



# **City Council Meeting MINUTES**

**Tuesday, October 29, 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 29, 2019**

**9:38 a.m.- Closed Session** [See Page 17 for Closed Session Minutes \(19-678\)](#)

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 29, 2029, at 1:35 p.m.**

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

Absent: Councilmembers - Liccardo. Carrasco (from 2:20 p.m.)

- **Invocation (District 9)**

The Ida Price Middle School Clarinet Quartet performed an arrangement of “Here Comes the Sun” for the Invocation.

- **Pledge of Allegiance**

Vice Mayor Chappie Jones led the Pledge of Allegiance.

- **Orders of the Day**

Upon motion by Councilmember Pam Foley, seconded by Councilmember Magdalena Carrasco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 9.1 to follow the Consent Calendar. (10-0-1. Absent: Liccardo.)

- **Closed Session Report**

None provided.

## **1. CEREMONIAL ITEMS**

- 1.1 Presentation of a Proclamation declaring Filipino American History Month. (Arenas)  
**Vice Mayor Chappie Jones and Councilmembers Arenas and Carrasco presented a proclamation declaring October Filipino American History Month.**
- 1.2 Presentation of a commendation to John Mendez for his efforts in working with Senior Veterans (Jones)  
**Vice Mayor Chappie Jones presented a commendation to John Mendez for his efforts in working with Senior Veterans.**

## **2. CONSENT CALENDAR**

Councilmember Johnny Khamis indicated that he must recuse himself from Item 2.17 due to a conflict of interest.

Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Pam Foley and carried unanimously, the balance of the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Liccardo.)

### **2.1 19-1004 Approval of City Council Minutes.**

- (a) Regular City Council Meeting Minutes of February 5, 2019.
- (b) Regular City Council Meeting Minutes of March 5, 2019.
- (c) Regular City Council Meeting Minutes of March 19, 2019.

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

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

None provided.

### **2.3 19-1005 Approval of Council Committee Minutes.**

- (a) Public Safety, Finance and Strategic Support Committee Minutes of September 19, 2019.
- (b) Neighborhood Services and Education Committee Minutes of October 10, 2019.
- (c) Rules and Open Government Committee Minutes of October 16, 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: Liccardo.)

**2.4 19-1007 Request for an Excused Absence for Councilmember Arenas.**

Request for an excused absence from the Regular Meeting of City Council on October 22, 2019 due to Illness. (Arenas)

Action: The Excused Absence Request was approved. (10-0-1. Absent: Liccardo.)

**2.5 City Council Travel Reports.**

None provided.

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

None provided.

**2.7 19-959 Amendment to the Lease of Airport Premises Agreement with Jett Pro Line Maintenance, Inc.**

Approve the Sixth Amendment to Lease of Airport Premises between the City of San José and Jett Pro Line Maintenance, Inc. to extend the term for three years to expire on November 30, 2022, with total revenue to the City in the amount of \$426,000.

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

Action: The Sixth Amendment to Lease of Airport Premises between the City of San José and Jett Pro Line Maintenance, Inc. was accepted. (10-0-1. Absent: Liccardo.)

**2.8 19-960 Amendment to the Airport Concession Agreement 10467-CA-12 and 10612-CA-17, with ALD Development Corp for Shared Use Lounge Services.**

(a) Approve the Fourth Amendment to the Airport Concession Agreement 10467-CA-12 between the City of San José and ALD Development, Inc. dba The Club at SJC to retroactively and temporarily increase the Gross Revenue percentage fee payable to the City from 13% to 15%, from July 1, 2019 through July 31, 2020, and revise the Joint Marketing Fund to increase the scope of service.

(b) Approve the First Amendment to the Airport Concession Agreement 10612-CA-17 between the City and ALD to temporarily increase the Gross Revenue percentage fee payable to the City from 13% to 15%, from the Commencement Date through July 31, 2020, provide for a onetime payment of \$31,150 from ALD to the City, and revise the Joint Marketing Fund to increase the scope of service.

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

Action: The Amendment to the Airport Concession Agreement was accepted. (10-0-1. Absent: Liccardo.)

