



City Council Meeting MINUTES

Tuesday, October 8, 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

OCTOBER 8, 2019

9:37 a.m.- Closed Session [See Page 18 for Closed Session Minutes \(19-676\)](#)

Absent: Councilmember Lan Diep; Mayor Sam Liccardo. (Excused)

The Council of the City of San José convened into Regular Session in Council Chambers on Tuesday, October 8, 2019, at 1:31 p.m.

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

Absent: Councilmembers - Liccardo.

- **Invocation (District 9)**

American Youth Shakespeare performed selections from recent performances for the Invocation.

- **Pledge of Allegiance**

Vice Mayor Chappie Jones led the Pledge of Allegiance.

- **Orders of the Day**

Upon motion by Councilmember Dev Davis, seconded by Councilmember Maya Esparza and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 1.4 moved up to 3:30 p.m. and Item 2.16 deferred to October 22, 2019.
(9-0-2. Absent: Carrasco, Liccardo.)

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

1.1 Presentation of a Proclamation declaring National Arts and Humanities Month. (Carrasco)

All members of the Council presented a Proclamation declaring October National Arts and Humanities Month.

1.2 Presentation of a Proclamation declaring Bully Prevention Month. (Arenas)

Vice Mayor Chappie Jones and Councilmember Sylvia Arenas presented a Proclamation declaring October Bully Prevention Month.

1.3 Presentation of a Proclamation declaring International Non-Violence Day in the City of San José (Khamis)

Vice Mayor Chappie Jones and Councilmember Johnny Khamis presented a Proclamation declaring International Non-Violence Day in the City of San José

1.4 Presentation of a Commendation to Britannia Arms Almaden. (Foley)

Vice Mayor Chappie Jones and Councilmembers Pam Foley and Johnny Khamis presented a Commendation to Britannia Arms Almaden.

2. CONSENT CALENDAR

2.1 Approval of City Council Minutes.

None provided.

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Minutes.

None provided.

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

Councilmember Lan Diep discussed the trip he took to El Paso, Texas and to Juarez, Mexico to raise awareness of the dire immigration crisis.

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Maya Esparza and carried unanimously, the Council Travel Report was accepted. (9-0-2. Absent: Carrasco, Liccardo.)

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 19-877 Amendment to the Concession Agreement with ALCLEAR, LLC for Security Screening Services.

(a) Approve the Third Amendment to the Concession Agreement between the City of San José and ALCLEAR, LLC for expedited security screening services, to extend the term for three years to expire on October 21, 2022, modify the concession fee to increase the compensation to the City from 8.5% of total gross revenues received by ALCLEAR to 11% for year one of the amendment, 11.50% for year two, and 11.75% for year three, guarantee annual revenue to the Airport in the amount of \$674,000, revise the concession space, and modify the scope of the concession operations;

(b) Approve the Second Amendment to the Lease Agreement between the City of San José and ALCLEAR, LLC to extend the term for three years to expire on October 21, 2022 with annual revenue to the City of San José in the amount of approximately \$296,027.

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

Action: The Third Amendment to the Concession Agreement and Second Amendment to the Lease Agreement between the City of San José and ALCLEAR, LLC were approved.
(9-0-2. Absent: Carrasco, Liccardo.)

2.8 19-878 Membership and Logistics of Retirement Solutions Stakeholder Working Group.

Approve the Retirement Solutions Stakeholder Working Group membership and logistics as part of the formation of the stakeholder group approved by the City Council in the Mayor's March Budget Message to review the City of San José's retirement system challenges.

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

Action: The Retirement Solutions Stakeholder Working Group membership and logistics were approved. (9-0-2. Absent: Carrasco, Liccardo.)

2.9 19-909 Amendment to the Agreement with Flynn Resource Consultants, Inc. for Consulting Services for the Community Energy Department.

