



City Council Meeting MINUTES

Tuesday, December 17, 2019

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



MINUTES OF THE SAN JOSE CITY COUNCIL

The Council of the City of San José convened in Closed Session on Tuesday, December 17, 2019, at 9:50 a.m. in the Council Chambers at City Hall.

19-683 - Closed Session, Call to Order in Council Chambers

(See Page 20 for Closed Session Minutes)

Absent Councilmembers: Diep; Liccardo.

Councilmember Jimenez (10:21 a.m.); Councilmember Carrasco (10:22 a.m.)

By unanimous consent, Council recessed from the Closed Session at 10:22 a.m.; Council reconvened to Regular Session at 1:33 p.m. in the Council Chambers, and Vice Mayor Chappie Jones called the meeting to order.

Present: Councilmembers - Arenas, Carrasco (1:50 p.m.), Davis, Diep, Jimenez, Jones, Khamis, Esparza, Peralez, Foley.

Absent: Councilmembers - Liccardo.

- **Invocation (Mayor)**

Milan Balinton, Executive Director of the San Jose African American Community Service Agency provided the Invocation.

- **Pledge of Allegiance**

Vice Mayor Chappie Jones led the Pledge of Allegiance.

- **Orders of the Day**

Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (9-0-2. Absent: Carrasco, Liccardo.)

At 6 p.m., Councilmember Pam Foley moved to reconsider the Orders of the Day due to a typographical error in the Agenda. Councilmember Dev Davis seconded the motion. (10-0-1. Absent: Liccardo.)

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, the Orders of the Day and the Amended Agenda was approved, with Item 10.2 deferred to January 14, 2020. (10-0-1. Absent: Liccardo.)

- **Closed Session Report**

City Attorney Richard Doyle reported that in a unanimous vote, the City Council has given the Authority to File an Appeal in one case, Anderson v. City of San José, involving the Surplus Property Act.

1. CEREMONIAL ITEMS

- 1.1** Councilmember Pam Foley presented a Commendation to the Branham High School Football Team for their extraordinary football season. (Foley)

Heard in the Evening

2. CONSENT CALENDAR

Upon motion by Councilmember Pam Foley, seconded by Councilmember Johnny Khamis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Carrasco, Liccardo.)

2.1 Approval of City Council Minutes.

None provided.

2.2 Final Adoption of Ordinances.

19-1225 Final Adoption of Ordinances.

Ord No. 30347 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.10-Gross Acre Situated on the North Side of Park Avenue, Approximately 160 Feet West of the Intersection of Tillman Avenue and Park Avenue (1131 Park Avenue) from the Co Commercial Office Zoning District to the R-1-8 Single Family Residence Zoning District. [Passed for Publication on 12/03/19 - Item 10.1(a) (19-1131)]

Ord No. 30348 - 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 Police Members Killed in the Line of Duty. [Passed for Publication on 12/10/19 - Item 2.12 (19-1151)]

Ord No. 30349 - An Ordinance of the City of San José Designating as Public Right-Of-Way Approximately 775 Square Feet of City-Owned Property Located on the West Side of Mount Pleasant Road for the Purpose of Constructing Improvements as Part of the Mount Pleasant Pedestrian and Bike Traffic Safety Improvements Project. [Passed for Publication on 12/10/19 - Item 2.18 (19-1157)]

Action: **Ordinance Numbers 30347, 30348 and 30348** were adopted.
(9-0-2. Absent: Carrasco, Liccardo.)

2.3 Approval of Council Committee Minutes.

19-1238 Approval of Council Committee Minutes.

(a) Public Safety, Finance and Strategic Support Committee Minutes of October 24, 2019.

(b) Public Safety, Finance and Strategic Support Committee Minutes of November 21, 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 City Council Committee Minutes were accepted.

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

2.4 19-1218 Mayor and Council Excused Absence Requests.

(a) Request for an excused absence for Councilmember Jimenez, from the Regular Meeting of the Smart Cities and Service Improvements Committee on December 5, 2019, due to a medical appointment.

(b) Request for an excused absence for Councilmember Arenas, from the Regular Meeting of Rules and Open Government Committee on December 4, 2019 due to illness.

