



# City Council Meeting Synopsis

**Tuesday, September 24, 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



## SYNOPSIS OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, SEPTEMBER 24, 2019**

The Council of the City of San José convened in Regular Session at 1:35 p.m. in the Council Chambers at City Hall.

Present: Councilmembers - Liccardo, Jones, Khamis, Arenas, Davis, Diep, Jimenez, Nguyen, Peralez, Carrasco, Rocha.

Absent: Councilmembers - All present.

### STRATEGIC SUPPORT SERVICES

#### 3.2 Accept Labor Negotiations Update.

There was no Update.

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:40 a.m. to a Closed Session in Room W133; (A) to discuss public employment/public employee evaluation pursuant to government code section 54957; re: City Clerk, Name: Toni J. Taber; (B) to confer with Real Property designated representatives pursuant to government code section 54956.8; Property Street: Brandenburg property: APNs 708-25-001, -002; 708-26- Address, Parcel 001, -002; 708-27-001 708-28-002; Number, or Other Unique Reference of Property: Sobrato North property: APNs 703-30-014 and -015 Sobrato South property: APNs 712-23-1 11 and -1 12 Fisher Flats property: APNs 708-25-004 and -005; Negotiating Parties: Nanci Klein for the City of San José and Tim Steel and Chris Lyman for Sobrato; Bill Barron for Brandenburg; Kevin Ice for Peninsula Open Space Trust, owner of Fisher Flats property. Under Negotiation: The direction will concern price and terms of payment. Likely Range of Value Negotiated price based on appraisal and comparable of Property: property values. (C) to confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: 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)

By unanimous consent, Council recessed from the Closed Session at 10:02 a.m. and reconvened to Regular Session at 1:35 p.m. in the Council Chambers.

Present: Councilmembers - Liccardo, Jones, Khamis, Arenas, Davis, Jimenez, Esparza (10:00a.m.), Peralez, Diep (10:02a.m.)

Absent: Councilmember[s] - Carrasco.

Access the video, the agenda, and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/civiccentertv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

**INVOCATION**

Pastor John Goldstein, Lead Pastor of Grace Church in Evergreen, provided the Invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo and students from Parkview Elementary School led the Pledge of Allegiance.

**ORDERS OF THE DAY**

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pam Foley, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with item 4.7 dropped; 4.9 deferred to 10/1/19, and with notation that today's meeting is adjourned in memory of Roman Gabriel Rocha, who passed away on August 25, 2019 in San Jose, at the age of 47. (11-0)

**Heard after Ceremonial Items.**

**1. CEREMONIAL ITEMS**

- 1.1** Mayor Sam Liccardo and Councilmember Magdalena Carrasco presented a Proclamation for Hispanic Heritage Month.  
**Heard at 1:30 p.m.**
- 1.2** Mayor Sam Liccardo and Councilmember Dev Davis presented a Proclamation to recognize Obesity Awareness Month.
- 1.3** Mayor Sam Liccardo and Councilmember Raul Peralez presented a Commendation to South FIRST FRIDAYS, for exemplifying creativity and becoming a staple of San José's creative ecosystem.

**2. CONSENT CALENDAR**

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sylvia Arenas, and carried unanimously, the Consent Calendar was approved, and the below listed actions taken as indicated. (11-0)

**2.1 19-856 Approval of City Council Minutes.**

**Recommendation:** (a) Regular City Council Meeting Minutes of February 13, 2018. CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: The Council Meeting Minutes were approved. (11-0.)

