



City Council Meeting Minutes

Tuesday, June 16, 2020

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

JUNE 16, 2020

Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79450 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the City Council meeting was not physically open to the public. Public comments were accepted via eComment, email, by phone and webinar.

The Council meeting was teleconferenced from remote locations.

20-030 - [See Page 19 for Closed Session Minutes](#)

The Council of the City of San José convened on Tuesday, June 16, 2020 at 11:02 a.m.

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

Absent: Councilmembers - All Present.

• **Invocation (District 6)**

Councilmember Dev Davis read an invocation provided by Reverend Stephanie Rose Cooper of Holy Family Episcopal Church.

• **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

• **Orders of the Day**

Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 8.3 deferred at the request of the Housing Department, with Item 3.3 not to be heard before 3 p.m. to allow more members of the public to participate, and with Item 2.15 "Amendment to the Agreement with The Health Trust for Meal Services" added, requiring a determination by a two-thirds (2/3) vote of the members of the council present at the meeting, or, if less than two-thirds (2/3) of the members of the council are present at the meeting, a unanimous vote of those members present that there is a need to take immediate action and the need to take action arose after the posting of the agenda. *Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.1.F.1.b; Council's Rules of Conduct, Resolution No. 79367, Rule 3(d).*

- Closed Session Report

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of City Council Minutes.

None provided.

2.2 20-671 Final Adoption of Ordinances.

(a) **Ord No. 30423** - An Ordinance of the City of San José Amending Section 3.36.1290 of Chapter 3.36 of Title 3 of the San José Municipal Code to Allow for Continuation of Survivorship Benefits for Active Fire Members Killed in the Line of Duty.
[Passed for Publication on 6/2/2020 - Item 2.8 (20-587)]

Action: **Ordinance No. 30423** was adopted. (11-0.)

(b) **Ord No. 30425** - An Ordinance of the City of San José Authorizing an Amendment to the Contract Between the City of San José and the Board of Administration of the California Public Employees' Retirement System. [Passed for Publication on 6/2/2020 - Item 3.3 (a) (20-602)]

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried, **Ordinance No. 30425** was adopted. (10-1. Noes: Khamis.)

(c) **Ord No. 30426** - An Ordinance of the City of San Jos José Amending Section 3.49.030 of Chapter 3.49 of Title 3 of the San José Municipal Code to Amend the City of San José California Defined Contribution Plan for Unit 99 Employees.
[Passed for Publication on 6/2/2020 - Item 3.3 (b) (20-602)]

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried, **Ordinance No. 30426** was adopted. (10-1. Noes: Khamis.)

(d) **Ord No. 30428** - An Ordinance of the City of San José Adding Chapter 9.61 to Title 9 of the San José Municipal Code Requiring the Wearing of Face Coverings for the Duration of the Current COVID-19 Health Emergency. [Passed for Publication on 6/2/2020 - Item 3.5(b) (20-611)]

Action: **Ordinance No. 30428** was adopted. (11-0.)

2.2 (Cont'd.)

(e) **Ord No. 30430** - An Ordinance of the City of San José Amending Section 2.08.4000 of Chapter 2.08 (Planning Commission) of the San José Municipal Code Limiting the Term of Planning Commission Appointment to two Consecutive Four-Year Terms, Prohibiting the Appointment of More Than Two Planning Commissioners Residing in The Same Council District, and Providing for a Supermajority Vote (8 Or More) of the Council to Override the Prohibition on More than two Planning Commissioners Residing in the same Council District. [Passed for Publication on 6/2/2020 - Item 8.1 (20-607)]

Action: **Ordinance No. 30430** was adopted. (11-0.)

Public Comment: Blair Beekman spoke to City's face mask policy and working with the SJPD to get on the same page.

2.3 Approval of Council Committee Minutes.

None provided.

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 20-641 Surplus Sale of City-Owned Champions Way Parcel.

Adopt a resolution authorizing the City Manager to negotiate and execute a Purchase and Sale Agreement and Quitclaim Deed, and all other necessary documents, between Cap Tranche 2 LLC and the City of San José, for sale of the surplus City-owned Champions Way property (APN 230-59-002), located in the City of Santa Clara, for \$1. CEQA: Determination of Consistency with the FMC/Coleman Avenue EIR (SCH# 1999122059), the Airport West Stadium and Great Oaks Place Project EIR (SCH# 2009052053), the General Plan 2040 FEIR (SCH# 2009072096), the General Plan 2040 FSEIR (SCH# 2009072096), and addenda thereto. Council District 3. (Economic Development)

Action: **Resolution No. 79568** regarding the Surplus Sale of City-Owned Champions Way Parcel was adopted. (11-0.)

2.8 20-645 Actions Related to the Purchase Order with Harris Blade Rental for Construction and Earthmoving Equipment Rental Services.

