



City Council Meeting

MINUTES

Tuesday, September 17, 2019

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



MINUTES OF THE CITY COUNCIL

SEPTEMBER 17, 2019

9:25 a.m.- Closed Session [See Page 19 for Closed Session Minutes \(19-673\)](#)

Absent: Councilmembers Diep and Esparza, Vice Mayor Jones. (Excused)

The Council of the City of San José convened into Regular Session in Council Chambers on Tuesday, September 17, 2019, at 1:34 p.m.

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

Absent: Councilmembers - Jones.

- **Invocation (District 8)**

Bayanihan Fil-Am Foundation, Evergreen Studio of Music & the Arts musician Mike Osborn performed an original composition.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Orders of the Day**

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Jones.)

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

2.1 19-808 Approval of City Council Minutes.

- (a) Special City Council Meeting Minutes of January 24, 2019.
 - (b) Regular City Council Meeting Minutes of January 29, 2019.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos

Action: The City Council Minutes were approved. (10-0-1. Absent: Jones.)

2.2 19-831 Final Adoption of Ordinances.

- (a) Ord. No. 30305 - An Ordinance of the City of San José Adding Chapter 14.35 to Title 14 of the San José Municipal Code in Order to Adopt a New Diridon Station Area Basic Infrastructure Impact Fee Associated with Implementation of the Diridon Station Area Plan.

Action: **Ordinance No. 30305** was adopted. (10-0-1. Absent: Jones.)

2.3 19-809 Approval of Council Committee Minutes.

- (a) Rules and Open Government Committee Minutes of August 21, 2019.
 - (b) AD-HOC Committee for Housing Construction & Development Services Minutes of August 22, 2019.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: The Council Committee Minutes were approved. (10-0-1. Absent: Jones.)

2.4 19-840 Request for an Excused Absence for Councilmember Arenas.

Request for an excused absence from the Regular Meeting of Rules and Open Government Committee on September 4, 2019 due to illness.

Action: Excused absence was approved. (10-0-1. Absent: Jones)

2.5 City Council Travel Reports.

Councilmember Raul Peralez spoke on the Silicon Valley Organization Study Trip to Nashville, Tennessee he attended with the Mayor, Vice Mayor and Councilmembers Diep and Foley and members of staff. The Mayor and Councilmembers offered additional insights regarding the trip.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Magdalena Carrasco and carried unanimously, the travel reports were accepted. (10-0-1. Absent: Jones.)

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 19-790 **Terms of Side Letter Agreements Between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 (MEF) and City Association of Management Personnel, IFPTE, Local 21 (CAMP) and Pay Increase for Employees in the Classification of Principal Planner.**

Adopt a resolution to:

(a) Approve the terms of a Side Letter Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) as follows:

(1) Approve an agreement between the City and MEF to provide employees in the Planner I classification with an approximate 4.39% base pay increase effective the beginning of the pay period after City Council approval;

(2) Approve an agreement between the City and MEF to provide employees in the Planner II classification with an approximate 3.05% base pay increase effective the beginning of the pay period after City Council approval; and

(3) Approve an agreement between the City and MEF to provide employees in the Planner III classification with an approximate 4.42% base pay increase effective the beginning of the pay period after City Council approval.

(b) Approve the terms of a Side Letter Agreement with the City Association of Management Personnel, IFPTE, Local 21 (CAMP) as follows:

(1) Approve an agreement between the City and CAMP to provide employees in the Planner IV classification with an approximate 5.67% base pay increase effective the beginning of the pay period after City Council approval.

(c) Approve an approximate 0.19% base pay increase for employees in the Principal Planner classification (Unit 99) effective the beginning of the pay period after City Council approval.

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

Public Comment: Erik Schoennauer, the Schoennauer Company, emphasized importance of raising salaries of the Citywide Planning Team.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79241** approving the terms of Side Letter Agreements was adopted. (10-0-1. Absent: Jones.)

2.8 19-787 Deaccession of Items in City Collections.

Approve the recommendation of the proposed deaccession of items in the City's collections in accordance with the History San José Collections Management Policy.
CEQA: Exempt, CEQA Guidelines Section 15061(b)(3). (Economic Development)

Action: Deaccession of items in the City's collections was approved. (10-0-1. Absent: Jones.)

2.9 19-788 Actions Related to the Purchase Order for Microsoft Operating Systems and Platforms Software.

Adopt a resolution authorizing the City Manager to:

- (a) Execute purchase orders and Microsoft enrollment documentation with Crayon Software (Dallas, TX) to purchase Microsoft operating system and platform software through the Microsoft Enterprise License Agreement for State and Local Governments ("Enterprise Agreement"), a cooperative agreement administered by the County of Riverside, California on behalf of State and Local public agencies, for an initial three-year term beginning October 1, 2019 and ending September 30, 2022 in an amount not to exceed \$853,569, subject to the appropriation of funds; and
- (b) Execute additional purchase orders and required enrollment documentation for up to two additional three-year options to extend the term through September 30, 2028, subject to the appropriation of funds; and
- (c) Execute amendments, change orders, and enrollment documents as required to cover any unanticipated changes, including additional subscriptions at the Enterprise Agreement discounted rates as may be required, 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. 79242** regarding actions related to the Purchase Order for Microsoft Operating Systems and Platforms Software was adopted. (10-0-1. Absent: Jones.)

2.10 19-789 Veggielution Grant Application for Santa Clara County's Historic Grant Program for Emma Prusch Farm Park.

Adopt a resolution approving Veggielution's application to the County of Santa Clara's Historic Grant Program to add non-permanent educational interpretive displays in and around the orchard, farm fields, and greenhouses at Emma Prusch Farm Park, and make all required grant assurances.
CEQA: Categorically Exempt, File No. PP19-070, CEQA Guidelines Section 15301, Existing Facilities. Council District 5. (Parks, Recreation and Neighborhood Services)

Action: **Resolution No. 79243** approving a Grant Application for Veggielution was adopted. (10-0-1. Absent: Jones.)

2.11 19-834 Approval of the POW/MIA Flag Raising Sponsored by Council District 10, in Cooperation with the United Veterans Council of Santa Clara County, 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 September 17, 2019:

- (a) Approve the POW/MIA Flag Raising scheduled on September 20, 2019 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

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

2.12 19-835 Retroactive Approval of the Ethiopian Flag Raising Ceremony 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 September 11, 2019:

- (a) Retroactively approve the Ethiopian Flag Raising Ceremony scheduled on September 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 Council sponsored Special Event was retroactively approved. (10-0-1. Absent: Jones.)

2.13 19-836 Approval of “Kostumes for Kids” 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 September 11, 2019:

- (a) Approve the Kostumes for Kids scheduled on October 26, 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. (10-0-1. Absent: Jones.)

2.14 19-838 Actions Related to Mayor and Councilmember Travel and Excused Absence Requests.

(a) Authorize travel, accept travel payments to the City of San José, and designate Mayor Sam Liccardo, as the City representatives to attend the C40 World Mayors Summit in Copenhagen, Denmark from October 9, 2019 - October 12, 2019, approve use of the Mayor/Council Travel Budget, and excuse absence from the City Council meeting on October 8, 2019 and Rules and Open Government Committee Meeting on October 9, 2019. Source of Funds: C40 Cities and Mayor/Council Travel Budget.

(b) Approve travel for Mayor Sam Liccardo to Seattle, WA on September 30, 2019, designate him as the City representative to attend the Community Development Round Table, and approve use of the Mayor/Council Travel Budget. Source of Funds: Mayor/Council Travel Budget.

(c) Authorize travel, designate Vice Mayor Chappie Jones as the City's representative to attend the National League of City Summit in San Antonio, TX from November 20, 2019 to November 23, 2019, approve use of the Mayor/Council Travel Budget, and excuse his absence from the November 20, 2019 Rules Meeting, and November 21, 2019 PSFSS Meeting. Source of Funds: Mayor/Council Travel Budget. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no changes to the physical environment. (Mayor and Vice Mayor Jones)

Action: Actions related to travel and excused absences were authorized. (10-0-1. Absent: Jones.)

2.15 19-839 Request for Travel for Mayor's Staff.

Authorize travel, accept travel payments to the City of San José, and designate Mayor's staff, Carolyn Wu and Apoorva Pasricha, as the City representatives to attend the Knight Foundation - Augmenting Cities: A Playful Path to Community Workshop in Oakland, CA from September 23, 2019 - September 24, 2019. Source of Funds: Knight Foundation.

Action: Travel requests for Mayor's staff was authorized. (10-0-1. Absent: Jones.)

2.16 19-841 Retroactive Approval of Berryessa Branch Library Mid-Autumn Festival Sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Retroactively approve the Berryessa Branch Library Mid-Autumn Festival scheduled on August 26, 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. (Diep)

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

2.17 19-842 Retroactive Approval of Dumpster Day 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 Dumpster Day scheduled on August 24, 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. (10-0-1. Absent: Jones.)

2.18 19-843 Retroactive Approval of the Housing 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 Housing Forum scheduled on August 26, 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. (Diep)

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

2.19 19-844 AB 1487 (Chiu): San Francisco Bay Area Regional Housing Finance Act.

Adopt a support position on AB 1487 (Chiu), which would create a Bay Area Regional Housing Finance Authority.
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Manager)

Public Comment: Juascar Castro offered support.

Councilmember Johnny Khamis spoke in opposition, opining there are already have enough ways to tax.

Councilmember Raul Peralez noted dollars will be leveraged regionally, and offered support. Peralez/Foley.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pam Foley and carried, a Position of Support was adopted for AB 1487 (Chiu): San Francisco Bay Area Regional Housing Finance Act. (9-1-1. Noes: Khamis; Absent: Jones.)

2.20 19-855 Request for Travel for Independent Police Auditor.

Authorize travel for Shivaun Nurre, Independent Police Auditor, to Detroit, Michigan on September 22-26, 2019 to attend the Annual National Association for Civilian Oversight of Law Enforcement (NACOLE) Conference. Source of Funds: Independent Police Auditor's Non-Personnel Appropriation.

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

Action: The travel requests for the IPA was authorized. (10-0-1. Absent: Jones.)

3. STRATEGIC SUPPORT

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

City Manager, David Sykes brought attention to the Viva Calle event taking place this Sunday, September 22, 2019 and thanked all departments, sponsors and partners involved in making this event possible.

3.2 Labor Negotiations Update.

None provided.

3.3 19-803 Planning Commission Appointment. - DEFERRED

- (a) Interview applicants for appointment to the Planning Commission.
- (b) Appoint one (1) applicant for an unexpired term ending June 30, 2020.

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

Deferred to 10/1/19 Per Administration

3.4 19-791 Approval of the Terms of an Agreement with the International Union of Operating Engineers, Local Union No. 3 (OE#3) for the Term of October 1, 2019 Through June 30, 2021.

Adopt a resolution approving the terms of a collective bargaining agreement between the City and the International Union of Operating Engineers, Local Union No. 3 (OE#3) for the term of October 1, 2019 through June 30, 2021, and authorizing the City Manager to execute the agreement with those terms.

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

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, **Resolution No. 79244** approving Terms of an Agreement with (OE#3) was adopted. (9-0-1-1. Absent: Jones; Abstain: Arenas.)

3.5 19-792 Response to the Santa Clara County Civil Grand Jury Report Entitled “San José - Unfunded Pension Liabilities - A Growing Concern.”

Accept staff’s response to the June 18, 2019, 2018-2019 Santa Clara County Civil Grand Jury Report entitled “San José - Unfunded Pension Liabilities - A Growing Concern.”

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 offered the City’s response to the Civil Grand Jury Report.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the staff’s response to the Grand Jury Report was accepted. (10-0-1. Absent: Jones.)

3.6 19-793 Privacy Policy Update.

As recommended by the Smart Cities and Service Improvements Committee on June 6, 2019:

(a) Accept the report on the City’s approach to digital privacy policy and citywide privacy principles.

(b) Adopt a resolution approving the City-Wide Privacy Principles.

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)

[Smart Cities and Service Improvements Committee referral 6/6/19 - Item (d)2]

[Deferred from 8/13/19 - Item 3.3 (19-622)]

Broadband Manager, J Guevara offered an introduction, Assistant to the City Manager, Sarah Zaraté, continued the presentation. Deputy City Manager, Emergency Operations Center Director, Kip Harkness and staff responded to questions from Council.

Public Comments: Three members of the public spoke on the Age of Surveillance, data mining and violations of privacy. Adoption of the surveillance technology ordinance was urged.

Extensive discussion ensued. Deputy City Manager, Civic Innovation and Digital Strategy, Kip Harkness indicated that the next phase of the report would address issues brought up regarding the Muslim and Sikh communities.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas and carried unanimously, the report was accepted, and **Resolution No. 79245** approving the City-Wide Privacy Principles was adopted. (10-0-1. Absent: Jones.)

Approval of Citywide Insurance Renewals.

Adopt a resolution authorizing the Director of Finance to:

(a) Select and purchase City property and liability insurance policies for the period October 1, 2019 to October 1, 2020, at a total cost not to exceed \$2,250,000, as well as an 18.0% contingency for additional property or assets scheduled, subject to the appropriation of funds with the following insurance carriers:

(1) Factory Mutual Insurance Company for Property Insurance, including Boiler & Machinery and TRIA Coverage.

(2) Beazley Syndicate 2623/623 at Lloyd's for Terrorism Insurance.

(3) Old Republic Insurance Company, for Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (including Excess Automobile and Employers' Liability) and Police Aircraft Hull & Liability including War Risks & Extended Perils Coverage.

(4) QBE Specialty Insurance Company for Secondary Employment Law Enforcement Professional Liability.

(a) (5) Hartford Life and Accident Insurance Company for Accidental Death, Accidental Dismemberment, and Paralysis Policy for the Police Air Support Unit.

(6) Berkley Insurance Company for Government Fidelity/Crime Coverage.

(b) Select and purchase additional insurance coverage not-to-exceed \$450,000 for the following products:

(1) Up to \$15 million in excess property coverage for the flood peril for locations in high and moderate hazard flood zones for the period October 1, 2019, to October 1, 2020, at a cost not to exceed \$150,000, subject to the appropriation of funds.

(2) Auto Liability insurance for Airport fleet vehicles including Shuttle Buses; Regional Wastewater Facility fleet vehicles; and Airport Shuttle Bus physical damage for the period October 1, 2019, to October 1, 2020, at a cost not to exceed \$120,000 for the Airport and \$100,000 for the Regional Wastewater Facility, subject to the appropriation for funds.

(3) Up to \$25 million in Excess Auto Liability insurance for Airport fleet vehicles including Shuttle Buses for the period October 1, 2019, to October 1, 2020, at a cost not to exceed \$80,000, 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)

Councilmember Johnny Khamis indicated he would recuse himself from this item due to a conflict of interest.

Director of Finance Julia H. Cooper and staff provided a presentation. Director of Finance Julia H. Cooper read staff changes into the record.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas and carried unanimously, **Resolution No. 79246** approving the City-Wide insurance renewals was adopted. (8-0-2-1. Absent: Jones, Carrasco; Abstain: Khamis.)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-786 Amendment to the Agreement with Brush Design, LLC for Illuminated Façade Enhancement at the Market/San Pedro Street Parking Garage Located at 45 N Market Street. - DROP

Approve an Amendment to the Agreement with Brush Design, LLC to design, fabricate and install an illuminated façade enhancement at the Market/San Pedro Street Parking Garage, not to exceed \$1,970,000. CEQA: Categorically Exempt, File No. PP16-006, CEQA Guidelines Section 15301, Existing Facilities. Council District 3. (Economic Development)

Dropped per Administration.

4.2 19-796 Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof and Approval of Related Documents and Changes to Existing Loan and Grant Terms for the Markham Plaza I Project.

(a) Adopt a resolution:

(1) Authorizing the issuance of (a) tax-exempt multifamily housing revenue bonds designated as “City of San José Multifamily Housing Revenue Bonds (Markham Plaza I), Series 2019B-1” (the “Series 2019B-1 Bonds”) and “City of San José Multifamily Housing Revenue Bonds (Markham Plaza I), Subordinate Series 2019B-2” (the “Series 2019B-2 Bonds”) and with the “Series 2019B-1 Bonds, the “2019B Bonds”) in an aggregate principal amount not to exceed \$23,000,000;

(2) Approving the loan of the proceeds of the 2019B Bonds to Markham Plaza I, L.P. a California limited partnership created by Core Development, Inc., a California corporation, to finance the acquisition and rehabilitation of a 153-unit multifamily project known as the Markham Plaza I apartments (formerly known as Tully Gardens I) located at 2000 Monterey Road, in San José (the “Development”);

(3) Approving in substantially final form the Indenture of Trust, Subordinate Indenture of Trust, the Loan Agreement, the Subordinate Loan Agreement and Regulatory Agreement, and Declaration of Restrictive Covenants (the “Series 2019B Bond Documents”); and

(4) Authorizing and directing the City Manager, Director of Housing, Director of Finance or the Assistant Director of Finance, or their designees, to execute and deliver the Series 2019B Bond Documents together with any documents ancillary to the Series 2019B Bond Documents.

(b) Adopt a resolution approving changes in terms for the City’s outstanding \$4,836,559 loan and outstanding \$4,866,000 grant for the Development, approving a loan to value ratio in excess of 100% and authorizing the Director of Housing to negotiate and execute documents and amendments related to those changes.

CEQA: Categorically Exempt, File No. PP19-057, CEQA Guideline Section 15301, Existing Facilities. Council District 7. (Housing/Finance)

Deferred to 9/24/19 per Administration.

4.3 19-797

Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Note and the Loan of Note Proceeds, Approval of Related Documents, and Modification of an Existing Loan from the City of San José for the Vista Park I Development.

Adopt a resolution of the City Council:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue note designated as "City of San José Multifamily Housing Revenue Note (Vista Park I Apartments), Series 2019C in a principal amount not to exceed \$18,150,896 (the "2019C Note");
- (b) Approving a loan of the proceeds of Series 2019C to Vista Park I, L.P. a California limited partnership sponsored by EAH, Inc., a California nonprofit corporation, to finance the acquisition and rehabilitation of the 83-unit multifamily rental housing Development known as Vista Park I Apartments located at 3955 Vistapark Drive in San José;
- (c) Approving in substantially final form the Funding Loan Agreement, Construction and Permanent Loan Agreement, and Regulatory Agreement and Declaration of Restrictive Covenants (the "Series 2019C Note Documents");
- (d) Authorizing and directing the City Manager, Director of Housing, Director of Finance, the Assistant Director of Finance, or their designees, to execute and, deliver the Series 2019C Note Documents and related documents as necessary; and
- (e) Authorizing the Director of Housing to negotiate and execute amendments to existing City loan documents for a loan in an amount of up to \$5,000,000 relating to the Vista Park I Apartments consistent with the terms described below.

CEQA: Categorically Exempt, File No. PP19-064, CEQA Guidelines Section 15301 for Existing Facilities. Council District 10.

(Housing/Finance)

Heard Immediately Following Consent

Director of Housing Jacky Morales-Ferrand responded to questions from Council.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, **Resolution No. 79247** approving Issuance of Tax-Exempt Multifamily Housing Revenue Note and the Loan of Note Proceeds, related documents, and modification of an existing loan for the Vista Park I Development was adopted. (10-0-1. Absent: Jones.)

4.4 19-798

Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Note and the Loan of Note Proceeds; and Approval of Related Documents and Modification of an Existing Loan from the City of San José for the Palm Court Development.

Adopt a resolution:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue note designated as "City of San José Multifamily Housing Revenue Note (Palm Court Apartments), Series 2019D in a principal amount not to exceed \$16,000,000 (the "2019D Note");

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4.4 (Cont'd.)

(b) Approving a loan of the proceeds of the Series 2019D Note to Palm Court San José, L.P. a California limited partnership sponsored by EAH, Inc., a California nonprofit corporation, to finance the acquisition and rehabilitation of the 66-unit multifamily rental housing Development known as the Palm Court Apartments located at 1200 Lick Avenue in San José;

(c) Approving in substantially final form the Funding Loan Agreement, Construction and Permanent Loan Agreement, and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2019D Note Documents”);

(d) Authorizing and directing the City Manager, Director of Housing, the Director of Finance, the Assistant Director of Finance or their designees, to execute and, deliver the Series 2019D Note Documents and related documents as necessary; and

(e) Authorizing the Director of Housing to negotiate and execute amendment and restatement of existing City loan documents for a loan in an amount of up to \$4,600,000 relating to the Palm Court Apartments consistent with the terms described below.

CEQA: Categorically Exempt, File No. PP19-066, CEQA Guidelines Section 15301, Existing Facilities. Council District 3. (Housing/Finance)

Heard Immediately Following Consent.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis, and carried unanimously, **Resolution No. 79248** approving Issuance of Tax-Exempt Multifamily Housing Revenue Note and the Loan of Note Proceeds, related documents, and modification of an existing loan for the Palm Court Development was adopted. (10-0-1. Absent: Jones.)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 19-801

Approval of a Design-Build Contract with Walsh Construction Company LLC, for the Digested Sludge Dewatering Facility Project at the San José-Santa Clara Regional Wastewater Facility.

(a) Adopt a resolution adopting an Addendum to the Environmental Impact Report for the San José-Santa Clara Water Pollution Control Plant Master Plan Project, in which an Initial Study was prepared, in accordance with the California Environmental Quality Act (CEQA), as amended, and adopting a related Mitigation Monitoring and Reporting Program.

(b) Approve the design-build contract with Walsh Construction Company, LLC for the Digested Sludge Dewatering Facility at the RWF in an amount not to exceed \$7,492,564 for the performance of Preliminary Services under the contract.

(c) Approve a design contingency in the amount of \$749,256 for City-approved changes to the scope of Preliminary Services.

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

(1) Negotiate and execute separate amendments to the contract to direct Walsh Construction to repair critically deteriorated infrastructure that requires immediate repair, which may be discovered during subsurface investigations, in an amount not to exceed \$500,000.

(2) Negotiate and execute separate amendments to the contract to allow Walsh Construction to proceed with discrete portions of the Design-Build Work (referred to as “Early Work Packages”) prior to the City’s execution of the Definitive Contract Amendment in an amount not to exceed \$10,800,000, which amounts will be subject to the base Guaranteed Maximum Price; and

(3) Negotiate and execute change orders in excess of \$100,000 up to the amount of the approved contingency for changes to the scope of the Preliminary Services and/or Early Work Packages.

CEQA: Addendum to the San José-Santa Clara Water Pollution Control Plan Master Plan Final Environmental Impact Report for the Regional Wastewater Facility Digested Sludge Dewatering Facility Project (Resolution No. 76858), File No. PP18-018. (Public Works/Environmental Services)

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis, and carried unanimously, (a) **Resolution No. 79249** adopting an Addendum to the Environmental Impact Report, and (d) **Resolution No. 79250** regarding amendments to the contract were adopted, and the design-build contract with related contingency were approved.

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

7.2 19-802 Building Reach Code for New Construction.

As recommended by the Transportation and Environment Committee on September 9, 2019:

- (a) Approve an ordinance amending various sections of Title 24 (Technical Codes) to adopt Provisions of the 2019 California Green Building Standards and California Building Energy Efficiency Standards with certain exceptions, modifications, and additions which serve as a reach code to increase building efficiency, mandate solar readiness, and increase requirements related to electric vehicle charging stations;
- (b) Accept findings related to local modifications based upon local geographical, topographical, and climatic conditions and cost effectiveness; and
- (c) Authorize the City Manager to submit a reach code submittal package to the California Energy Commission for its approval as required by law.

CEQA: Categorically Exempt, File No. PP19-067, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Planning, Building, and Code Enforcement/Environmental Services)

[Transportation and Environment Committee referral 9/9/19 (d)3]

Director, Environmental Services, Kerrie Romanow, and staff, including Sean Denniston from the New Buildings Institute, provided a presentation.

Public Comments: Twenty-eight members of the public spoke in support of the proposed ordinance.

Councilmember Johnny Khamis offered that enforcing excessive codes may hinder future development and suggested deferring the vote.

Extensive Council discussion followed.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Raul Peralez and carried unanimously, **Ordinance No. 30311** was passed for publication, with staff recommendations approved, including the memorandum from Mayor Liccardo and Councilmembers Peralez, Diep, Carrasco and Davis, dated 9/13/19, to:

Accept staff's recommendations with following recommendations:

1. Return to Council by October 2019 with an ordinance prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings starting January 1, 2020.
 - a. Remove the exemption for detached accessory dwelling units from the reach code.
 - b. Return to Council by January 2020 with an analysis as to whether or not we should require electrification for all wood-frame construction up to 7 stories.
2. Adjust the energy efficiency compliance margins to the higher requirements outlined in Staffs original draft reach code circulated publicly in July 2019, and supported by the California Energy Commission's cost-effectiveness study. This should also include the electrification readiness requirement outlined in the staff recommendation.

(Item Continued on the Next Page)

7.2 (Cont'd.)

3. Direct staff to track data associated with the compliance of the reach code and report back to Council by February 2021, and annually thereafter. The data should include, but is not limited to:
 - a. The number of projects choosing the all-electric or mixed-fuel compliance pathways per building type, and
 - b. The number of buildings exceeding the reach code minimum requirements, per pathway, and per building type, and
 - c. The estimated greenhouse gas emissions avoided by builders of the all-electric buildings, and
 - d. The estimated greenhouse gas emissions avoided by builders of the mixed-fuel buildings.
4. Require all new multi-family buildings to include:
 - a. 70 percent electric vehicle capable spaces, and additionally
 - b. at least 20 percent electric vehicle ready spaces, and additionally
 - c. at least 10 percent electric vehicle supply equipment spaces.
 - d. For the electric vehicle space requirement, provide a hardship exemption for permanent supportive housing and housing built for up to 30 percent area median income.
5. Direct staff to explore in the parking management initiative under the American Cities Climate Challenge the opportunity to reduce parking requirements in exchange for electric vehicle supply equipment being included in the project.
6. Return to the Transportation and Environment Committee in March 2020 as part of the Climate Smart San Jose update to apprise the Committee on funding, financing, and partnership opportunities that would offset the costs for:
 - a. Installing solar and battery storage in new affordable housing construction, and
 - b. Installing electric vehicle infrastructure in new affordable housing construction, like the California Electric Vehicle Infrastructure Project, and
 - c. Electric appliances, such as induction stovetops, heat pump water heaters, and heat pump space heaters, and
 - d. The update should include an inventory of current electrification programs offered by CCAs in California.
7. Explore a potential partnership with electric vehicle infrastructure manufacturers, carsharing companies, and affordable housing developers to operate electric vehicle carsharing programs in new affordable housing projects.
8. Direct staff to return to Council by March 2020 as part of the Climate Smart San Jose update with options for potential fee and tax reductions for new all-electric high-rise multi-family and commercial building construction.
9. Direct staff to work with the American Cities Climate Challenge and other national and local organizations to develop a plan for technical assistance to multifamily project developers and the greater community to facilitate greater compliance with the allelectric pathway.
10. Direct staff to return to Council by October 2019 with a policy prohibiting natural gas infrastructure in all new municipal construction, with exceptions allowed for emergency equipment or micro-grids providing energy resiliency in anticipation of extended blackouts and de-energization of the grid.

(Item Continued on the Next Page)

7.2 (Cont'd.)

Including additional changes to Staff's recommendation #2 to refer to the most recent California cost effectiveness study; Staff recommendation Item 6 to change the reporting date from March 2020 to align with the Spring or Fall Climate Smart Updates to Council, including definition clarifications on 4d hardship, defining permanent supportive housing for state law and area median income per code and the hardship exemption based on 2019 base code, which is a cap of \$400 per dwelling unit. Also, with direction to staff to provide an information memo on the impacts to ADU's (Accessory Dwelling Units) before it returns to Council in October.
(10-0-1. Absent: Jones.)

7.3 19-837 Climate Emergency Resolution.

As recommended by the Rules and Open Government Committee on September 11, 2019, adopt a resolution endorsing the declaration of a climate emergency.

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

Heard Immediately Before Item 7.2 (19-802)

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79251**, endorsing the declaration of a climate emergency, was adopted. (10-0-1. Absent: Jones.)

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

Open Forum

Resident Jim Larkin addressed the growing blight and homelessness problem in his neighborhood and recounted efforts he has made in outreach to City officials.

Adjournment

Mayor Sam Liccardo adjourned the meeting of the City Council at 5:35 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC

City Clerk

rmk/09-17-19 MIN

CLOSED SESSION MINUTES

SAN JOSÉ, CALIFORNIA

TUESDAY, SEPTEMBER 17, 2019

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

Present: Councilmembers - Arenas (10:01), Carrasco, Diep (10:18), Esparza (10:30), Jimenez (9:50), Jones, Khamis, Peralez, Foley; Liccardo.

Absent: Councilmembers - Davis.

Council recessed at 9:35 a.m. to a Closed Session in Room W133; (A) To confer regarding Public Employment/Public Employee Evaluation Pursuant To Government Code Section 54957: Title: City Manager; Name: David Sykes; (B) To confer with Legal Counsel – Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(4); Number of Matters to be Discussed: 1; (C) To confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) Baker v. City, et al.; Names Of Partie(s) Involved: Desiree D. Baker; Daniel Pfiefer; City Of San Jose; Does 1-10 inclusive; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 18-CV-325069; Amount of Money or Other Relief Sought: Damages according to proof;

By unanimous consent, Council recessed from Closed Session at 11:44 a.m.; Council reconvened to Regular Session at 1:34 p.m. in the Council Chambers.