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

Action: The Excused Absence Requests were approved.

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

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 19-1199 Actions Related to the Purchase Order with Econolite Control Products, Inc. for Traffic Signal Controllers.

Adopt a resolution authorizing the City Manager to:

(a) Execute a Purchase Order with Econolite Control Products, Inc. (Anaheim, CA) for the purchase of Traffic Signal Controllers, including hardware, software, and maintenance for the twelve-month period, starting on or about December 18, 2019 and ending on or about December 17, 2020, with maximum compensation not to exceed \$800,000; and

(b) Exercise up to four additional one-year options to extend the term of the purchase order after the initial term with the last option year ending

(Item Continued on the Next Page)

2.7 19-1199 (Cont'd.)

on or about December 17, 2024, to purchase additional controllers and provide ongoing maintenance and support, 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. 79352** was adopted.
(9-0-2. Absent: Carrasco, Liccardo.)

2.8 19-1200 Amendment to the Master Agreement with CMG Landscape Architecture for the 8496 - St. James Park Phase 1 Design Project.

Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Second Amendment to the agreement for consultant services with CMG Landscape Architecture for St. James Park Phase 1 Design Project to extend the agreement from December 30, 2019 to December 31, 2020.

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

Action: **Resolution No. 79353** was adopted.
(9-0-2. Absent: Carrasco, Liccardo.)

2.9 19-1201 Actions Related to the 2020-2021 Hazardous Vegetation Commencement Report.

Adopt a resolution:

(a) Accepting the 2020-2021 Hazardous Vegetation Commencement Report compiled by the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation;

(b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the Report are a public nuisance; and

(c) Directing the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation to mail notices of a public hearing on January 28, 2020, at 1:30 p.m. before the City Council on the Report to property owners of affected real properties pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Categorically Exempt, File No. PP18-094, CEQA Guidelines Section 15301(h) Existing Facilities. (Planning, Building and Code Enforcement)

Action: **Resolution No. 79354** was adopted.
(9-0-2. Absent: Carrasco, Liccardo.)

2.10 19-1202 Amendment to the Cost Reimbursement Agreement with Santa Clara Valley Water District for the Thompson Creek Outfall 258 Repair Project.

Approve an amendment to the Cost Reimbursement Agreement with Santa Clara Valley Water District for the Thompson Creek Outfall 258 Repair Project, that includes:

- (a) Increasing the City's cost share of the Agreement from a not-to-exceed amount of \$410,000 to a not-to-exceed amount of \$425,000; and
- (b) Extending the term of the Agreement to terminate on January 31, 2023.

CEQA: Final Environmental Impact Report for the Multi-Year Stream Maintenance Program, dated August 2001 (Resolution No. 2001-56 adopted 8/21/2001) by Santa Clara Valley Water District. (Public Works)

Action: The Amendment was approved.
(9-0-2. Absent: Carrasco, Liccardo.)

2.11 19-1203 Agreement with JCDecaux San Francisco, LLC for Operation and Maintenance of Automatic Public Toilets.

Approve an agreement with JCDecaux San Francisco, LLC for the operation and maintenance of up to six automatic public toilets in Downtown San José for an amount not to exceed \$600,000 for an initial term commencing January 1, 2020.

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

Motion: Councilmember Raul Peralez moved approval of the Agreement, with the inclusion of his memorandum dated December 16, 2019. Councilmember Pam Foley seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the Agreement with JCDecaux San Francisco, LL was approved, including the memorandum from Councilmember Raul Peralez, dated December 16, 2019, accepting staff's recommendation and direct staff to return in 2020 to the Community & Economic Development Committee with an update on a long-term funding strategy for APTs. The update should include exploring revenue-generating ideas such as digital advertising on existing APT infrastructure (and consequently changes to the sign ordinance), a plan for upgrades of existing infrastructure and expansion of additional APTs in areas of need.
(9-0-2. Absent: Carrasco, Liccardo.)

2.12 19-1141

Boards and Commissions Appointments.

