



City Council Meeting MINUTES

Tuesday, April 9, 2019

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

The Council of the City of San José convened in Regular Session on Tuesday, April 9, 2019, at 9:35 a.m. in the Council Chambers at City Hall.

20-011 - Closed Session, Call to Order in Council Chambers

(See Page 18 for Closed Session Minutes)

Absent Councilmembers: Arenas (excused)
Councilmember Carrasco (10:15 a.m.)

By unanimous consent, Council recessed from the Closed Session at 10:20 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, Perez, Foley; Liccardo.

Absent: Councilmembers - All Present.

• Invocation (District 1)

Thu Vu, provided a Vietnamese Zither musical performance for the Invocation.

• Pledge of Allegiance

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by third-grade students from Holy Cross Elementary School.

• 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. (10-0-1. Absent: Arenas.)

• Closed Session Report

City Attorney Richard Doyle reported that Council has given the authority to file for appellate review in one matter. That matter will be disclosed upon the filing. The vote was unanimous.

1. CEREMONIAL ITEMS

- 1.1 Mayor Sam Liccardo and Councilmember Raul Perez presented a commendation to Yaretzi García the Winner of Este es mi Mexico drawing contest. (Perez)

1. CEREMONIAL ITEMS (Cont'd.)

- 1.2 Mayor Sam Liccardo and Councilmembers Arenas, Carrasco, Davis and Foley presented a Proclamation recognizing April 2019 as Sexual Assault Awareness Month in the City of San José. (Arenas)
- 1.3 Mayor Sam Liccardo and Councilmember Johnny Khamis presented a Proclamation to recognize March 20, 2019 as Assyrian National Day. (Khamis)
- 1.4 Mayor Sam Liccardo and Councilmember Raul Peralez presented a Commendation to the Exhibition District for beautifying San José with color and art. (Mayor)
Heard in the Evening
- 1.5 Mayor Sam Liccardo and Councilmember Maya Esparza presented a Commendation to Services, Immigrant Rights and Education Network (SIREN) for their efforts in voter registration. (Esparza)
Heard in the Evening

2. CONSENT CALENDAR

Upon motion by Councilmember Magdalena Carrasco, seconded by Councilmember Pam Foley, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Arenas.)

2.1 Approval of City Council Minutes.

None provided.

2.2 19-169 Final Adoption of Ordinances.

(a) Ord No. 30233 - 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.

(b) Ord No. 30234 - An Ordinance of the City of San José Amending Part 2 and Adding Part 3.5 to Chapter 6.88 of Title 6 of the San José Municipal Code to add Definitions and Set Forth Criteria for a Cannabis Equity Assistance Program.

(c) Ord No. 30248 - An Ordinance of the City of San José Rezoning Certain Real Property of an Approximately 94.8-Gross Acre Site Generally Bounded by Coleman Avenue to the North; Union Pacific Right-Of-Way to the South; Newhall Street to the East and the City of Santa Clara Border, to the West, from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.

2.2 19-169 Final Adoption of Ordinances (Cont'd.)

(d) Ord No. 30249 - An Ordinance of the City of San José Rezoning Certain Real Property of an Approximately 6.9-Gross Acre Site Located on the Southwest Corner of Silicon Valley Road and Eden Park Place (455 Silicon Valley Road), from the A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District.

(e) Ord No. 30250 - An Ordinance of the City of San José Amending Section 23.04.036 of Chapter 23.04 of Title 23 of the San José Municipal Code to Allow Freeway-Facing On-Site Signs for Sites, within the Alviso Master Plan Area, that are Developed with Office or Research and Development Uses; and to Make Other Nonsubstantive Changes to Chapter 23.04 of the Sign Code.

Action: **Ordinance Numbers 30233, 30234, 30248, 30249 and 30250** were adopted. (10-0-1. Absent: Arenas.)

2.3 Approval of Council Committee Minutes.

None provided.

2.4 19-191 Mayor and Council Excused Absence Requests.

Request for an excused absence for Mayor Liccardo, from the Regular Meeting of the Rules and Open Government Committee on March 20, 2019, due to authorized City business at the Big City Mayors Lobby Day in Sacramento, CA.

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

Action: The request for an excused absence was approved. (10-0-1. Absent: Arenas.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 19-175 Amendment to the Agreement with Host International Inc. for Food and Beverage Concession at the Airport.