**2.2 19-832 Final Adoption of Ordinances.**

**Recommendation:** (a) Ord. No. 30308 - An Ordinance of the City of San José 1) Adding a new Title 27 of the San José municipal code that incorporates recent City Charter changes modernizing the construction contract procurement process, makes changes conforming the code to current City practices, and otherwise updates, streamlines, clarifies and modernizes requirements for the procurement and administration of public works projects; 2) Amending Section 4.12.055 of Chapter 4.12 of Title 4 to reflect recent city charter

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**2.2 19-832 Final Adoption of Ordinances. (Cont'd)**

changes clarifying that maintenance services can include repairs, construction, erection, improvement or demolition incidental to such maintenance; 3) Amending Chapter 4.84 of Title 4 to eliminate outdated insurance requirements and to allow the risk manager to set such requirements; 4) Repealing Chapters 14.04, 14.06, and 14.07 of Title 14, to be replaced by the new Title 27; 5) Repealing Chapter 14.08 of Title 14 which is outdated and no longer needed; and 6) Amending Section 2.04.1420 of Chapter 2.04 of Title 2, Section 4.08.030 of Chapter 4.08 of Title 4, Section 5.06.390 of Chapter 6.06 of Title 6, Section 11.08.010 of Chapter 11.08 of Title 11, Section 15.28.120 of Chapter 15.26 of Title 15, and Section 19.32.120 of Chapter 19.32 of Title 19 to change references from Chapter 14.04 to Title 27.

(b) Ord. No. 30309 - An Ordinance of the Council of the City of San José rezoning certain real properties of approximately 17.64- gross acres situated on the East Side of Elm Street, between West Hedding Street and Emory Street, Southwest corner of West Hedding Street and Elm Street, Southwest corner of Emory Street and Stockton Avenue, and North side of West Hedding Street, approximately 300 feet easterly of Elm Street (960 West Hedding Street) from the A(PD) planned development zoning district to the PQP(PD) planned development zoning district.

(c) Ord. No. 30310 - An Ordinance of the City of San José rezoning certain real property of approximately 6.98 gross acres situated on the northeast corner of South Bascom Avenue and Southwest Expressway (1330, 1388, and 1410 South Bascom Avenue; APNS: 282-26-007, 282-26- 011, and 282-26-012) from the CP commercial pedestrian zoning district to a CP(PD) planned development zoning district.

Action: The Ordinances were approved. (11-0.)

**2.3 19-857 Approval of Council Committee Minutes**

(a) Rules and Open Government Committee Minutes of January 23, 2019.

(b) Rules and Open Government Committee Minutes of January 30, 2019.

(c) Rules and Open Government Committee Minutes of February 13, 2019.

(d) Rules and Open Government Committee Minutes of February 20, 2019.

(e) Rules and Open Government Committee Minutes of March 6, 2019.

(f) Rules and Open Government Committee Minutes of March 13, 2019.

(g) Rules and Open Government Committee Minutes of March 27, 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. (11-0.)

**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 19-818

**Amendments to Master Consultant Agreements with AECOM Technical Services, Inc., Brown and Caldwell and Black & Veatch Corporation for General Engineering Services at the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program.****Recommendation:**

- (a) Approve the First Amendment to the Master Agreement with AECOM Technical Services, Inc. for the 7995 - General Engineering Services, extending the term from June 30, 2021 to June 30, 2024 at no additional cost to the City.
- (b) Approve the First Amendment to the Master Agreement with Brown and Caldwell for the 7995 - General Engineering Services, extending the term from June 30, 2021 to June 30, 2023 at no additional cost to the City.
- (c) Approve the First Amendment to the Master Agreement with Black & Veatch Corporation for the 7995 - General Engineering Services, extending the term from June 30, 2021 to December 31, 2023 at no additional cost to the City.
- CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action, and PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Environmental Services)

Action: Amendments to the Master Agreements were approved as recommended. (11-0.)

2.8 19-819

**Report on Bids and Award of Construction Contract for 8983 - Environmental Services Building Lab HVAC Ducting Replacement Project at the San José-Santa Clara Regional Wastewater Facility.****Recommendation:**

- Report on bids and award of contract for the 8983 - Environmental Services Building Lab HVAC Ducting Replacement Project to the sole bidder, Kinetics Mechanical Services, Inc., in the amount of \$538,000, and approval of a fifteen percent contingency in the amount of \$80,700.
- CEQA: Categorically Exempt, File No. PP17-049, CEQA Guidelines Section 15301, Existing Facilities. (Public Works/Environmental)

Action: Report on bids and award of contract was approved as recommended. (11-0)

2.9 19-820

**First Amendment to the Master Agreement with Cornerstone Earth Group for Environmental Support Services.****Recommendation:**

- Approve the First Amendment to the Master Agreement with Cornerstone Earth Group for environmental consulting services, increasing the amount of compensation by \$500,000, for a total agreement not to exceed \$1,000,000. No extension is being recommended on the term of the agreement, which expires on June 30, 2020.
- CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action, and PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
- (Environmental Services)

Action: Amendment to the Master Agreement was approved as recommended. (11-0.)