Approve the following Boards and Commissions appointments:

(a) Arts Commission:

(1) District 3 Seat: Juan Carlos Araujo to an unexpired term ending June 30, 2020;

(b) Senior Citizens Commission:

(1) District 9 Seat: Gabrielle Antolovich to a term ending June 30, 2021;

(c) Youth Commission:

(1) District 7 Seat: Richard Ho to a term ending May 31, 2021;

(d) Human Services Commission:

(1) District 8 Seat: Evangeline Sangalang to a term ending December 31, 2022;

(2) District 10 Seat: Aslan Pishad to a term ending December 31, 2022;

Action: The Boards and Commission Appointments were approved.

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

(e) Clean Energy Commission: Defer to January 14, 2020.

ITEM 2.12(e) DEFERRED TO 1/14/20 PER RULES AND OPEN GOVERNMENT COMMITTEE

(f) Measure T Oversight Committee:

(1) District 6 Seat: Nicholas Cochran.

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

Action: The Boards and Commission Appointment was approved.

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

2.13 19-1219

Approval of the 7th Annual Family Fun Festival and Firework Show 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.

(a) Approve the 7th Annual Family Fun Festival & Firework Show scheduled on July 4, 2020 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)

Action: The City Council Sponsored Special Event was approved.

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

2.14 19-1234 Amendment to the Agreement with Cruz Strategies, LLC for State Legislative Advocacy Services. - DROP
Item Dropped.

2.15 19-1257 Approval of Vietnamese Heritage and Freedom Flag Raising Ceremony and Reception Sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Approve the Vietnamese Heritage and Freedom Flag Raising Ceremony scheduled on January 27, 2020 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. (Diep)

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

2.16 19-1254 Settlement of Yanira Hernandez v. City of San José.
Approve a settlement in the amount of \$225,000, inclusive of attorney fees, and authorize the City Attorney to execute a Settlement Agreement to settle the case of Yanira Hernandez v. City of San José.
CEQA: Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Action: The Settlement Agreement was approved.
(9-0-2. Absent: Carrasco, Liccardo.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 19-1242 Civil Service Commission Interviews and Appointment.

Interview applicants and consider appointment to fill one (1) Member-at-Large Seat with a term ending November 30, 2023 on the Civil Service Commission.

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

[Continued from 12/10/19 - Item 3.4 (19-1139)]

Action: Applicant Joan Smith was interviewed and appointed to fill the Member-at-Large Seat with a term ending November 30, 2023 on the Civil Service Commission.
(9-0-2. Absent: Carrasco, Liccardo.)

3.4 19-1253 Annual Merit Increases and Additional Executive Leave for Council Appointees.

As recommended by the Rules and Open Government Committee on December 11, 2019:

Adopt a resolution approving a 2.5% merit increase for the City Manager, City Attorney, Independent Police Auditor, City Clerk, and City Auditor effective July 1, 2019, and granting an additional forty (40) hours of executive leave to each of these Council Appointees for the payroll calendar year 2020.

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

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Maya Esparza and carried unanimously, **Resolution No. 79355** was adopted. (9-0-2. Absent: Carrasco, Liccardo.)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-1204 Amendment to the Agreement with HR&A Advisors, Inc., for Services Related to the Development Agreement Negotiations with Google.

Approve the First Amendment to the Agreement with HR&A Advisors, Inc., in the amount of \$135,000, for a total compensation of \$425,000, and extend the term of the Agreement from June 30, 2020, to June 30, 2021, for services related to the negotiation of a Development Agreement with Google.

CEQA: Not a Project, File No. PP17-001, Feasibility, and Planning Studies with no commitment to future actions and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Economic Development)

Deputy City Manager/Director of Economic Development Kim Walesh responded to questions from Council. Councilmember Sylvia Arenas requested that briefings, including those with HR&A Advisors, be given as the City nears each benchmark.

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4.1 (Cont'd.)

Public Comments: Urging transparency, the need for input from the community and asking that community benefits as a part of the negotiations being made, were Marci Gerston and Mary Helen Doherty (PACT), Jeffrey Buchanan (Working Partnerships USA), and Blair Beekman.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Magdalena Carrasco and carried unanimously, the Amendment to the Agreement was approved. (10-0-1. Absent: Liccardo.)

