



City Council Meeting

SYNOPSIS

Tuesday, May 8, 2018

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

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On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:36 a.m.- Closed Session, Call to Order in Council Chambers

1:33 p.m.- Regular Session, Council Chambers, City Hall

6:05 p.m.- Public Hearings, Council Chambers, City Hall

- **Invocation (District 5)**

Pastor Danny Sanchez from The City Peace Project provided the Invocation.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved with no changes.

- **Closed Session Report**

There was no report.

1. CEREMONIAL ITEMS

- 1.1 Mayor Sam Liccardo and City Clerk Toni Taber presented a proclamation declaring May 6, 2018 through May 12, 2018 as “Municipal Clerks Week” in the City of San José.
- 1.2 Mayor Sam Liccardo and Councilmember Tam Nguyen presented a commendation to Jerry Broyles and Cyndy Broyles for their dedicated leadership and commitment to the Alma neighborhood.
Heard in the Evening.
- 1.3 Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco, presented a proclamation declaring May 2018 as National Melanoma Awareness Month.
- 1.4 Mayor Sam Liccardo and Councilmember Sergio Jimenez presented a proclamation declaring May 2018 as Lupus Awareness Month.
- 1.5 Mayor Sam Liccardo and Councilmember Sylvia Arenas presented a commendation to Filipino-American City Employees of San Jose for their efforts in building solidarity and fundraising for Typhoon Haiyan victims in 2014.

2. CONSENT CALENDAR

The Consent Calendar was approved as recommended, with items 2.5 and 2.12 pulled, voted on separately and unanimously carried, and the below listed actions taken as indicated.

2.1 18-623 Approval of City Council Minutes.

Recommendation:

(a) Digital Inclusion and Broadband Strategy Council Study Session of November 13, 2017.
(b) Regular Council Meeting of December 5, 2017.
(c) Regular Council Meeting of December 19, 2017.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.
Approved.

2.2 18-626 Final Adoption of Ordinances.

Recommendation:

(a) ORD. NO. 30087- An ordinance of the City of San José amending Section 3.24.2290 of Chapter 3.24, Sections 3.28.1980 and 3.28.1990 of Chapter 3.28, and Sections 3.36.1930 and 3.36.1940 of Chapter 3.36 of Title 3 of the San José Municipal Code
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.
Adopted.

(b) ORD. NO. 30088 - An ordinance of the City of San José amending Part 11 of Chapter 17.23 of Title 17 of the San José Municipal Code to add three unit buildings, to modify re-control provisions, and to provide that other multifamily units are deemed to have met obligations under this part after compliance with notice and relocation specialist obligation.
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.
Adopted.

(c) ORD. NO. 30089 - An ordinance of the City of San José amending Part 12 to Chapter 17.23 of Title 17 of the San José Municipal Code to add a criminal activity cause for eviction and to add protection from retaliation related to immigration status. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

Deferred to 5/15/18 per Administration.

(d) ORD.NO. 30090 - An ordinance of the City of San José amending Part 3 of Chapter 17.23 of Title 17 of the San José Municipal Code to expressly prohibit pass through of utility charges and to provide for a one-time rent increase for units with existing pass through agreements.

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

Adopted.

(e) ORD. NO. 30091 - An ordinance of the City of San José rezoning certain real property of approximately 0.14-gross acre situated on the south side of Wabash Street, approximately 400 feet westerly of Archer Street (APN: 015-05-080), from the CN Commercial Neighborhood Zoning District to the R-1-8 single-family residential zoning district

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041), and Supplemental Impact Report (Resolution No. 77617), and Addenda thereto.

Adopted.

2.3 Approval of Council Committee Minutes.

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 18-617 Amendment to the Agreement with Axon Enterprise, Inc. for Police Body Worn Camera and Evidence Management System.

Recommendation:

Adopt a resolution authorizing the City Manager to:

- (a) Execute the First Amendment to the Agreement with Axon Enterprise, Inc. for a Body Worn Camera and Evidence Management System to increase the compensation by \$387,871 for a maximum compensation of \$5,205,555 to purchase 143 additional body worn cameras and related services, subject to the appropriation of funds; and
- (b) Execute additional change orders to the Agreement to purchase additional cameras and services as required, subject to the same unit pricing, terms, and conditions and 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 6/5/18 per Administration.

2.8 18-616 Annual Status Reports on the Safe Neighborhood Parks and Recreation Bond Projects, and the Branch Library Bond Projects for FY 2016-2017.

Recommendation: Accept the Fiscal Year 2016-2017 Safe Neighborhood Parks and Recreation Bond Projects and the Branch Library Bond Projects audit reports.
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)
Deferred to 5/15/18 Item 2.12 per Administration.