Approve a First Amendment to the Master Consultant Agreement with Flynn Resource Consultants, Inc. for professional consulting services provided to the Community Energy Department, increasing the maximum compensation from \$290,000 to \$990,000 through June 30, 2023, subject to the appropriation of funds, with no change in any other term of the Agreement.

(Item Continued on the Next Page)

2.9 (Cont'd.)

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

Action: The Amendment to the Agreement with Flynn Resource Consultants was approved. (9-0-2. Absent: Carrasco, Liccardo.)

2.10 19-880 **Report on Request for Proposal for PeopleSoft Professional/Technical Services.**

Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute master agreements with Graviton Consulting Services, Inc. (Sacramento, CA), Sierra Cedar (Alpharetta, GA), and CherryRoad Technologies (Morris Plains, NJ) for As-Needed PeopleSoft Professional/Technical Services for a five-year term beginning on or about October 9, 2019 and ending October 31, 2024, for a combined maximum compensation not to exceed \$3,000,000, subject to the appropriation of funds; and

(b) Negotiate and execute amendments as required to adjust funds between agreements or for any unanticipated changes for a combined contingency amount not to exceed \$600,000 during the term of the agreements, 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)
Deferred to 10/22/19 per Administration.

2.11 19-881 **Set a Public Hearing for the Cost of Sidewalk Repairs for December 10, 2019.**

Adopt a resolution setting a Public Hearing on Tuesday, December 10, 2019 at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs.

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

Action: **Resolution No. 79262** setting a Public Hearing for the Cost of Sidewalk Repairs was adopted. (9-0-2. Absent: Carrasco, Liccardo.)

2.12 19-882 **Amendment to the Master Agreement with PGAdesign, Inc. (Verde) for Landscape Architectural Design Services for Various City Facility Projects.**

Approve the Second Amendment to the Master Agreement with PGAdesign, Inc. (CPMS Contract No. 8069) extending the term from December 31, 2019 to June 30, 2022 for the sole purpose of allowing the consultant to continue providing design consulting services through completion of Rotary Playgarden Expansion Project.

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

Action: The Second Amendment to the Master Agreement with PGAdesign was approved. (9-0-2. Absent: Carrasco, Liccardo.)

2.13 19-883 County of Santa Clara Historic Grant Application for the Alviso Historic Survey and the East Santa Clara/Alum Rock Historic Survey Projects.

Adopt a resolution:

(a) Approving applications for County of Santa Clara Historic Grant for the Alviso Historic Survey and the East Santa Clara/Alum Rock Historic Survey Projects; and

(b) Authorizing the City Manager to sign and submit the Grant Applications to the County of Santa Clara and sign the Grant Agreements and administer the Projects on behalf of the City.

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

Action: **Resolution No. 79263** regarding County of Santa Clara Historic Grant Application for the Alviso Historic Survey and the East Santa Clara/Alum Rock Historic Survey Projects was adopted.

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

2.14 19-910 Request for Travel for Mayor's Staff Khanh Russo.

Authorize travel, accept travel payments to the City of San José, and designate Mayor's staff, Khanh Russo, Director of Strategic Partnerships, as the City representative to attend the Melbourne Study Tour from October 26, 2019 to November 1, 2019 in Melbourne, Australia. Source of Fund: 8 80 Cities and Knight Foundation.

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

Action: The travel authorization was authorized. (9-0-2. Absent: Carrasco, Liccardo.)

2.15 19-922 Request for Travel for Mayor's Staff Apoorva Pasricha.

Authorize travel, accept travel payments to the City of San José, and designate Mayor's staff, Apoorva Pasricha, as the City representative to attend the Beta Blocks Knight Foundation Study Tour in Boston, Massachusetts from October 15 - 18, 2019. Source of Funds: Knight Foundation.

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

Action: The travel authorization was authorized. (9-0-2. Absent: Carrasco, Liccardo.)

2.16 19-923 Request for Travel for Mayor Liccardo.