### **3. STRATEGIC SUPPORT**

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

None provided.

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

Heard at 9:30 a.m.

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

#### **4.1 19-823 Actions Related to the Increase in Income and Rent Limits in the Event of a Foreclosure and Additional Amendments for Second Street Studios.**

##### **Recommendation:**

Adopt a resolution:

(a) Authorizing an increase to rents and income up to 60% AMI (low income) for new tenants in the event of foreclosure or expiration of subsidy contracts for the Second Street Studios development, provided the City has determined the increase is needed for feasibility of the development and allowed by other funds and authorizing the Director of Housing to negotiate and execute loan documents, amendments, and all other documents related to these changes; and

(b) Authorizing the Director to negotiate and execute amendments to the HOME restriction and HOME Agreement, as needed, to ensure compliance with Housing and Urban Development (HUD) HOME Investment Partnerships Program regulations and guidance.

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

Council District 3. (Housing)

There was no presentation for this item.

Public Comments: Jose Lujano, (representing First Community Housing), iterated his organization's pride to be San Jose's first supportive housing provider and expressed gratitude to the City for its partnership.

Action: Upon motion by Councilmember Raul Peralez to move approval, seconded by Councilmember Dev Davis and carried unanimously, staff recommendation was accepted, and Resolution No. 79252 entitled, "A Resolution of the Council of the City of San Jose (1) authorizing an increase to rents and income up to 60% area median income (low income) for new tenants in the event of foreclosure or expiration of subsidy contracts for the Second Street Studios Development, provided the City has determined the increase is needed for feasibility of the development and allowed by other funds and authorizing the Director of Housing to negotiate and execute loan documents, amendments, and all other documents related to these changes; and (2) authorizing the Director of Housing to negotiate and execute amendments to the Second Street Studios Development home affordability restriction and home agreement, as needed, to ensure compliance with US Department of Housing and Urban Development Home Investment Partnerships Program Regulations and Guidance", was adopted. (11-0)

**4.2 19-822 Housing Crisis Workplan Update.****Recommendation:**

Accept staff report including an update to the City Council approved Housing Crisis Workplan and an addendum to the Affordable Housing Investment Plan to add a placed-based strategy for the upcoming Notice of Funding Availability for financing affordable housing development.

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

Economic Development Deputy Director, Chris Burton; Economic Development Director, Kim Walesh; Housing Director, Jackie Morales-Ferrand; Planning, Building and Code Enforcement Director, Rosalyn Hughey; Planning, Building and Code Enforcement Deputy Director, Michael Brilliot; and Housing Development Deputy Director, Rachel VanderVeen gave a presentation and responded to questions.

Public Comments: Offering comments on Housing Crisis Workplan Update were: Jeffrey Buchanan, (representing Working Partnerships); David Low, (with Destination Home); Catherine Hedges, (from PACT); Poncho Guevara, (Sacred Hearts Community Service); Susan Price Jane, (PACT) Mary Helen Doherty, (representing PACT); Mathew Reid, (Silicon Valley@Home); Bruce Roberts, (representing SHHAC); Huesca Castro, (Silicon Valley@Home); Elizabeth Agramont, (representing SHHAC); Sandy Perry, (representing AHN); Scott Knies, (representing San Jose Downtown Association); and Victor Vasquez, (representing Somos Mayfair).