## 2.9 19-961 Actions Related to the Pat Dando Monument.

- (a) Accept the gift of a Pat Dando Monument, with an estimated total value of up to \$250,000, to be installed at the Almaden Library and Community Center and \$25,000 to cover annual maintenance of the Monument for 25 years;
  - (b) Adopt the following 2019-2020 Appropriation Ordinance and Funding Sources Resolution amendments in the Gift Trust Fund:
    - (1) Establish the estimate for Other Revenue in the amount of \$25,000; and
    - (b) (2) Establish a Dando Artwork Maintenance appropriation to the Office of Economic Development in the amount of \$25,000.
- CEQA: Categorically Exempt, File No. PP16-006, CEQA Guidelines Section 15301, Existing Facilities. Council District 10. (Economic Development/Library/Public Works/City Manager)

Item 2.9 was pulled by Councilmember Johnny Khamis, and he and fellow Councilmembers spoke to Pat Dando's achievements and lasting legacy to the City of San José.

Public Comments: Rich and Cheryl spoke glowingly of Pat Dando's commitment to the community and rich history with City of San José.

Several Councilmembers offered their own tributes to Pat Dando and support for the monument.

Action: Actions Related to the Pat Dando Monument were accepted, and Appropriation **Ordinance No. 30329** and Funding Sources **Resolution No. 79279** regarding in the Gift Trust Fund were adopted. (10-0-1. Absent: Liccardo.)

## 2.10 19-977 Amendment to Title 17 and Council Policy 7-15 for Prohibiting Natural Gas Infrastructure.

- (a) Approve an ordinance of the City of San José adding a new Chapter 17.845 to Title 17 of the San José Municipal Code to Prohibit Natural Gas Infrastructure in New Single-Family, Low-Rise Residential Buildings (three stories and under), and Detached Accessory Dwelling Units.
  - (b) Adopt a resolution to approve a new Council Policy Number 7-15, entitled, "Policy Prohibiting Natural Gas Infrastructure in Municipal Buildings."
- CEQA: Categorically Exempt, File No. PP19-067, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services/Planning, Building, and Code Enforcement)

Public Comments: Thirteen members of the public spoke in support, advocating for a zero-carbon future.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pam Foley and carried unanimously, items regarding the Prohibition of Natural Gas Infrastructure were approved, with **Ordinance No. 30330** passed for publication, and **Resolution No. 79280** adopted. (9-0-2. Absent: Carrasco, Liccardo.)

**2.11 19-962 Actions Related to the Purchase Orders for Sidewalk Grinding Services.**

Adopt a resolution authorizing the City Manager to:

(a) Execute purchase orders with CB Concrete Construction (Los Gatos, CA) and Duran Construction Group (San José, CA) for sidewalk grinding services for the Department of Transportation for an initial twelve-month period, starting on or about October 29, 2019 and ending on or about October 28, 2020 for a total cumulative compensation not-to-exceed \$200,000; 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 October 28, 2024, subject to the appropriation of funds.

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

Action: **Resolution No. 79281** regarding actions related to purchase orders for sidewalk grinding services was adopted. (10-0-1. Absent: Liccardo.)

**2.12 19-963 Ice Centre Revenue Fund Appropriation Adjustments.**

Adopt of the following 2019-2020 Appropriation Ordinance and Funding Sources Resolution amendments in the Ice Centre Revenue Fund:

(a) Increase the Revenue from the Use of Money/Property by \$188,486;

(b) Increase the Repairs - Electrical appropriation to the Finance Department by \$318,015;

(c) Increase the Repairs - Mechanical appropriation to the Finance Department by \$560,038;

(d) Increase the Repairs - Miscellaneous appropriation to the Finance Department by \$7,389;

(e) Increase the Repairs - Structures appropriation to the Finance Department by \$704,283;

(f) Increase the Repairs - Unanticipated/Emergency appropriation to the Finance Department by \$40,656;

(g) Increase the Transfer to the General Fund - Ice Centre Insurance Expenses by \$831;

(h) Decrease the Previously Approved Repairs Reserve by \$444,532;

(i) Decrease the Unrestricted Ending Fund Balance by \$998,194.

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

Action: Appropriation **Ordinance No. 30331** and Funding Sources **Resolution No. 79282** regarding Ice Centre Revenue Fund Appropriation Adjustments were adopted. (10-0-1. Absent: Liccardo.)