Authorize travel, accept travel payments to the City of San Jose, designate Mayor Sam Liccardo as the City representative to attend the Pacific Northwest Progressive Leaders Education Seminar in Israel from December 14-22, 2019, approve use of the Mayor/Council Travel Budget, and excuse absence from the City Council meeting on December 17, 2019 and Rules and Open Government on December 18, 2019. Source of Funds: American Israel Education Foundation (AIEF) and Mayor/Council Travel Budget.

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

Action: The travel authorization was authorized. (9-0-2. Absent: Carrasco, Liccardo.)

2.17 19-924 Retroactive Approval of the Mexican Flag Raising Sponsored by Council District 2,3,5,7 & 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Retroactively approve the Mexican Flag raising scheduled on September 13, 2019 as a City Council sponsored Special Event and approve the expenditure of funds.

(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. (Carrasco, Peralez, Jimenez, Esparza and Arenas)

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

2.18 19-927 Retroactive Approval of Disability Awareness Day Sponsored by Council District 1 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 October 2, 2019:

(a) Retroactively approve the Disability Awareness Day scheduled on October 3, 2019 as a City Council sponsored Special Event and approve the expenditure of funds.

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

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

3. STRATEGIC SUPPORT

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

City Manager, David Sykes provided an update on the PG&E public safety energy shut-off due to predicted weather patterns and introduced the City's power vulnerability plan. He and Library Director Jill Bourne encouraged City employees to participate in the City of San José's 2019 Combined Giving Campaign. (Library)

3.2 Labor Negotiations Update.

None provided.

3.3 19-884 Procurement Card Expenditures Audit Report.

As recommended by the Public Safety, Finance and Strategic Support Committee on September 19, 2019, accept the Procurement Card Expenditures 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)

City Auditor Joe Rois and Director of Finance Julia H. Cooper provided a report.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Dev Davis and carried unanimously, the Audit Report was accepted. (8-0-3. Absent: Carrasco, Jimenez, Liccardo.)

3.4 19-885 Status of Open Audit Recommendations as of June 30, 2019.

Accept the Status of Open Audit recommendations as of June 30, 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. (City Auditor)

City Auditor Joe Rois provided a report.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Sergio Jimenez and carried unanimously, the status of Open Audit Recommendations was accepted. (8-0-3. Absent: Carrasco, Jimenez, Liccardo.)

3.5 19-886 2018-2019 City Manager's Annual Report. - DEFERRED

(a) Accept the 2018-2019 City Manager's Annual Report of the Finances of the City of San José in compliance with City Charter Section 701 (F).

(b) Adopt Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2018-2019 Annual Report recommendations, including appropriate technical adjustments, as detailed in Section IV (Recommended Budget Adjustments and Clean-Up/Rebudget Actions).

(c) Approve the following position changes in the Information Technology Department:

(1) Add 6.0 Enterprise Supervising Technology Analyst.

(d) Approve the following position corrections in the Parks, Recreation and Neighborhood Services Department to align with the 2019-2020 Adopted Budget:

(1) Add 2.75 Recreation Leader PT;

(2) Delete 1.0 Senior Geographic Information Systems Specialist;

(3) Delete 1.0 Senior Maintenance Worker;

(4) Delete 1.0 Parks Maintenance Repair Worker II;

(5) Delete 1.0 Office Specialist II;

(6) Delete 2.0 Maintenance Assistant;

(7) Delete 2.0 Groundswoker.

CEQA: Not a Project, Files No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approval of any City actions, and File No. PP17-004, Government Funding Mechanism of Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager)

Deferred to 10/22/19 per Administration.

3.6 19-879 Approval of Cyber Liability Insurance Policy with Indian Harbor Insurance Company. DROP

Adopt a resolution authorizing the Director of Finance to select and purchase a cyber liability insurance policy for the period October 9, 2019 to October 9, 2020, for a total cost not to exceed \$185,000, with Indian Harbor Insurance Company, doing business as XL Catlin.

Dropped per Administration.