4.2 19-1205 **Actions Related to the County of Santa Clara Option to Purchase Curtner Studio Apartments for Affordable Housing Project.**

Adopt a resolution:

(a) Approving the County of Santa Clara Option to Purchase Curtner Studio Apartments, a 179 affordable unit housing project located at 701 Curtner Avenue, San José;

(b) Consenting to the subordination of the City's Deed of Trust to the County's Option to Purchase which includes City approval of removing the City's Deed of Trust from the fee title and placing City's Deed of Trust on the leasehold, should the County elect to exercise its Option to Purchase;

(c) Consenting to the request of Curtner Studios LP to refinance with the County of Santa Clara for a construction to permanent financing loan of up to \$14,950,000; and

(d) Authorizing and directing the City Manager or Director of Housing to negotiate and execute City documents to complete this transaction, and any amendments thereto.

CEQA: Mitigated Negative Declaration for the Curtner Gardens Inn.
File No. PDCSH 91-05-043. (Housing)

Director of Housing Jacky Morales-Ferrand and Housing Policy & Program Administrator Rachel VanderVeen provided a report.

Public Comments: José Lujano (First Community Housing) expressed support and welcomed the opportunity to better serve his programs' tenants.

Motion: Councilmember Dev Davis moved approval of staffs' recommendations, including the memorandum she coauthored with Mayor Sam Liccardo, dated December 13, 2019. Councilmember Raul Peralez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and **Resolution No. 79356**, approving actions related to the County of Santa Clara Option to Purchase Curtner Studio Apartments for Affordable Housing Project, was adopted, including the joint memorandum from Councilmember Dev Davis and Mayor Sam Liccardo, dated December 13, 2019, accepting staff recommendations and direct staff to return to Council in February 2020 with underwriting guidelines that require City ownership of a parcel if City investment exceeds a specified threshold.
(10-0-1. Absent: Liccardo.)

- 4.3 19-1206 Public Purpose Bonds Issued by a Joint Powers Authority for Moderate-Income Rental Housing. - DEFERRED**
Accept the staff report on the California Community Housing Agency, a California joint powers authority that issues public purpose bonds to support the creation and acquisition of housing for moderate-income households, and the potential for utilizing a financial product involving restricted moderate-income housing and direct staff to develop recommended product parameters and return to the City Council to obtain authorization to join the California Community Housing Agency and to take related actions.
CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.
(Housing)
Deferred to 1/14/20 Per Rules and Open Government Committee
- 4.4 19-1207 City Council Priority #7: Accessory Dwelling Unit (ADU) Amnesty Program.**
Accept staff analysis and recommendation to establish an Amnesty Program for unpermitted accessory dwelling units as required by City Council Policy Priority #7 and as directed by the City Council at the September 24, 2019 meeting.
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Planning, Building and Code Enforcement)
Deferred to 1/7/20 Per Administration.
- 4.5 19-1208 Award of a Design-Build Contract for Tenant Improvements at the 4th Street and San Fernando Garage for Office Space for the Community Energy Department and Other City Operations Project.**
Accept the staff report and award a Design-Build contract for the tenant improvement project at the 4th Street and San Fernando Garage for office space for the Community Energy Department and other City operations to the lowest responsive, responsible bidder, Solex Construction Inc. in the amount of \$2,342,563 and approve a contingency in the amount of 15 percent of the contract amount.
CEQA: Categorically Exempt, File No. PP19-030, CEQA Guidelines Section 15301 (a), Existing Facilities. (Public Works)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez, and carried unanimously, approval of the award of the Design-Build Contract for Tenant Improvements was accepted. (10-0-1. Absent: Liccardo.)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 19-1209 Agreement with ARUP for the Access & Mobility Plan.

Adopt a resolution authorizing the City Manager or designee to negotiate and execute an agreement with ARUP for planning and design consulting services to develop the Access & Mobility Plan in an amount not to exceed \$1,364,000.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Transportation)
[Deferred from 11/19/19 - Item 6.1 (19-1063)]

Public Comments: Blair Beekman shared comments on social infrastructure.