**2.13 19-964 Affordable Housing Impact Fee Fund Annual Report for Fiscal Year 2018-2019.**

Accept the Fiscal Year 2018-2019 Annual Report prepared in accordance with the Mitigation Fee Act (Government Code section 66000 et seq.) on the status of the City's Affordable Housing Impact Fee.

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

Action: The Affordable Housing Impact Fee Fund Annual Report for Fiscal Year for 2018-2019 was accepted. (10-0-1. Absent: Liccardo.)

**2.14 19-852 Extension of the Master Agreement with SWA Group for Landscape Architecture, Architecture, Environmental, and Engineering Services.**

Adopt a resolution authorizing the City Manager to negotiate and execute a first amendment to the Master Agreement with SWA for landscape architecture, architecture, environmental, and engineering consultant services, in order to increase the overall compensation from \$750,000 to \$1,500,000.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future actions. Council District 3. (Parks, Recreation and Neighborhood Services)

Action: **Resolution No. 79283** regarding Extension of the Master Agreement with SWA Group was adopted. (10-0-1. Absent: Liccardo.)

**2.15 19-965 Citywide Capital Improvement Program for Fiscal Year 2018-2019. -  
*RENUMBERED TO ITEM 3.5***

Accept the annual report on the Citywide Capital Improvement Program for Fiscal Year 2018-2019.

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

*Renumbered to Item 3.5 (see Item 3.5 for Action taken.)*

**2.16 19-966 Master Agreements with AECOM, Inc., Environmental Science Associates, Inc., and David J. Powers & Associates, Inc., for Various City Facility Capital Improvement Projects.**

Approve Master Agreements with AECOM, Inc., Environmental Science Associates, Inc., and David J. Powers & Associates, Inc. for environmental consulting services from the date of execution through December 31, 2024, with each agreement not to exceed \$1,000,000.

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

Action: The Master Agreements were approved. (10-0-1. Absent: Liccardo.)

**2.17 19-967 Actions Related to the Alteration of Community Facilities District No. 8 (Communications Hill).**

Adopt resolutions of consideration to:

(a) Alter Community Facilities District No. 8 as proposed in Alteration No. 1A, repeal Resolution No. 79227 and set a Public Hearing regarding this matter for November 19, 2019 at 6:00 p.m.

(b) Alter Community Facilities District No. 8 as proposed in Alteration No. 1B, repeal Resolution No. 79228 and set a Public Hearing regarding this matter for November 19, 2019 at 6:00 p.m.

CEQA: Not a Project, File No. PP17-001, Feasibility and Planning Studies with no commitment to future actions. Council District 7. (Public Works)

Councilmember Johnny Khamis recused himself from Item 2.17 due to a conflict of interest.

Action: **Resolution No. 79284** and **Resolution No. 79285**, related to the Alteration of Community Facilities District No. 8 were adopted. (9-0-1-1. Abstain: Khamis.)

**2.18 19-968 Signature Authority for Caltrans Agreements for Federal or State Funded Programs/Projects.**

Adopt a resolution authorizing the City Manager or Designee to negotiate and execute Program Supplement Agreements, Fund Exchange Agreements, or Fund Transfer Agreements, and any amendments thereto, with Caltrans for Federal or State Funded Transportation Programs/Projects enabling the City to receive funds for qualifying programs/projects.

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

Action: **Resolution No. 79286** regarding Signature Authority for Caltrans Agreements for Federal or State Funded Programs/Projects was adopted. (10-0-1. Absent: Liccardo.)

**2.19 19-1003 Retroactive Approval of the Evergreen Community Center Halloween Spooktacular Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

(a) Retroactively approve the Evergreen Community Center Halloween Spooktacular scheduled on Saturday, October 19, 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. (Arenas)

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



**2.20 19-1006 Retroactive Approval of the Evergreen Community Center Diwali Celebration 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.**

- (a) Retroactively approve the Evergreen Community Center Diwali Celebration Community scheduled on October 18, 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. (Arenas)

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

**2.21 19-1008 Boards and Commissions Appointments.**

Approve the following Boards and Commissions appointments:

1. Library and Early Education Commission:
  - a. District 4 Seat: Appoint Pravir Ramtekkar to a term ending June 30, 2023;
2. Human Services Commission:
  - a. Citywide Seat: Appoint Mohua Chatterjee to a term ending December 30, 2022.

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

Action: The Board and Commissions appointments were approved. (10-0-1. Absent: Liccardo.)