Approve the Fifth Amendment to the Host International Inc. Food and Beverage Concession Agreement to extend the term of the agreement for two years, from June 30, 2026 to June 30, 2028, modify the Street Pricing Policy from 10% to 13% above street pricing, add a new concession into the Terminal B Interim Facility, refresh the Terminal B food court, reduce the Joint Marketing Fund Fee from .50% to .25% of gross revenues, and modify the use of the Joint Marketing Fund to include customer service initiatives. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport)

Public Comments: Eight members of the public, including Ken Yeager, Claudia Shope, Roxanne, Gabrielle Antolovich and Paul Escobar expressed opposition to the lease with Chick-fil-A, citing the company's exclusionary policies regarding LGBTQ rights.

Discussion followed, with clarification and insights provided by City Attorney Richard Doyle and Director of Aviation, John Aitken.

Motion: Councilmember Dev Davis moved approval of the staffs' recommendations, with direction as indicated below in "Action". The motion was seconded by Councilmember Magdalena Carrasco.

Action: On a call for the question, the motion carried unanimously, with staffs' recommendations approved, with the additional language to withhold the two-year extension from any operator that does not operate 7 days per week, and with direction to the City Attorney to work on language for future contracts to reflect the City's values. Additionally, direct rainbow and transgender flags to be displayed at the airport. (11-0.)

2.8 19-176 Actions Related to the City Auditor Recruitment Costs.

Adopt the following Fiscal Year 2018-2019 Appropriation Ordinance amendments in the General Fund:

- (a) Increase the City Auditor's Office Non-Personal/Equipment appropriation by \$28,500; and
- (b) Decrease the City Auditor's Personal Services appropriation by \$28,500.

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. (City Manager)

Action: **Ordinance No. 30251**, pertaining to Actions Related to the City Auditor Recruitment Costs was adopted. (10-0-1. Absent: Arenas.)

2.9 19-177 Actions Related to the 2018 Emergency Management Performance Grant Program.

Adopt the following 2018-2019 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:

- (a) Establish a City-Wide Expenses appropriation to the City Manager's Office for the Emergency Management Performance Grant - CMO 2018 in the amount of \$91,100; and
- (b) Increase the estimate for Revenue from Federal Government by \$91,100.

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. (City Manager)

Action: **Ordinance No. 30252** and **Resolution No. 79032** regarding actions related to the 2018 Emergency Management Performance Grant Program were adopted. (10-0-1. Absent: Arenas.)

2.10 19-178 Amendment to the Agreement with Christmas in the Park, Inc. for the Christmas in the Park at Plaza de Cesar Chavez. - DEFERRED

Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Second Amendment to the Agreement with Christmas in the Park, Inc. to do the following:

- (a) Extend the term of the agreement for one of the two three-year extension periods for the period of May 1, 2019 through April 30, 2022 to manage and produce Christmas in the Park at Plaza de Cesar Chavez and to provide reimbursable fees for limited support staff, if needed, with an estimated \$414,600 of in-kind services, calculated on an annual basis;
- (b) Delegate authority to the City Manager or his designee to execute the second of the two three-year extension periods provided in the agreement; and
- (c) Provide flexibility for use of the Central Service Yard or equivalent space in an alternative location for storage and maintenance of displays, decorations, equipment and office space.

CEQA: Categorically Exempt, CEQA Guidelines Section 15304(e) Minor Alterations to Land, File No. PP16-031. Council District 3. (Economic Development)

Deferred to 4/16/19 per Administration

2.11 19-179 Actions Related to the Purchase Order with Prime Mechanical Service, Inc. for Refrigerators, Freezers, and Ice-Makers Maintenance and Repair Services.

Adopt a resolution authorizing the City Manager to:

- (a) Execute a Purchase Order with Prime Mechanical Service, Inc. (Livermore, CA) for refrigerators, freezers, and ice-makers maintenance and repair services for the Public Works Department for an initial twelve-month period, starting on or about April 10, 2019 and ending on or about April 9, 2020 for an amount not to exceed \$270,000; and

(Item Continued on the Next Page)

2.11 (Cont'd.)

(b) Exercise up to four one-year options to extend the term of the Purchase Order with the last option year ending on or about April 9, 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)

Action: **Resolution No. 79033** relating to the Purchase Order with Prime Mechanical Service, Inc. was adopted. (10-0-1. Absent: Arenas.)