Adopt a resolution authorizing the City Manager to:

- (a) Execute a purchase order with Harris Blade Rental (Livermore, CA) for construction and earthmoving equipment rental services for an initial twelve-month period, starting on or about June 17, 2020 and ending on or about June 16, 2021, for an amount not-to-exceed \$200,000; and
- (b) Exercise up to four additional one-year options to extend the term of the purchase order with the last option year ending on or about June 16, 2025, 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. 79569** regarding a Purchase Order with Harris Blade Rental was adopted. (11-0.)

2.9 20-646 Amendment to the Agreement with SimpliGov LLC for a Business Process Automation Platform.

Adopt a resolution authorizing the City Manager to:

- (a) Execute the First Amendment to the Agreement with SimpliGov LLC (San Francisco, CA) for a Business Process Automation Platform to purchase additional professional services for training and support, accelerate development of up to 25 additional workflows, and increase compensation by \$90,400 for a revised maximum compensation of \$192,325 for the initial term ending April 30, 2021; and
- (b) Increase contingency by \$20,000 to cover any additional in-scope changes or requirements for a total contingency not to exceed \$40,000 during the initial term, 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. 79570** regarding an Amendment to the Agreement with SimpliGov LLC was adopted. (11-0.)

2.10 20-647 Five-Year Funding Plan for Permanent Local Housing Allocation Program Funding from California Department of Housing and Community Development.

Adopt a resolution:

- (a) Approving a five-year expenditure plan for the Permanent Local Housing Allocation (PLHA) Program formula allocation of an estimated \$26 million over five years from the California Department of Housing and Community Development (HCD); and
- (b) Authorizing staff to apply for PLHA funds and, when awarded, to accept the award, and to negotiate and execute an HCD Standard Agreement and all other necessary related documents.

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. (Housing)

2.10 (Cont'd.)

Action: **Resolution No. 79571** regarding a Five-Year Funding Plan for Permanent Local Housing Allocation Program Funding was adopted. (11-0.)

2.11 20-648 **Report on Bids and Award of Contract for the 9331-Sanitary Sewer Repairs FY 2019-2020 Package III Project.**

Report on bids and award of contract for the 9331-Sanitary Sewer Repairs FY 2019-2020 Package III to the low bidder, Express Sewer & Drain, Inc., in the amount of \$1,030,707, and approve a contingency in the amount of \$103,071.

CEQA: Categorically Exempt, File No. PP17-029, CEQA Guideline Sections 15301 Existing Facilities and 15302 Replacement or Reconstruction. Council District 1. (Public Works)

Action: The Report on Bids and Award of Contract for the 9331-Sanitary Sewer Repairs Project was accepted. (11-0.)

2.12 20-653 **Report on Bids and Award of Contract for the 9202 - All Inclusive Lincoln Glen Park Project.**

Report on bids and award of construction contract for the 9202 - All Inclusive Lincoln Glen Park Project to the low bidder, Redwood Engineering Construction, Inc., for the base bid and Bid Alternates No. 1 through No. 5 in the amount of \$1,391,840 and approve a contingency in the amount of \$139,184.

CEQA: Categorically Exempt, File No. PP18-023, CEQA Guidelines Section 15301 Existing Facilities. Council District 6. (Public Works)

Action: The Report on Bids and Award of Contract for the All Inclusive Lincoln Glen Park Project was accepted. (11-0.)

2.13 20-660 **Set a Public Hearing on the Levy of the Proposed Downtown Business Improvement District Assessments.**

Preliminarily approve the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council, and adopt a resolution of intention to levy the annual assessment for Fiscal Year 2020-2021, to suspend collection of the Downtown Business Improvement District assessments for businesses that qualify for the business tax financial hardship exemption under the City's general business tax ordinance and set Tuesday, June 30, 2020 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

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

[Deferred from 6/9/2020 - Item 2.8 (20-616)]

Action: The Public Hearing was set, and **Resolution No. 79572** of intention to levy the annual assessment was adopted. (11-0.)

2.14 20-661 Set a Public Hearing on the Levy of the Proposed Japantown Business Improvement District Assessments.

Preliminarily approve the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council, and adopt a resolution of intention to levy the annual assessment for Fiscal Year 2020-2021 and set Tuesday, June 30, 2020 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

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

[Deferred from 6/9/2020 - Item 2.9 (20-617)]

Action: The Public Hearing was set, and **Resolution No. 79573**, approving intention to levy the annual assessment was adopted. (11-0.)

2.15 20-721 Amendment to the Agreement with The Health Trust for Meal Services.