Staff responded to questions from Council.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Maya Esparza, and carried unanimously, **Resolution No. 79357** authorizing the City Manager or designee to negotiate and execute an agreement with ARUP for planning and design consulting services, was adopted. (10-0-1. Absent: Liccardo.)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 19-1210 Report on Bids and Award of Construction Contract for 7759 - Switchgear M4 Replacement and G3 and G3a Removal Project at the San José -Santa Clara Regional Wastewater Facility.

Report on bids and award of construction contract for 7759 - Switchgear M4 Replacement and G3 & G3A Removal Project to the lowest responsive bidder, Blocka Construction, Inc., in the amount of \$5,519,000, and approve a 15 percent construction contingency in the amount of \$827,850.

CEQA: Categorically Exempt File No. PP18-107, CEQA Guidelines Section 15301 (b), Existing Facilities. (Environmental Services/Public Works)

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Maya Esparza, and carried unanimously, the report on bids and award of construction contract was accepted. (10-0-1. Absent: Liccardo.)

8. PUBLIC SAFETY

The City Council convened the meeting of the Successor Agency to the Redevelopment Agency at 2:33 p.m.

9. REDEVELOPMENT – SUCCESSOR AGENCY

- 9.1 19-1223 **Amendment to the Agreement with Jones Hall, a Professional Law Corporation, for bond counsel services for the Successor Agency.**
Adopt a resolution by the Successor Agency Board authorizing the General Counsel to negotiate and execute a first amendment to an agreement with Jones Hall, a Professional Law Corporation for bond counsel services for the Successor Agency on an as-needed basis to increase the compensation by \$70,000 to a total amount not to exceed \$110,000.
Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (General Counsel)

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Sylvia Arenas and carried unanimously, **Successor Agency Board Resolution No. 7080**, authorizing a first amendment to an agreement was adopted.
(10-0-1. Absent: Liccardo.)

The City Council adjourned the meeting of the Redevelopment – Successor Agency at 2:34 p.m. and reconvened the meeting of the City of San José Council.

• Open Forum

Blair Beekman expressed the need for thorough EIR reporting when developing the High Speed Rail system.

RECESS/RECONVENE

The City Council recessed at 2:36 p.m. from the afternoon Council Session and reconvened at 6:00 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Liccardo.

10. LAND USE

10.1 Land Use on Consent Calendar

CONTINUE GENERAL PLAN HEARING (SECOND CYCLE) FROM 12/3/19

- (a) **19-1211 GP18-010 - General Plan Amendment of Certain Real Property Located at the East Side of Diamond Heights Drive, Approximately 200 Feet Southerly of Senter Road.**

(1) Adopt a resolution adopting the Valley Christian Schools Residential General Plan Amendment Negative Declaration in accordance with CEQA.

(2) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram to change the land use designation from Rural Residential to Residential Neighborhood on an approximately 2.6-gross acre site, located on the west side of Diamond Heights Drive, approximately 200 feet south of Senter Road.

CEQA: Initial Study/Negative Declaration for Valley Christian Schools Residential General Plan Amendment Project. File No. GP18-010.

Planning Commission recommends approval (5-2, Ballard and Allen oppose). Council District 2. (Planning, Building, and Code Enforcement)

[Deferred from 12/3/19 - Item 10.1(b) (19-1132)]

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 79358** amending the Valley Christian Schools Residential General Plan Amendment Negative Declaration, and **Resolution No. 79359** adopting an amendment to the Envision San José 2040 General Plan Land Use/Transportation Diagram, were adopted.
(10-0-1. Absent: Liccardo.)

- (b) **19-1212 C19-038 - Conforming Rezoning for Real Property Located at 1510 and 1530 Oakland Road.**

Approve an ordinance rezoning an approximately 3.71-gross acre site, located at the east side of Oakland Road on the north and south sides of Bern Court, from the LI(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Council District 3. (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Ordinance No. 30352** Conforming Rezoning for Real Property Located at 1510 and 1530 Oakland Road was passed for publication.
(10-0-1. Absent: Liccardo.)

