



City Council Meeting MINUTES

Tuesday, June 4, 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 SAN JOSE CITY COUNCIL

19-415 - Closed Session, Call to Order in Council Chambers

(See Page 19 for Closed Session Minutes)

By unanimous consent, Council recessed from the Closed Session at 12:30 p.m.; Council reconvened to Regular Session at 1:31 p.m. in the Council Chambers, and Mayor Sam Liccardo called the meeting to order.

Present: Councilmembers - Arenas, Carrasco (arrived 2:20 p.m.), Davis, Diep, Jimenez, Jones, Khamis, Peralez, Foley; Liccardo.

Absent: Councilmembers - Esparza. (Excused)

• Invocation (District 6)

Rainbow Women's Chorus sang "We are a Gentle, Angry People" for the Invocation.

• Pledge of Allegiance

Mayor Sam Liccardo led the Pledge of Allegiance, joined by students from Latimer 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. (9-0-2. Absent: Carrasco, Esparza.)

• Closed Session Report

None provided.

1. CEREMONIAL ITEMS

- 1.1** Mayor Sam Liccardo, Vice Mayor Chappie Jones and Councilmembers Jones, Arenas, Foley, Khamis and Peralez presented a Proclamation declaring June 7, 2019 as Gun Safety Awareness Day in San José in recognition of the nationwide Wear Orange for Gun Safety event. (Mayor)
- 1.2** Mayor Sam Liccardo and Councilmembers Dev Davis and Pam Foley presented a Proclamation to Gabrielle Antolovich of the Billy DeFrank Center, recognizing June as LGBTQ+ Pride Month in San José. (Davis)

- 1.3 Mayor Sam Liccardo and Councilmember Raul Perez presented a Commendation to Matias Verapinto and Certificates of Recognition to others for their competitive placement in the Future Chef's Challenge. (Perez)

2. CONSENT CALENDAR

2.1 Approval of City Council Minutes.

None provided.

2.2 Final Adoption of Ordinances.

(a) Ord No. 30270 - An Ordinance of the City of San José Rezoning Certain Real Property on an Approximately 9.26-Gross Acre Situated on the North Side of Fortune Drive, Approximately 500 Feet Westerly of Lundy Avenue (2001 Fortune Drive) from the IP Industrial Park Zoning District to the TEC Transit Employment Center Zoning District.

(b) Ord No. 30271 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.15- Gross Acre Situated on the East Side of South 11th Street, Approximately 170 Feet Southerly of East Santa Clara Street (12 South 11th Street) from the CG Commercial General Zoning District to the R-M Multiple Residence Zoning District.

(c) Ord No. 30272 - An Ordinance of the City of San José Rezoning Certain Real Properties of Approximately 9.3 Gross Acres Situated on the East Side of Capitol Avenue Approximately 500 Feet Southerly of Sierra Grande Way (333 South Capitol Avenue, 2601 Nuestra Castillo Court and 2605 La Hacienda Court) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.

(d) Ord No. 30273 - An Ordinance of the City of San José Amending Chapter 4.66 Of Title 4 of the San José Municipal Code to Rename the Marijuana Business Tax the Cannabis Business Tax, to Make Other Technical Revisions to Change the Term "Marijuana" to "Cannabis" Throughout Chapter 4.66 and to Reduce the Cannabis Business Tax Rate for Persons Engaged in the Cultivation, Manufacturing, Distribution, or Laboratory Testing of Cannabis.

Action: Ordinance No. 30270, Ordinance No. 30271, Ordinance No. 30272 and Ordinance No. 30273 were adopted. (9-0-2. Absent: Carrasco, Esparza.)

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 19-413 City Attorney's Travel to Bloomington, MN.

Approve travel by the City Attorney, Richard Doyle, to Bloomington, MN, on June 12 - 14, 2019 to attend the International Municipal Lawyers Association (IMLA) 2019 Top 50 Conference. Source of Funds: City Attorney's Office Non Personal Services Appropriation and Professional Development Funds.

Action: The request for travel was approved. (9-0-2. Absent: Carrasco, Esparza.)

2.8 19-402 Amendment to Title 3 of the San José Municipal Code to Amend the Definition of Compensation to be Retroactive to January 1, 2013 for the Unclassified Management Defined Contribution 401(A) Plan (Tier 3).

Approve an ordinance to amend Chapter 3.49 of Title 3 of the San José Municipal Code to make the definition of compensation retroactive to January 1, 2013 for the unclassified management defined contribution 401(a) plan, known as Tier 3.

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

Action: **Ordinance No. 30276**, amending Title 3 of the Municipal Code, was passed for publication. (9-0-2. Absent: Carrasco, Esparza.)

2.9 19-419 Request for Travel and Excused Absence.

Authorize travel for Councilmember Lan Diep to Boston, MA from June 25 - June 28, 2019, to join a delegation representing San José at Harvard Business School's Young American Leaders Program, and excuse absence from the June 25, 2019 Council Meeting. Source of Funds: Knight Foundation (Travel and accommodations) District 4 Office Budget (Incidentals).

Action: The request for travel and excused absence was approved. (9-0-2. Absent: Carrasco, Esparza.)

2.10 19-414

Settlement of LaBlanc v. City of San José.

Approve a settlement in the amount of \$100,000, inclusive of attorney fees, and authorize the City Attorney to execute a Settlement Agreement to settle the case of LaBlanc 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 settlement of LaBlanc v. City of San José was approved.
(9-0-2. Absent: Carrasco, Esparza.)

2.11 19-395

Actions Related to the Purchase Order 56650 with Folsom Lake Ford for Ford Police Interceptor Sport Utility Vehicles.

Adopt a resolution authorizing the City Manager to amend Purchase Order 56650 with Folsom Lake Ford (Folsom, CA) to increase amount of total compensation by \$1,100,000 to purchase 25 additional new Ford police interceptor sport utility vehicles, for a revised total amount not to exceed \$2,000,000 for the remainder of the current term ending on or about November 30, 2019.

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. 79100**, related to Purchase Order 56650 was adopted.
(9-0-2. Absent: Carrasco, Esparza.)

2.12 19-422

Third Quarter Financial Reports for Fiscal Year 2018-2019.

As recommended by the Public Safety, Finance and Strategic Support Committee on May 16, 2019:

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

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

(b) Adopt a resolution authorizing the Director of Finance to write-off uncollectible debts in an amount up to \$556,731.95.

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

[Public Safety, Finance and Strategic Support Committee referral
5/16/19 - Item (c)1]

Action: The Third Quarter Report was accepted, and **Resolution No. 79101**, providing authorization for the write-off of uncollectible debts, was adopted.
(9-0-2. Absent: Carrasco, Esparza.)

2.13 19-420

Request for Travel for Mayor's Staff.

(a) 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 Knight Foundation Public Space Forum and the Harvard Young American Leaders Program in Philadelphia, PA from June 21, 2019 and June 25- June 28, 2019. Source of Funds: Knight Foundation.

(b) Authorize travel, accept travel payments to the City of San José, and designate Mayor's staff, Khanh Russo, as the City representative to attend the Summit on Citizen Engagement in Bologna, Italy from June 29, 2019 to July 3, 2019. Source of Funds: Cities of Service.

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 travel was approved. (9-0-2. Absent: Carrasco, Esparza.)

2.14 19-396

Actions Related to the Vacation of Setback Easements Located within Tract No. 1693.

(a) Adopt a resolution of intention to vacate the 25-foot and 12.5-foot light and air easements located within Tract No. 1693.

(b) Set a Public Hearing on Tuesday, June 25, 2019 at 1:30 p.m., for consideration of the vacation.

(c) Direct the City Clerk to file the vacation map and advertise said public hearing.

CEQA: Categorically Exempt, File No. 3-24857, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations. Council District 1. (Public Works)

Action: The Public Hearing was set, and **Resolution No. 79102**, approving the intention to vacate light and air easements within Tract No. 1693, was adopted. (9-0-2. Absent: Carrasco, Esparza.)

2.15 19-397

Actions Related to the Vacation of Setback Easements Located within Tract No. 6285.

(a) Adopt a resolution of intention to vacate the 25-foot and 12.5-foot light and air easements located within Tract No. 6285.

(b) Set a Public Hearing on Tuesday, June 25, 2019 at 1:30 p.m., for consideration of the vacation.

(c) Direct the City Clerk to file the vacation map and advertise said public hearing.

CEQA: Categorically Exempt, File No. 3-24873, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations. Council District 9. (Public Works)

Action: The Public Hearing was set, and **Resolution No. 79103**, approving the intention to vacate light and air easements within Tract No. 6285, was adopted. (9-0-2. Absent: Carrasco, Esparza.)

2.16 19-398

Actions Related to the Agreements for Architectural and Engineering Design Services: RFQ-9030 City Essential Facilities Projects and RFQ-9031 Non-Essential City Facilities Projects.

Approve master agreements for architectural and engineering design services, effective from the date of execution through December 31, 2024, with each of the following entities with each agreement not to exceed \$3,000,000:

(a) The three top ranked consultants from the City Essential Facilities Projects procurement (RFQ 9030):

- (1) Rob Wellington Quigley, FAIA, Inc.;
- (2) Ten Over Studio, Inc.; and
- (3) Shah Kawasaki Architects, Inc.

(b) The four top ranked consultants from the Non-Essential City Facilities Projects procurement (RFQ 9031):

- (1) Anderson Brule Architects, Inc.;
- (2) Studio G Architects, Inc.;
- (3) Group 4 Architecture, Research, and Planning, Inc.; and
- (4) ELS Architecture and Urban Design, Inc.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

Action: Actions related to the master agreements were approved. (9-0-2. Absent: Carrasco, Esparza.)

2.17 19-399

Actions Related to Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program, Approval of the Program Workplan, Rule 20B (In Lieu Fee) Undergrounding Master Plan and Pacific Gas and Electric Company's Electric Form 79-1127 Agreement.

(a) Approve the proposed Fiscal Year 2018/19- 2023/24 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program.

(b) Approve the Fiscal Year 2017-2018 Rule 20B (In-Lieu Fee) Undergrounding Master Plan.

(c) Adopt a resolution authorizing the City Manager to execute Pacific Gas and Electric Company's "Electric Form 79-1127 Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions" on a project-by-project basis.

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

Action: The Workplan and Master Plan were approved, and **Resolution No. 79104**, allowing authorization to execute the Agreement was adopted. (9-0-2. Absent: Carrasco, Esparza.)

2.18 19-400

Actions Related to Multi-Jurisdiction Stevens Creek Boulevard Complete Streets and Transit Planning.

Adopt a resolution to:

- (a) Support the development of A Complete Streets and Near Term Transit Implementation Plan for the Stevens Creek Boulevard corridor to be prepared jointly by the Santa Clara Valley Transportation Authority (VTA) and the Cities of Santa Clara, Cupertino and San José; and High Capacity Transit Service along the Stevens Creek Boulevard corridor currently being planned and investigated in VTA's High Capacity Transit Study and San José's joint Request for Information for an Airport-Diridon-Stevens Creek Transit Connection; and
- (b) Authorize the City Manager to assess resources needed to develop these projects.

CEQA: Statutorily Exempt, File No. PP17-001, CEQA Guidelines Section 15262, Feasibility and Planning Studies with no commitment to future actions. Council District 1. (Transportation)
[Deferred from 5/21/19 - Item 2.19 (19-360)]

Action: **Resolution No. 79105**, relating to the Multi-Jurisdiction Stevens Creek Boulevard Complete Streets and Transit Planning, was adopted. (9-0-2. Absent: Carrasco, Esparza.)

2.19 19-424

Approval of the Evergreen Village Square Summertime Evening Events and Movie Nights 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 May 22, 2019:

- (a) Approve the Evergreen Village Square event series, ranging from June to September of 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.

Action: The City Council sponsored Special Event was approved. (9-0-2. Absent: Carrasco, Esparza.)

2.20 19-425

Approval of Montevideo Beautification Day 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 May 22, 2019:

- (a) Approve the Montevideo Neighborhood Beautification Day scheduled on June 15, 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.

Action: The City Council sponsored Special Event was approved. (9-0-2. Absent: Carrasco, Esparza.)

2.21 19-426 Retroactive Approval of Oak Hill Memorial Day Observance 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 May 22, 2019:

(a) Retroactively approve the Oak Hill Memorial Day Observance scheduled on May 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. (Khamis)

Action: The City Council sponsored Special Event was retroactively approved. (9-0-2. Absent: Carrasco, Esparza.)

2.22 19-462 Approval of the Philippine Flag Raising Event 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) Approve the Philippine Flag Raising Event scheduled on June 12, 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 City Council sponsored Special Event was approved. (9-0-2. Absent: Carrasco, Esparza.)

2.23 19-470 Retroactive Approval of the District 4 Transportation Forum 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.

(a) Retroactively approve the District 4 Transportation Forum scheduled on May 22, 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.

Action: The City Council sponsored Special Event was retroactively approved. (9-0-2. Absent: Carrasco, Esparza.)

3. STRATEGIC SUPPORT

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

None provided.

Councilmember Magdalena Carrasco arrived at 2:20 p.m.

3.3 19-401 Mayor's Gang Prevention Task Force Audit Report.

As recommended by the Public Safety, Finance and Strategic Support Committee on May 16, 2019, accept the Mayor's Gang Prevention Task Force 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 and Strategic Support Committee referral
5/16/19 - Item (d)4]

Interim City Auditor Joe Rois provided the report, and Director of Parks, Recreation and Neighborhood Services, John Cicirelli offered a response. Council discussion followed.

Public Comments: Twelve members of the public attested to the program's success and appealed to Council for continued resources.

Motion: Councilmember Sylvia Arenas moved approval of the memorandum she coauthored with Vice Mayor Chappie Jones, dated May 31, 2019, also including the joint memorandum from Councilmember Sergio Jimenez and Councilmember Magdalena Carrasco, dated June 4, 2019, with amendments as noted in "Action". Vice Mayor Chappie Jones seconded the motion.

Mayor Sam Liccardo requested a friendly amendment to include clarification that gang activity will remain a subset of crime reports under youth violence and youth crime. The friendly amendment was accepted.

Action: On a call for the question, the Mayor's Gang Prevention Task Force Audit Report was accepted, including the memorandum from Councilmember Sylvia Arenas and Vice Mayor Chappie Jones, dated May 31, 2019, to:

Accept the Audit on the Mayor's Gang Prevention Task Force and Administration Response, and direct the City Manager to:

1. Implement an interim solution for school service delivery site misalignment, as an additional step for Recommendation 9, in time for the upcoming 2019-2020 school year.

a. Utilize the data assembled by the City Auditor, with a focus on alignment with Level 1 and 2 incidents.

b. Where school-city coordination has presented a challenge to effective alignment at school sites, work with Council offices and/or City Administration to help find solutions to service delivery challenges.

2. Incorporate a December 2019 report in the PSFSS workplan with updates on:

a. Implementation of audit components, especially those with December 2019 timelines

b. Formalize the Police Department role of providing violent crime data and gang-related crime data (by MGPTF Hot-spots and Emerging Hot Spots) as part of the Bi-monthly report to PSFSS, as an annual presentation, and sharing this data each year with the MGPTF Technical Team and Policy Team.

c. Direct staff to review and report out on the feasibility of segmenting future grants by target population profile to ensure that each segment has sufficient targeted services provided.

(Item Continued on the Next Page)

3.3 (Cont'd.)

- d. Discussion of Mayor's Gang Prevention Task Force name change as mentioned in previous Policy Team and PSFSS meetings.
3. Reaffirm the funding commitment to MGPTF, and encourage PRNS to seek further funding when available. If the City establishes an Equity Fund, seek funding from that fund.
4. Add risk factors to the MGPTF Target Population Profiles "At-Risk" and "High-Risk" that would include exposure to sexual assault, domestic violence and family violence as "gang risk" characteristics.

Also including the memorandum from Councilmember Sergio Jimenez and Councilmember Magdalena Carrasco, dated June 4, 2019, with an addition as noted in item 2(a):

1. Accept the Mayor's Gang Prevention Task Force Audit Report.
2. Accept the Administration's Response to the Audit Report and amend Recommendation #15 to include the following additional item:
 - a. Recommendation #15: Create an at-risk, gang-impacted, or formerly gang-affiliated young adult membership and/or stakeholder position on the Mayor's Gang Prevention Task Force (MGPTF) Policy Team *and provide appropriate support to make them a successful participant.*
3. Cross-reference this audit report to the next Mayor's Gang Prevention Task Force Policy Team meeting.
4. Direct staff to present a progress update of the MGPTF audit recommendations alongside the BEST Program Annual Report.

With the memorandum from Vice Mayor Jones and Councilmember Sylvia Arenas superseding Item 4 from the memorandum from Councilmembers Jimenez and Carrasco, and clarifying that gang activity will remain a subset of crime reports under youth violence and youth crime.

(10-0-1. Absent: Esparza.)

3.4 19-403 Intergovernmental Relations Quarterly Report.

- (a) Accept the report from Intergovernmental Relations and reaffirm all City positions summarized in the Intergovernmental Relations Priority Legislation Log.
- (b) Approve the Intergovernmental Relations Program 2.0 action items.
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Manager)

Director of Intergovernmental Relations, Bena Chang, opened this discussion, offered clarification and responded to questions. Council discussion ensued.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Staff recommendations were approved including support of a more accountable decision-making process regarding the shutdown of electricity transmission lines instead of allowing PG&E to solely make those decisions without a decision-making body, and who will look at the health and safety of the community in total; and including the memorandum from Mayor Sam Liccardo, dated May 31, 2019, to "Clarify the City's position on Elections Code Section 13119/AB 195 to advocate for reform—and not the elimination—of disclosure provisions that subject local governments to unnecessary and unwarranted litigation for the passage of bond measures."
(9-0-2. Absent: Carrasco, Esparza.)

3.5 19-423 Potential 2020 Ballot Measures - Affordable Housing and Homelessness.

(a) Accept the staff report on potential 2020 ballot measures that could help provide affordable housing and address homelessness.

(b) Direct the City Manager to conduct additional survey research regarding potential 2020 ballot measures and to return to Council in August 2019 with an update.

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

A presentation was provided by Chief of Staff, Office of the City Manager, Lee Wilcox, Director of Housing Jacky Morales-Ferrand and Assistant to City Manager, Michele McGurk.

Public Comment: Nine members of the public expressed concerns and opinions regarding potential 2020 ballot measures.

Motion: Councilmember Johnny Khamis moved his memorandum dated May 31, 2019. Councilmember Sergio Jimenez seconded the motion.

Mayor Sam Liccardo asked for clarification regarding the motion, with Councilmember Johnny Khamis expressing his opinion that the City should not be studying further taxation at this time.

Substitute Motion: Councilmember Sylvia Arenas moved approval of the staff recommendations, including exploration of a commercial-only property tax and a vacancy tax. The motion was seconded by Councilmember Magdalena Carrasco.

Council recessed at 5:30 p.m., returning at 6:20 p.m. with all Council members, with the exception of Councilmember Maya Esparza, present.

Action: On a call for the question, the substitute motion carried, with Staffs' recommendations accepted, including exploration of a commercial-only property tax and a vacancy tax. (7-3-1. Noes: Davis, Foley, Khamis. Absent: Esparza.)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-404 Public Hearing on the Levy of the Proposed Downtown Business Improvement District Assessments for Fiscal Year 2019-2020.

Adopt a resolution approving the Downtown Business Improvement District budget report for Fiscal Year 2019-2020, as filed or modified by Council, to levy the Downtown Business Improvement District assessments for Fiscal Year 2019-2020, and to suspend collection of the Downtown Business Improvement District assessments for the businesses that qualify for the business tax financial hardship exemptions under the City's general business tax ordinance.

CEQA: Exempt, File No. PP08-048, CEQA Guidelines Section 15061(b), Review for Exemption. Council District 3. (Economic Development)

(Item Continued on the Next Page)

4.1 (Cont'd.)

City Clerk Toni J. Taber indicated that no protests had been received.

Items 4.1 and 4.2 were heard concurrently.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 79106**, approving the Downtown Business Improvement District budget report for Fiscal Year 2019-2020 was adopted. (10-0-1. Absent: Esparza.)

4.2 19-405 **Public Hearing on the Levy of the Proposed Japantown Business Improvement District Assessments for Fiscal Year 2019-2020.**

Adopt a resolution approving the Japantown Business Improvement District budget report for Fiscal Year 2019-2020, as filed or as modified by the Council, and to levy the Japantown Business Improvement District assessments for Fiscal Year 2019-2020.

CEQA: Exempt, File No. PP08-048, CEQA Guidelines Section 15061(b), Review for Exemption. Council District 3. (Economic Development)

City Clerk Toni J. Taber indicated that no protests had been received.

Items 4.1 and 4.2 were heard concurrently.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 79107**, approving the Japantown Business Improvement District budget report for Fiscal Year 2019-2020 was adopted. (10-0-1. Absent: Esparza.)

4.3 19-406 **Public Hearing on the Setback Easements Located within Tract No. 1010**

Conduct a Public Hearing and adopt a resolution:

(a) Approving the report of the Director of Public Works setting forth the facts justifying the vacation of the 25-foot, 12.5-foot and 10-foot light and air easements located within Tract No. 1010.

(b) Vacating the 25-foot, 12.5-foot, and 10-foot light and air easements located within Tract No. 1010.

(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: Categorically Exempt, File No. PP19-025, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations. Council District 6. (Public Works)

Public Comments: 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 Councilmember Dev Davis, seconded by Councilmember Raul Peralez and carried unanimously, **Resolution No. 79108**, regarding Setback Easements located within Tract 1010 was adopted. (10-0-1. Absent: Esparza.)

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 19-407 San José Diridon Integrated Station Concept Plan.**
Accept the report on progress to date on the San José Diridon Integrated Station Concept Plan.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. Council Districts 3 & 6. (Transportation)

Item 6.1 and 6.2 were heard concurrently.

Station Planning Manager, Department of Transportation, Eric Eidlin, offered a presentation.

Public Comments: Three members of the public offered comments, including points regarding no impacts on Google properties, the need to put social equity at the forefront, and to not reduce housing land availability.

Action: See Item 6.2 for action taken.

- 6.2 19-408 Rail Corridor Plan for San José and Inter-Agency Agreement.**
Direct the City Manager to develop an agreement between the City of San José, the Peninsula Corridor Joint Powers Board, the Santa Clara Valley Transportation Authority, and the California High-Speed Rail Authority that will provide for development of a Rail Corridor Plan for San José.
CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.
Council Districts 2, 3, 4, 6, 7, & 10. (Transportation)

Motion: Councilmember Dev Davis moved approval of the staff recommendation, including the May 31, 2019 memorandum she coauthored with Mayor Sam Liccardo and Councilmembers Jimenez, Peralez and Esparza.

Action: On a call for the question, the staff recommendations regarding the including the San José Diridon Integrated Station Concept Plan and Rail Corridor Plan for San José and Inter-Agency Agreement were accepted, including the joint memorandum from Mayor Sam Liccardo and Councilmembers Jimenez, Peralez, Davis and Esparza, dated May 31, 2019, to:

Accept the staff memo with the following recommendations:

1. City staff to work with VTA, Caltrain, and High Speed Rail on an agreed-upon scope of work and preliminary funding plan for the interagency agreement, and Rail Corridor Plan, to be brought to Council prior to the High Speed Rail Authority Board meeting in September where they will be considering the Preferred Alternative for the San Jose to Merced segment.
2. Prior to publishing the Draft Environmental Impact Statement/Report (EIR/S) for the San Jose to Merced segment - staff should return to Council with an interagency agreement that allows for multi-agency collaboration, accounts for the need to integrate multiple overlapping plans and projects - and ultimately delivers high-quality rail service in San José.

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6.2 (Cont'd.)

3. Explore with VTA, Caltrain, and other stakeholders an environmental process for the Rail Corridor Plan that explicitly incorporates three grade separations in the Monterrey corridor (at Branham, Skyway, and Chynoweth), two grade separations in the Gardner/North Willow Glen neighborhood (at Auzerais and West Virginia), and- once established - the DISC Preferred Option. Establish which local agency would constitute the lead agency for the EIR, and commence scoping for the study.

(10-0-1. Absent: Esparza.)

6.3 19-409 **Award of Construction Contract for the 2019 Local Streets Resurfacing South Project.**

(a) Award a construction contract for the 2019 Local Streets Resurfacing South Project to the low bidder, Granite Construction Company in the amount of \$7,617,373.

(b) Approve a five percent contingency in the amount of \$380,868.
CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities.
Council Districts 1, 2, 6, 7, 8, 9, & 10. (Transportation)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the Award of Construction Contract for the 2019 Local Streets Resurfacing South Project, with related contingency, was approved. (10-0-1. Absent: Esparza.)

6.4 19-410 **Award of Construction Contract for the 2019 Local Streets Microsurfacing Project.**

(a) Award a construction contract for the 2019 Local Streets Microsurfacing Project to the low bidder, Graham Contractors, Inc. in the amount of \$8,384,650.

(b) Approve a five percent contingency in the amount of \$419,233.
CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council District: Citywide.
(Transportation)

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Johnny Khamis and carried unanimously, the Award of Construction Contract for the 2019 Local Streets Microsurfacing Project, with related contingency, was approved. (10-0-1. Absent: Esparza.)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 19-411

Actions Related to the 2019 and 2020 Power Supply Procurement, Long-Term Renewable Contracts, and Medium-Term and Long-Term Resource Adequacy Contracts.

Adopt a resolution:

(a) Increasing the authority granted to the Director of Community Energy or her designee for the procurement of power supply products by \$19,000,000 from \$226,000,000 to an amount not to exceed \$245,000,000 in aggregate through Calendar Year 2019; and by \$80,000,000 from \$222,000,000 to an amount not to exceed \$302,000,000 in aggregate through Calendar Year 2020, subject to the Energy Risk Management Policy and the appropriation of funds.

(b) Authorizing the Director of Community Energy or her designee to negotiate and execute long-term Power Purchase Agreement for renewable projects, which will include the key terms listed in Attachment 1 to the staff's memorandum, with modifications, as appropriate, in consultation with the City Attorney and approval of the final agreements by the Risk Oversight Committee, in an amount not to exceed \$50,000,000 annually and \$1,080,000,000 in aggregate from 2020 through 2043, subject to the Energy Risk Management Policy and the appropriation of funds.

(c) Authorizing the Director of Community Energy or her designee to negotiate and execute medium- to long-term contracts using the Edison Electric Institute Agreement or the Western Systems Power Pool Agreement with modifications, as appropriate, in consultation with the City Attorney, for a term of up to twenty years to procure Resource Adequacy products from different technologies, including battery storage, in an amount not to exceed \$451,800,000 in aggregate over twenty years, subject to the Energy Risk Management Policy, Risk Oversight Committee approval, and 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.
(Community Energy)

Director, Community Energy Department, Lori Mitchell offered a presentation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79109**, related to Actions Related to the 2019 and 2020 Power Supply Procurement and contracts, was adopted. (10-0-1. Absent: Esparza.)

7.2 19-412 San José Municipal Water System 2019-2020 Water Rates and Charges.

- (a) Hold a Public Hearing on proposed San José Municipal Water System 2019-2020 potable and recycled water rates and charges.
- (b) Adopt resolutions updating San José Municipal Water System potable and recycled water rates and charges, effective July 1, 2019. CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates & Fares without changes to or expansion of services. Council Districts 2, 4, 7 & 8. (Environmental Services)

City Clerk Toni J. Taber indicated that no protests had been received.

Public Comments: 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 Councilmember Lan Diep, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79110 and 79111**, updating San José Municipal Water System potable and recycled water rates and charges, were adopted. (10-0-1. Absent: Esparza.)

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

• Open Forum

1. Roland Lebrun expressed concerns regarding the rail corridor plan draft Environmental Impact Report (EIR).
2. Sujatha Venkatraman, representing West Valley Community Services, expounded on the mission and vision of her philanthropic organization.
3. Abraham Thompson spoke on support for China human rights and urged San José to send a strong message regarding the persecution of the Falun Gong practitioners.
4. Robin Roemer offered comments regarding the draft EIR, urging Council to keep both sides of the coin in mind.

- **Adjournment**

The meeting of the City Council was adjourned at 8:18 p.m. in memory of the Late Admiral Tran Van Chon, who passed away on May 2, 2019, at the age of 100. Admiral Tran was appointed by the Republic of Viet Nam Navy as Chief of Naval Operations with the rank of Commander in 1957, until his retirement in 1974. During this time, he had received several decorations for leadership and bravery, including the Purple Heart and Legion of Merit Awards from the governments of the Republic of Viet Nam and the United States. Admiral Tran Van Chon will be missed by many and remembered for his distinguished service to the Vietnamese community, devotion to his large and diverse family, continuing education, civility values, and faithful adherence to the tenets of his Cao Dai faith.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/06/04/19MIN

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 4, 2019

The Council of the City of San José convened into Closed Session at 9:40 a.m.

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

Absent: Councilmembers - Esparza. (Excused)

CLOSED SESSION

Council recessed at 9:40 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)(1) of the Government Code: Number of matter(s) to be discussed: two (2); B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1): 1. Case Name: Claim of George; Court: Workers Compensation Appeals Court; Case No.: ADJ10819570, ADJ10821517, ADJ11918940, ADJ11918098, ADJ11918036 and ADJ11917975; Amount of Money or Other Relief Sought: Benefits; 2. Case Name: Estate of Nunez, et al. v. City; Names Of Partie(s) Involved: City of San José, Michael Santos and Anthony Vizzusi; Tony Nunez, individually and as a successor-in-interest to Decedent Anthony Nunez and the Estate of Anthony Nunez; Court: U.S. District Court, Northern District of California, San José Division; Case No. 17-CV-03860-LHK; Amount of Money or Other Relief Sought: Damages according to proof; 3. Case Name: City, et al. v. BKD Investments, LLC, et al; Names Of Partie(s) Involved: City of San José; BKD Investments, LLC, a corporation; Pankaj K. Patel, individually and on behalf of BKD Investments, LLC; Sanjay K. Patel, individually and on behalf of BKD Investments, LLC; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 1-13-CV-243333; Amount of Money or Other Relief Sought: Permanent injunction and Final Judgement; 4. Pabla, et al. v. City, et al.; Names Of Partie(s) Involved: Parveen Pabla and the Estate of Kiran Pabla, by and through the Executor of the Estate, Parveen Pabla; City of San José, State of California, California Department of Transportation (CALTRANS), Gabriele Anthony Becerra Esparza, Armando Becerra, Manuel Anthony Maldando Avalos, AT&T/Pacific Bell, and Does 1 through 50; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 15-CV-289342; Amount of Money or Other Relief Sought: Damages according to proof; 5. In re: PG& E Bankruptcy; Court: U.S. Bankruptcy Court, Northern District of California, San Francisco Division; Case No.: 19-30088 (DM) (Lead Case: Jointly Administered); Amount of Money or Other Relief Sought: Chapter 11 Bankruptcy Proceedings; C. CONFERENCE WITH REAL PROPERTY DESIGNATED REPRESENTATIVES PURSUANT TO GOVERNMENT CODE SECTION 54956.8: Property Street Address, Parcel Number, or other Unique Reference of Property: 1350 Panoche Avenue, San José; Negotiating Parties: Jackie Morales Ferrand, Rachel Vanderveen, and/or Nanci Klein for the City of San José and George L. Renz (Real Estate Agent);

CLOSED SESSION (Cont'd.)

Under Negotiation: 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 12:30 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/06/04/19MIN