Adopt a resolution authorizing the City Manager to negotiate and execute two Continuation and Amendment to the Agreements to Provide Meals for a Limited Duration between the City of San José and The Health Trust (San José, CA) to prepare and deliver frozen meals to higher risk-eligible individuals aged 60+ and to unhoused individuals to add up to two (2) options to extend the term through August 31, 2020 for an aggregate maximum compensation not to exceed amounts of \$542,233 for service in San José and \$153,219 for service in Santa Clara County and outside of San José.

CEQA: Not a Project, File No. PP17-008, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

Action: **Resolution No. 79574** regarding an Amendment to the Agreement with The Health Trust for Meal Services was adopted. (11-0.)

3. STRATEGIC SUPPORT

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

- 20-649** (a) City Manager's COVID-19 Update (Verbal Report)
(b) City Manager's Report on Other City Matters (Verbal Report)

City Manager, David Sykes indicated no report would be provided to allow more time for the Budget Message to be addressed.

3.2 Labor Negotiations Update.

None provided.

(a) Review, discuss and approve the Mayor's June Budget Message for Fiscal Year 2020-2021.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute agreements addressed in the Mayor's Budget Message which are for amounts that exceed the City Manager's contract authority, provided that any required environmental review has been completed. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Mayor)

Note: Item heard concurrently with Item 3.5.

Mayor Sam Liccardo presented the June Budget Message. He indicated adjustments to his June Budget Message as follows: *Digital Divide (page 5)* "I recommend that the City Manager allocate \$3.5 million of the CARES Act funding to help projects bridge the digital divide, such as a partnership with ~~for this~~ AT&T and other telco partners that enables ~~partnership to enable~~ us to provide education access for 11,000 San José children, and broadband for many more of their family members."

Early Learning (page 13) "I direct the City Manager to allocate \$50,000 in one-time funds from the Essential Services Reserve to First 5 Santa Clara County to bring an FRC to Shirakawa School in Rock Springs ~~O.B. Whaley Elementary School.~~"

Public Comment: Several members of the public offered their comments, concerns, criticism and support regarding the Budget Message, including discussion of police reform, defunding of the police, the coronavirus pandemic and recovery, providing resources to the community, subsidies for childcare, rights of protesters, and the importance racial equity.

Motion: Councilmember Maya Esparza moved approval of (1) directing the City Manager's Office to create an Office of Racial Equity and return with a plan and a \$1.5 million budget to pay for the staffing and the data infrastructure, training, and consulting resources starting this year, using the police overtime budget as a source; (2) Direct the City Manager's Office to increase the childcare funding in the Corona Virus Relief Fund by \$1 million in reserve; (3) Accept the Mayor's addition of Corona Virus Relief Funds for digital hotspot allocation, changing the source to CSOP funds for the balance, with staff to continue to negotiate those hotspot allocations; (4) Allocate \$100,000 per Vice Mayor Chappie Jones memorandum for the community public safety process; (5) restoration of the Community Service Officers' budget, funding for the Office of Racial Equality, after action incident reports and IPA budget per the memoranda from Councilmember Raul Peralez and Councilmember Magdalena Carrasco. Councilmember Sylvia Arenas seconded the motion.

Budget Director, Jim Shannon and Assistant City Manager Jennifer Maguire provided further clarification and input, and extensive discussion followed.

Councilmember Raul Peralez requested a friendly amendment to include restoring \$700,000 for the Community Service Officers, up to \$150,000 to fund the After Action Report and up to \$15,000 to the Independent Police Auditor's budget to fully update their online platform. The amendment was accepted.

Vice Mayor Chappie Jones requested a friendly amendment, asking to include a cap of \$1.5 million for the Office of Racial Equity until more details become available. Councilmember Maya Esparza agreed to the amendment.

3.3 (Cont'd.)

Councilmember Sylvia Arenas requested a friendly amendment to include a reference to her Budget Document #73 for the purpose of flagging background information to help inform future work. Councilmember Maya Esparza agreed to the Amendment.

Action: On a call for the question, the motion carried unanimously, and the Mayor's June Budget Message was approved, with **Resolution No. 79575** regarding negotiation and execution of agreements addressed in the Mayor's Budget Message adopted, including adjustments to the Message as outlined for Digital Divide and Early Learning, and including (1) direction to the City Manager's Office to create an Office of Racial Equity and return with a budget to pay for the staffing and the data infrastructure, training, and consulting resources starting this year, using the police overtime budget as a source, with a cap of \$1.5 million, until more details become available; (2) Direct the City Manager's Office to increase the childcare funding in the Corona Virus Relief Fund by \$1 million in reserve; (3) Accept the Mayor's addition of Corona Virus Relief Funds for digital hotspot allocation, changing the source to CSOP funds for the balance, with staff to continue to negotiate those hotspot allocations; (4) Allocate \$100,000 per Vice Mayor Chappie Jones memorandum for the community public safety process; (5) restoring \$700,000 for the Community Service Officers, up to \$150,000 to fund the After Action Report and up to \$15,000 to the Independent Police Auditor's budget to fully update their online platform, and (6) including a reference to Councilmember Arenas' Budget Document #73 for the purpose of flagging background information to help inform future work. (11-0.)