### **3. STRATEGIC SUPPORT**

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

City Manager, David Sykes discussed latest PG&E power shut-offs, and importance of the City's power vulnerability plan. He offered concern and support for those affected by fires in Sonoma County and discussed mutual aid actions taken by City.

#### **3.2 Labor Negotiations Update.**

None provided.

### 3.3 19-969 **Audit Report on Street and Utility In-Lieu Fees.**

As recommended by the Transportation and Environment Committee on October 7, 2019, accept the Audit Report on Street and Utility In-Lieu Fees.

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)

[Transportation and Environment Committee referral - 10/7/19 Item (d)1]

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Sylvia Arenas and carried unanimously, the Audit Report on Street and Utility In-Lieu Fees was accepted. (9-0-2. Absent: Carrasco, Liccardo.)

### 3.4 19-970 **Report on Request for Proposal for Parking Garage and Surface Lot Management Services at the Norman Y. Mineta San José International Airport.**

Accept the report on the Request for Proposal for Parking Garage and Surface Lot Maintenance Services at San José International Airport and adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an Agreement with SP Plus Corporation (Chicago, IL) for an initial two-year term beginning on or about December 1, 2019 and ending on or about November 30, 2021 for management services at parking garages and surface lots (collectively, the “parking facilities”), including operations, janitorial services, minor repairs, and supplemental services, for a maximum compensation not to exceed \$8,784,576 for the two-year initial term, subject to the appropriation of funds.

(b) Negotiate and execute amendments and/or change orders not to exceed \$1,700,700 for a contingency related to unanticipated changes such as changes to the list of parking facilities, service levels, and in-scope augmentations to the service offerings, subject to the appropriation of funds.

(c) Exercise three options to extend the term of the Agreement through January 31, 2025, with the first option having a duration of fourteen months followed by two one-year options, 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: Labor representative for TSA, Carolyn Bauer, expressed concerns and possible solutions to accommodating the increase in passenger travel during the busy season ahead.

Bob Lockhart, Deputy Director of Airport Operations, spoke to concerns.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pam Foley and carried unanimously, **Resolution No. 79287**, regarding Proposal for Parking Garage and Surface Lot Management Services was adopted. (9-0-2. Absent: Carrasco, Liccardo.)

### **3.5 19-1001 Citywide Capital Improvement Program for Fiscal Year 2018-2019.**

Accept the annual report on the Citywide Capital Improvement Program for Fiscal Year 2018-2019.

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

***Renumbered from Item 2.15 (19-965)***

Director of Public Works, Matt Cano provided a presentation.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Sylvia Arenas and carried unanimously, the Citywide Capital Improvement Program for Fiscal Year 2018-2019 was accepted. (6-0-5. Absent: Carrasco, Esparza, Jimenez, Khamis, Liccardo.)

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

### **4.1 19-971 Actions Related to the Lease Agreements for Office Space Occupied by the Independent Police Auditor.**

(a) Approve an Amendment to the existing Lease Agreement with 152 North Third Street, LLC (Owner) for the office space located at 152 N Third Street, Suite 602, San José, CA to terminate the Agreement and provide for the landlord's reimbursement of costs (up to \$15,000) associated with moving from the current office space to the new proposed space located at 96 N Third Street.

(b) Approve a five-year lease with 96 North Third Street, LLC for the use of approximately 2,298 square feet of office space located at 96 N Third Street, Suite 150, San José, CA at a rental rate of \$96,516 for the first year of the lease, \$99,549.36 for the second year, \$102,306.96 for the third year, \$105,616.08 for the fourth year, and \$108,649.44 for the fifth year, with total rent for the five-year term in the amount of \$512,637.84.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3. (Economic Development)

Economic Development Assistant Director, Nanci Klein responded to questions.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Sylvia Arenas and carried unanimously, Actions Related to the Lease Agreements for Office Space Occupied by the Independent Police Auditor was approved. (7-0-4. Absent: Carrasco, Esparza, Jimenez, Liccardo.)

**4.2 19-972 CSL Study for Convention Center/South Hall Site.**

As recommended by the Community and Economic Development Committee on September 23, 2019, accept the report on the work completed to date on the Convention Center Expansion Strategic Plan. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. Council District 3. (Economic Development) [Community and Economic Development Committee referral 9/23/19 - Item (d)3]

Staff provided a presentation and responded to questions.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the CSL Study for Convention Center/South Hall Site was accepted. (9-0-2. Absent: Carrasco, Liccardo.)