3.7 19-887 Actions Related to the Annual Intergovernmental Relations Report. - DEFERRED

(a) Accept the Annual Intergovernmental Relations Report;

(b) Reaffirm all City positions summarized in the Intergovernmental Relations Priority Legislation Log; and

(c) Adopt updated Intergovernmental Relations Council reporting schedule.

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)

Deferred to 12/3/2019 per Rules and Open Government Committee.

3.8 19-888 2020 Legislative Program and Top Legislative Priorities. - DEFERRED

Adopt the 2020 Legislative Program and the top legislative priorities for 2020.

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)

Deferred to 12/3/2019 per Rules and Open Government Committee.

3.9 19-889 Actions Related to the California Senate Bill 998 and Title 15 of the San José Municipal Code for the San José Municipal Water System.

As recommended by the Transportation and Environment Committee on September 9, 2019, accept the update on the requirements of California Senate Bill 998 and recommend that Council:

- (a) Adopt a resolution repealing Resolution 77004 and revising the Rules and Regulations for operation of the San José Municipal Water System;
- (b) Approve an ordinance amending Part 2.5 of Chapter 15.08 of Title 15 of the San José Municipal Code to modify provisions related to water utility billing and authorize the City Manager to adopt an administrative policy on billing and disconnection processes.

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

(Finance/Environmental Services)

[Transportation and Environment Committee 9/9/19 - Item 2]

Staff provided an introduction.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Maya Esparza and carried unanimously, **Resolution No. 79264** repealing Resolution 77004 and revising the Rules and Regulations for operation of the San José Municipal Water System was adopted; and **Ordinance No. 30318**, amending Title 15 of the San José Municipal Code was passed for publication. (9-0-2. Absent: Carrasco, Liccardo.)

3.10 19-919 Acceptance of Retirement Plans' Comprehensive Annual Investment Fee Reports for Calendar Year 2018.

Accept the following reports:

- (a) Police and Fire Retirement Plan Comprehensive Annual Fee Report for calendar year 2018.
- (b) Federated City Employees' Retirement System Comprehensive Annual Fee report for calendar year 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. (Retirement Services) [Deferred from 10/1/19 Item 3.4 (19-862)]

Director of Retirement Services Roberto Peña provided a presentation.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley and carried unanimously, the Retirement Plan Reports were accepted. (9-0-2. Absent: Carrasco, Liccardo.)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-906 City Council Policy Priority #3: Disadvantaged Business Enterprise Program.

As recommended by the Community and Economic Development Committee on September 23, 2019:

(a) Approve the workplan for the phased implementation of the Public Works Contracting Program report on Council Priority #3- Disadvantage Business Enterprise Program, currently identified as the Public Works Contracting Program;

(b) Approve removal of Council Priority #3 - Disadvantaged Business Enterprise Program, from the Council Priority list at the next priority setting session.

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)

[Community and Economic Development Committee referral 9/23/19 - Item (d) 4]

Motion: Councilmember Johnny Khamis moved the memorandum from Vice Mayor Chappie Jones, dated October 8, 2019. The motion was seconded by Councilmember Dev Davis.

Council discussion ensued.

Councilmember Sylvia Arenas requested a friendly amendment, suggesting progress be tracked, taking the indicators of businesses involved into account. Staff clarified the indicators to be tracked. The friendly amendment was accepted.

Action: On a call for the question, the motion carried unanimously, and staff recommendations were accepted, including the memorandum from Vice Mayor Chappie Jones, dated October 8, 2019, to:

1. Accept staff recommendation to approve the workplan for the phased implementation of the Public Works Contracting Program and remove Council Priority #3 - Disadvantaged Business Enterprise Program - from the Council Priority list at the next priority setting session.
2. Direct the City Manager's Office and the City Attorney's Office to identify options that would allow City Departments and Council District Offices to coordinate or share the email contact information of registered businesses as an effort to implement improved outreach and communication of contract opportunities for small businesses.