3.4 20-651 **Approval to Increase the Library Parcel Tax Rates for Fiscal Year 2020-2021.**

Adopt a resolution increasing the Library Parcel Tax rates for fiscal year 2020-2021 by 2.91% over the fiscal year 2019-2020 rates and approving the placement of the Library Parcel Tax on the fiscal year 2020-2021 Santa Clara County Property Tax Roll.
CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, Adjustment to Fees, Rates and Fares without changes to or expansion of services. (Finance)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pam Foley and carried unanimously, **Resolution No. 79576** Increasing the Library Parcel Tax Rates for Fiscal Year 2020-2021 was adopted. (11-0.)

3.5 20-652 **Approval of the 2020-2021 Operating and Capital Budgets for the City of San José and Schedule of Fees and Charges.**

- (a) Adopt resolutions approving the Operating Budget for 2020-2021 for the City of San José, the Capital Budget for 2020-2021 for the City of San José, and the Five-Year Capital Improvement Program for 2021-2025 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare final documents for adoption.
- (b) Adopt a resolution establishing the Schedule of Fees and Charges for 2020-2021.
- (c) Adopt a resolution amending Council Policy 1-18, Operating Budget and Capital Improvement Program Policy, to add Section 22 (Real Property Transfer Tax Revenues).

(Item Continued on the Next Page)

3.5 (Cont'd.)

- (d) Approve an ordinance amending Chapter 4.80 of Title 4 of the San José Municipal Code to:
- (1) Add a new Part 72 to establish the Building Development Fee Program Fund;
 - (2) Add a new Part 73 to establish the Planning Development Fee Program Fund;
 - (3) Add a new Part 74 to establish the Citywide Planning Fee Program Fund;
 - (4) Add a new Part 75 to establish the Fire Development Fee Program Fund;
 - (5) Add a new Part 76 to establish the Public Works Development Fee Program Fund; and
 - (6) Add a new Part 77 to establish the Public Works Small Cell Permitting Fee Program Fund.
- CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical Environment, and 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. (City Manager)

Note: Item heard concurrently with Item 3.3.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Dev Davis and carried unanimously, (a) **Resolution No. 79577, Resolution No. 79578 and Resolution No. 79579**, approving the Operating Budget for 2020-2021 for the City of San José, the Capital Budget for 2020-2021 for the City of San José, and the Five-Year Capital Improvement Program for 2021-2025 Increasing the Library Parcel Tax Rates for Fiscal Year 2020-2021; (b) **Resolution No. 79580**, establishing the Schedule of Fees and Charges for 2020-2021; (c) **Resolution No. 79581**, amending Council Policy 1-18, Operating Budget and Capital Improvement Program Policy, were adopted; and (d) **Ordinance No. 30433**, amending Chapter 4.80 of Title 4 of the San José Municipal Code was passed for publication. (11-0.)

3.6 20-659 Extension of Banking Service Agreements with Wells Fargo Bank.

- Adopt a resolution authorizing the City Manager to:
- (a) Negotiate and execute amendments to extend the terms of current agreements with Wells Fargo for general banking and lockbox services, merchant card services, and securities custodial services from July 1, 2020 to June 30, 2022, subject to the appropriation of funds; and
 - (b) Issue two new Requests for Proposals for 1) general banking, lockbox and merchant card services, and 2) securities custodial services.
- CEQA: Not a Project, File No. PP17-003, Agreement/Contracts (New or Amended) resulting in no physical changes to the environment.
(Finance)

(Item Continued on the Next Page)

3.6 (Cont'd.)

Public Comment: Tessa Woodmansee asked that the City divest itself of all agreements with Wells Fargo, due to corrupt policies and their investment in fossil fuels.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Pam Foley and carried unanimously, **Resolution No. 79582**, Extending Banking Service Agreements with Wells Fargo Bank was adopted. (11-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 20-654 Actions Related to the Acquisition of 71 Vista Montana Drive Property.

Adopt a resolution authorizing the City Manager to negotiate and execute:

(a) An Agreement with Delaware Retail Control, LLC, et al., for the purchase by the City of San José of approximately 4.21 acres located at the western corner of Vista Montana and Renaissance Drive in San José, identified as Assessor's Parcel Number 097-52-027, for a price of \$22,875,000, and all other documents necessary to effectuate the property transfer to the City of San José; and

(b) A Two-Year Exclusive Negotiating Agreement with Charities Housing Development Corporation of Santa Clara County to prepare a proposal to City of San José for the future development of an affordable housing project on the 71 Vista Montana property.