**4.3 19-975 Status of the Lease Negotiations with Caltrans for a Bridge Housing Community. - DEFERRED**

(a) Accept the staff report on the status of the lease agreement with Caltrans for the proposed Bridge Housing Communities located at the South West Quadrant of State Highways 101 and 680 adjacent to Felipe Ave; and  
(b) Direct the Administration to seek an alternative site for the second Bridge Housing Community originally approved by City Council for the Caltrans parcel adjacent to Felipe Avenue.  
CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff, eventual action requires approval from decision-making body. (Housing)

***DEFERRED TO 11/5/19 PER ADMINISTRATION***

**4.4 19-976 Actions Related to an Amendment with the HomeFirst Services of Santa Clara County Grant Agreement to Use Housing Trust Fund and Homeless Emergency Aid Program Funding for Overnight Warming Locations During the Cold Weather Season.**

(a) Adopt a resolution declaring the continued existence of a shelter crisis in the City of San José pursuant to, and in accordance with, the provisions of California Government Code section 8698 et seq., and designating the following two city-owned facilities to be occupied as Overnight Warming Locations by homeless individuals during the cold weather season:

(1) Bascom Community Center and Library, 1000 S. Bascom Avenue, San José, CA 95128; and

(2) Roosevelt Community Center, 901 E. Santa Clara St, San José, CA 95116.

*(Item Continued on the Next Page)*

#### 4.4 (Cont'd.)

(b) Adopt a resolution authorizing the Director of Housing to negotiate and execute a First Amendment to the grant agreement with HomeFirst, retroactive to August 1, 2019, increasing the maximum total amount of compensation by \$1,134,180 from \$350,000 to \$1,484,180 to continue to implement the Overnight Warming Locations through June 30, 2020.

(c) Adopt the following 2019-2020 Appropriation Ordinance Amendments in the Housing Trust Fund:

(1) Increase the Housing and Homeless Projects appropriation to the Housing Department in the amount of \$334,180; and

(2) Decrease Unrestricted Ending Fund Balance in the amount of \$334,180.

CEQA: Categorically Exempt, File No. PP18-093, CEQA Guidelines Sections 15301, Existing Facilities, and Section 15269, Emergency Projects. Council Districts 3 and 6. (Housing/Library/Parks, Recreation and Neighborhood Services/City Manager)

Chief of Staff, Office of the City Manager, Lee Wilcox, provided an introduction and Director of Housing Jacky Morales-Ferrand followed up with a presentation.

Public Comments: Six members of the public offered comments, including recommendations to use libraries in other districts as well and the use of Tully.

Council discussion followed.

Motion: Councilmember Maya Esparza moved approval of the joint memorandum from Mayor Sam Liccardo and Councilmember Dev Davis, dated October 25, 2019 and Councilmember Raul Perez memorandum dated October 29, 2019. Councilmember Dev Davis seconded the motion.

Councilmember Lan Diep requested a friendly amendment, to report back to Council on best practices by the end of the Fiscal Year. The amendment was accepted.

Councilmember Sylvia Arenas requested a friendly amendment, asking to include communication with school district representatives informing them as to what resources are available. The amendment was accepted.

Action: On a call for the question, (a) **Resolution No. 79288**, (b) **Resolution No. 79289** and (c) **Appropriation Ordinance No. 30332** were adopted, including the joint memorandum from Mayor Sam Liccardo and Councilmember Dev Davis, dated October 25, 2019, to accept staff recommendation to designate Bascom and Roosevelt Community Centers as Overnight Warming Locations (OWLs) during the cold weather season.

Also including the memorandum from Councilmember Raul Perez, dated October 29, 2019 to Provide storage for participants at Roosevelt Community Center during operation as an Overnight Warming Location.

With additional direction to staff to report back to Council on best practices by the end of the Fiscal Year, and to include communication with school district representatives informing them as to what resources are available.

