



City Council Meeting MINUTES

Tuesday, April 14, 2020

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



MINUTES OF THE CITY COUNCIL

Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79450 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the City Council meeting was not physically open to the public. Public comments were accepted via eComment, email, by phone and webinar.

The Council meeting was teleconferenced from remote locations.

20-022 - [See Page 16 for Closed Session Minutes](#)

The Council of the City of San José convened on Tuesday, April 14, 2020, at 1:30 p.m.

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

Absent: Councilmembers - All Present.

6:00 p.m. - Evening Session – Canceled under Orders of the Day.

- **Invocation (District 4)**

None provided.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Orders of the Day**

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pam Foley, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with the previously scheduled Evening Session cancelled. (10-0-1. Absent: Carrasco.)

- **Closed Session Report**

City Attorney Richard Doyle noted the City was given authority to file an appeal in one case, GradeTech v. City of San José, with more information provided upon request.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

Upon motion by Councilmember Pam Foley, 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 Approval of City Council Minutes.

None provided.

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Minutes.

None provided.

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 20-421 Transportation Security Administration National Explosives Detection Canine Team Program.

Adopt a resolution authorizing the City Manager to negotiate and execute an Other Transaction Agreement with the Transportation Security Administration for the National Explosives Detection Canine Team Program which will partially reimburse Airport funded Police Department costs for four explosive detection canine teams for a total amount not-to-exceed \$202,000 per year at the Norman Y. Mineta San José International Airport for a five-year period commencing July 1, 2020, in a total reimbursement amount to the City not to exceed \$1,010,000.

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

Action: **Resolution No. 79470** relating to the Transportation Security Administration National Explosives Detection Canine Team Program was adopted. (11-0.)

- 2.8 20-422 Amendment to the Agreement with AST LLC for a Service Request Management/Customer Relationship Management Software Solution. -**
Adopt a resolution authorizing the City Manager to:
(a) Negotiate and execute the Second Amendment to the Agreement with Applications Software Technology (“AST”) LLC (Naperville, IL) for a Service Request Management/Customer Relationship Management (“SRM/CRM”) Software Solution (now known as San José 311, formerly My San José) to increase the compensation by \$777,500 for Spanish and Vietnamese translation integration, Recycle Plus service delivery, architectural remediations, and related technical services for the San José 311 website and mobile application for a total contract maximum compensation of \$1,416,983 during the initial term ending November 30, 2021; and
(b) Increase the contingency by \$100,000 to cover any additional in-scope changes or requirements to the agreements with AST LLC and Oracle America, Inc. for the SRM/CRM Software Solution for a total contingency not to exceed \$300,000 during the initial terms, subject to the appropriation of funds.
Deferred to 4/21/2020 Per Administration

2.9 20-423 2020 Major Streets Resurfacing Project.

- (a) Approve award of a construction contract for the 2020 Major Streets Resurfacing Project, to the low bidder, MCK Services, Inc. in the amount of \$7,015,680.
(b) Approve an approximate ten percent contingency in the amount of \$700,000.
CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 1, 3, 4, 5, 6, 7, and 8. (Transportation)

Action: The Award of a construction contact, with related contingencies, was approved. (11-0.)

2.10 20-424 2020 Local Streets Resurfacing #1 Project.

- (a) Approve award of a construction contract for the 2020 Local Streets Resurfacing #1 Project, to the low bidder, MCK Services, Inc., in the amount of \$7,109,420.
(b) Approve an approximate five percent contingency in the amount of \$355,500.
CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 2, 5, 7 and 8. (Transportation)

Councilmember Sylvia Arenas pulled Item 2.10, and Director of Public Works, Matt Cano responded to questions.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Maya Esparza and carried unanimously, the Award of a construction contact, with related contingencies, was approved. (11-0.)

2.11 20-425 2020 Local Streets Concrete #2 Project.

(a) Approve award of a construction contract for the 2020 Local Streets Concrete #2 Project, to the low bidder, Spenco Construction, Inc., in the amount of \$1,583,800.

(b) Approve an approximate five percent contingency in the amount of \$79,200.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 9 and 10. (Transportation)

Action: The Award of a construction contract, with related contingencies, was approved. (11-0.)

2.12 20-426 Pavement Maintenance Projects Eligible for Senate Bill No. 1 Funding.

Adopt a resolution approving a list of pavement maintenance projects eligible for San José's 2020-2021 allocation of the Road Maintenance and Rehabilitation Account funding, which was made available by the approval of Senate Bill No. 1, otherwise known as the Road Repair and Accountability Act of 2017.

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

Action: **Resolution No. 79471** relating to the Pavement Maintenance Projects Eligible for Senate Bill No. 1 Funding was adopted. (11-0.)

2.13 20-435 Settlement of Artie Lashbrook et al. v. City of San José.

Approve a consent decree in the amount of \$789,627, inclusive of attorney fees, and authorize the City Attorney to execute a Settlement Agreement to settle the case of Artie Lashbrook et al. 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)

Action: The consent decree was approved. (11-0.)

2.14 20-429 Award of Grant Funds to Sacred Heart Community Services for the 2017 Flood from the California Department of Social Services.

Adopt a resolution authorizing the Director of Housing to negotiate and execute a retroactive agreement with Sacred Heart Community Services to reimburse costs incurred by Sacred Heart between February 21, 2017 and April 30, 2017 in connection with the 2017 San José Flood Relief Program in the amount of \$397,153 from the grant funds awarded to the City of San José by the State Department of Social Services for the 2017 Coyote Creek flood.

(Item Continued on the Next Page)

2.14 (Cont'd.)

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact to the environment. (Housing)

Public Comments: Blair Beekman, Robert Aguirre and Scott Largent expressed concerns for the homeless community and the need to do more in this time of crisis for them and their advocates. Dorsey Moore, CEO for the San José Conservation Corps expressed the organization's willingness to help construct units for homeless.

Action: **Resolution No. 79472** relating to the Award of Grant Funds to Sacred Heart Community Services was adopted. (11-0.)

2.15 20-444 2020 Census Resolution.

As recommended by the Rules and Open Government on April 1, 2020, adopt a resolution to monitor, protect, and defend the confidentiality of resident information provided to the Federal Government through the 2020 Census from breach and misuse, and to support outreach activities to ensure a complete count and broad participation in the Census as a way to guarantee that marginalized and hard-to-count communities participate in the Census without fear.

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

[Rules and Open Government referral 4/1/2020 Item G.2]

Public Comments: One speaker advocated for the need for everyone's full participation in the census.

Action: **Resolution No. 79473** relating to the 2020 Census was adopted. (11-0.)

2.16 20-446 Resolution of Intention to Approve an Amendment to the Contract between the California Public Employees' Retirement System and the City of San José.

Adopt a resolution of intention to approve an amendment to the contract between the California Public Employees' Retirement System and the 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 Manager)

[Deferred from 3/17/2020 - Item 2.11 (20-354), 4/7/2020 - Item 2.9 (20-385)]

Councilmember Johnny Khamis pulled item 2.16 to register a "No" vote.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Sylvia Arenas and carried unanimously, **Resolution No. 79474** approving an amendment to the contract between the California Public Employees' Retirement System and the City of San José was adopted. (10-1. Noes: Khamis.)

2.17 20-448 Pond A-18 Surplus Property.

Adopt a resolution declaring the City's Pond A-18 property (Assessor's Parcel Numbers 015-32-042 and 015-32-043) as exempt surplus land under Cal. Gov. Code §54221 as the land is surplus to the needs of the City.

CEQA: Determination of Consistency with the San José/Santa Clara Water Pollution Control Plant Master Plan Final EIR (Resolution No. 76858), File No. PP20-006. Council District 4. (Environmental Services/Economic Development)

[Deferred from 2/25/2020; 3/3/2020; 3/17/2020; 3/24/2020 and 4/7/2020 Item 2.11 (20-386)]

Public Comments: Blair Beekman offered comments, and City Clerk Toni J. Taber, read public comments into the record addressing the need negotiate to save the Bay Loop Trail.

Action: **Resolution No. 79475** regarding Pond A-18 Surplus Property was adopted. (11-0.)

2.18 20-462 Temporary Financial Relief to Commercial Air Carriers and Amendment to Airline Lease Agreements at the Norman Y. Mineta San José International Airport.

As recommended by the Rules and Open Government Committee on April 8, 2020:

Adopt a resolution authorizing the City Manager to negotiate and execute amendments to airline agreements to provide temporary financial relief to commercial passenger and cargo air carriers ("Airlines") operating at the Airport for a period of up to six months, from April 1, 2020 through September 30, 2020, to support Airline operations that have been directly impacted by Airport passenger and cargo activity declines as a result of the COVID-19 pandemic. Financial relief for Airlines could include:

(a) deferral of applicable landing and aircraft parking fees with repayment terms subject to negotiations, with no interest or late fees; and

(b) deferral of terminal rents or other applicable minimum rent payments with repayment terms subject to negotiations, with no interest or late fees.

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

[Rules Committee referral 4/8/2020 - Item A.1.a]

Action: **Resolution No. 79476** providing Temporary Financial Relief to Commercial Air Carriers and Amendment to Airline Lease Agreements at the Norman Y. Mineta San José International Airport was adopted. (11-0.)

Temporary Financial Relief to Non-Aeronautical Concessionaires and Amendments to Non-Aeronautical Agreements at the Norman Y. Mineta San José Airport.

As recommended by the Rules and Open Government Committee on April 8, 2020:

Adopt a resolution authorizing the City Manager to negotiate and execute amendments to concession agreements to provide temporary financial relief to non-aeronautical concessionaires operating on Airport premises effective retroactive to March 1, 2020 through July 31, 2021 to support Airport concession operations that have been directly impacted by Airport passenger declines as a result of the COVID-19 pandemic. Financial relief for Airport concessionaires could include:

- (a) suspension of concessionaire contributions to the Airport Marketing Fund;
- (b) suspension or modification of the effective date, timeframe and terms of increases or modifications to the Minimum Annual Guaranteed (MAG) Rent or otherwise applicable increases to concession fees;
- (c) deferral of MAG Rent or other applicable minimum rent payments, with repayment terms subject to negotiations;
- (d) waive any otherwise applicable late fees or interest related to the deferment of the MAG or other rent payment;
- (e) suspension of MAG Rent and charge only a negotiated percentage rent or negotiate a modified MAG payment;
- (f) suspend, defer or modify the Annual Concession Fee Reconciliation (True Up) as a result of any negotiated adjustments to the MAG; and
- (g) adjust tenant improvement construction schedules.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts resulting in no physical changes to the environment. (Airport)
[Rules Committee referral 4/8/2020 - Item A.1.a]

Councilmember Sergio Jimenez pulled Item 2.19, and Director of Aviation, John Aitken, addressed items as outlined in the Councilmember's memorandum and responded to questions.

Motion: Councilmember Sergio Jimenez moved approval of staff's recommendations, including granting authority to negotiate financial relief for April and May, with this item to return in June to determine long-term relief as needed. Vice Mayor Chappie Jones seconded the motion.

Public Comments: Four members of the public urged the City to take action and keep in mind protections for hospitality workers, to continue to work together and expressing concerns regarding on-going health benefits.

Action: On a call for the question, the motion carried unanimously, and **Resolution No. 79477** providing Temporary Financial Relief to Non-Aeronautical Concessionaires and Amendments to Non-Aeronautical Agreements at the Norman Y. Mineta San José International Airport was adopted, including the negotiation of financial relief for April and May, with this item to return in June to determine long-term relief as needed. (11-0.)

3. STRATEGIC SUPPORT

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

- 20-433** (a) City Manager’s COVID-19 Update (Verbal Report)
 (b) City Manager’s Report on Other City Matters (Verbal Report)
 Heard Before Consent

Opening comments were provided by Mayor Sam Liccardo and City Manager, David Sykes. A thorough presentation was provided by Chief of Staff, Office of the City Manager, Lee Wilcox; Budget Director, Jim Shannon; Deputy City Manager Jim Ortbal and Chief of Police Edgardo Garcia.

Extensive discussion followed, and staff responded to questions.

3.2 Labor Negotiations Update.

None provided.

3.3 20-428 TEFRA Hearing for the Issuance of California Enterprise Development Authority Revenue Obligations for the Almaden Country Day School.

(a) Hold a Tax Equity and Fiscal Responsibility Act (“TEFRA”) Public Hearing for the issuance of up to \$15,000,000 in tax-exempt obligations by the California Enterprise Development Authority for the purpose of financing, refinancing or reimbursing the costs of designing, developing, constructing, installing, improving, equipping and furnishing of certain capital improvements for the benefit of Almaden Country Day School, a California nonprofit public benefit corporation and an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(b) Consideration of a resolution approving the issuance of Obligations by the California Enterprise Development Authority in a principal amount of up to \$15,000,000 to be used to finance, refinance or reimburse the cost associated with certain educational facilities and to pay certain expenses incurred in connection with the issuance of the Obligations.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15262, Feasibility and Planning Studies. (Finance)

Mayor Sam Liccardo opened the public hearing.

Public Comments: Erik Schoennauer, representing the Almaden Country Day School, thanked the Council for its consideration.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pam Foley and carried unanimously, **Resolution No. 79478** approving the issuance of Obligations by the California Enterprise Development Authority was adopted. (10-0-1. Absent: Jimenez.)

3.4 20-436 Review of the Retirement Plan's Pension and Post-Employment Healthcare Plan Actuarial Valuations as of June 30, 2019.

Review the following actuarial valuation reports:

- (a) Federated City Employees' Retirement System Actuarial Valuation (Pension) as of June 30, 2019; and
- (b) Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2019; and
- (c) Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2019; and Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2019.

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

A presentation was offered by Director of Retirement Services Roberto Peña.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley and carried unanimously, the review of the Retirement Plan's Pension and Post-Employment Healthcare Plan Actuarial Valuations as of June 30, 2019 was accepted. (11-0.)

The Council Meeting was recessed at 5:30 p.m., and reconvened at 6:02 p.m. with all members present.

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 20-449 Agreement with Valley Water for the Sale of Pond A-18 for the Shoreline Levee Project.

Adopt a resolution authorizing the City Manager to negotiate an agreement with Valley Water for the sale of Pond A-18 and related easements to support the Shoreline Levee Project consistent with the criteria directed by the Treatment Plant Advisory Committee and Council in October of 2015 and 2017.

CEQA: Determination of Consistency with the San José/Santa Clara Water Pollution Control Plant Master Plan Final EIR (Resolution No. 76858) and all addenda thereto, File No. PP20-006. Council District 4. (Environmental Services/Economic Development)

[Deferred from 2/25/2020; 3/3/2020; 3/17/2020; 3/24/2020 and 4/7/2020 Item 6.1 (20-395)]

Economic Development Assistant Director, Nanci Klein responded to questions.

Public Comments: Blair Beekman: offered comments about the possibility of using Measure B funds.

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6.1 (Cont'd.)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79479** authorizing the City Manager to negotiate an agreement with Valley Water for the sale of Pond A-18 with related easements was adopted. (11-0.)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 20-464 Extension of the Residential Eviction Moratorium, Consideration of a Rent Freeze and Exploration of Solutions for the Rental Community Impacted by COVID-19.

As recommended by the Rules and Open Government Committee on April 8, 2020:

(a) Adopt a resolution extending the temporary moratorium to May 31, 2020 on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from COVID-19.

(b) Direct the City Attorney to draft an Urgency Ordinance and Companion Ordinance placing a temporary rent freeze on all new rent increases for rent stabilized apartments and mobile homes to be considered at the April 21, 2020 Council Meeting.

(c) Discuss a convening of stakeholders representing landlords and tenants to explore alternative solutions to address the needs of our rental community impacted by COVID-19.

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

[Rules Committee referral 4/8/2020 - Item A.1.a]

Public Comments: Nineteen members of the public offered comments, recommendations and personal accounts regarding considerations of a rent freeze and exploration of solutions for the rental community, and City Clerk Toni J. Taber read additional public comments into the record.

Motion: Councilmember Dev Davis moved approval, including the Mayor's memorandum with clarifications; Vice Mayor Chappie Jones' memo – items a., b.2., b.3. and c; the memorandum from Councilmembers Carrasco and Peralez, recommendations 2 and 3; and Councilmember Carrasco's memorandum I(3) and II. The motion was seconded by Councilmember Pam Foley.

Substitute Motion: Councilmember Raul Peralez moved approval of the staff's recommendations, including memoranda, as modified, noted included below in "Action". Councilmember Sylvia Arenas seconded the motion.

Councilmember Dev Davis offered a friendly amendment to also apply the eviction moratorium criteria to the rent freeze. Councilmember Raul Peralez respectfully declined the amendment.

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8.1 (Cont'd.)

Councilmember Sylvia Arenas offered a friendly amendment to the substitute motion, requesting the inclusion of the memorandum from Councilmember Magdalena Carrasco. The friendly amendment was accepted.

Action: Upon motion by **Resolution No. 79480** extending the temporary moratorium to May 31, 2020 on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from COVID-19 was adopted. Including:

The memorandum from Councilmembers Carrasco and Peralez, dated April 10, 2020, to “1. Direct the City Attorney to return with an emergency ordinance that would impose a moratorium on rent increases for units subject to the Apartment Rental Ordinance (ARO) during the declaration of the national emergency; and 2. Explore retroactivity to April 1st, 2020. 3. Explore the extension of a moratorium on rent increases to Mobile Homes”; with additional language *to extend the rent freeze with a sunset of December 31, 2020 instead of effective from the time of adoption to 120 days after the Eviction Moratorium expires.*

Including the memorandum from Mayor Sam Liccardo, dated April 13, 2020 to “1. Accept Staff’s recommendations included in their Memorandum dated April 10, 2020. 2. As part of the Rent Increase Freeze Ordinance, in order to encourage landlords to temporarily discount rents during this pandemic emergency, direct the City Attorney to include in the ordinance that any agreed upon rent decrease between landlords and tenants during the rent freeze period shall not affect the tenancy’s initial rental rate for purposes of impacting future rent increases. 3. As part of the Stakeholder Convening, direct City Staff to outreach to the Turner Center for Housing Innovation at UC Berkeley for their recommendations on alternative solutions for the rental community impacted by COVID-19.” With additional language *“Not only Turner, but other thought partners as well”.*

Also including the memorandum from Vice Mayor Jones, dated April 13, 2020: to “a) Accept Staff Recommendation A. b) Modify Staff Recommendation B to direct the City Attorney to include in the Urgency Ordinance and Companion Ordinance the following: 1) a rent freeze on all new rent increases for rent stabilized apartments and mobile homes. The timeline for the rent freeze shall run parallel to the eviction moratorium and rent repayment period. 2) a landlord rent reduction incentive that ensures any temporary rent reduction during the COVID-19 crisis does not impact “base rent” for future rent increase consideration for rent stabilized apartments. 3) a fee waiver for all Apartment Rent Ordinance (ARO) late fees. Additionally, a fee waiver for building/repair maintenance permit fees for rental properties under 20 units. c) Consider a Council led task force to initiate a convening of stakeholders representing landlords and tenants to explore alternative solutions to address the needs of our rental community impacted by COVID-19. The task force could be modeled after the District 1 facilitated Small Business Advisory Task Force.

And including the memorandum from Councilmember Magdalena Carrasco, dated April 10, 2020, to “I. Modify eviction moratorium to include the following additional protections for tenants: (1) prevent landlords from serving an eviction notice on a tenant if they have reason to know that the tenant is currently impacted by COVID-19; (2) prevent a landlord from evicting a tenant because the tenant has been infected or is suffering from COVID-19, under the pretext of another viable reason for eviction such as owner move-in, breach off agreement, or a COVID-19 related nuisance; (3) after a tenant has been served notice from a landlord, allow tenant up to 7 days to provide a notice informing the landlord

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8.1 (Cont'd.)

that they have been impacted by COVID 19; and (4) protect tenants unable to provide COVID-19-related documentation to landlords from harassment and retaliation under section 17.23.1270 Anti Retaliation Protections of our City's moratorium. II. Direct staff to craft a template affidavit that tenants can submit in cases where tenants are unable to provide any other verifiable evidence of their COVID-19-related impacts, as is often the case with undocumented individuals working in the informal economy."

Also including Item 5 from the memorandum cosigned by Councilmembers Khamis, Davis, and Foley, dated April 13, 2020 to (5) Deny tenant petitions for rent decreases for service reductions related to the elimination of common area amenities such as pools, gyms, etc., if these amenities were closed in order to comply with County or State public health orders related to COVID-19.

(7-4. Noes: Diep, Davis, Foley, Khamis.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

(a) 20-430 PP20-003 - Amendment to Title 20 (The Zoning Ordinance).

Approve an ordinance of the City of San José amending Part 4.5, Chapter 20.30 of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to add a new Section 20.30.495 to make provisions for use of Tiny Home on Wheels as Accessory Dwelling Units; add Section 20.200.327 to include new definition of Tiny Home on Wheels; 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 Jose 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)

Heard Immediately After Consent

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, **Ordinance No. 30395** amending Part 4.5, Chapter 20.30 of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code adding new Sections to the Code to make provisions for use of Tiny Home on Wheels as Accessory Dwelling Units, adding and revising Sections as approved, was passed for publication. (11-0.)

(b) **20-431** **PP20-007 - Amendment to Title 20 (The Zoning Ordinance).**

Approve an ordinance of the City of San José amending various sections of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (a) amend Part 4.5 of Chapter 20.30, including Section 20.30.460 to clarify maximum floor area tabulation, and Sections 20.30.470 and 20.30.480 to clarify parking requirements; (b) amend Section 20.40.230 of Chapter 20.40 to delete height exception requirements, and move the exception requirements to Section 20.85.010 of Chapter 20.85; (c) amend Section 20.50.010 of Chapter 20.50 to alter text for Industrial Park district; (d) amend Section 20.90.220 of Chapter 20.90 to clarify replacement parking requirements; amend Section 20.90.060 of Chapter 20.90 to add new parking requirements for indoor recreation uses in Table 20-190, and include minor text alterations to Table 20-210; 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 Jose 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. Planning Commission recommends approval (5-0-2, Caballero and Ballard absent). (Planning, Building and Code Enforcement)

Heard Immediately After Consent

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, **Ordinance No. 30396** amending Part 4.5, Chapter 20.30 of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code adding new Sections to the Code to make provisions for use of Tiny Home on Wheels as Accessory Dwelling Units, adding and revising Sections as approved, was passed for publication. (11-0.)

(c) **20-432** **PP20-009 - Amendment to Title 20 (The Zoning Ordinance). - DEFERRED**

Approve an ordinance of the City of San José amending Chapter 20.190 of Title 20 of the San José Municipal Code to extend the applicability of City density bonus development incentives and to update the City's density bonus ordinance in conformance with state law; amending Chapter 20.30, Chapter 20.40, Chapter 20.70, Chapter 20.75 and Chapter 20.200 to enumerate and add a definition for Permanent Supportive Housing and Low Barrier Navigation Center; adding Chapter 20.195 to implement ministerial approvals required by California Government Code Section 65650 et. seq., 65660 et. seq., and 65913.4; 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 Jose 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. Planning Commission recommends approval (7-0).

Deferred to 4/28/2020 per Administration

10 Land Use - Regular Agenda – None provided.

Open Forum

Blair Beekman urged the development of a new era of humanistic guidelines and practices for the ideas of sustainability, and six other members of the public addressed solutions for the rental community impacted by COVID-19, the rights of tenants and landlords and the need to look at the housing problem as a whole.

Additionally, City Clerk Toni J. Taber, read four letters from the public urging assistance to those suffering hardships due to the COVID-19 crisis.

- **Adjournment**

The Council of the City of San José adjourned at 9:13 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/04-14-2020 MIN

CLOSED SESSION MINUTES

TUESDAY, APRIL 14, 2020

The Council of the City of San José convened into Closed Session at 9:41 a.m. The Session was teleconferenced from remote locations.

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

Absent: Councilmembers - All Present.

- A.** Conference with Legal Counsel - Anticipated Litigation: Initiation of litigation pursuant to Section 54956.9(d)(4) of the Government Code: Number of matter(s) to be discussed: 3;
- B.** Conference with Legal Counsel - Anticipated Litigation:
Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and 54956.9(e)(3) of the Government Code: (1) In re: Claim of Liberty Mutual; City Department: Police. (1) Claimant: In re: Claim of Liberty Mutual: City Department: Police.
- C.** Conference with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(D)(1):
1. Case Name: Gradetech, Inc., et al. v. City, et al.
Name(s) of Parties(s) Involved: Gradetech, Inc.; Sam Rivinius; City of San Jose; Jim Orbal; David French; Chris Mastrodicasa
Court: U.S. District Court, Northern District of California, San Jose Division
Case No.: 5:19-cv-06157-NC
Amount of Money or Other Relief Sought: Damages according to proof

D. Conference with Labor Negotiator Pursuant to Government Code Section 54957.6:
City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

- | | | |
|----|---|---|
| 1. | Organization or
Name and Title of
Unrepresented
Employees: | International Association of Firefighters (IAFF), Local
230 (IAFF#230) |
| | Nature of
negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing
Contract or MOA: | Memorandum of Agreement Between City of San
José and International Association of Firefighters
(IAFF), Local 230 |
| | How to Obtain a
copy of Existing
Contract or MOA: | Web:
http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 2. | Organization or
Name and Title of
Unrepresented
Employees: | San José Police Officers' Association
(SJPOA) |
| | Nature of
negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing
Contract or MOA: | Memorandum of Agreement — City of San José and
San José Polices' Association |
| | How to Obtain a
copy of Existing
Contract or MOA: | Web:
http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |

The Closed Session adjourned at 10:46 a.m.

Minutes Recorded, Prepared and Respectfully Submitted by,
DRAFT

Toni J. Taber, CMC
City Clerk

rmk/04-14-2020 MIN