CEQA: Statutorily Exempt, File No. ER20-112, CEQA Guidelines Section 15262, Feasibility and Planning Studies. Council District 4. (Economic Development/Housing).

Economic Development Assistant Director, Nanci Klein and Deputy Director of Housing, Rachel VanderVeen provided a presentation and responded to questions.

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79583**, regarding Actions Related to the Acquisition of 71 Vista Montana Drive Property was adopted. (11-0.)

Approval of a Loan Commitment to Eden Housing, Inc. for the Development of an Affordable Apartment Community Located at 5647 Gallup Drive and 1171 Mesa Drive to be Known as Gallup-Mesa Apartments.

(a) Adopt a resolution:

(1) Approving a total commitment of \$5,250,000 in Low and Moderate Income Housing Asset Funds and \$500,000 in Affordable Housing Impact Funds for a Construction-Permanent Loan totaling \$5,750,000 to Eden Housing, Inc. (“Developer”) for a new 46 unit affordable housing development to be located at 5647 Gallup Drive and 1171 Mesa Drive, in order to offer rent- and income-restricted apartments for extremely low-income, very low-income and low-income households (“Project”);

(2) Authorizing the Director of Housing to negotiate and execute loan documents and all other documents regarding City construction and permanent financing for the Project;

(3) Approving a loan-to-value ratio of greater than 100% for this loan;

(4) Approving the following affordability mix for the Project in order to allow more flexibility without compromising the intent of providing affordable and permanent supportive housing: 15 units will be income-restricted at 25% of Area Median Income (“AMI”); one unit will be income-restricted at 30% of AMI; 11 units will be income-restricted at 40% of AMI; 12 units will be income-restricted at 50% of AMI; two units will be income-restricted at 60% AMI; four units will be income-restricted at 80% AMI; and one unit will be an unrestricted manager’s unit; and

(5) Authorizing the Director of Housing to negotiate and execute a Ground Lease with the Developer of the City-owned properties located at 5647 Gallup Drive and 1171 Mesa Drive for a term of seventy-five (75) years, and any other documents or amendments related thereto including an extension of that certain Exclusive Negotiations Agreement between City and Developer dated September 25, 2017, as amended, for the purpose of constructing and operating the Project.

(b) Adopt the following Fiscal Year 2019-2020 Appropriation Ordinance Amendments in the Low and Moderate Income Housing Asset Fund:

(1) Decrease the Housing Project Reserve appropriation by \$5,050,000; and

(2) Increase the Committed Projects Reserve appropriation by \$5,050,000.

(c) Adopt the following Fiscal Year 2019-2020 Appropriation Ordinance Amendments in the Multi-Source Housing Fund:

(1) Decrease the Housing Project Reserve appropriation by \$500,000; and

(2) Establish the Committed Projects Reserve in the amount of \$500,000.

CEQA: Exempt, File No. ER20-109, CEQA Guidelines section 15369 Ministerial Project pursuant to Government Code Section 65913.4 [Public Resources Code section 21080(b)(1)]. Council District 10. (Housing/City Manager)

(Item Continued on the Next Page)

8.2 (Cont'd.)

Director of Housing Jacky Morales-Ferrand and Deputy Director of Housing, Rachel VanderVeen offered a presentation and responded to questions.

Public Comment: Blair Beekman urged the continuance of ‘good practices’; Tessa Woodmansee and Elisa recommended an architectural review board to assure more visually appealing designs, and Lisa expressed concerns that affordable supermarkets were not available in this area.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 79584**, regarding approval of a Loan Commitment to Eden Housing, Inc., and Appropriation **Ordinance No. 30434** in the Low and Moderate Income Housing Asset Fund and **Appropriation Ordinance No. 30435** in the Multi-Source Housing Fund were adopted. (11-0.)

8.3 20-658 **TEFRA Hearing on the Issuance of Tax-Exempt Multifamily Revenue Bonds for the Markham Plaza II Apartments Located at 2010 Monterey Road.**