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

## **5. NEIGHBORHOOD SERVICES**

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

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

## **8. PUBLIC SAFETY**

### **8.1 19-978 Fireworks Ordinance Workplan Status Report.**

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); 10/1/19 - Item 8.1 (19-866); and 10/8/19 - Item 8.1 (19-921)]

Staff provided a presentation, and Chief of Police Edgardo Garcia responded to questions.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Maya Esparza and carried unanimously, the Fireworks Ordinance Workplan Status Report was accepted, including the joint memorandum from Mayor Sam Liccardo, Councilmembers Peralez, Diep, Arenas and Khamis recommending acceptance of the Fireworks Ordinance Workplan Status report, to:

1. Place this item on a future Council Priority Setting session, to direct the City Attorney to draft an amendment to the San José Municipal Code that includes a social host ordinance.
2. Direct the City Manager to improve the reporting tool, and make it more readily accessible as a mobile site, and evaluate the suitability for integration to the next generation the MySanJose App. (9-0-2. Absent: Carrasco, Liccardo.)

### **8.2 19-979 Report on Title 10 of the San José Municipal Code for the Implementation of the Spectator Ordinance.**

Accept the report on implementation of the Spectator Ordinance (Chapter 10.50 of the San José Municipal Code) which was enacted by the Council on April 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. (Police)

*(Item Continued on the Next Page)*

## 8.2 (Cont'd.)

Chief of Police Edgardo Garcia and Lieutenant Christina LaCap provided a presentation.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sylvia Arenas and carried unanimously, the Report on Title 10 of the San José Municipal Code for the Implementation of the Spectator Ordinance was accepted. (8-0-3. Absent: Carrasco, Khamis, Liccardo.)

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

**The meeting of the San José Redevelopment Successor Agency was convened at 2:39 p.m.**

### **9.1 19-1002 Recognition of Successor Agency Arbitrage Rebate Liability.**

Adopt a resolution of the Successor Agency to the Redevelopment Agency Board:

- (a) Recognizing the additional arbitrage rebate liability, penalties and interest (rebate liability) due with respect to the Redevelopment Agency of the City of San José Merged Area Tax Allocation Bonds Series 1999 (1999 Bonds) in the amount of \$171,593.84 plus penalties (\$85,796.92) plus interest, as calculated by the IRS, from March 9, 2018 to July 15, 2020 for a total estimated payment amount of approximately \$300,000;
- (b) Proceeding with necessary approvals from the Oversight Board and California Department of Finance to have the arbitrage rebate liability recognized as an enforceable obligation; and
- (c) Authorizing the Executive Officer, Chief Financial Officer and Successor Agency General Counsel to continue discussions with the IRS to resolve the matter and pay the amount of rebate liability, including execution of documents related to such payment.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Successor Agency)  
[Deferred from 10/22/19 - Item 9.1 (19-946)]

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, **SARA Resolution No. 7079**, regarding Recognition of Successor Agency Arbitrage Rebate Liability was adopted. (9-0-2. Absent: Carrasco, Liccardo.)

**The meeting of the San José Redevelopment Successor Agency was adjourned at 2:40 p.m.**

## **10. LAND USE**

### **10.1 Land Use on Consent Calendar**

No Land Use items on Consent Calendar.

#### **END OF CONSENT CALENDAR**

- **Open Forum**

None provided.

- **Adjournment**

**Vice Mayor Chappie Jones adjourned the City of San José Council meeting at 6:05 p.m.**

Minutes Recorded, Prepared and Respectfully Submitted by,

***DRAFT***

Toni J. Taber, CMC  
City Clerk

rmk/10-29-19 MIN



## **CLOSED SESSION MINUTES**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, OCTOBER 29, 2019**

The Council of the City of San José convened into Closed Session at 9:38 a.m.

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

Absent: Councilmembers - Diep; Liccardo.

Council recessed at 9:38 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) 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; (2) Flores v. City, et al.; Names Of Partie(s) Involved: Jacob Benjamin Flores; Mark Minten, Individually and as an Officer of the San José Police Department, Tyler Moran, Individually and as an Officer of the San José Police Department, Christina Nicole Jize, Individually and as an Officer of the San José Police Department and Does 1-10, Inclusive; Court: U.S. District Court, County of Santa Clara, San José Division; Case No; 5:18-CV-07329-SVK; 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) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (6) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (7) 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 between City of San José and MEF; (8) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of

Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (9) 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; (10) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc;

By unanimous consent, Council recessed from Closed Session at 10:16 a.m.; Council reconvened to Regular Session at 1:35 p.m. in the Council Chambers.