2.9 18-579 Report on Bids and Award of Contract for the 8730-Sanitary Sewer Repairs 2017-18 Package IV Project.

Recommendation: Report on bids and award of contract for the 8730-Sanitary Sewer Repairs 2017-18 Package IV Project to the low bidder, JMB Construction Inc., in the amount of \$1,410,045, and approve a contingency in the amount of \$141,005.
CEQA: Categorically Exempt, CEQA Guidelines Section 15301(b), Existing Facilities and Section 15302(c), Replacement or Reconstruction, File No. PP17-029. Council Districts 1 & 6. (Public Works)
Approved.

2.10 18-627 Approval of Dumpster Day Sponsored By Council District 9 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

Recommendation: As recommended by the Rules and Open Government Committee on April 25, 2018:
(a) Approve the Dumpster Day scheduled on May 12, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and
(b) Approve and accept donations from various individuals, businesses or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Rocha)
[Rules Committee referral 4/25/18 - Item G.1.a]
Approved as Recommended.

2.11 18-628 Approval of Chynoweth Avenue Green Streets Project Ribbon Cutting Event Sponsored By Council District 10 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

Recommendation: As recommended by the Rules and Open Government Committee on April 25, 2018:
(a) Approve the Chynoweth Avenue Green Streets Project Ribbon Cutting Event scheduled on May 31, 2018 as a City Council sponsored Special Event and approve the expenditure of funds; and
(b) Approve and accept donations from various individuals, businesses or community groups to support the event.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Khamis)
[Rules Committee referral 4/25/18 - Item G.1.b]
Approved as Recommended.

2.12 18-520

Agreement with History San José for Maintenance of City-Owned Historical Facilities.

Recommendation:

Adopt a resolution authorizing the City Manager to negotiate and execute an Agreement with History San José, from July 1, 2018 to June 30, 2038, for the operations and maintenance of the City-owned historical facilities within History Park at Kelley Park and the Peralta Adobe - Fallon House Historic Site, as well as management of the City's historic collections for an annual amount not to exceed \$784,000, subject to annual appropriations as approved by City Council.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council Districts 3 and 7. (Economic Development)

Resolution No. 78575 Adopted.

Approved as Recommended, including Memorandum by Councilmembers Peralez, to extend current Operations & Maintenance (O&M) contract for 1-year for \$784,000 and direct the City Manager to return to an appropriate Council Committee prior to end of the agreement with an extension of a contract and include the following additions:

- a. History San Jose should set outcomes-focused performance measures and objectives that align with Sections 5 and 6 of the current contract (See Exhibit A).**
- b. History San Jose shall provide an Annual Report based on performance measures and objectives; and to encourage HSJ to encourage partnerships with other entities where there are opportunities to activate.**

Deferred from 5/1/18 Item 2.15 to 5/8/18 Item 2.12 per Administration.

2.13 18-648

Actions Related to Mayor's Staff Travel to New York, NY.

Recommendation:

Authorize travel, accept travel payments to the City of San José, and designate Mayor's staff, Khanh Russo and Nicholas Almeida, as the City's representatives to attend the Cities of Service Engaged Cities Award Summit from May 15-18, 2018 in New York, NY. Source of Funds: Cities of Service; Mayor's Office Budget

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

[Rules Committee referral 5/2/18 - Item A.1.a]

Approved as Recommended.

2.14 18-663

Actions Related to Councilmember Diep's Travel to Washington, D.C.

Recommendation:

Authorize domestic travel for Councilmember Lan Diep to Washington, D.C. from May 14-16, 2018 and excuse his absences from the May 14, 2018 Budget Study Session and the May 15, 2018 City Council Meeting. Source of funds: Personal funds (airfare and travel) and Asian Pacific American Institute for Congressional Studies (airfare and hotel)

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

[Rules Committee referral 5/2/18 - Item A.1.a]

Approved as Recommended.

2.15 18-666 SB 818 (Beall) Homeowner Bill of Rights Act 2018.

Recommendation: As recommended by the Rules and Open Government Committee on May 2, 2018, re-affirm a position of support for SB 818 (Beall) Homeowners Bill of Rights 2018. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Housing)
[Rules Committee referral 5/2/18 - Item G.2]
Approved as Recommended.

3. STRATEGIC SUPPORT

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

There was no report.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.
Heard at 9:30 A.M.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 18-615 Actions Related to the Inclusionary Housing Rental In-Lieu Fee and the Affordable Housing Impact Fee.