(c) **19-1213 GP19-001 - General Plan Amendment to the Envision San José 2040 General Plan Land Use/Transportation Diagram Designation for Real Property Located at 4070 Williams Road.**

- (1) Adopt a resolution adopting the 4070 Williams Road General Plan Amendment Negative Declaration in accordance with CEQA; and
 - (2) Adopt a resolution amending the Envision San José General Plan Land Use/Transportation Diagram to change the land use designation from Residential Neighborhood to Urban Residential on an approximately 0.20-gross acre site at 4070 Williams Road.
- CEQA: Negative Declaration for 4070 Williams Road General Plan Amendment. Council District 1. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 79360** adopting the 4070 Williams Road General Plan Amendment Negative Declaration, and **Resolution No. 79361** adopting an amendment to the Envision San José 2040 General Plan Land Use/Transportation Diagram, were adopted.
(10-0-1. Absent: Liccardo.)

(d) **19-1214 GP19-004 - General Plan Amendment for Real Property Located North of Alum Rock Avenue.**

- (1) Adopt a resolution adopting the Capitol Avenue General Plan Amendment Negative Declaration in accordance with CEQA; and
 - (2) Adopt a resolution amending the Envision San José General Plan Land Use/Transportation Diagram to change the land use designation from Neighborhood Community Commercial to Mixed Use Neighborhood on an approximately 0.44-gross acre site on the east side of North Capitol Avenue, approximately 250 feet north of Alum Rock Avenue (Assessor Parcel No. 484-19-094).
- CEQA: Negative Declaration for Capitol Avenue General Plan Amendment. Council District 5. Planning Commission recommends approval (5-2, Ballard and Bonilla opposed). (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 79362** adopting the Capitol Avenue General Plan Amendment Negative Declaration, and **Resolution No. 79363** amending the Envision San José General Plan Land Use/Transportation Diagram, were adopted.
(10-0-1. Absent: Liccardo.)

(e) 19-1215 **GPT19-005 & GP19-011 - City-Initiated General Plan Amendment to Make Minor Modifications and Clarifying Revisions to the Envision San José 2040 General Plan.**

Adopt a resolution making minor amendments to the Envision San José 2040 General Plan, including amendments to the Public/Quasi Public land use designation to allow supportive housing for the homeless, Urban Village IP-2.9 to reflect Plan Horizon changes made as part of the approved GPT18-007, Action H-2.13 to update the terminology of affordable housing project siting policy, updates to Appendix 5, and a City-initiated General Plan Land Use Designation correction from Light Industrial to Rural Residential for 7000 Silver Creek Road.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Council District: Citywide and District 6. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember Lan Diep, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 79364**, making minor amendments to the Envision San José 2040 General Plan and Clarifying Revisions to the Envision San José 2040 General Plan, was adopted. (10-0-1. Absent: Liccardo.)

(f) 19-1216 **PP19-080 - Amendment to Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to Align with California State Law Requirements for Accessory Dwelling Units. - RENUMBERED TO ITEM 10.3**

(1) Approve an ordinance of the City of San José amending various sections of Title 20 (Zoning Ordinance) of the San José Municipal Code to further align with California State Law requirements:

(a) add a new Part 4.5 “Accessory Dwelling Units,” including Sections 20.30.460 (Single-Family Dwelling Units), 20.30.470 (Junior Accessory Dwelling Units), 20.30.480 (Two-Family and Multi-Family Dwelling Units), and 20.30.490 (Amnesty Program); amend Section 20.30.310 (Minor One-story Addition); amend Section 20.80.160 (Incidental Transient Occupancy); and amend Section 20.90.220 (Reduction in required off-street parking spaces); (b) delete Section 20.30.150 (Secondary Units) from Part 2 “Uses Allowed”; and (c) amend Section 20.200.325 to add clarifying language to Accessory Dwelling Unit definition, and add Section 20.200.342 to include new definition of Junior Accessory Dwelling Unit; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

(2) Adopt an urgency ordinance of the City of San José amending various sections of Title 20 (Zoning Ordinance) of the San José Municipal Code to further align with California State Law requirements: (a) add a new Part 4.5 “Accessory Dwelling Units,” including Sections 20.30.460 (Single-Family Dwelling Units), 20.30.470 (Junior Accessory Dwelling Units), 20.30.480

(Item Continued on the Next Page)

(f) 19-1216 (Cont'd.)