Action: Upon motion by Councilmember Raul Peralez to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, staff recommendations were approved, including approval of the Memorandum from Councilmember Peralez to accept staff recommendation and direct the City Manager to:

1. Per Council's approval of Mayor Liccardo's March 12 memo on Commercial Linkage Fee (CLF), return back to Council with the final study results and policy proposals no later than January 2020, or as soon as possible, for consideration.
2. Develop specific income targets for the 25% area-wide affordable housing requirement for the Diridon Station Area, including a minimum percentage of Extremely Low Income (ELI) housing units that is commensurate with the 45% ELI allocation requirement adopted in the April 2019 update to the Affordable Housing Investment Plan.

This was amended with approval of the Memorandum from Mayor Liccardo to:

1. Accept staff recommendation pertaining to the Housing Crisis Workplan Update.
2. Direct the City Manager to include an attachment with approved planning permits, effective as soon as possible, for all commercial development projects citywide notifying developers that they may be required to pay a commercial linkage fee pending completion of nexus and feasibility studies and approval of fee program by Council.

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**4.2 19-822 Housing Crisis Workplan Update. (Cont'd)**

a. Utilize the notification attachment for projects within the Diridon Station Area Plan area as the model that was presented at the August 2, 2019 Council meeting around the Diridon Basic Infrastructure Fee.

3. Direct City Staff to include in the Housing Department's upcoming Diridon Station Area Affordable Housing Implementation Plan studying development of specific income targets for an area-wide affordable housing goal for the Diridon Station Area. Analyze various options including 45% Extremely Low Income (ELI) housing units within a 25% affordable housing goal.

(11-0.)

**4.3 19-821 Downtown High-Rise Incentive Program.****Recommendation:**

Accept the report on the Downtown High-Rise Feasibility Assessment and direct staff to Council with the appropriate ordinance and resolution to enact the following:

(a) Extending the certificate of occupancy deadline for the Affordable Housing Impact Fee exemption to December 31, 2023.

(b) Amending Title 4.46 and align the construction tax reduction with the certificate of occupancy deadline for the Affordable Housing Impact Fee exemption, and removing the planning and build permit requirements.

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

(Economic Development)

Economic Development Director, Kim Walesh; Economic Development Deputy Director, Chris Burton; Housing Director, Jackie Morales-Ferrand; and Strategic Economics' Nadine Fogarty gave a presentation and responded to questions.

Public Comments: Offering comments on the Downtown High Rise Incentive Program were: Eddie Truong, (representing Silicon Valley Organization); Tim Beaubien, (representing Santa Clara County Association of Realtors); Shawn Milligan, (representing KT Urban); Corey Quevedo, Alejandro Martinez, (representing Liuna Local 270); Jose Mexicano, (representing Local 270); Nicole Goehring, (representing ABC NorCal); Eli Sokol, (representing Starcity); Mike Sarvsarcki, (representing Altera Worldwide); Ryan Jones, (with Local 393); Alex Caraballo, Christy Marbry, (representing Swenson Builders); Kathryn Hedges, (from PACT); Jeff Dreyer, Sr.; Mathew Reid, (Silicon Valley@Home); Huy Tran; Miguel Favela, Mary Helen Doherty, (representing PACT); Mark Tersini, (KT Urban); Will Smith, (IBEW 332); Louise Audubon (Working Partnership); Dominic Torreano, Teresa Alvarado, Erich Schoennauer, (Altera International); Josue Garcia, (MEPS 332); Juan Gutierrez, (Local 393); Kat Worthann, (Silicon Valley Leadership Group); Sandy Perry, (representing AHN); John Pringle, David Bias, Dennis Randall, and Scott Knies, (representing San Jose Downtown Association)

- Council recessed at 5:37 p.m.
- Council resumed at 6: 05 p.m.

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**4.3 19-821****Downtown High-Rise Incentive Program. (Cont'd)**

Council had a productive and comprehensive deliberation.

Following extensive debate, the underlying motion by Councilmember Raul Peralez to move approval of his Memo, dated September 23, 2019, and seconded by Councilmember Sergio Jimenez, was truncated by the sub-motion by Councilmember Dev Davis to move approval of Mayor Liccardo's Memo dated September 24, 2019, and seconded by Councilmember Lan Diep.

Action: On call of the question, the motion by Councilmember Johnny Khamis to end the debate, seconded by Councilmember Dev Davis, was carried unanimously. (8-0-3. Noes: Jimenez, Peralez, Esparza). The sub-motion by Councilmember Dev Davis, seconded by Councilmember Lan Diep, was carried unanimously; staff report was accepted as recommended, including approval of Memorandum from Mayor Liccardo, with the following recommendations:  
Approve Staff's recommendation.  
(6-0-5. Noes: Jimenez, Peralez, Carrasco, Esparza, Arenas)

**4.4 19-827****City Council Priority #7: Accessory Dwelling Unit Amnesty Program.****Recommendation:**

Accept staff analysis of a potential amnesty program for unpermitted accessory dwelling units as required by City Council Policy Priority #7, and provide additional input to staff.

CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.  
(Planning, Building and Code Enforcement)

Planning, Building and Code Enforcement Director, Rosalyn Hughey; Planning, Building and Code Enforcement Deputy Director, James Son, Code Enforcement Deputy Director, Rachel Roberts, and Deputy Fire Chief, Hector Estrada gave a presentation and responded to questions.

Public Comments: Offering comments on the City Council Priority #7: Accessory Dwelling Unit Amnesty Program were: Tim Beaubien, (representing Santa Clara County Association of Realtors); Kathryn Hedges.

Action: Upon motion by Councilmember Pam Foley to move approval, seconded by Councilmember Sylvia Arenas and carried unanimously, staff's analysis was accepted as recommended, including approval of Memorandum from Mayor Liccardo and Councilmembers Carrasco, Arenas, and Foley to:

1. Accept staff's analysis
2. Direct staff to conduct additional analysis and return to the Ad-Hoc Committee for Housing Construction and Development Services and Council with a report that:
  - a. Assesses cost to the City the financial barriers to bringing ADU's up to code, including:
    - i. Waiving business license taxes for all owner-occupied properties with a permitted accessory dwelling unit (ADU);

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## 4.4 19-827

**City Council Priority #7: Accessory Dwelling Unit Amnesty Program. (Cont'd)**

- ii. Reducing or waiving permit and impact fees.
  - b. Explores the legal and practical feasibility of an approach:
    - i. Similar to San Mateo County's, to hire third-party inspectors for an amnesty program that are not obligated to report to the City any code violations, but can properly advise property owners about how to comply with code and safety requirements.
    - ii To require City inspectors to limit the inspection scope to ADU's only, to avoid "opening the door" to a costly list of violation notices.
  - c. Identifies the most hazardous building health and safety code violations for inhabitants of unpermitted ADU's, based on data from the Fire Department and other sources;
  - d. Identifies any readily apparent state, federal and non-profit resources that could offer low-cost or low-interest renovation loans or grants for bringing detached accessory dwelling units and converted garages up to code;
  - e. Identifies any zoning requirements—such as setbacks, heights, rear yard coverage, and the like— that can be waived as part of an amnesty program, where there are no recorded complaints from the neighborhood about the condition or appearance of the ADU.
3. Direct staff to develop and provide a self-assessment checklist for homeowners to assess the characteristics and conditions of their unpermitted ADU.
4. Direct staff to amend the Secondary Unit Ordinance to allow Junior ADUs (JADUs) under 500 square feet and allow uncovered replacement parking when a garage is converted to a JADU.
- (11-0.)

## 4.5 19-825

**2018-2019 Consolidated Annual Performance Evaluation Report.****Recommendation:**

As recommended by the Neighborhood Services and Education Committee on September 12, 2019, conduct a Public Hearing on the Fiscal Year 2018-2019 Consolidated Annual Performance Evaluation Report (CAPER) regarding the use of federal funds from the U.S. Department of Housing and Urban Development (HUD) and approve the report.

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) [Neighborhood Services & Education Committee referral - 9/12/19 - Item d (3)]

Housing Director, Jackie Morales-Ferrand and Grants Development Officer, Shirlee Victorio gave a presentation and responded to questions.

Public Comments: Kathryn Hedges offered comments on the 2018-2019 Consolidated Annual Performance Evaluation Report.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sylvia Arenas and carried unanimously, the 2018-2019 Consolidated Annual Performance Evaluation Report was approved as recommended.

(11-0.)

**4.6 19-826****Homelessness Annual Report.****Recommendation:**

As recommended by the Neighborhood Services and Education Committee on September 12, 2019, accept the annual report on homelessness for 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. (Housing) [Neighborhood Services & Education Committee referral - 9/12/19 - Item d (4)]

Housing Director, Jackie Morales-Ferrand; Housing Deputy Director, Ragan Henninger; City Manager's Chief of Staff, Lee Wilcox, and Deputy City Manager Angel Rios, gave a presentation and responded to questions.

Public Comments: Kathryn Hedges offered comments on the Homelessness Annual Report.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sylvia Arenas and carried unanimously, the Homelessness Annual Report was accepted as recommended, including approval of Memorandum from Mayor Liccardo to:

1. Accept staff Annual Report on Homelessness.
2. Comply with Council's explicit direction from last year's hearing, as reflected in the Council-approved memorandum:

“Future Annual Homeless Reports and HEAP reports should provide apples-to apples metrics that enable the Council to better understand where best to invest each marginal dollar to maximize benefit to recipients and minimize hardship, e.g., dollars-expended per-individual-moving-to-permanent-housing. a. The comparisons should help us better understand how we've been spending money in the past, and to see how variations and tweaks in programs may help us see dollars used more effectively to help more people, b. Metrics may differ based on the general category of strategy (e.g., ‘housing-based solutions,’ ‘interim housing,’ etc.), but should enable Council and public to understand if we're maximizing our scarce dollars within that broad strategy. Where metrics cannot adequately capture progress, or where too speculative, simply designate that there is no suitable metric.”<sup>1</sup>

The City Manager and Housing Director can start complying with this direction by first identifying what objective(s) we seek to achieve within each category of funding, and settle upon a suitable means for measuring success. That metric should then be used as a basis for comparing all programs within that category.

3. Pilot the use of “invitation zones” in those specific heavily-impacted neighborhoods where temporary housing solutions (e.g., shelters, transitional housing, and safe parking) with services for the homeless are being deployed, to:
  - a. Give first priority to helping the homeless in the immediate geographic vicinity get off the street, and
  - b. Enforce a “no encampment zone” for the blocks surrounding the facility to ensure a visible, measurable improvement in the quality of life of the neighborhood served by the City homeless resources.

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**4.6 19-826 Homelessness Annual Report. (Cont'd)**

4. With regards to the stalled efforts to achieve a lease agreement with Caltrans for a Bridge Housing Community (BHC):

a. Direct the City Manager to evaluate and identify those efforts that can move forward on a parallel path with the delayed negotiation to finalize the Caltrans lease agreement, including the 1 -2 month City Staff review of the BHC construction plans, and any off-site construction, among other work.

b. Should the City Manager be unable to confirm that Caltrans has agreed on every significant deal point by September 30, 2019, return immediately to City Council with a proposed resolution conveying the Council's finding that Caltrans has failed to meet the letter and spirit of SB 519 (Beall & Bradford), approved and signed in 2018, requiring Caltrans to lease parcels at \$1/ year in San Jose and Los Angeles for homeless housing and services.

(11-0.)

**4.7 19-824 Revise Shelter Crisis Declaration and Amendment to the Agreement with HomeFirst Services of Santa Clara County for Homeless Emergency Aid Program Funding for Overnight Warming Locations During Cold Weather Season.**

**Recommendation:**

(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 Street, San José, CA 95116.

(b) Adopt a resolution authorizing the Director of Housing to negotiate and execute a First Amendment to the grant agreement with HomeFirst increasing the maximum total amount of compensation by \$800,000 from \$350,000 to \$1,150,000 to continue to implement the Overnight Warming Locations through June 30, 2020.

CEQA: Categorically Exempt, File No. PP18-093. CEQA Guidelines Section 15269, Emergency Project, and Section 15301, Existing Facilities.

Council Districts 3 and 6. (Housing)

**Dropped**

## 4.8 19-828

**Actions Related to the Revenue Capture Agreement with eBay Inc.****Recommendation:**

(a) Conduct a Public Hearing pursuant to California Government Code Section 53083 in connection with a Revenue Capture Agreement between the City and eBay Inc. (eBay).  
(b) Adopt a resolution authorizing the City Manager to negotiate and execute a Revenue Capture Agreement between the City and eBay from October 1, 2019 - June 30, 2034, which allows the City to capture additional sales tax revenues and to make certain payments to eBay equal to 30% of the increased revenues to the City in excess of the minimum sales tax threshold of \$5 million, increased by 3% annually, as set forth herein.

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

**Heard immediately after Consent**

Economic Development Director, Kim Walesh; Economic Development Deputy Director, Chris Burton; Economic Development Analyst Nathan Donato-Weinstein, City Manager's Budget Director, Jim Shannon and Finance Department Deputy Director, Rick Bruneau, gave a presentation and responded to questions.

Public Comments: Offering comments on Actions Related to the Revenue Capture Agreement with eBay Inc. were: Kathryn Hedges, (PACT representative); Jeffrey Buchanan, (representing Working Partnerships); Mary Helen Doherty, (representing PACT); David Low, (with Destination Home); Huesca Castro, (Silicon Valley@Home); Gail Osmer, (representing PACT); Marci Gerston, (representing PACT); Sandy Perry, (representing AHN); Eddie Truong, (representing Silicon Valley Organization).

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, staff recommendation was accepted and Resolution No. 79253, was adopted, including approval of Memorandum from Councilmembers Esparza, Carrasco and Jimenez with clarifying direction and revisions made on the dais: to:

1. Direct staff to tracking revenue resulting from this agreement in future budget and related financial reports, including the Mid-Year Budget Review and the City Manager's Annual Report;
2. Recommend that funds generated from the Revenue Capture Agreement with eBay be prioritized for the acquisition, rehabilitation, preservation, and construction of affordable housing, homeless solutions, and neighborhood services;
3. Direct staff to provisions by which the City can review the financial information from eBay Inc. to confirm tax receipts  
(11-0.)

**4.9 19-868**

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

**Recommendation:**

(a) Adopt a resolution:

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

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

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

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

(b) Adopt a resolution approving changes in terms for the City’s outstanding \$4,850,000 loan and outstanding \$4,866,000 grant for the Development, approving a loan to value ratio in excess of 100% and authorizing the Director of Housing to negotiate and execute documents and amendments related to those changes.

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

[Deferred from 9/17/19 - Item 4.2 (19-796)]

**Deferred to 10/1/19 per Administration.**

**5. NEIGHBORHOOD SERVICES**

**6. TRANSPORTATION & AVIATION SERVICES**

**7. ENVIRONMENTAL & UTILITY SERVICES**

**8. PUBLIC SAFETY**

**9. REDEVELOPMENT – SUCCESSOR AGENCY**

**10. LAND USE**

**10.1 Land Use on Consent Calendar**

None presented.

**END OF CONSENT CALENDAR****10 Land Use - Regular Agenda**

None presented.

**• Open Forum**

No cards.

**• Adjournment:**

This meeting is adjourned in memory of Roman Gabriel Rocha passed away on August 25, 2019 in San Jose, CA at the age of 47, just shy of his 48th birthday. Roman was born on September 16, 1971 in San Jose, CA to parents Andrew and Esther Carranza Rocha. He is survived by his son, Gabriel Paz Rocha, and a large and extended loving family. Roman was an experienced Journeyman Plumber and a member of the Local 393 Plumbers Union. He will be remembered for many things, however he will be remembered most for his beautiful smile and his big heart.

**• ADJOURNMENT**

Mayor Liccardo adjourned the Council Meeting session at 11:10 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

10/9-24-19 MIN

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