- (a) Hold a Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") public hearing for the issuance of not to exceed \$25,000,000 in tax-exempt private-activity bonds by City to finance the acquisition by Markham Plaza II, LP and rehabilitation of the Markham Plaza II Apartments, formerly Tully Gardens II Apartments, a 152-unit apartment complex located at 2010 Monterey Road in San José (the “Development”).
- (b) Adopt a resolution approving the issuance of Revenue Bonds by the City in an aggregate principal amount not to exceed \$25,000,000 to finance the acquisition and rehabilitation of a 152-unit multifamily rental housing facility for the benefit of Markham Plaza II, LP, a California limited partnership, or an entity to be created by Core Affordable Housing, LLC (or an affiliate), and certain other matters relating thereto.
- (c) Adopt a resolution authorizing:
 - (1) A change in the existing affordability restriction for Markham Plaza II Apartments (formerly Tully Gardens II Apartments) to allow a change from 151 units affordable to extremely low-income (“ELI”) households at up to 30% of Area Median Income (“AMI”) and one unrestricted manager’s unit to 76 units affordable to ELI households at up to 30% of AMI and 75 units to be restricted affordable to very low-income households for new or over income tenants only at up to 35% of AMI;
 - (2) An increase to rents and income up to 60% AMI (low-income) for all units in the event of foreclosure or for subsidized units in the event of the expiration or involuntary termination of subsidy contracts, provided the City has determined the increase is needed for feasibility of the Development and allowed by other funds;
 - (3) The extension of the existing City’s loan term by an additional 17 years, until the 55th anniversary of the closing of the bond financing, and a decrease in the City’s loan interest rate from 4.77% fixed, compounded annually to 3% fixed, compounded annually;
 - (4) The subordination of the City’s Deeds of Trust to a County option to purchase the land, provided that the City shall have a right of first refusal to purchase the land; and

(Item Continued on the Next Page)

8.3 (Cont'd.)

(c)(5) The Director of Housing to negotiate and execute any City loan documents, grant documents, amendments, and all other documents related to these actions.

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

Council District 7. (Housing/Finance)

[Deferred from 5/19/2020 - Item 8.1 (20-555)]

Action: Deferred per Orders of the Day.

8.4 20-714 **Economic Recovery Temporary Cap on New or Increased Infrastructure Fees for Development.**

Adopt a resolution approving a temporary cap on (i) any future new fees on new development citywide for public infrastructure (excluding affordable housing); and (ii) future increases to the existing Diridon Basic Infrastructure Impact Fee. The temporary maximum rates in the recommendation would apply to building permits issued before January 1, 2023 as follows:

(a) Retail/Industrial: \$8.16 per square foot

(b) Office/R&D: \$12.20 per square foot

(c) Hotel: \$5,962.00 per room

(d) Residential: \$5,470.00 per unit

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines

Section 15273 Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates and Fares without changes to or expansion of services.

(Economic Development)

[Deferred from 6/9/2020 - Item 8.1 (20-630)]

Economic Development Assistant Director, Nanci Klein and Deputy City Manager/Director of Economic Development Kim Walesh gave a presentation and responded to questions.

Public comments: Members of PACT, Mary Helen Doherty, Reverend Ray, and Katherine Alexander; Priscilla (Working Partnerships) and a representative from LUNA offered support to keeping the Commercial Linkage Fee separate to create more equity in housing. Mathew Reed (SV@Home), Mary Murtagh (EAH Housing) and Robert Geary opined that setting a cap is not a good policy at this time. Matt (SOMOS/Mayfair) urged minimizing future delays on the commercial linkage fees; Scott Knies, San José Downtown Association, recommended holding off on setting a cap and keeping Diridon fees at the current rate. Erik Schoenhauer suggested pipeline exemptions. Members of the Law Foundation of Silicon Valley Silicon Valley Leadership Group, and Silicon Valley Organization offered support to staff recommendations and the Mayor's memorandum, agreeing with a fee cap and no new infrastructure fees. Blair Beekman advocated for facilitating more progressive ideas.

Motion: Councilmember Raul Peralez moved approval of his memorandum and the memorandum from Mayor Sam Liccardo, both dated June 15, 2020. Mayor Sam Liccardo seconded the motion.

(Item Continued on the Next Page)

8.4 (Cont'd.)

Councilmember Dev Davis requested a friendly amendment, asking for a moratorium on fee increases for the basic infrastructure impact fee until the end of 2021. Councilmember Raul Peralez respectfully declined, and Council discussion followed.

Action: Upon motion by Councilmember Raul Peralez, seconded by Mayor Sam Liccardo and carried, **Resolution No 79585**, approving an Economic Recovery Temporary Cap on New or Increased Infrastructure Fees for Development was adopted, including the June 15 2020 memorandum from Mayor Sam Liccardo, to:

1. Accept staff recommendation to cap the Diridon Basic Infrastructure Impact Fee with the following revision and clarifications:

a. Revise the staff recommendation to state that there will be no imposition of new infrastructure fees until after January 1, 2023. This does not apply to a Commercial Linkage Fee, which will be addressed separately.

b. Clarify that the fee cap applies to all building permits, including foundation, as is the current practice.

c. Clarify that the Diridon Basic Infrastructure Impact Fee is subject to an increase (in geography, and in the amount up to the cap) before 2023. However, any changes would go through the normal community engagement process, which includes a review of the required nexus and feasibility study.

Also including Councilmember Raul Peralez memorandum dated June 15, 2020, accepting staff recommendations with the inclusion of a Cap on the Commercial Linkage Fee (CLF) rate at \$20 per square feet for Office/R&D on September 7, 2020 if staff does not return to Council by September 3, 2020 with a CLF fee recommendation. Allow the rate cap to remain in effect alongside the temporary infrastructure fee cap for building permits issued before January 1, 2023.

(8-3. Noes: Jimenez, Esparza, Khamis.)

The Council recessed at 1:03 p.m. and returned at 2 p.m. with all Council members present.

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 20-656 Successor Agency Board Approval of the July 1, 2020 - June 30, 2021 Administrative Budget and Annual Recognized Obligation Payment Schedule 2020-21.

Successor Agency Board adopt resolutions approving the:

(a) Administrative Budget for July 1, 2020 through June 30, 2021; and

(b) Recognized Obligation Payment Schedule 2020-21 (the “ROPS 20-21”) and authorizing payment of expenditures for items on ROPS 20-21, which details the obligations of the Successor Agency for the period of July 1, 2020 through June 30, 2021.

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)

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Dev Davis and carried unanimously, **(a) Successor Agency Resolution No 7082**, and **(b) Successor Agency Resolution No. 7081**, approving the July 1, 2020 - June 30, 2021 Administrative Budget and Annual Recognized Obligation Payment Schedule 2020-21 were adopted. (9-0-2. Absent: Carrasco, Diep.)

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 20-657 HL20-001 - Historic City Landmark Designation for 170 Park Center Plaza (Former Bank of California).

Adopt a resolution designating the former Bank of California located at 170 Park Center Plaza as a City Landmark site with cultural, aesthetic, or engineering interest or value as documented in the Nomination Application.

CEQA: Categorically Exempt. CEQA Guidelines Section 15331, Historic Resource Restoration/Rehabilitation. Historic Landmarks Commission recommends approval. Council District 3. (Planning, Building and Code Enforcement)

Note: Items 10.2 and 10.3 were heard together, including public comment, but voted on separately.

Rosalynn Hughey, Director, Planning, Building and Code Enforcement offered presentations for items 10.2 and 10.3.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, designation of the former Bank of California located at 170 Park Center Plaza as a Historic City Landmark site, was denied. (9-0-2. Absent: Carrasco, Diep.)

10.3 20-716 H19-016 - Site Development Permit for Certain Real Property Located at the Northeast Corner of South Almaden Boulevard and Park Avenue (150 S. Almaden Boulevard).

(a) Adopt a resolution certifying the City View Plaza Project Tower Supplemental Environmental Impact Report (SCH#2018022032) and making certain findings concerning significant impacts, mitigation measures, and alternatives, adopting a Statement of Overriding Considerations, and adopting the related Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act (CEQA); and

(b) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the demolition of nine existing on-site buildings (including candidate City Landmarks), the removal of 14 ordinance size trees, and the construction of an approximately 3.79 million square foot development comprised of 24,000 square feet of ground floor retail and 3,640,033 square feet of office space and

(Item Continued on the Next Page)

10.3 (Cont'd.)

including a request for 24-hour construction and Downtown Design Guidelines exceptions on an approximately 8.1-gross acre site on certain real property located at the northeast corner of South Almaden Boulevard and Park Avenue.

CEQA: City View Plaza Project Tower Supplemental Environmental Impact Report to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). Planning Commission recommends approval (6-0). File No. H19-016. Council District 3. (Planning, Building and Code Enforcement)
[Deferred from 6/2/2020 - Item 10.2 (20-608), 6/9/2020 - Item 10.3 (20-633)]

Public Comments: Janette D'Elia, Jay-Paul Company, and members of the public offered support to the City View Plaza Project Tower. Some members of the public, including Janette D'Elia from Jay Paul, expressed opposition to the historic designation of 170 Park Center Plaza, and the Chair of the Historic Landmarks Commission reviewed possibilities for development.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No 79586**, certifying the City View Plaza Project Tower Supplemental Environmental Impact Report, and **Resolution No. 79587**, approving a Site Development Permit for Property Located at the Northeast Corner of South Almaden Boulevard and Park Avenue, were adopted. (11-0.)

• Notice of City Engineer's Pending Decision on Final Maps

FOR RECEIPT:

Tract: 10539

Location: S/S of Prune Way and Olsen Drive and N/S of 280-Junipero Serra Freeway

District: 1

Lots/Units: 9/96

Type: MFA

Developer: Pulte Group

Open Forum

- Tessa Woodmansee urged getting back to the basics of food, clothing and shelter.
- Blair Beekman spoke to subsidizing wi-fi capabilities in low-income areas.
- Kathryn, Robert Geary and Shawna expressed concerns regarding homeless sweeps and the closure of the trailer village at Happy Hollow.
- Several members of the public urged defunding of the police and asked for Council's consideration.
- Alex thanked the Council for their service and sacrifice.
- Emily spoke on the need for a park.
- Ryan complained that there are not enough mental health services and guidance counselors in schools.
- Some individuals expressed offense with comments made by Councilmember Khamis regarding poor wi-fi in less affluent communities.
- Vicki Roberts thanked Council for including the stop light at Monterey Road in the budget message.