Recommendation: (a) Adopt a resolution that amends Resolution No. 77218 as previously amended by Resolutions No. 78010, 78392 and 78473 (collectively the “Housing Impact Fee Resolution”) by updating Section 13 regarding the transition between the Affordable Housing Impact Fee and Inclusionary Housing Ordinance Programs to (1) replace the requirement for issuance of Building Permits with a requirement for submittal of final approved building plans; (2) to add a transition process for rental projects that have not recorded an affordable housing agreement but were eligible for the AHIF Pipeline Exemption; (3) to add a transition process for rental projects with tentative maps approved prior to June 30, 2018; (4) allow Downtown High-Rise projects that fail to obtain Certificates of Occupancy by the applicable due date to pay the housing impact fee rather than meet the inclusionary housing ordinance requirements if they have obtained Building Permits; and (5) clarify that the AHIF continues to apply to projects with less than 20 units.

Resolution No. 78576 Adopted

(b) Accept the Housing Department’s staff report regarding the transition from the Affordable Housing Impact Fee (AHIF) to the Inclusionary Housing Ordinance (IHO) program for new rental developments in San José.

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

Approved as Recommended, including motion by Councilmember Jimenez seconded by Councilmember Arenas to adopt staff recommendation to:

(b) Accept the Housing Department’s staff report regarding the transition from the Affordable Housing Impact Fee (AHIF) to the Inclusionary Housing Ordinance (IHO) program for new rental developments in San Jose, including staff supplemental memorandum to provide clarification on the proposed changes to the Affordable Housing Impact Fee and related transition process.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

• Open Forum

1. Blair Beekman offered comments on developers and builders who make profits in millions of Dollars.
2. Mike Trout commented on Jesus, National politicians, and City of San Jose.
3. Randy Shingai offered comments on Affordable Housing in San Jose and the Bay Area.

• The Council of the City of San Jose recessed at 3:58p.m. and resumed 6:02 p.m.

10. LAND USE

10.1 Land Use on Consent Calendar

Open Second City Initiated General Plan Hearing Cycle

- (a) 18-614 **C17-055 - Conforming Rezoning for Real Property Located at 12329 Mabury Road.**

Recommendation: Consideration of an ordinance of the City of San José rezoning a 15.12-gross acre site located at 12329 Mabury Road from the A -Agricultural Zoning District to the PQP Public/Quasi-Public Zoning District (San Jose Water Works, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR) (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (EIR)(Resolution No. 77617), and Addenda thereto; and does not involve new significant impacts beyond those analyzed in the FEIR or the Supplemental EIR. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-055 - Council District 4
Ordinance No. 30103 passed for publication.
Approved as recommended, including Memorandum from Councilmember Raul Peralez recommending Acceptance of the Planning Commission's recommendation to:
1. Adopt a resolution approving the Mitigated Negative Declaration for the 645 Homing St.
2. Approve an ordinance of the City of San Jose rezoning 645 Homing Street from Light Industrial Zoning District to Planned Development Zoning District
3. Adopt a resolution approving a Planned Development Permit to allow the demolition of existing structures and allow new construction.

- (b) 18-611 **PDC16-041/PD16-027/PT16-037 - Planned Development Rezoning, Planned Development Permit, and Vesting Tentative Map for Real Property Located at 645 Horning Street.**

Recommendation:

(a) Adopt a resolution adopting the 645 Horning Street Gas Station, Food and Storage Project Mitigated Negative Declaration, for which an Initial study was prepared, in accordance with the California Environmental Quality Act, as amended, and adopting a related mitigation monitoring and reporting program.

Resolution No. 78577 Adopted.

Approved as recommended, including Staff recommendation that:

The Planning Commission voted 6-0-1 (Commissioner Ballard absent) to recommend that the City Council:

1. Adopt a resolution approving the Mitigated Negative Declaration for the 645 Horning Street Gas Station, Food and Storage Project in accordance with the California Environmental Quality Act (CEQA), and associated Mitigation Monitoring and Reporting Plan; and

2. Approve an ordinance of the City of San José rezoning certain real property located at the Northwest corner of Horning Street and Oakland Road (645 Horning Street) from the LI Light Industrial Zoning District to the CIC(PD) Planned Development Zoning District to allow a ministorage facility, a retail store, a gasoline service station with six fuel dispensers and canopy, a drive-through carwash, and a drive-through restaurant on an approximately 3.26 gross acre site.

3. Adopt a resolution approving the Tentative Map to subdivide one parcel into three parcels on an approximately 3.26-gross acre site.

4. Adopt a resolution approving a Planned Development Permit to allow the demolition of an existing warehouse and other building structures and to allow the construction of a new retail store (3,814 square feet), a gasoline service station with six fuel dispensers and canopy (3,870 square feet), a drive-through carwash (1,086 square feet), a restaurant (2,494 square feet) with drive-through and late-night use to 2:00 a.m., and mini-storage buildings (total of 92,116 square feet) on an approximately 3.26-gross acre site.

(b) Consideration of an ordinance of the City of San José rezoning an approximately 3.26-gross acre site, located on the northwest corner of Horning Street and Oakland Road (645 Horning Street) from the LI Light Industrial Zoning District to the CIC(PD) Planned Development Zoning District to allow a ministorage, retail store, gasoline station with six fuel dispensers and canopy, drive-through carwash, and drive-through restaurant uses (Rubnitz James E Et Al, Owner).

Ordinance No. 31014 passed for publication.

(c) Adopt a resolution approving a Vesting Tentative Map, subject to conditions, to subdivide one lot into three lots.

Resolution No. 78578 Adopted.

(Item Continued on the Next Page)

(b) 18-611 PDC16-041/PD16-027/PT16-037 - Planned Development Rezoning.... (Cont'd)

(d) Adopt a resolution approving a Planned Development Permit, subject to conditions, to allow the demolition of an existing warehouse and car repair building structures and allow the construction of a new retail store (3,814 square feet), gasoline station with six fuel dispensers and canopy (3,870 square feet), drive-through carwash (1,086 square feet), a drive-through restaurant (2,494 square feet) with late-night use to 2:00 a.m., and mini-storage buildings (total of 92,116 square feet). CEQA: Mitigated Negative Declaration for the 645 Horning Street Gas Station, Food and Storage Project. Planning Commission recommends approval (6-0-1, Ballard absent). (Planning, Building and Code Enforcement)
PDC16-041/PD16-027/PT16-037 - Council District 3
Resolution No. 78579 Adopted.

10 Land Use - Regular Agenda

10.2 18-622 Urban Village Implementation Framework.

Recommendation: Adopt a resolution to establish the Urban Village Implementation (UVI) Framework, which will further implementation of the Urban Village Strategy and the individual Urban Village Plans by 1) outlining a zoning framework that will provide a more streamlined entitlement process for development consistent with the applicable Urban Village Plan; and 2) providing the community and developers with a simplified, transparent and predictable mechanism to have residential and residential mixed-use projects build the amenities and public improvements identified in the Village Plans, for which there are not currently adequate funding mechanisms.
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Planning, Building and Code Enforcement)
Deferred from 5/8/18 Item 10.2 to 5/22/18 per Administration

10.3 18-612 GP17-012 - General Plan Amendment: South Bascom (North) Urban Village Plan.

Recommendation: Adopt a resolution approving a City-initiated General Plan Amendment associated with the adoption of the South Bascom (North) Urban Village Plan, including modifications to the boundary and changes to General Plan land use designations on properties within the boundaries of the Urban Village Plan as shown on the proposed Urban Village Land Use Plan. This Urban Village Plan will provide a policy framework to guide new job and housing growth within the Urban Village boundaries, as well as, provide a framework for the characteristics of future development, including urban design, open space, public art/placemaking, streetscape and circulation, and implementation.
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report (FEIR) (Resolution No. 76041) and Envision San José 2040 General Plan Supplemental Environmental Impact Report (EIR) (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (6-0-1, Ballard absent). (Planning, Building and Code Enforcement). GP17-012 - Citywide
Resolution No. 78580 Adopted.
Approved as recommended, including Memorandum from Councilmember Davis to approve the staff recommendations for the City-initiated General Plan Amendments for the adoption of the West San Carlos and South Bascom Urban Village Plans and add recognition of the areas of Del Mar and Thornton as experiencing cut through traffic.

Recommendation:

Adopt a resolution approving a City-initiated General Plan Amendment associated with the adoption of the West San Carlos Urban Village Plan, including modifications to the boundary and changes to General Plan land use designations on properties within the boundaries of the Urban Village Plan as shown on the proposed Urban Village land use plan. This Urban Village Plan will provide a policy framework to guide new job and housing growth within the Urban Village boundaries, as well as, provide a framework for the characteristics of future development, including urban design, open space, public art/placemaking, streetscape and circulation, and implementation.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report (FEIR) (Resolution No. 76041) and Envision San José 2040 General Plan Supplemental Environmental Impact Report (EIR) (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (6-0-1, Ballard absent). (Planning, Building and Code Enforcement)

GP17-013 – Citywide

Resolution No. 78581 Adopted.

Approved as recommended, including Memorandum from Councilmember Davis to approve the staff recommendations for the City-initiated General Plan Amendments for the adoption of the West San Carlos and South Bascom Urban Village Plans, and delete setback #5 from page 61 of the staff report.

- **Open Forum**

1. Jackie Toukel offered comments on the density of new developments in her neighborhood; the impact on community schools, and how local traffic, public utilities and quality of life is severely impacted by density.

- **Adjournment:**

The Council of the City of San Jose was adjourned at 7:19 p.m.