chicago, IL) for Check Point Technical Services, Maintenance and Support for an Initial Twelve-Month Period Beginning on or About March 25, 2019 and Ending on or About March 25, 2020 for a Not-To-Exceed Amount of \$220,062; and (2) Approve a Contingency of \$44,000 to Amend the Purchase Order as Required During the Initial Term for Any Unanticipated Changes; and (3) Execute Purchase Orders for up to Four Additional One-Year Option Terms to Extend Services Through March 25, 2024, Subject to the Appropriation of Funds”, was adopted. (11-0.)

2.11 19-074

Action Related to the Fiscal Year 2018 Internet Crimes Against Children Grant Award.

(a) Adopt a resolution accepting the Fiscal Year 2018 Internet Crimes Against Children Task Force Award in the amount of \$1,000,000 and authorizing the City Manager to execute the Grant Agreement and all related documents and to execute additional amendments and related documents without further Council action.

(b) Adopt the following 2018-2019 Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund:

(1) Establish a City-Wide appropriation to the Police Department for the Internet Crimes Against Children State Grant 2018-2020 in the amount of \$360,000; and

(2) Increase the estimate for Revenue from State of California by \$360,000.

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

Documents Filed: Joint memorandum from Chief of Police Edgardo Garcia and Budget Director Margaret McCahan, dated March 5, 2019, recommending adoption of approval of a grant agreement and adoption of an appropriation ordinance and funding sources resolution amendment.

Action: Resolution No. 79007, entitled: “A Resolution of the Council of the City of San José Accepting the Fiscal Year 2018 Internet Crimes Against Children Task Force Award in the Amount of \$1,000,000 and Authorizing the City manager to Execute the Grant Agreement and all Related Documents and to Execute Additional Amendments and Related Documents Without Further Council Action”; Ordinance No. 30232, entitled “An Ordinance of the City of San José Amending Ordinance No. 30124 to Appropriate Moneys in the General Fund for the Internet Crimes Against Children State Grant 2018-2020; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 79008, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78672 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2018-2019 to Adjust Revenues in the General Fund”, were adopted. (11-0.)

2.12 19-081

Request for Travel for Mayor's Staff.

Authorize travel, accept travel payments to the City of San José, and designate Mayor's staff, Shireen Santosham, as the City representative to attend the Aspen Institute's Future of Cities: Connecting Innovation, Equity and Empowerment Conference in Washington, D.C. from April 8, 2019 to April 10, 2019. (Source of Funds: Aspen Institute)

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

Documents Filed: Memorandum from Mayor Sam Liccardo, dated March 5, 2019, requesting authorization to travel for City Staff.

Action: The travel authorization request was approved. (11-0.)

2.13 19-075 Railroad Maintenance Agreement with Peninsular Corridor Joint Powers Board.

Approve the Railroad Maintenance Agreement with the Peninsular Corridor Joint Powers Board for the grade crossing improvements at West Virginia Street and at Auzerais Avenue.

CEQA: Peninsula Corridor Electrification Program Final Environmental Impact Report (SCH # 2013012079), File No. PP16-061. Council District 6. (Transportation)

Documents Filed: Memorandum from John Ristow, Deputy Director of Department of Transportation, dated March 6, 2019, recommending approval of a maintenance agreement.

Action: The Railroad Maintenance Agreement with Peninsular Corridor Joint Powers Board was approved. (11-0.)

2.14 19-092 Approval of Annual Greek Flag Raising Event and Scottish Flag Raising Event, each Sponsored by Council District 10 as a City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on March 6, 2019:

(a) Approve the Annual Greek Flag Raising Event scheduled on March 25, 2019 as a City Council sponsored Special Event and approve the expenditure of funds; and

(b) Approve the Annual Scottish Flag Raising Event scheduled on April 3, 2019 as a City Council sponsored Special Event and approve the expenditure of funds; and

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

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

[Rules Committee referral 3/6/19 - Item G.1.c]

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated March 6, 2019, recommending approval of a City-Sponsored event.