(Two-Family and Multi-Family Dwelling Units), and 20.30.490 (Amnesty Program); amend Section 20.30.310 (Minor One-story Addition); amend Section 20.80.160 (Incidental Transient Occupancy); and amend Section 20.90.220 (Reduction in required off-street parking spaces); (b) delete Section 20.30.150 (Secondary Units) from Part 2 "Uses Allowed"; and (c) amend Section 20.200.325 to add clarifying language to Accessory Dwelling Unit definition, and add Section 20.200.342 to include new definition of Junior Accessory Dwelling Unit; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code; and setting forth the facts constituting such urgency.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. (Planning, Building and Code Enforcement)

Please note: Re-numbered to Item 10.3. Approval of this item 10.3 part (2) requires 8 or more affirmative votes (2/3).

END OF CONSENT CALENDAR

CONTINUE GENERAL PLAN HEARING (SECOND CYCLE) TO 1/14/20

10 Land Use - Regular Agenda

10.2 19-1217 H18-038 - Site Development Permit and Parking Agreement with Almaden Corner, LLC for the Market/San Pedro Square Garage. - DEFERRED

- (a) Adopt a resolution certifying the Almaden Corner Hotel Project Supplemental Environmental Impact Report, and adopting the associated Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA), as amended.
- (b) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow construction of a 19-story hotel with 272 guest rooms, and approximately 1,200 square feet of ancillary commercial space, with an off-site parking arrangement on the subject site.
- (c) Approve a Parking Agreement between the City of San José and Almaden Corner, LLC to allow the hotel to use up to forty-one (41) parking spaces in the Market/San Pedro Square Garage for ten years with up to two additional ten year options for a total of up to thirty years.
- CEQA: Almaden Corner Hotel Project Supplemental Environmental Impact Report. Council District 3. (Planning, Building and Code Enforcement)

Deferred to 1/14/20 Afternoon Per Rules and Open Government Committee with the date corrected per Orders of the Day.

PP19-080 - Amendment to Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to Align with California State Law Requirements for Accessory Dwelling Units.

(1) Approve an ordinance of the City of San José amending various sections of Title 20 (Zoning Ordinance) of the San José Municipal Code to further align with California State Law requirements:

(a) add a new Part 4.5 “Accessory Dwelling Units,” including Sections 20.30.460 (Single-Family Dwelling Units), 20.30.470 (Junior Accessory Dwelling Units), 20.30.480 (Two-Family and Multi-Family Dwelling Units), and 20.30.490 (Amnesty Program); amend Section 20.30.310 (Minor One-story Addition); amend Section 20.80.160 (Incidental Transient Occupancy); and amend Section 20.90.220 (Reduction in required off-street parking spaces); (b) delete Section 20.30.150 (Secondary Units) from Part 2 “Uses Allowed”; and (c) amend Section 20.200.325 to add clarifying language to Accessory Dwelling Unit definition, and add Section 20.200.342 to include new definition of Junior Accessory Dwelling Unit; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

(2) Adopt an urgency ordinance of the City of San José amending various sections of Title 20 (Zoning Ordinance) of the San José Municipal Code to further align with California State Law requirements: (a) add a new Part 4.5 “Accessory Dwelling Units,” including Sections 20.30.460 (Single-Family Dwelling Units), 20.30.470 (Junior Accessory Dwelling Units), 20.30.480 (Two-Family and Multi-Family Dwelling Units), and 20.30.490 (Amnesty Program); amend Section 20.30.310 (Minor One-story Addition); amend Section 20.80.160 (Incidental Transient Occupancy); and amend Section 20.90.220 (Reduction in required off-street parking spaces); (b) delete Section 20.30.150 (Secondary Units) from Part 2 “Uses Allowed”; and (c) amend Section 20.200.325 to add clarifying language to Accessory Dwelling Unit definition, and add Section 20.200.342 to include new definition of Junior Accessory Dwelling Unit; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code; and setting forth the facts constituting such urgency.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. (Planning, Building and Code Enforcement)

Please note: Approval of this item 10.3 part (2) requires 8 or more affirmative votes (2/3).