2.12 19-180 **Set a Public Hearing for the Cost of Sidewalk Repairs for June 11, 2019.**

Adopt a resolution setting a Public Hearing on Tuesday, June 11, 2019 at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities. (Finance)

Public Comments: Claudia Shope and Roxanne provided comments, recommending policy changes, including sidewalk maintenance and greater consideration of the species of trees to be planted for an urban environment.

Action: **Resolution No. 79034** was adopted, setting a Public Hearing as recommended. (10-0-1. Absent: Arenas.)

2.13 19-161 **Retroactive Approval of Beautification Day in the Tuers Neighborhood Sponsored by Council District 7 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 20, 2019:

(a) Retroactively approve the Beautification Day in the Tuers Neighborhood scheduled on March 9, 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. (Esparza)

[Rules Committee referral 3/20/19 - Item G.1.a]

Action: The City Council Sponsored Special Event was retroactively approved. (10-0-1. Absent: Arenas.)

2.14 19-196 Approval of Great American Litter Pick-Up Sponsored 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 27, 2019:

(a) Approve the Great American Litter Pick-Up scheduled on April 13, 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. (City Clerk)

[Rules Committee referral 3/27/19 - Item G.1.a]

Action: The City Council Sponsored Special Event was approved. (10-0-1. Absent: Arenas.)

2.15 19-197 AB1210 (Low): Crimes: Package Theft.

As recommended by the Rules and Open Government Committee on March 27, 2019, adopt a position of support for AB1210 (Low) on package theft.

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

[Rules Committee referral 3/27/19 - Item G.2]

Action: A position of support was adopted. (10-0-1. Absent: Arenas.)

2.16 19-198 Retroactive Request for Travel for Mayor and Council.

Retroactively approve travel for Councilmember Carrasco to San Antonio, TX from March 27 - March 28, 2019, as an elected board member of the Sister Cities International to attend the 2019 Japan-Texas Leadership Symposium. Source of Funds: District 5 Office Budget.

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

Action: The travel request was retroactively approved. (10-0-1. Absent: Arenas.)

2.17 19-199 Retroactive Approval of Crime Prevention Series: Fraud/Identity Theft Prevention Meeting Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Retroactively approve the Crime Prevention Series: Fraud/Identity Theft Prevention Meeting scheduled on March 27, 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. (Arenas)

Action: The Crime Prevention Series was retroactively approved. (10-0-1. Absent: Arenas.)

2.18 19-228 Retroactive Approval of District 4 Office Hours 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 April 3, 2019:

(a) Retroactively approve the District 4 Office Hours scheduled on April 6, 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 4/3/19 - Item G.1.a]

Action: The City Council Sponsored Special Event was retroactively approved. (10-0-1. Absent: Arenas.)

2.19 19-229 Approval of 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.

As recommended by the Rules and Open Government Committee on April 3, 2019:

(a) Approve the Berryessa Annual Art Festival scheduled on May 11, 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 4/3/19 - Item G.1.b]

Action: The City Council Sponsored Special Event was retroactively approved. (10-0-1. Absent: Arenas.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 19-181 Employee Benefit Fund Administration Audit Report.

As recommended by the Public Safety, Finance, & Strategic Support Committee on March 21, 2019, accept the Employee Benefit Fund Administration 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 - 3/21/19 Item (d)6]

City Auditor Joe Rois presented the report, and Director of Employee Relations/Human Resources, Jennifer Schembri provided a response.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Pam Foley, and carried unanimously, the Employee Benefit Fund Administration Audit Report was accepted. (11-0.)

3.4 19-165 Board of Fair Campaign and Political Practices Response and Proposed Recommendations to October 16, 2018 Council Referral Regarding Shifting Mayoral Elections from the Gubernatorial Election Cycle to the Presidential Election Cycle. - DEFERRED

Accept the recommendation from the Board of Fair Campaign and Political Practices to shift the City's mayoral election from the gubernatorial cycle to the presidential cycle.

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

[Deferred from 10/16/2018 - Item 3.9 (18-1393) and 3/26/2019 - Item 3.7 (19-137)]

Deferred to 4/16/2019 per Administration

3.5 19-194 Planning Commission Appointment.

- (a) Consideration of applicants for appointment to the Planning Commission;
 - (b) Appoint one (1) applicant to the Planning Commission for a term expiring June 30, 2022; and
 - (c) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.
- CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities, resulting in no changes to the physical environment. (City Clerk)

The interview process having already been conducted, Council completed their ballots, with the outcome of the vote as follows: Pierluigi Oliverio: 6 votes; Aimee Escobar: 1 vote; Rolando Bonilla: 4 votes.

Action: Pierluigi Oliverio was appointed to the Planning Commission for a term expiring June 30, 2022.

3.6 19-182 Study Session Presentation: Council Training on Elected Officials Role in Municipal Bond Disclosure.

Accept the presentation on Disclosure Obligations of Municipal Bond Issuers.

CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Finance)
Heard Immediately Following Item 6.1 (19-186)

Director of Finance Julia H. Cooper and staff offered a presentation and responded to questions.

Action: No action required.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-183 Summary Vacation of a Public Utility Easement Located at 5696 Stevens Creek Boulevard.

Conduct a Public Hearing and adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of an approximately 1,149 square foot Public Utility Easement at 5696 Stevens Creek Boulevard;
 - (b) Summarily vacating the Public Utility Easement, which has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and
 - (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.
- CEQA: Mitigated Negative Declaration for the Stevens Creek and Stern Hotel, File No. H17-023. Council District 1. (Public Works)

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4.1 (Cont'd.)

Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Pam Foley and carried unanimously, **Resolution No. 79035**, approving the report and Summarily vacating the Public Utility Easement, was adopted. (11-0.)

4.2 19-184 **Ellis Act Ordinance Recontrol Provisions.**

Accept the verbal staff report on research on the Ellis Act Ordinance's recontrol provisions including conversations with developers and lenders, potential alternatives for meeting recontrol requirements and accept the ancillary staff 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)

(Deferred from 3/26/19 - Item 4.2)

Deferred to 4/23/19 per Administration.

4.3 19-185 **Affordable Housing Investment Plan Update.**

As recommended by the Community and Economic Development Committee on March 25, 2019:

(a) Accept the staff report on the update of the Housing Investment Plan for expenditure of affordable housing funds; and

(b) Include two new priorities funding acquisition and/or rehabilitation of existing market rate housing and a minimum of 30% of funds be invested in extremely low-income housing over the life of the Housing Investment Plan.

Director of Housing Jacky Morales-Ferrand provided a presentation, and she and Deputy Director of Housing, Rachel VanderVeen responded to questions from Council.

Public Comments: Eight members of the public spoke to the issue of the housing crisis, a need for a preservation strategy and offered support for the efforts of the Housing staff.

Motion: Councilmember Maya Esparza moved approval of the staffs' recommendations, with changes as outlined in the memorandum she coauthored with Councilmember Dev Davis, and including Vice Mayor Chappie Jones memorandum with recommendations as amended and noted below in "Action". Councilmember Dev Davis seconded the motion.

Action: On a call for the question, the Affordable Housing Investment Plan Update was accepted, including the joint memorandum from Councilmembers Esparza and Davis, dated April 9, 2019 to include the new priorities of funding acquisition and/or rehabilitation of existing market rate housing, and to increase the minimum of 30% of funds invested in extremely low-income housing to 45% of funds over the life of the Housing Investment Plan; also including the following from the memorandum from Councilmember Jones, dated April 9, 2019: Request a follow-up from staff following the Notice of Funding Availability (NOFA) detailing how the \$10 million in funding will be allocated for the acquisition and/or rehabilitation of existing market rate housing. (11-0.)

4.4 19-230 AB 705 (Stone) Mobile Home Park Closures.

As recommended by the Rules and Open Government Committee on April 3, 2019, adopt a position of support for AB 705 (Stone) on Mobile Home Park Closures.

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

[Rules Committee referral 4/3/19 - Item G.3]

Public Comments: Fourteen members of the public offered comments and recommendations, both supporting the preservation of mobile home parks and those in opposition to AB 705.

Motion: Councilmember Sergio Jimenez moved approval his memorandum dated March 28, 2019 offering support to AB 705. The motion was seconded by Councilmember Maya Esparza.

Councilmember Dev Davis and Mayor Sam Liccardo offered friendly amendments, noting they could support the motion if modified to clarify greater flexibility as noted below in “Action”. Councilmembers Jimenez and Esparza accepted the amendment/s.

Action: On a call for the question, the motion carried unanimously, and a position of support was adopted with clarification that it comport with the Council’s intent that there is some flexibility in the new housing provided. (11-0.)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 19-186 Award of Contract for the 2019 Major Streets Resurfacing Project #1.

(a) Approve award of a construction contract for the 2019 Major Streets Resurfacing Project #1 to the low bidder, DeSilva Gates Construction LP in the amount of \$10,976,044.

(b) Approve a five percent contingency in the amount of \$548,802.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Citywide. (Transportation)

Heard Immediately Following Consent

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Pam Foley and carried unanimously, Award of Contract for the 2019 Major Streets Resurfacing Project #1 was approved. (10-0-1. Absent: Jimenez.)

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY

8.1 19-195 Valley Transportation Authority Request for Proposal for Supplemental Law Enforcement Services for the Berryessa/North San José BART Station Area.

Adopt a resolution authorizing the City Manager to submit a proposal to the Valley Transportation Authority for Supplemental Law Enforcement Services for the Berryessa/North San José BART station area with costs for services to be charged competitively, including at or below full cost recovery.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. Council District 4. (Police)

Chief of Police Edgardo Garcia and staff provided a presentation and responded to questions.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Lan Diep and carried unanimously, **Resolution No. 79036** approving submission of a proposal to the Valley Transportation Authority for Supplemental Law Enforcement Services was adopted, including the memorandum from Councilmember Diep, dated April 8, 2019, to accept recommendations from the Mayor and Chief Garcia along with additional direction to study the feasibility of staffing SJPd officers or CSOs at the Berryessa Transit Center security office so that residents may go directly there to report certain crimes in person. Also including recommendations from Mayor Sam Liccardo, dated April 8, 2019, to adopt a resolution expressing the view of the San Jose City Council that local city police departments provide the most effective and accountable means of policing BART stations, parking lots, and surrounding areas. For that reason, the San Jose Police Department should have primary jurisdiction for the policing of the Berryessa/ North San Jose BART station, rather than any private security company, County Sheriff, or other public agency. (11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

OPEN FORUM

Blair Beekman referenced the earlier Consent Calendar item on Emergency Planning grant money and commented on the future of emergency preparedness.

Council recessed at 6:06 p.m. and resumed at 6:35 p.m. with all Councilmembers present.

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

10 Land Use - Regular Agenda

10.2 19-188 C18-031/CP18-036 - Conforming Rezoning and Conditional Use Permit for Real Property Located at 2222 Trade Zone Boulevard.

(a) 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.

(b) 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.

(c) Adopt a resolution to approve, 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), 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)

Deputy Director, Planning, Building and Code Enforcement, Michael Brilliot provided a presentation.

Public Comment: Alexander Nunes, representing the Applicant, spoke to merits of project, claiming it would not diminish job development in San José. Ten additional members of the public spoke to the importance of this project and their church.

Motion: Councilmember Lan Diep moved approval of his memorandum of April 8, 2019.

Councilmember Raul Peralez moved a substitute motion, including staffs' recommendations from their first memorandum and including item #3 from Councilmember Lan Diep's memorandum dated April 8, 2019, directing staff to return to Council with proposed changes to the Zoning Ordinance to better align the Transit Employment Center (TEC) Zoning District with the TEC General Plan Designation.

Councilmember Sergio Jimenez seconded the motion.

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10.2 (Cont'd.)

Action: On a call for the question, the substitute motion carried, and **Resolution No. 79037** and **Resolution No. 79038** were adopted, and **Ordinance No. 30253** passed for publication, including item #3 from Councilmember Lan Diep's memorandum dated April 8, 2019, directing staff to return to Council with proposed changes to the Zoning Ordinance to better align the Transit Employment Center (TEC) Zoning District with the TEC General Plan Designation. (8-3. Noes: Davis, Diep, Foley.)

10.3 19-189 PP19-010 - Amendment to Title 20 (Zoning Ordinance or Zoning Code).

Approve an ordinance amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to amend Section 20.30.150 of Chapter 20.30 to remove average height requirement for secondary units, and modify maximum height requirement for two-story secondary units; amend Section 20.50.100 of Chapter 20.50 to allow Farmers' Market as an enumerated use in the CIC Zoning District; and to make other technical, non-substantive or formatting changes within those sections of Title 20 of the San José Municipal Code.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. (Planning, Building, and Code Enforcement).
[Deferred from 3/26/19 - Item 10.2 (19-128)]

Deputy Director, Planning, Building and Code Enforcement, Michael Brilliot provided a presentation.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez and carried unanimously, **Ordinance No. 30254** passed for publication. (11-0.)

10.4 19-190 PDC18-009/PD18-037/PT18-020 - Planned Development Rezoning, Planned Development Permit and Vesting Tentative Map for Real Property Located at 2882 Hemlock Avenue and 376 Baywood Avenue.

(a) Adopt a resolution adopting the Hemlock Avenue Mixed-Use Project Mitigated Negative Declaration for which an Initial Study was prepared, and a related Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act, as amended.

(b) Approve an ordinance of the City of San José rezoning certain real property of an approximately 0.47-gross acre site located on the north side of Hemlock Avenue, approximately 120 feet easterly of South Baywood Avenue (2882 Hemlock Avenue and 376 Baywood Avenue) from the CG General Commercial Zoning District to the CP(PD) Planned Development Zoning District.

(c) Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to merge two parcels into one parcel and to resubdivide the parcel into no more than 48 residential condominium units and no more than 15 commercial condominium units, and one common parcel, on an approximately 0.47 gross acre site.

10.4 (Cont'd.)

(d) Adopt a resolution approving, subject to conditions, a Planned Development Permit to effectuate the Planned Development Zoning District and allow the demolition of the 1,544-square foot single-family residence and approximately 3,887-square foot commercial building, the removal of seven ordinance-size trees, and the construction of a mixed-use project with no more than 48 residential condominium units and approximately 18,495-square feet of commercial office space with no more than 15 commercial condominium units on an approximately 0.47-gross acre site.

CEQA: Mitigated Negative Declaration for the Hemlock Mixed-Use Project, File No. PDC18-009/PD18-037/PT18-020. Planning Commission recommends approval (5-0-1; Vora abstained). Council District 6. (Planning, Building, and Code Enforcement).

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79039**, **Resolution No. 79040** and **Resolution No. 79041** were adopted, and **Ordinance No. 30255** was passed for publication. (11-0.)

- Open Forum

None provided.

- Adjournment

The meeting of the Council of the City of San José was adjourned at 9:06 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/04-09-19 MIN

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 9, 2019

The Council of the City of San José convened into Closed Session at 9:35 a.m.

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

Absent: Councilmembers - Arenas. Carrasco (arrived 10:15 a.m.)

Council recessed at 9:37 a.m. to a Closed Session in Room W133; for the following:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(3) of the Government Code; In re: Claim of Hossein Kowsari; City Department: DOT; B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1): (1) M Squared Enterprises, Inc. dba Tribloom Inc. v. City; Names Of Partie(s) Involved: M Squared Enterprises, Inc., a Colorado Corporation doing business as Tribloom, Inc.; City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 17CV318441; Damages According to proof; (2) Sutter's Place, Inc., dba Bay 101 v. City; Names Of Partie(s) Involved: Sutter's Place, Inc., dba Bay 101; City of San José; the Division of Gaming Control; Court: Superior Court of California, County of Santa Clara; Case No.: 1-13-CV-258057; Amount of Money or Other Relief Sought: Damages according to proof; (3) Rodriguez v. City, et al; Names Of Partie(s) Involved: Jacinto Rodriguez, City of San José; City of San José Department of Parks Recreation and Neighborhood Services; and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No.: 18-CV-325784; Amount of Money or Other Relief Sought: Damages according to proof. C. Confer with Real Property Designated Representatives Pursuant to Government Code Section 54956.8: (1) Property Street Address, Parcel Number, or other Unique Reference of Property: Brandenburg Property: APNs 708-25-001, -002; 708-26-001, -002; 708-27-001, -002, -0007, -014; 708-28-002; 708-30-008, -016, -017 and -018; Property: Sobrato North property: APNs 703-30-014 and -015; Sobrato South property: APNs 712-23-111 and -112; POST property: APNs 708-25-004 and -005; Negotiating Parties: Nanci Klein for the City of San José and Tim Steel for Sobrato; Bill Barron for Brandenburg; and Walter Moore and Kevin Ice for Peninsula Open Space Trust; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values.

The Closed Session of the Council of the City of San José was adjourned at 10:20 a.m.