Including the addition of program tracking.

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

4.2 19-907

2019 California Building Standards Code Adoption. - DEFERRED

As recommended by the Community and Economic Development Committee on September 23, 2019:

(a) Approve an ordinance to amend Title 24 of the San José Municipal Code to:

(1) Adopt the 2019 editions of the California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Historical Building Code, California Existing Building Code.

(2) Find that the City of San José local climatic, geological, and topographical conditions warrant additional protections in the Municipal Code; and

(3) Adopt local amendments regarding certain structural design requirements, fire sprinkler regulations, and other building requirements.

(b) Approve an ordinance to amend Chapter 17.12 of the San José Municipal Code to:

(1) Adopt the 2019 edition for the California Fire Code, and the Standards referenced in 2019 California Fire Code; and

(2) Adopt local amendments regarding the design and installation requirements for fire sprinkler systems, fire standpipe and hose systems, centrifugal fire pumps, private fire service mains, fire alarm systems, clean agent extinguishing systems, fire protection systems in clean rooms, and other fire safety requirements.

CEQA: Categorically Exempt, File No. PP19-077, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for the Protection of the Environment. (Planning, Building and Code Enforcement/Fire)
[Community Economic Development Committee referral 9/23/19 - Item (d) 5]

Deferred to 10/22/19 per Administration.

Councilmember Magdalena Carrasco returned to the Council Meeting at 3:40 p.m.

4.3 19-911

Actions Related to Mobile Vendors.

(a) Approve an ordinance amending Chapter 6.54 of Title 6 of the San Jose Municipal Code (The Peddler Permit Ordinance) to conform to State law.

(b) Adopt a resolution amending the Administrative Citation Schedule of Fines to establish and revise existing fines in accordance with State law for certain violations of Chapter 6.54 of Title 6 of the San José Municipal Code (The Peddler Permit Ordinance), and repealing Resolution No. 78934.

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

(Item Continued on the Next Page)

4.3 (Cont'd.)

Assistant City Attorney Ed Moran offered an introduction, and staff followed with a presentation to Council.

Public Comments: Comments were offered regarding concerns that obstacles were being presented for mobile entrepreneurs and safety hazards for those attending events. A representative from VeggieLution offered support to the memorandum from the Mayor and Councilmembers Esparza and Carrasco, highlighting the need for affordable space. Scott Kneiss urged the enforcement of rules, opining that non-profits and small business could be impacted by mobiles.

Motion: Councilmember Raul Peralez moved approval of staffs' recommendations, including the joint memorandum from Mayor Sam Liccardo and Councilmembers Maya Esparza and Magdalena Carrasco, dated October 8, 2019. Councilmember Maya Esparza seconded the motion.

Deputy Director, PBCE, Rachel Roberts, responded to questions from Council. Councilmember Pam Foley asked that a report be provided following Christmas in the Park to indicate any serial violators. Staff noted that this would be placed on the CED Workplan.

Action: On a call for the question, the motion carried unanimously, and **Ordinance No. 30319** amending Chapter 6.54 of Title 6 of the San Jose Municipal Code was passed for publication, and **Resolution No. 79265**, amending the Administrative Citation Schedule of Fines, was adopted including direction as outlined in the joint memorandum from Mayor Sam Liccardo and Councilmembers Maya Esparza and Magdalena Carrasco, dated October 8, 2019, to (1) Accept staff recommendations to changes required under Senate Bill 946 (SB946) and specifically outlined in bullet points on pages 2-3 of staff memo; (2) Direct staff to work individually with SAP Center, Avaya Stadium, Municipal Stadium, and Convention Center to identify and designate safe locations for peddlers.
(10-0-1. Absent: Liccardo.)