Action: Approval of the City-Sponsored Event was accepted. (11-0.)

2.15 19-141 SB 5 (Beall and Maguire) Local-State Sustainable Investment Incentive Program.

As recommended by the Rules and Open Government Committee on March 13, 2019, adopt a position of support, if amended, for SB 5 (Beall and Maguire).

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

[Rules Committee referral 3/13/19 - Item G.3]

Deferred to 3/26/19 per Administration.

- 2.16 19-142 Approval of Assyrian New Year (Assyrian Flag Raising), Sponsored by Council District 10 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 March 13, 2019:
(a) Approve the Assyrian New Year (Assyrian Flag Raising) scheduled on March 20, 2019 as a City Council sponsored Special Event and approve the expenditure of funds; and
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Khamis)
[Rules Committee referral 3/13/19 - Item G.1.a]

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated March 6, 2019, recommending approval of a City-Sponsored event.

Action: Approval of the City-Sponsored Event was accepted. (11-0.)

- 2.17 19-143 Approval of Palestinian Flag Raising Event Sponsored by Council District 10 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 March 13, 2019:
(a) Approve the Palestinian Flag Raising Event scheduled on April 5, 2019 as a City Council sponsored Special Event and approve the expenditure of funds; and
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Khamis)
[Rules Committee referral 3/13/19 - Item G.1.b]

Documents Filed: Memorandum from Councilmember Johnny Khamis, dated February 28, 2019, recommending approval of a City-Sponsored event.

Action: Approval of the City-Sponsored Event was accepted. (11-0.)

- 2.18 19-144 Approval of the 14th Annual Santos Family Car Show 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.**
As recommended by the Rules and Open Government Committee on March 13, 2019:
(a) Approve the 14th Annual Santos Family Car Show scheduled on August 31, 2019 as a City Council sponsored Special Event and approve the expenditure of funds; and
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Diep)
[Rules Committee referral 3/13/19 - Item G.1.c]

2.18 (Cont'd.)

Documents Filed: Memorandum from Councilmember Lan Diep, dated March 6, 2019, recommending approval of a City-Sponsored event.

Action: Approval of the City-Sponsored Event was accepted. (11-0.)

2.19 19-145 **Retroactive Approval of Trash Talk Sponsored by Council District 6 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 March 13, 2019:

(a) Retroactively approve the Trash Talk scheduled on March 8, 2019 as a City Council sponsored Special Event and approve the expenditure of funds; and

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

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

[Rules Committee referral 3/13/19 - Item G.1.d]

Documents Filed: Memorandum from Councilmember Dev Davis, dated March 7, 2019, recommending approval of a City-Sponsored event.

Action: Approval of the City-Sponsored Event was accepted. (11-0.)

2.20 19-146 **Request for Travel for Mayor and Council.**

(a) Authorize travel, accept travel payments to the City of San José, and designate Councilmember Jimenez as a City representative to attend the Water Education for Latino Leaders Conference in Long Beach, CA on March 28-29, 2019. Source of Funds: Water Education for Latino Leaders.

(b) Approve travel by Councilmember Diep to Washington, D.C. on April 1-2, 2019 to represent the City and attend the Silicon Valley Leadership Group's Annual Spring Advocacy Trip, and authorize the use of District 4 funds for the registration fee, travel, hotel, meals and incidental expenses related to official travel. Source of Funds: District 4 Office Budget.
environment. (Jimenez/Diep)

Documents Filed: (1) Memorandum from Councilmember Sergio Jimenez, dated March 6, 2019, requesting authorization to travel. (2) Memorandum from Councilmember Lan Diep, dated March 13, 2019, requesting authorization to travel.

Action: The travel authorization requests were approved. (11-0.)

STRATEGIC SUPPORT

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

City Manager, David Sykes offered an update on the HVAC system, noting City Hall is experiencing some system problems that Public Works is addressing.

3.3 19-076 Approval of the Fiscal Year 2019-2020 Mayor's March Budget Message.

(a) Conduct a Public Hearing on the FY 2019-2020 Mayor's March Budget Message.

(b) Approve the FY 2019-2020 Mayor's March Budget Message.

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

Documents Filed: Memorandum from Mayor Sam Liccardo, dated March 8, 2019, recommending approval of the March Budget Message.

Mayor Sam Liccardo offered opening remarks and opened the public hearing.

Public Comments: Pete Weldy (Silicon Valley Community Foundation), Wency Ho (SCVN) and Wendi Gurahoo (First 5 Santa Clara County), each expressed appreciation for the inclusion of childcare elements and family-friendly initiatives.

Mayor Sam Liccardo closed the public hearing.

Council discussion followed, and Chief of Staff, Office of the City Manager, Lee Wilcox responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the Fiscal Year 2019-2020 Mayor's March Budget Message was approved (11-0.)

3.4 19-077 9-1-1 and 3-1-1 Call Answering Audit.

As recommended by the Public Safety, Finance, & Strategic Support Committee on February 21, 2019, accept a report on the 911-311 Call Answering Audit.

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

[Public Safety, Finance, & Strategic Support Committee referral
2/21/19 - Item (d)3]

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated March 18, 2019, recommending acceptance of the report. (2) Memorandum from City Auditor Sharon Erickson, dated February 14, 2019, providing the -1-1 and 3-1-1 Call Answering Audit.

Public Comments: A member of the public (no name given) spoke on negative experiences with 9-1-1 and 3-1-1 calls.

3.4 (Cont'd.)

Staff responded to questions from Council, and extensive discussion continued.

Motion: Councilmember Sergio Jimenez moved approval of the Call Answering Audit including the memorandum from Mayor Sam Liccardo dated March 18, 2019. The motion was seconded by Councilmember Raul Perez.

In response to Council's questions, City Auditor Sharon Erickson noted that updates are provided every six months.

Action: On a call for the question, the 9-1-1 and 3-1-1 Call Answering Audit was accepted, including Mayor Sam Liccardo's memorandum dated March 18, 2019, to:

- 1) Expedite the bifurcation of the call handling process such that 3-1-1 calls are handled by non-emergency call-taking staff in the IT department or elsewhere, and
- 2) Refer additional staffing and equipment costs to the 2019-2020 budget process to address chronic workload challenges.

(11-0.)

3.5 19-089 Second Quarter Financial Reports for Fiscal Year 2018-2019.

As recommended by the Public Safety, Finance, & Strategic Support Committee on February 21, 2019:

(a) Accept the following Second Quarter (period ending December 31, 2018) Financial Reports for Fiscal Year 2018-2019 for the following programs:

- (1) Debt Management
- (2) Investment Management
- (3) Revenue Management

(b) Adopt a resolution authorizing the Director of Finance to write-off uncollectible debts in an amount up to \$2,230,723.30.

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, & Strategic Support Committee referral
2/21/19 - Item d(4)]

[Deferred from 3/12/19 - Item 3.5 (19-042)]

Documents Filed: Memorandum from

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Raul Perez, and carried unanimously, Resolution No. 79009, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Write Off Uncollectible Accounts", was adopted. (11-0.)

3.6 19-090 City of San José Investment Policy.

As recommended by the Public Safety, Finance, & Strategic Support Committee on February 21, 2019, 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 & Policy Making resulting in no changes to the physical environment. (Finance)
[Public Safety, Finance, & Strategic Support Committee referral
2/21/19 - Item d(5)]
[Deferred from 3/12/19 - Item 3.6 (19-043)]

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated March 19, 2019, providing recommendations from the Public Safety, Finance, & Strategic Support Committee. (2) Supplemental memorandum from Director of Finance Julia H. Cooper, dated March 12, 2019, offering additional information on AB 1770.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Sergio Jimenez, and carried unanimously, Resolution No. 79010, entitled: “A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 1-12, the City of San José Investment Policy”, was adopted. (11-0.)

3.7 19-078 Report on Request for Proposal for Financial Services (Banking Services) RFP 17-18-05.

(a) Adopt a resolution authorizing the City Manager to take one of the following actions:

- (1) Reject all proposals for RFP 17-18-05, and
 - (a) Issue a new RFP for banking services; or
 - (b) Explore the feasibility of an alternative delivery model for banking services and report back to the City Council prior to issuing a new RFP based on a new model on or before June 30, 2020; or
- (2) As an alternative to rejecting all proposals for RFP 17-18-05, waive Wage Theft Prevention Council Policy 0-44 as applied to the procurement for and agreements to provide banking, lockbox, merchant card, and securities custodial services, issue a Notice of Intent to award to JPMorgan Chase Bank (San Francisco, CA) for general banking and lockbox services, and merchant card services.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute amendments to extend the term of the current agreements with Wells Fargo for general banking and lockbox services, merchant card services, and securities custodial services through June 30, 2021 (to cover the period necessary to either issue a new RFP, or explore the feasibility of an alternative delivery model and transition services following a new RFP, or to allow sufficient time for implementation with JP Morgan Chase), subject to the appropriation of funds.

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)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated March 15, 2019, recommending additional direction to the City Manager. (2) Joint memorandum from Councilmembers Raul Peralez, Sergio Jimenez and Magdalena Carrasco, dated March 15, 2019, recommending acceptance of staff recommendations with additional direction. (3) Memorandum from Councilmember Raul Peralez, dated March 19, 2019, recommending approval of memos regarding the Housing Crisis Work Plan by Mayor Sam Liccardo and Councilmember Maya Esparza with additional direction to the City Manager. (4) Memorandum from Director of Finance Julia H. Cooper, dated March 8, 2019, recommending adoption of resolutions. (5) “J.P. Morgan Chase Bank Settlements” and “Wells Fargo Settlements”

Director of Finance Julia H. Cooper provided an introduction. She and Deputy Director of Finance, Jennifer Cheng, continued the presentation.

Mayor Sam Liccardo opened the floor for public comment.

Public comments: Twenty-one members of the public offered comments, suggestions and various points of view on public banking, wage theft prevention and alternative delivery models.

Motion: Councilmember Raul Peralez moved acceptance of Recommendation A(1) to Reject all proposals for RFP 17-18-05, including the joint memorandum from Councilmembers Raul Peralez, Sergio Jimenez and Magdalena Carrasco dated March 15, 2019 and item #3 from Mayor Sam Liccardo’s memorandum dated March 15, 2019. Councilmember Sergio Jimenez seconded the motion.

Chief of Staff, Office of the City Manager, Lee Wilcox, agreed to return with an information memo and further analysis for the March 26, 2019 meeting. Extensive discussion continued, and Director of Finance Julia H. Cooper responded to questions including looking at options for an alternative model.

Action: On a call for the question, Resolution No. 79011, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Reject All Proposals For RFP 17-18-05, and to Explore the Feasibility of an Alternative Delivery Model for Banking Services and Report Back to the City Council Prior to Issuing a New Request for Proposals Based on a New Model On OR Before June 30, 2020”; and Resolution No. 79012, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Fifth Amendment to the Agreements with Wells Fargo Bank for General Banking, Lockbox Services, and Merchant Card Processing Services, and the Third Amendment to the Agreement with Wells Fargo Bank for Securities Custodial Services, to Extend the Term of the Agreements Through June 30, 2020, Subject to the Appropriation of Funds”, were adopted, including the joint memorandum from Councilmembers Raul Peralez, Sergio Jimenez and Magdalena Carrasco dated March 15, 2019, accepting staff recommendation I(ii) to adopt a resolution authorizing the City Manager to reject all proposals for RFP 17-18-05, and explore the feasibility of an alternative delivery model for banking services and report back to the City Council prior to issuing a new RFP based on a new model on or before June 30, 2020 and, direct staff to: (1) Explore the feasibility of Public Banking as an alternative delivery model; (2) Include in the City’s legislative priorities California Assembly Bill 857: Public Banks, and (3) Adopt a resolution urging California State legislators to enact legislation amending the Government Code to enable local agencies to create public banks through an option for a public banking charter. See attachments A & B for examples.

And including item #3 from Mayor Sam Liccardo’s memorandum dated March 15, 2019, recommending that City staff review the *Good Jobs First* report to identify companies with which we currently do business that have multiple violations according to our adopted Wage Theft Prevention Policy (0-44), evaluate the ability of the City to find any competitors in those industries likely to comply with the Policy, and report back on recommendations that enable the City to preserve the intent of the policy but procure essential services for the City. (11-0.)

3.8 19-094 Providing CalPERS Pension Benefits for Current Office of Retirement Services Professional Investment Staff.

As recommended by the Rules and Open Government Committee on March 6, 2019:

(a) Consider the following three options for removing current Retirement Services investment staff employees that were hired post-Measure G from the City's Tier 3 Retirement Plan and placing them into CalPERS.

(1) Mandatory participation in CalPERS.

(2) City pays difference in CalPERS rate that is more than 3.75%.

(3) Employees make post-tax contributions.

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

[Rules Committee referral 3/6/19 - Item G.3]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 1, 2019, providing recommendations from the Rules and Open Government Committee.

City Attorney Richard Doyle introduced the topic, and Director of Retirement Services Roberto Peña continued with a brief presentation.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, providing CalPERS Pension Benefits for Current Office of Retirement Services Professional Investment Staff was accepted. (8-1-2. Noes: Khamis. Absent: Arenas, Carrasco.)

3.9 19-095 Resolution Denouncing the Deportation of Vietnamese Immigrants.

As recommended by the Rules and Open Government Committee on March 6, 2019:

(a) Adopt a resolution denouncing President Donald Trump's attempted deportations of Vietnamese immigrants who arrived in the United States prior to 1995, unilaterally reinterpreting a longstanding agreement to the contrary;

(b) Acknowledge the rights of refugees and asylum seekers to pursue sanctuary and avoid the endangerment that may accompany a forced return to their country of origin;

(c) Direct the City Attorney's Office to support any and all legal actions against the Trump administration in its attempt to deport Vietnamese Americans, including the filing of an amicus brief in the litigation filed by Asian Americans Advancing Justice - Atlanta.

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

[Rules Committee referral 3/6/19 - Item G.2]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated March 19, 2019, providing recommendations from the March 6, 2019 Rules and Open Government Committee Meeting including the memorandum from Councilmember Lan Diep dated February 28, 2019.

3.9 (Cont'd.)

Mayor Sam Liccardo opened the floor for public comment.

Public Comments: Thirteen individuals spoke both in support of an immigration policy and in favor of the proposed resolution.

Motion: Councilmember Lan Diep moved approval of his memorandum with changes as indicated below in “Action”. Councilmember Dev Davis seconded the motion.

Action: On a call for the question, Resolution No. 79013, entitled: “A Resolution of the Council of the City of San José Denouncing The Attempted Deportation of Vietnamese Immigrants Who Arrived in the United States Prior to 1995”, was adopted, including approval of Councilmember Lan Diep’s memorandum, dated February 28, 2019, with language changes (as noted in all caps) As recommended by the Rules and Open Government Committee on March 6, 2019: (a) Adopt a resolution denouncing President Donald Trump’s attempted deportations of Vietnamese REFUGEES AND immigrants WITH DEPORTATION ORDERS who arrived in the United States prior to 1995, unilaterally reinterpreting a longstanding agreement to the contrary; (b) Acknowledge the rights of refugees and asylum seekers to pursue sanctuary and avoid the endangerment that may accompany a forced return to their country of origin; (c) Direct the City Attorney’s Office to support any and all legal actions against the Trump administration in its attempt to deport Vietnamese Americans, including CONSIDERATION of an amicus brief in the litigation filed by Asian Americans Advancing Justice - Atlanta. (10-0-1. Absent-Carrasco)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-079 Housing Crisis Workplan.

(a) As recommended by the Community and Economic Development Committee on February 26, 2019, accept staffs’ report updating the Committee on staffs’ progress implementing the City Council approved Housing Crisis Workplan. Staff will provide details on policy actions underway and completed, an update on the Housing Catalyst team, and market-rate and affordable housing production.

(b) Accept verbal staff report on recontrol provisions in the City’s Ellis Act ordinance and provide direction to staff.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Economic Development/Planning, Building & Code Enforcement/Housing)

[Community and Economic Development Committee referral 2/25/19 – (d)2]

[The Ellis Act report will be heard on 3/26/19 - Item 4.2 Ellis Act Ordinance]

4.1 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated March 15, 2019, providing direction to staff regarding updating the High-Rise Residential Incentive Analysis. (2) Memorandum from Councilmember Maya Esparza, dated March 19, 2019, recommending approval of the Mayor's memorandum with additional direction to the Administration. (3) Memorandum from Vice Mayor Chappie Jones, dated March 19, 2019, recommending additional direction to staff. (4) Joint memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, Rosalynn Hughey, Director, Planning, Building and Code Enforcement and Director of Housing Jacky Morales-Ferrand, dated March 18, 2019, correcting previous Housing Production numbers.

Deputy Director Business Development, Chris Burton, Rosalynn Hughey, Director, Planning, Building and Code Enforcement and Director of Housing Jacky Morales-Ferrand provided a presentation on the Housing Crisis Work Plan.

Public Comments: Offering support and comments to the staff's proposal were: Jean Cohen, Eddie Truong (SVO), Jeffrey Buchanan (WPUSA), Mathew Reed and Jackie.

Motion: Councilmember Raul Peralez moved approval of staffs' recommendations including all memoranda provided by the Mayor, Vice Mayor, and Councilmembers. Councilmember Maya Esparza seconded the motion.

Action: On a call for the question, the Housing Crisis Workplan was accepted, including Councilmember Raul Peralez memoranda dated February 25, 2019, to accept staff report and ask staff to return to CED with an update on the City's Housing Dispersion policy by the end of the calendar year, and dated 3/19/19, to approve memos on the Housing Crisis Work Plan by Mayor Liccardo and Councilmember Esparza, and directing the City Manager to bring forward a progress report to City Council on the Workforce Standard Agreement which was directed by City Council on April 3, 2018.

Including Mayor Sam Liccardo's memorandum dated March 15, 2019 (1) Directing staff to update the High-Rise Residential Incentive Analysis completed in September 2018 consistent with the City's agreement on Private Development Workforce Standards; (2) Return to the Council with recommendations based on the updated findings of the Analysis, including the following: (a) Temporary tax and fee reductions or exemptions for residential high-rise projects demonstrated to be infeasible under the current tax and fee structures. (b) Allowing fees to be paid at the time of certificate of occupancy.

Including Councilmember Esparza's memorandum dated March 19, 2019 to (1) Approve Mayor Liccardo's memo dated March 15, 2019; and (2) Direct the Administration to concurrently explore potential fee reductions for affordable housing developments that include ELI or Permanent Supportive Housing units, and present those options for the Council's consideration when they return with recommendations related to potential high-rise fees and taxes.

Also including Vice Mayor Chappie Jones memorandum dated March 19, 2019, directing staff to explore options for acquiring existing, market-rate apartment buildings for use as affordable units. (11-0.)

4.2 19-080 Annual Progress Report on the Implementation of the San José General Plan Housing Element and the Housing Successor to the Redevelopment Agency Annual Report.

(a) Accept the Calendar Year 2018 Annual Progress Report on the Implementation of the San José 2014-23 Housing Element.

(b) Accept the Fiscal Year 2017-18 Housing Successor to the Redevelopment Agency Annual 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. (Housing/Planning, Building and Code Enforcement)

Heard concurrently with Item 4.1. See Item 4.1 for Action taken.

Documents Filed: (1) Memorandum from Rosalynn Hughey, Director, Planning, Building and Code Enforcement and Director of Housing Jacky Morales-Ferrand dated March 8, 2019, recommending acceptance of the Annual Progress Report on the Implementation of the San José General Plan Housing Element and the Housing Successor to the Redevelopment Agency Annual Report. (2) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated March 18, 2019, providing a summary of feedback received from a special meeting of the Housing and Community Development Commission.

See Item 4.1 for Action taken.

NEIGHBORHOOD SERVICES

5.1 19-091 Report on Office of Immigrant Affairs Activities.

As recommended by the Neighborhood Services & Education Committee on February 14, 2019, accept the Administration's report on accomplishments as it relates to the Welcoming SJ Plan and highlight significant activities.

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)

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, providing recommendations of the Neighborhood Services & Education Committee on February 14, 2019, to accept the Administration's report on accomplishments as it relates to the Welcoming SJ Plan and highlight significant activities.

Public comments: Eight members of the public offered comments, with some individuals expressing concerns regarding recent comments made by the Mayor and Chief of Police.

Director of San José's Office of Immigrant Affairs, Zulma Maciel and Stephanie Jayne provided a presentation.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Lan Diep and carried unanimously, the Report on Office of Immigrant Affairs Activities was accepted.
(11-0.)

- 5.2 19-082 Report on Quality Standards for Early Education Programming. - DEFERRED**
As recommended by the Neighborhood Services & Education Committee on February 14, 2019, accept the staff report and adopt a resolution adopting the Early Education Quality Standards for City programs that serve young children, as specified by the Education and Digital Literacy Strategy.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Library)
[Neighborhood Services & Education Committee referral 2/14/19 - Item (d)3]
Deferred to 3/26/19 per Administration.

ENVIRONMENTAL & UTILITY SERVICES

7.1 19-083 Amendment to Title 26 for San José Clean Energy Rates.

Approve an ordinance amending Section 26.40.020 of Chapter 26.40 of Title 26 of the San José Municipal Code to permit San José Clean Energy to (1) decrease rates, and (2) adjust rates that are fixed against Pacific Gas and Electric Company rates, without requiring written notice to customers or a finding of extraordinary circumstances by City Council if the rate is decreased or modified more than twice a year.
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.
(Community Energy)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated March 18, 2019, regarding the Amendment. (2) Memorandum from Director, Community Energy Department, Lori Mitchell, dated March 7, 2019, recommending approval of an ordinance. (3) Supplemental memorandum from Director, Community Energy Department, Lori Mitchell, dated March 14, 2019, clarifying language regarding an amendment to Title 26.

Motion: Councilmember Johnny Khamis moved approval of the Ordinance, including the memorandum from Mayor Sam Liccardo, dated March 18, 2019. Councilmember Lan Diep seconded the motion.

Action: On a call for the question, Ordinance No. 30233, entitled “An Ordinance of the City of San José Amending Section 26.40.020 of Chapter 26.40 of Title 26 of the San José Municipal Code to Permit San José Clean Energy to Decrease Rates and Adjust Rates That are Fixed to Pacific Gas and Electric company Rates Without Requiring Written Notice to Customers or a Finding of Extraordinary Circumstances by the City Council if the Rate is Decreased or Modified More than Twice a Year”, was passed for publication, including the memorandum from Mayor Sam Liccardo, dated March 18, 2019, to Amend Municipal Code Section 26.40.020 subsection E to read as follows:

7.1 Amendment to Title 26 for San José Clean Energy Rates (Cont'd.)

E. Subsections Band D of this Section shall not apply to a rate increase or decrease if all of the following conditions are met:

1. As required under Subsection 26.40.010, the rate was equal to or below similar PG&E rates when it was established and will continue to be equal to or below similar PG&E rates after the rate increase or decrease;
2. The rate increase or decrease follows a rate increase or decrease by PG&E;
3. The rate increase or decrease is consistent with City Council resolutions establishing rates; and
4. The rate increase inclusive of the Power Charge Indifference Adjustment (PCIA) is not more than five percent.

(9-0-2. Absent: Carrasco, Peralez.)

7.2 19-084 Actions Related to Power Supply Procurement for Fiscal Years 2020, 2021, and 2022.

Adopt a resolution authorizing the Director of Community Energy or her designee to negotiate and execute power supply contracts, with modifications, as appropriate, in consultation with the City Attorney, for Calendar Years 2020, 2021 and 2022 for Energy, Renewable Energy, Renewable Energy Credits, Resource Adequacy, and Low Carbon power and attributes using the Edison Electric Institute Agreement or the Western Systems Power Pool Agreement in an amount not to exceed \$380,000,000 in aggregate from January 2020 through December 2022, subject to the Energy Risk Management Policy and the appropriation of funds. Funding for costs in fiscal years 2019-2020, 2020-2021, 2021-2022 and 2022-2023 is subject to the appropriation of funds in 2019-2020, 2020-2021, 2021-2022, and 2022-2023.

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

Documents Filed: Memorandum from Director, Community Energy Department, Lori Mitchell, dated March 6, 2019, recommending adoption of a resolution.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Lan Diep and carried unanimously, Resolution No. 79014, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Community Energy or Her Designee to Negotiate and Execute Power Supply Contracts for Calendar Years 2020, 2021 and 2022 for Energy, Renewable Energy, Renewable Energy Credits, Resource Adequacy and Low Carbon Power and Attributes, Using the Edison Electric Institute Agreement or the Western Systems Power Pool Agreement, in an Amount Not to Exceed \$380,000,000 in Aggregate From January 2020 Through December 2022, Subject to the Energy Risk Management Policy and the Appropriation of Funds”, was adopted. (9-0-2. Absent: Carrasco, Peralez.)

Heard concurrently with Item 4.1. See Item 4.1 for any additional Action taken.

LAND USE

10.1 Land Use on Consent Calendar

(a) 19-138 C18-031/CP18-036 - Conforming Rezoning and Conditional Use Permit for Real Property Located at 2222 Trade Zone Boulevard. - DROP

(1) Adopt a resolution adopting the 2222 Trade Zone Boulevard Project Addendum to the Envision San José 2040 General Plan Final Environmental Impact Report, Envision San José 2040 General Plan Final Supplemental Environmental Impact Report, and Addenda thereto, all in accordance with the California Environmental Quality Act, as amended.

(2) Approve an ordinance of the City of San José rezoning an approximately 2.0 gross acre site located at 2222 Trade Zone Boulevard from the IP Industrial Park Zoning District to the TEC Transit Employment Center Zoning District.

(3) Adopt a resolution approving, subject to conditions, a Conditional Use Permit to allow a church to occupy 18,480-square foot area of an existing 29,193-gross square foot office building with an alternating use parking arrangement.

CEQA: Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), and Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617) and Addenda thereto, File Nos. C18-031 and CP18-036. Director of Planning, Building and Code Enforcement recommends approval. Council District 4. (Planning, Building and Code Enforcement)

[Deferred from 3/12/19 - Item 10.1(a) (19-051)]

Action: Item Dropped.

END OF CONSENT CALENDAR

OPEN FORUM

Miguel Santiago offered opposition to Mayor Sam Liccardo and Police Chief Garcia's comments that the County's sanctuary policy should be revisited and revised.

Documents Filed: Written comments provided by Chara Bustamante, representing LUNA, regarding comments made by the Mayor and Police Chief, and asking for building trust within the community.

ADJOURNMENT

The Council Meeting of the City of San José was adjourned at 9:24 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

draft

Toni J. Taber, CMC
City Clerk

rmk/3-19-2019 MIN