RENUMBERED FROM ITEM 10.1(f) (19-1216)

Motion: Councilmember Pam Foley moved approval of the staff recommendations, including the memorandum she coauthored with Councilmember Magdalena Carrasco, dated December 13, 2019. Councilmember Magdalena Carrasco seconded the motion.

(Item Continued on the Next Page)

10.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and **Ordinance No. 30353** amending various sections of Title 20 (Zoning Ordinance) of the San José Municipal Code; and **Urgency Ordinance No. 30354** amending various sections of Title 20 (Zoning Ordinance) of the San José Municipal Code were passed for publication, including the joint memorandum from Councilmember Pam Foley and Councilmember Magdalena Carrasco, dated December 13, 2019, to

- (1) Accept staff recommendation.

- (2) Assuming Staff continues to believe it can “greenlight” the workload for an update of the ADU ordinance, direct staff to report back to Council with amendments to Title 20 to legalize Portable Living Units (PLUs) by April 2020. (a) Explore PLU ordinances enacted by the City of Fresno, the City of San Luis Obispo, and any other city that has legalized or is in the process of legalizing PLUs, such as the City of Los Angeles. (b) Work with the San Jose Conservation Corps + Charter School to research PLUs and identify any innovative strategies that might streamline the legalization of PLUs c. Identify legal distinctions between PLUs, ADUs, and RVs.

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

- Open Forum

None provided.

- Adjournment

The City Council Meeting for the City of San José was adjourned at 6:35 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/12-17-19/ MIN

CLOSED SESSION MINUTES

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 17, 2019

The Council of the City of San José convened into Closed Session at 9:40 a.m.

Present: Councilmembers - Arenas, Carrasco (10:22), Davis, Diep, Esparza, Jimenez (10:21), Jones, Khamis, Esparza, Peralez, Foley.

Absent: Councilmembers - Liccardo.

Council recessed at 9:40 a.m. to a Closed Session in Room W133; (A) To confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) In re: Claim of Reyes; Court: Workers Compensation Appeals Court; Case No. ADJ8554369, ADJ6688135, ADJ3686697, ADJ unassigned, ADJ unassigned; Amount of Money or Other Relief Sought: Benefits (2) First Amendment Coalition; Working Partnerships U.S.A. v. City; Names Of Partie(s) Involved: First Amendment Coalition; Working Partnerships USA; City of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 18-CV-338053; Amount of Money or Other Relief Sought: Damages according to proof; (3) Anderson, et al v. City of San José & San Jose City Council; Names Of Partie(s) Involved: Sarah Anderson, Joana Cruz, Urban Habitat Program and Housing California, City of San José, a governmental entity, San Jose City Council, and Does 1-50; Court: Superior Court of California, County of Santa Clara; and California Court of Appeal, San Jose Division; Case No.: 16-CV-297950 and H045271; Amount of Money or Other Relief Sought: Damages according to proof; (4) HIAS, Inc., et al. v. Donald Trump, et al; Names Of Partie(s) Involved: HIAS, Inc.; Church World Services, Inc.; Lutheran Immigration & Refugee Service, Inc.; Donald Trump, in his official capacity as President of the United States; Michael R. Pompeo, in his official capacity as Secretary of State; Alex M. Azar, II in his official capacity as Secretary of Health and Human Services; Chad Wolf, in his official capacity as Acting Secretary of Homeland Security; Court: U.S. District Court for the District of Maryland; Case No.: 8:19-CV-3346-PJM; Amount of Money or Other Relief Sought: Damages according to proof; (B) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Peace Officer Park Ranger Association (POPRA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between 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/indez.aspx?NID+508> ; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 10:22 a.m. to reconvene in Regular Open Session at 1:33 p.m. in the Council Chamber.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk