



# **City Council Meeting MINUTES**

**Tuesday, May 21, 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



- **Call to Order and Roll Call**

**19-133 - [See Page 21 for Closed Session Minutes](#)**

**The Council of the City of San José reconvened on Tuesday, May 21, 2019, at 1:35 p.m. in into Regular Session in Council Chambers, City Hall**

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

Absent: Councilmembers - All Present.

- **Invocation (District 5)**

Pastor Danny Sanchez, founder of The City Peace Project and Lead Chaplain for the City of San Jose Mayor's Gang Prevention Task Force provided the Invocation.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Orders of the Day**

Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 6.2 deferred to August 2019. (11-0.)

- **Closed Session Report**

None provided.

## **1. CEREMONIAL ITEMS**

1.1 Mayor Sam Liccardo and Councilmember Sergio Jimenez presented a Commendation to the Stanford Center for Integrated Facility Engineering. (Jimenez)

1.2 Mayor Sam Liccardo and Councilmember Lan Diep offered a Proclamation proclaiming May as Asian Pacific American Heritage Month and honored Secretary Norman Y. Mineta for his years of leadership. (Diep)

## **2. CONSENT CALENDAR**

### **2.1 19-368      Approval of City Council Minutes.**

- (a) Regular City Council Meeting Minutes of October 30, 2018.
- (b) Regular City Council Meeting Minutes of January 30, 2018.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Clerk)

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

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

None provided.

### **2.3 19-367      Approval of Council Committee Minutes.**

- (a) Rules and Open Government Committee Minutes of April 17, 2019.
- (b) Rules and Open Government Committee Minutes of April 24, 2019.
- (c) Rules and Open Government Committee Minutes of May 1, 2019.
- (d) AD-HOC Committee for Housing Construction & Development Services Minutes of April 25, 2019.
- (e) Community & Economic Development Committee Minutes of October 22, 2018.
- (f) Rules and Open Government Committee Minutes of October 31, 2018.
- (g) Smart Cities and Service Improvements Committee Minutes of November 1, 2018.
- (h) Transportation and Environment Committee Minutes of November 5, 2018.
- (i) Public Safety, Finance & Strategic Support Committee Minutes of November 15, 2018.
- (j) Rules and Open Government Committee Minutes of November 28, 2018.
- (k) Rules and Open Government Committee Minutes of December 5, 2018.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Clerk)

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

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

None provided.

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

None provided.

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

None provided.

### **2.7 19-338 Set a Public Hearing on the Levy of the Proposed Downtown Business Improvement District Assessments.**

Preliminarily approve the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council, and adopt a resolution of intention to levy the annual assessment for Fiscal Year 2019-2020, to suspend collection of the Downtown Business Improvement District assessments for businesses that qualify for the business tax financial hardship exemption under the City's general business tax ordinance, and set Tuesday, June 4, 2019 at 1:30 p.m. as the date and time for the Public Hearing on the levy of the proposed assessments.

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

Action: **Resolution No. 79082** adopting a resolution of intention to levy the annual assessment for Fiscal Year 2019-2020 was adopted. (11-0.)

### **2.8 19-339 Set a Public Hearing on the Levy of the Proposed Japantown Business Improvement District Assessments.**

Preliminarily approve the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council, and adopt a resolution of intention to levy the annual assessment for Fiscal Year 2019-2020 and set Tuesday, June 4, 2019 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

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

Action: **Resolution No. 79083** adopting a resolution of intention to levy the annual assessment for Fiscal Year 2019-2020 was adopted. (11-0.)

**2.9 19-340 Amendment to the Lease Agreement with Sun Garden Center 3, LLC for Police Department Evidence Warehouse.**

Approve a Second Amendment extending the Lease Agreement for Police Department Evidence Warehouse with Sun Garden Tenants in Common, LLC commencing on June 1, 2019, for the use of approximately 99,819 square feet of warehouse space, located at 1598 Monterey Road, at a rental rate of \$69,000 per month with an increase of 3% each year until May 31, 2021.

CEQA: Not a Project, File No. PP17-003, Agreement/Contracts resulting in no physical changes to the environment. Council District 7. (Economic Development)

Economic Development Assistant Director, Nanci Klein responded to questions from Councilmember Sergio Jimenez regarding the market rate for this property.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sergio Jimenez and carried unanimously, a Second Amendment extending the Lease Agreement for Police Department Evidence Warehouse was approved. (11-0.)

**2.10 19-341 Amendment to the Master Agreement with Golder Associates for Environmental Support Services.**

Approve the First Amendment to the Master Agreement with Golder Associates for environmental consulting services, increasing the amount of compensation by \$500,000, for a total agreement not to exceed \$1,000,000. No extension is being recommended on the term of the agreement, which expires on June 30, 2020.

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

Action: A First Amendment to the Master Agreement with Golder Associates for environmental consulting services was approved. (11-0.)

**2.11 19-342 Actions Related to the Purchase Order for Chevrolet Vehicle Parts, Maintenance, and Repair Services.**

Adopt a resolution authorizing the City Manager to:

(a) Execute a purchase order with Capitol Chevrolet (San José, CA) for Chevrolet vehicle parts, maintenance, and repair services for the Department of Public Works for an initial twelve-month period, starting on or about May 22, 2019 and ending on or about May 21, 2020, for an amount not-to-exceed \$80,000; and

(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 May 21, 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)

*(Item Continued on the Next Page)*

## 2.11 (Cont'd.)

Action: **Resolution No. 79084** regarding actions Related to the Purchase Order for Chevrolet Vehicle Parts, Maintenance, and Repair Services was adopted. (10-0-1. Absent: Carrasco.)

## 2.12 19-343 **Actions Related to the Purchase Orders for Sunnyvale Ford and Capitol Ford for Vehicle Parts, Maintenance, and Repair Services.**

Adopt a resolution authorizing the City Manager to:

(a) Execute purchase orders with Sunnyvale Ford (Sunnyvale, CA) and Capitol Ford (San José, CA) for Ford light and heavy vehicle parts, maintenance, and repair services for the Department of Public Works for an initial twelve-month period, starting on or about May 22, 2019 and ending on or about May 21, 2020 for a total cumulative compensation not-to-exceed \$400,000, and

(b) Exercise up to four one-year options to extend the term of the purchase orders with the last option year ending on or about May 21, 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)

Public Comments: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Chappie Jones and carried unanimously, Ray Perez, representing L.R.O.N., expressed concerns regarding tariffs. Steve Fuentes, representing Sunnyvale Ford, offered appreciation for the opportunity.

Action: **Resolution No. 79085** adopting a resolution of intention to levy the annual assessment for Fiscal Year 2019-2020 was adopted. (10-0-1. Absent: Carrasco.)

## 2.13 19-344 **Amendment to Title 4 of the City of San José Municipal Code to Rename the Marijuana Business Tax to the Cannabis Business Tax and to Establish a Tiered Cannabis Business Tax Rate Structure for Various Categories of Cannabis Business Activities.**

Adopt an ordinance amending Chapter 4.66 of Title 4 of the City of San José Municipal Code to rename the Marijuana Business Tax to 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 for persons engaged in the cultivation, manufacturing, distribution or laboratory testing of cannabis.

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

Action: **Ordinance No. 30273** amending Title 4 of the San José Municipal Code was passed for publication. (11-0.)

**2.14 19-345 Amendment to the Agreement with Kubra America West, Inc. for Document Printing, Mailing, E-Presentment, E-Payment, and Remittance Services.**

Adopt a resolution authorizing the City Manager to execute the Sixth Amendment to the Agreement for Document Printing, Mailing, E-Presentment, E-Payment, and Remittance Services with Kubra America West, Inc. (Gardena, CA) to extend services for up to two additional one-year option terms through June 30, 2021, for a not to exceed amount of \$450,000 for July 1, 2019 through June 30, 2020, 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. 79086** approving an amendment to the Agreement with Kubra America West, Inc. was adopted. (11-0.)

**2.15 19-346 Amendment to the Agreement with P&A Group for Flexible Spending Account Administration.**

Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to extend the term by one year and three months to December 31, 2020 and increase the maximum amount of compensation to be paid to P&A Group by enrolled employees for the administrative fee for Flexible Spending Account administration by \$67,500 from \$216,000 to \$283,500.

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

Action: **Resolution No. 79087** approving an amendment to an agreement with P&A Group for Flexible Spending Account Administration was adopted. (11-0.)

**2.16 19-347 Approval of the Amended and Restated Turnkey Parkland Agreement and Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund for the North Capital Avenue at Gimelli Way Park Site.**

(a) Approve an Amended and Restated Turnkey Parkland Agreement between the City of San José and Pulte Home Company, LLC, a Michigan limited liability company for the dedication and development of a 0.58 gross acre site, the construction of park improvements on this site, and return a portion of paid park impact in-lieu fees relating to approved File Nos. PDC16-002, PD16-025 (as amended), and PT16-035 (as amended).

(b) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a maintenance agreement with Pulte Home Company, LLC for maintenance of the park for one calendar year after the City accepts the park.

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## 2.16 (Cont'd.)

(c) Adopt the following 2018-2019 Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund:

(1) Establish Capitol at Gimelli Turnkey Park Developer Reimbursement appropriation for \$490,000.

(2) Increase Future PDO/PIO Future Projects Reserve by \$169,000.

(3) Decrease Capitol Turnkey Park Design Review and Inspection appropriation by \$586,000.

(4) Increase the Developer Contributions by \$73,000.

CEQA: Mitigated Negative Declaration for 641 North Capitol Avenue Mixed-Use Project (Resolution No. 78053), File Nos. PDC16-002, PD16-025 (Resolution No. 78055 as amended), & PT16-035 (Resolution No. 78054, as amended). (Parks, Recreation and Neighborhood Services/City Manager)

Action: **Resolution No. 79088, Resolution No. 79089 and Ordinance No 30274**, approving the Amended and Restated Turnkey Parkland Agreement and Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund for the North Capital Avenue at Gimelli Way Park Site, were adopted. (11-0.)

## 2.17 19-348 **Amendment to the Agreement with Management Partners, Inc. for Fee Program Analysis Services.**

Approve a Second Amendment to the Agreement between the City of San José and Management Partners, Inc. for Fee Program Analysis Services, to extend the term of the Agreement through June 30, 2020, and amend Revised Exhibit B: Compensation to update Table C-4: Additional Services Payment Schedule.

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

Action: The amendment to the Agreement with Management Partners was approved. (11-0.)

## 2.18 19-349 **Actions Related to the Knight Foundation Grant Acceptance.**

(a) Adopt a resolution authorizing the City Manager or designee to:

(1) Accept grant funds from the John S. and James L. Knight Foundation (Knight Foundation) in an amount not to exceed \$705,000 to implement San José's Radically Resident-Centered Automated Vehicle (AV) Community Engagement Project; and

(2) Negotiate and execute any documents necessary to accept the grant funds.

(b) Adopt the following 2018-2019 Funding Source Resolution and Appropriation Ordinance amendments in the Construction Excise Tax Fund:

*(Item Continued on the Next Page)*

## 2.18 (Cont'd.)

- (b) (1) Increase the estimate for Other Revenue by \$235,000; and
  - (2) Establish the AV Community Engagement Initiative appropriation to the Department of Transportation in the amount of \$235,000.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
Council Districts 1, 3, 4, 5, 6, & 9. (Transportation/City Manager)

Councilmember Lan Diep pulled item 2.18, indicating that he must recuse himself since he works on the Knight Foundation Board.

Mayor Sam Liccardo offered comments regarding integrating technology.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 79090, Resolution No. 79091 and Ordinance No. 30275**, approving actions related to the Knight Foundation Grant Acceptance, were adopted.  
(9-0-1-1. Absent: Carrasco. Abstain: Diep.)

## 2.19 19-360 **Complete Streets and Near Term Transit Implementation Plan for the Stevens Creek Boulevard Corridor. - DEFERRED**

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.

Action: Deferred to June 4, 2019 per Administration.

## 2.20 19-363 **Approval of National Night Out as a City Sponsored Special Event, to Expend City Funds and Authorization to Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on May 8, 2019:

- (a) Approve the National Night Out scheduled on August 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.

Action: The City Sponsored Special Event was approved. (11-0.)

**2.21 19-364 Retroactive Approval of Mamapalooza Community 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.**

As recommended by the Rules and Open Government Committee on May 8, 2019:

- (a) Retroactively approve the Mamapalooza Community Event 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.

Action: The City Sponsored Special Event was retroactively approved. (11-0.)

**2.22 19-382 Approval of Canada Flag Raising and Reception Sponsored by Council District 3 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 15, 2019:

- (a) Approve the Canada Flag Raising and Reception scheduled on June 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.

Action: The City Sponsored Special Event was approved. (11-0.)

**2.23 19-383 Approval of Picnic with Peralez Sponsored by Council District 3 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 15, 2019:

- (a) Approve the Picnic with Peralez scheduled on June 23, 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 Sponsored Special Event was approved. (11-0.)

**2.24 19-384 Approval of Dumpster Days Sponsored by Council District 2 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 15, 2019:

- (a) Approve the following Dumpster Days as a City Council sponsored Special Event and approve the expenditure of funds:
  - May 25, 2019 Dumpster Day on San Ignacio Dr.;

*(Item Continued on the Next Page)*

## 2.24 (Cont'd.)

- (a) June 1, 2019 Dumpster Day on Poston Dr.;  
June 15, 2019 Dumpster Day on Mat Ave.;  
June 22, 2019 Dumpster Day on Skyway Dr.; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

Action: The City Sponsored Special Events were approved. (11-0.)

## 2.25 19-385 **Retroactive Approval of the Great Lady Bug Release 2019 Sponsored by Council District 6 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on May 15, 2019:

- (a) Retroactively approve the Great Lady Bug Release 2019 scheduled on April 7, 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 Sponsored Special Event was retroactively approved. (11-0.)

## 2.26 19-386 **Approval of the Annual Senior and Older Adults Health Fair & Walk Sponsored by Council District 5 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 15, 2019:

- (a) Approve the Annual Senior and Older Adults Health Fair & Walk scheduled on June 28, 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 Sponsored Special Event was approved. (11-0.)

## 2.27 19-387 **AB 857 (Chiu and Santiago): Public Banks.**

As recommended by the Rules and Open Government Committee on May 15, 2019, adopt a support if amended position on AB 857 (Chiu and Santiago) on public banks.

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

[Rules Committee referral 5/15/19 - Item G.3]

Action: A Position of Support was adopted. (11-0.)

### **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 19-350 Annual Summary of Labor Negotiations.**

Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations.  
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Manager)

Director of Employee Relations/Human Resources, Jennifer Schembri provided a presentation.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, the staff report was accepted. (10-0-1. Absent: Carrasco.)

*Councilmember Magdalena Carrasco returned at 2:13 p.m.*

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

#### **4.1 19-361 Diridon Planning Reserve and Service Reimbursement Agreement.**

Adopt a resolution authorizing the City Manager to negotiate and execute the Funding and Service Reimbursement Agreement with Google to pay for certain services associated with planning for development in the Diridon Station Area in the amount of \$4,473,580 and delegating the authority to the City Manager or designee to negotiate and execute amendments to the Funding and Service Reimbursement Agreement for additional funding and reimbursement, subject to full appropriation by the City Council.  
CEQA: Statutorily Exempt, File No. PP17-001, CEQA Guidelines Section 15262, Feasibility and Planning Studies with no commitment to future actions. (Economic Development)

Deputy City Manager/Director of Economic Development Kim Walesh offered brief comments.

Public Comments: Jeffrey Buchanan, representing Working Partnerships USA offered a few considerations regarding the project.

Deputy City Manager/Director of Economic Development Kim Walesh noted consideration of a study session prior to 2020 and regular Council updates.

Motion: Councilmember Maya Esparza moved adoption of the resolution, with additional direction to staff as noted in “Action”. Councilmember Sergio Jimenez seconded the motion.

Action: On a call for the question, the motion carried unanimously, **Resolution No. 79092**, authorizing the City Manager to negotiate and execute the Funding and Service Reimbursement Agreement with Google, was adopted, with direction to staff to provide Council with regular updates, including a potential study session. (9-0-2. Absent: Carrasco, Khamis.)

#### **4.2 19-351 Actions Related to the Income Limits and Rents on a Portion of the Markham Plaza I Apartments.**

Adopt a resolution:

- (a) Approving a change in the affordable restriction recorded on the existing 153-unit Markham Plaza I Apartments (formerly Tully Gardens), from 152 units affordable to extremely low-income households at up to 30% of Area Median Income (“AMI”) and one unrestricted manager’s unit to 76 units affordable to extremely low-income households at up to 30% of AMI and 76 units affordable to very low-income households at up to 35% of AMI and one unrestricted manager’s unit;
- (b) Authorizing an increase to rents and income to 60% AMI (low income) for new tenants in the event of foreclosure or expiration of subsidy contracts, provided the City has determined the increase is needed for feasibility of the development and allowed by other funds; and
- (c) Authorizing the Director of Housing to negotiate and execute loan documents, amendments, and all other documents related to this action. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Housing)

Councilmember Maya Esparza posed questions to staff regarding services to residents.

Action: Upon motion by Councilmember Maya Esparza, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 79093**, regarding actions related to the Income Limits and Rents on a Portion of the Markham Plaza I Apartments, was adopted. (10-0-1. Absent: Khamis.)

#### 4.3 19-362 San José Downtown Design Guidelines and Standards.

Adopt a resolution amending the San José Downtown Design Guidelines and Standards to include Section, 4.4.2.b, relating to bird safety design.

CEQA: Determination of Consistency to the Final Program

Environmental Impact Report (EIR) for the Envision San José 2040

General Plan (Resolution No. 76041), the Supplemental EIR to

Envision San José General Plan EIR (Resolution No. 77617), and

Addenda thereto. File Nos. GPT19-001 & PP19-018. Planning

Commission recommends approval (6-0). Council Districts 3 and 6.

(Planning, Building and Code Enforcement)

[Deferred from 5/7/19 - Item 4.1 (19-306)]

**[CONTINUED FROM 4/23/19 - Item 10.2 (19-249)]**

Rosalynn Hughey, Director, Planning, Building and Code Enforcement, provided an update, additional analysis and results of community outreach, and staff responded to questions.

Public Comments: Expressing support to the adoption of standards that will help save wildlife, were Shani Kleinhaus (Audubon Society), Eileen McLaughlin (Citizens Committee to Complete the Refuge) and James Eggers (Sierra Club).

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79094**, amending the San José Downtown Design Guidelines and Standards, was adopted. (11-0.)

#### 4.4 19-352 Report on Bids and Award of Contract for the 7202-Westmont Ave. and Harriet Ave. Sanitary Sewer Improvement Project.

Report on bids and award of contract for the 7202 - Westmont Ave.

and Harriet Ave. Sanitary Sewer Improvement Project to the low

bidder, Bay Pacific Pipelines, Inc., for the base bid and Add Alternate

No. 1 in the amount of \$4,304,825, and approval of a contingency in

the amount of \$430,500.

CEQA: Addendum to the Envision San José 2040 General Plan Final

Program Environmental Impact Report (EIR) (Resolution No. 76041),

and Envision San José 2040 General Plan Supplemental EIR

(Resolution No. 77617) and Addenda thereto, File No. PP18-079.

Council District 1. (Public Works)

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Johnny Khamis and carried unanimously, the report on bids and award of a contract was approved. (11-0.)

**4.5 19-353 Public Hearing on the Vacation of the Setback Easements Located within Tract No. 662.**

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 35-foot and 20-foot light and air easements (“Setback Easements”) located within Tract No. 662;
  - (b) Vacating the 35-foot and 20-foot light and air easements located within Tract No. 662; 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: Categorically Exempt, File No. PP19-026, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation. Council District 9. (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 Johnny Khamis and carried unanimously, the report was accepted, and **Resolution No. 79095**, approving the Vacation of the Setback Easements Located within Tract No. 662 was adopted. (11-0.)

## **5. NEIGHBORHOOD SERVICES**

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

**6.1 19-354 Actions Related to the Request for Proposal for the San José International Airport Food and Beverage Concession Opportunities.**

- (a) Approve the selection of the top-ranking concessions for Packages I, II, and III for the Request for Proposals (“RFP”) for the Food and Beverage Concession Opportunities at the Norman Y. Mineta San José International Airport (“Airport”).
- (b) Adopt a resolution authorizing the City Manager or designee to:
  - (1) Negotiate and execute Concession Agreements (“Agreement”) between the City of San José and the following entities, effective from the date of execution by the City Manager through June 30, 2035:
    - (i) SSP America Inc. for the construction and operation of food and beverage concessions at the Airport listed as Package I of the Food and Beverage RFP;
    - (ii) Elevate Gourmet Brands-SJC Group for the construction and operation of a food and beverage concession at the Airport listed as Package II of the Food and Beverage RFP; and
    - (iii) WSE Group Inc. for the construction and operation of a food and beverage concession at the Airport listed as Package III of the Food and Beverage RFP.
  - (2) Negotiate and modify the concept types, concept locations, and/or concept designs with the entities above, as needed, to align the concepts with the needs of the Airport.

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## 6.1 (Cont'd.)

(b) (3) Terminate negotiations with any of the recommended proposers for Packages I, II, or III in the event that the City and the recommended proposer(s) cannot agree upon the terms of the Concession Agreement, and negotiate and execute concession agreements with the next highest-ranked proposers, in order of their ranking for each package, until an Agreement has been reached with an operator.

(c) Adopt a resolution authorizing the Director of Aviation to extend the term of the agreement(s) through June 30, 2040, subject to mutual agreement by both parties.

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

Vice Mayor Chappie Jones addressed a potential Brown Act violation.

Director of Aviation, John Aitken, A.A.E. and staff provided a presentation.

Public Comments: Sixteen members of the public, including food service workers, employees and representatives of Elevate Gourmet Brands – SJC Group, SSP America and WSE Group, Inc., members of Unite Here Local 19 and Working Partnerships USA, expressed their comments and concerns.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 79096** and **Resolution No. 79097** regarding Actions Related to the Request for Proposal for the San José International Airport Food and Beverage Concession Opportunities were adopted (11-0.)

## 6.2 19-355 **County of Santa Clara Report on Potential Closure of Reid Hillview Airport.**

Accept the report from the County of Santa Clara on the potential closure of Reid Hillview Airport.

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

Action: Deferred per Orders of the Day.

## 6.3 19-356 **Actions Related to 2019 Major Streets Sealing Project.**

(a) Award a construction contract for the 2019 Major Streets Sealing Project, to the low bidder, VSS International, Inc. in the amount of \$8,600,120.

(b) Approve a three percent contingency in the amount of \$258,003.

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

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Maya Esparza and carried unanimously, Actions Related to 2019 Major Streets Sealing Project were

approved. (11-0.)

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

### **7.1 19-357 Agreement with ABB Inc. for Distributed Control Unit Upgrade and Maintenance at the San José/Santa Clara Regional Wastewater Facility.**

Adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an agreement with ABB Inc., dba ABB DE, Inc., (Wickliffe, OH) to upgrade distributed control units at the San José/Santa Clara Regional Wastewater Facility, including hardware, software, programming, configuration, and related professional services, beginning June 1, 2019 and ending December 31, 2022 for a maximum not-to-exceed compensation of \$6,377,000, subject to the appropriation of funds; and

(b) Negotiate and execute the Water Care Enhanced Agreement with ABB Inc., dba ABB DE, Inc. (Wickliffe, OH) and annual purchase orders pursuant to the terms of the Water Care Enhanced Agreement for ongoing support and maintenance (\$233,194 per year) and as-needed parts replacement and repair and rebuilding services (estimated at \$500,000-\$750,000 per year) for a five-year term beginning June 1, 2019 and ending May 31, 2024 and for a combined compensation not to exceed \$3,915,970, subject to the appropriation of funds; and

(c) Negotiate and execute amendments and change orders to the agreements as required for unanticipated changes, subject to the appropriations of funds.

CEQA: Categorically Exempt, File No. PP18-104, CEQA Guidelines Section 15301(1), Existing Facilities. (Environmental Services/Finance)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79098**, regarding the Agreement with ABB Inc. for Distributed Control Unit Upgrade and Maintenance at the San José/Santa Clara Regional Wastewater Facility was adopted. (11-0.)

### **7.2 19-358 Public Hearing on the Commercial Solid Waste Services Rates.**

(a) Hold a Public Hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services.

(b) Adopt a resolution setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organics processing services.

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 service. (Environmental Services)

*(Item Continued on the Next Page)*

## **7.2 (Cont'd.)**

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 Vice Mayor Chappie Jones, seconded by Councilmember Raul Perez and carried unanimously, the report was accepted, and **Resolution No. 79099**, regarding Commercial Solid Waste Services Rates was adopted. (11-0.)

## **7.3 19-359 Climate Smart San José Plan Semi-Annual Update.**

As recommended by the Transportation and Environment Committee on May 6, 2019, accept the update on Climate Smart San José activities and provide a report on Leadership in Energy and Environmental Design Certification.

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

[Transportation and Environment Committee referral 5/6/19 - Item (d)4]

Director, Environmental Services, Kerrie Romanow, and Ken Davies provided a presentation. Council discussion followed.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sergio Jimenez and carried unanimously, the Climate Smart San José Plan Semi-Annual Update was approved, including the joint memorandum from Mayor Sam Liccardo and Councilmembers Jimenez, Perez, Davis and Arenas, dated May 17, 2019, directing the City Manager to accept the Climate Smart San José status update with the following recommendations:

1. Develop a roadmap to meet our 1 GW solar city goal under Climate Smart San José that includes:

- a. Baseline current solar conditions in San José, which requires our Community Energy Department (CED) to work with PG&E to quantify San José's current MW of residential, commercial, and municipal solar installations;
- b. CED to develop Net Energy Metering (NEM) rates that incentivize on-site solar;
- c. CED to develop calculators and informational collateral to educate residents and businesses on the value of on-site solar;
- d. Starting in 2020, CED will develop local solar resources either through a feed-in tariff or power purchase agreement that would supply power to San José Clean Energy;

e. Return to the Transportation & Environment Committee by October with opportunities for financing access to solar and energy-efficiency measures in collaboration with state, regional, non-profit, and private-sector partners;

1. Opportunities should include explicit discussion of the Solar on Multifamily Affordable Housing program, the Single-family Solar Homes program, the Green Tariff program, the Community Solar Green Tariff program, and any partnerships with Grid Alternatives that can improve access for low-income residents to the benefits of clean energy. Update by

*(Item Continued on the Next Page)*

### **7.3 Climate Smart San José Plan Semi-Annual Update (Cont'd.)**

October 2019 on application status and/or if any partners are applying for funds in San José.

f. Development of a plan with objectives and key results (OKR's) that provides clarity about focus and progress.

2. Develop a public facing, interactive dashboard with relevant data - such as those metrics described on page 151 of the Climate Smart plan - that tracks progress on Climate Smart San José. The dashboard should:

a. Be updated quarterly;

b. Be structured around the three pillars and nine strategies associated with metrics under Climate Smart San José;

c. Include programs, projects, and partnerships that help advance the Climate Smart San José metrics;

d. Be done collaboratively with private sector partners, foundations, NGOs, universities, and agencies to support this work, with assistance from the Mayor's Office.

3. Direct the City Manager to update the Council memo template to include an alignment with Climate Smart San José section.

4. Return to Council with an Electric Vehicle Strategy by January 2020 that clearly identifies the multiple external funding opportunities for infrastructure investment- such as the Volkswagen settlement, PG&E funding, and the like-and San José's efforts to secure that funding.

5. Return to the Transportation & Environment Committee by October 2019 with a Climate Smart engagement strategy - in collaboration with nonprofit partners - to support the advancement of the Bloomberg American Cities Climate Challenge work, and Climate Smart broadly. The strategy should clearly articulate pathways to engage hard to reach, under-resourced, diverse communities, and low and modest-income families especially in multi-family housing.

6. Return to the Transportation & Environment Committee by October 2019 with a status update of the Council-approved recommendations from the Climate Smart San José memo from February 2018 signed by Mayor Liccardo and Councilmembers Jimenez, Peralez, Davis, and Arenas.

(11-0.)

## **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**

### **10 Land Use - Regular Agenda**

- **Open Forum**

1. Pascual Mendivil urged greater acknowledgement of Cesar Chavez including naming a library in his honor.
2. Cole Cameron advocated for enhanced neighborhood-level budget support for the CERT program.

- **Adjournment**

The Council meeting of the City of San José was adjourned at 5 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

***DRAFT***

Toni J. Taber, CMC  
City Clerk

rmk/05-21-19MIN

## **CLOSED SESSION MINUTES**

**TUESDAY, MAY 21, 2019**

The Council of the City of San José convened into Closed Session at 9:36 a.m.

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

Absent: Councilmembers - Diep.

Upon motion unanimously adopted, Council recessed at 9:36 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Existing Litigation/Initiated Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) Joseph, Rhawn v. City of San José, et al.; Names Of Partie(s) Involved: Dr. Rhawn Joseph, Ph.D.; City of San José, a Municipal Corporation; Dave Sykes, Rosalynn Hughey; Mollie McCleod; Sean Flanagan, Jason Gibileco; Court: U.S. District Court, Northern District of California, San José Division; Case No. 5:19-CV-01294 LHK; Amount of Money or Other Relief Sought: Damages according to proof; (2) City of San José v. Robinson, Nicholas; Names Of Partie(s) Involved: City of San José; Nicholas Robinson; Court: Superior Court of California, County of Santa Clara; Case No.: 19CH008742; Amount of Money or Other Relief Sought: Damages according to proof; (3) 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; (B) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO.

The Closed Session was adjourned at 10 a.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

***DRAFT***

Toni J. Taber, CMC  
City Clerk

rmk/05-21-19MIN