- **Adjournment**

The Council of the City of San José was adjourned at 11:00 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/06-16-2020 MIN

CLOSED SESSION MINUTES

TUESDAY, JUNE 16, 2020

The Council of the City of San José convened into Closed Session at 9:33 a.m.
The Session was teleconferenced from remote locations.

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

Absent: Councilmembers - Arenas, Carrasco, Esparza.

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

1. Case Name: In re: Claim of Lira

Name(s) of Parties(s)
Involved:

Court: Workers Compensation Appeals Court

Case No.: ADJ10995489, ADJ10995505

Amount of Money or Benefits
Other Relief Sought:

2. Case Name: In re: Claim of Mills

Name(s) of Parties(s)
Involved:

Court: Workers Compensation Appeals Court

Case No.: ADJ11409304, ADJ10002836

Amount of Money or Benefits
Other Relief Sought:

3. Case Name: In re Matter of Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division

Name(s) of Parties(s)
Involved:

Court: The Public Utilities Commission
of the State of California, Consumer Protection and
Enforcement Division

Case No.:

Amount of Money or Other
Relief Sought:

4. Case Name: In re Matter of Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0074 issued on March 10, 2020 by Consumer Protection and Enforcement Division.

Name(s) of Parties(s)
Involved:

Court: The Public Utilities Commission
of the State of California, Consumer Protection and
Enforcement Division

Case No.:

Amount of Money or Other
Relief Sought:

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and 54956.9(e)(3) of the Government Code:

1. Claimants(s): In re: Claim of Ricardo Navarro

City Department: DOT

**C. CONFERENCE WITH REAL PROPERTY DESIGNATED REPRESENTATIVES
PURSUANT TO GOVERNMENT CODE SECTION 54956.8:**

1. Property Street 575-579 E. Santa Clara Street; and
Address, Parcel 601 E. Santa Clara Street
Number, or Other
Unique Reference of
Property:

Negotiating Parties: Nanci Klein for the City of San José,
and Katherine Harasz for the Santa Clara County Housing
Authority

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.

D. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6:

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or Name and Title of Unrepresented Employees: **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 – City of San José and Association of Building, Mechanical and Electrical Inspectors (ABMEI)

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

2. Organization or Name and Title of Unrepresented Employees: **Association of Engineers & Architects (AEA)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Association of Engineers & Architects (AEA)

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

3. Organization or Name and Title of Unrepresented Employees: **Association of Maintenance Supervisory Personnel (AMSP)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: City of San José - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary

- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
4. Organization or Name and Title of Unrepresented Employees: **City Association of Management Personnel Agreement (CAMP)**
- Nature of negotiations: wages/salaries, hours, working conditions, etc.
- Name of Existing Contract or MOA: Benefit & Compensation Summary — City of San José and City Association of Management Personnel Agreement
- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
5. Organization or Name and Title of Unrepresented Employees: **International Association of Firefighters (IAFF), Local 230 (IAFF#230)**
- 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 (IAFF), Local 230
- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
6. Organization or Name and Title of Unrepresented Employees: **International Brotherhood of Electrical Workers, Local 332 (IBEW)**
- 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 Brotherhood of Electrical Workers, Local 332 (IBEW)
- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
7. Organization or Name and Title of Unrepresented Employees: **Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF)**
- Nature of negotiations: wages/salaries, hours, working conditions, etc.

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| | Name of Existing Contract or MOA: | Memorandum of Agreement — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 8. | Organization or Name and Title of Unrepresented Employees: | 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 (OE#3) |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 9. | Organization or Name and Title of Unrepresented Employees: | Peace Officer Park Ranger Association (POPRA) |
| | Nature of negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing Contract or MOA: | Memorandum of Agreement — City of San José and Peace Officer Park Ranger Association |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 10. | Organization or Name and Title of Unrepresented Employees: | 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 Officers' Association |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |

11. Organization or Name **Association of Legal Professionals of San José (ALP)**
and Title of
Unrepresented
Employees:
Nature of negotiations: wages/salaries, hours, working conditions, etc.
Name of Existing Memorandum of Agreement – City of San José and
Contract or MOA: Association of Legal Professionals of San José
How to Obtain a copy of Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Existing Contract or
MOA: Telephone – Employee Relations: (408) 535-8150

The Closed Session of the City Council adjourned at 10:54 a.m.