5. NEIGHBORHOOD SERVICES

- 5.1 19-892 Actions Related to the Reconstruction of Columbus Park Located at Coleman Avenue.**
- (a) Approve the use of Parks, Recreation, and Neighborhood Services funding to design the reconstruction of Columbus Park to accommodate soccer and other uses.
 - (b) Adopt the following 2019-2020 Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund:
 - (1) Establish the Columbus Park Soccer Facility Design appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$3,000,000; and
 - (2) Decrease the Soccer Facility Reserve by \$3,000,000.

(Item Continued on the Next Page)

5.1 (Cont'd.)

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action, and PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Parks, Recreation and Neighborhood Services/City Manager)

Director of Parks, Recreation and Neighborhood Services, John Cicirelli and staff provided a presentation on the Columbus Park reconstruction.

Public Comments: Jason Su, representing the Guadalupe River Park Conservancy, offered support to the project.

Council Discussion followed.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, Appropriation **Ordinance No. 30320** was adopted.
(9-0-2. Absent: Carrasco, Liccardo.)

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 19-893 Actions Related to the California Electric Vehicle Infrastructure Project. - DEFERRED

Adopt a resolution:

- (a) Approving the implementation of the California Electric Vehicle Infrastructure Project in San José;
 - (b) Approving participation of San José Clean Energy in the California Energy Commission's current round of funding of the California Electric Vehicle Infrastructure Project for load-serving entities in San Mateo and Santa Clara counties; and
 - (c) Authorizing the Director of Community Energy or designee, in consultation with the City Attorney, to negotiate and execute an agreement with the Center for Sustainable Energy to administer San José Clean Energy funds as part of the implementation of the California Electric Vehicle Infrastructure Project in an amount not to exceed \$4,000,000 through December 31, 2023, subject to the appropriation of funds.
- CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Community Energy)

Deferred to 10/22/19 per Administration.

7.2 19-894 Actions Related to the San José Clean Energy Residential Transition to Time-of-Use Electric Rates.

Adopt a resolution approving:

(a) A transition of eligible residential San José Clean Energy customers, on a default, “opt-out” basis, to the existing Time-of-Use electric rate E-TOUC in November 2020; and offer bill protection to customers for one year to ensure that at the end of one year of service on new rates, no participating customer will have paid more on the new rate; and

(b) A rate design allowing San José Clean Energy to match any rate structure from Pacific Gas & Electric Company’s standard rates; provided that, notwithstanding any changes to the rate structure, San José Clean Energy’s GreenSource product will be at a one percent (1%) below Pacific Gas and Electric Company’s generation rates after accounting for the franchise fee surcharge and the Power Charge Indifference Adjustment.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Community Energy)

Director, Community Energy Department, Lori Mitchell and staff offered a presentation and responded to questions.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Johnny Khamis and carried unanimously, **Resolution No. 79266** approving actions related to the San José Clean Energy Residential Transition to Time-of-Use Electric Rates, was adopted.
(9-0-2. Absent: Carrasco, Liccardo.)

8. PUBLIC SAFETY

8.1 19-921 Fireworks Ordinance Workplan Status Report. - DEFERRED

As recommended by the Public Safety, Finance and Strategic Support Committee on August 15, 2019, accept the status report on the implementation of the Fireworks Ordinance Workplan Post Fourth of July 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. (Fire)

[Public Safety, Finance and Strategic Support Committee referral
8/15/19 - Item (d)1]

[Deferred from 9/10/19 - Item 8.1 (19-771) and 10/1/19 - Item 8.1 (19-866)]

Deferred to 10/29/19 per Administration.

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

(a) 19-891 Amendment to Title 20 of the San José Municipal Code for Sidewalk Café and Minor Encroachment Permits.

Approve an ordinance amending various sections of the San José Municipal Code to: amend Part 12 (Sidewalk Café) in Chapter 20.100 to repeal the provisions for a sidewalk café permit issued by the Director of Planning and add a reference to the Minor Encroachment Permit process set forth in Chapter 13.37; Amend Section 20.100.140 (Concurrent review) in Chapter 20.100 (Administration and Permits) to remove Sidewalk Café and add Major Encroachment Permits regulated by Chapter 13.37, Development Agreements regulated by Chapter 18.02, and Street and Easement Vacations governed by the Government Code State of California Streets and Highways Code Section 8300 concurrent review process; Amend Section 20.100.220 in Chapter 20.100 (Administration and Permits) to remove Sidewalk Café Permit from the Appeal - Hearing Body list, Amend Section 20.200.270 to no longer include Sidewalk Café Permit in the definition of Development Permit; Amend Section 9.44.019 of Chapter 9.44 (Regulation of Smoking) to add a reference to sidewalk seating authorized through a Minor Encroachment Permit; and, Amend Section 10.10.030 of Chapter 10.10 (Pedestrian Facilitation Ordinance) to add a reference to sidewalk seating authorized through a Minor Encroachment Permit, including the following change recommended by the commission: the words “pursuant to” in the first sentence of section 20.100.1400 entitled “Sidewalk Seating and Parklets” shall be changed to “set forth in.”

CEQA: Determination of Consistency with 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. PP17-081. Planning Commission recommends approval (5-1-0-0, Yesney opposed). (Planning, Building and Code Enforcement)

Note: Heard at 1:30 P.M. Immediately After Regular Consent Calendar

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas and carried unanimously **Ordinance No. 30321** providing amendments to Title 20 of the San José Municipal Code for Sidewalk Café and Minor Encroachment Permits was passed for publication. (9-0-2. Absent: Carrasco, Liccardo.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

None provided.

Open Forum

1. Steve Tillman spoke on the effects of homeless encampments in his neighborhood and the PG&E balance payment plan.
2. Valerie spoke to the needs of the economically disadvantaged and the need for rent control.

Adjournment

The Council of the City of San José was adjourned at 5:11 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/10-8-19 MIN

CLOSED SESSION MINUTES

SAN JOSÉ, CALIFORNIA

TUESDAY, OCTOBER 8, 2019

The Council of the City of San José convened into Closed Session at 9:37 a.m.

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

Absent: Councilmembers - Esparza; Liccardo.

Council recessed at 9:38 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(4); Number of Matters to be Discussed: 1; (B) Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(1) of the Government Code; 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) in re: Claim of Nguyen; Court: Workers Compensation Appeals Court Case No.: ADJ9344191, ADJ8691472, ADJ8691476, ADJ12336298, ADJ1236275; Amount of Money or Other Relief Sought: Benefits; (2) in re: Claim of Wells; Court: Workers Compensation Appeals Court Case No.: ADJ 10402954; Amount of Money or Other Relief Sought: Benefits; (3) First Amendment Coalition: Working Partnerships U.S.A. v. City; Names Of Partie(s) Involved: First Amendment Coalition; Working Partnerships USA; City Of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 18-CV-338053; Amount of Money or Other Relief Sought: Damages according to proof; (4) in re: Claim M Squared Enterprises, Inc., dba Tribloom Inc. v. City; Names Of Partie(s) Involved: M Squared Enterprises, Inc., a Colorado Corporation doing business as Tribloom Inc.; City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 17CV318441; Amount of Money or Other Relief Sought: Damages according to proof; (D) Confer with Real Property Designated Representatives Pursuant To Government Code Section 54956.8; Property Street Address, Parcel Number, or other Unique Reference of Property: 1591 Senter Road, San José, CA; Negotiating Parties: Nanci Klein for the City of San Jose and Paul Driscoll for AV San Jose LLC; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on appraisal and comparable property values. (E) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) San José Police Officers' Association (SJPOA); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San José and San José Police Association; (F) Conference Regarding Potential Threat To Public Services Or Facilities Pursuant To Government Code Section 54957(a): Consultation with: IT Department.

By unanimous consent, Council recessed from Closed Session at 11:35 a.m.; Council reconvened to Regular Session at 1:35 p.m. in the Council Chambers.