



City Council Meeting MINUTES

Tuesday, January 7, 2020

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



MINUTES OF THE CITY COUNCIL

The Council of the City of San José convened in Regular Session on Tuesday, January 7, 2020, at 9:35 a.m. in the Council Chambers at City Hall.

20-011 - Closed Session, Call to Order in Council Chambers (*See Page 9 for Closed Session Minutes*)

By unanimous consent, Council recessed from the Closed Session at 11:15 a.m.; Council reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

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

Absent: Councilmembers - All Present.

- **Invocation (District 1)**

JianSheng Shi, Abbess of Chung Tai Zen Center of Sunnyvale provided the Invocation.

- **Pledge of Allegiance**

Mayor Sam Liccardo 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 6.1 “Submit Letter to VTA In Affirmation and Preservation of Funding for Planned Highway and Streets Projects with Committed VTA Measure B Tax Dollars” approved to include on the agenda. Council's Rules of Conduct, Resolution No. 78145, Rule 3(d) (8 votes required).

(11-0.)

See Item 6.1 for action taken.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

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

2.1 Approval of City Council Minutes.

None provided.

2.2 Final Adoption of Ordinances.

20-056 Final Adoption of Ordinances.

(a) Ord No. 30352 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 3.71 Gross Acre Site Situated on the Southeast Corner of Oakland Road and Corie Court (1510 & 1530 Oakland Road) from the LI(PD) Light Industrial Planned Development Zoning District to the CIC Combined Industrial/ Commercial Zoning District. [Passed for Publication on 12/17/19 - Item 10.1(b) (19-1212)]

(b) Ord No. 30353 - An Ordinance of the City of San José Amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to Amend Section 20.30.100, Amend Section 20.30.110, Repeal Section 20.30.150, Amend Section 20.30.310, and add Part 4.5 to Chapter 20.30 of Title 20; Amend Section 20.80.160 of Chapter 20.80 of Title 20; Amend Section 20.90.220 of Chapter 20.90 of Title 20; add Section 20.200.324 and Amend Section 20.200.325 of Chapter 20.200 of Title 20 to Modify Current Accessory Dwelling Unit (ADU) Provisions to, Among Other Changes, Omit Minimum Lot Size and Lot Coverage Requirements, and to Make Other Technical, Non-Substantive, or Formatting Changes Within Those Sections of Title 20 of the San José Municipal Code. [Passed for Publication on 12/17/19 - Item 10.3(a) (19-1258)]

Action: **Ordinance Numbers 30352 and 30353** were adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

None provided.

2.4 20-005 Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Jimenez, from the Neighborhood Services and Education Committee on December 12, 2019, due to illness.

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

Action: The Excused Absence Request was approved. (11-0.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

Councilmember Dev Davis pulled Item 2.6 to report out on actions taken by the Federated Retirement Board. Councilmember Pam Foley reported on actions taken by the Police and Fire Retirement Board.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley and carried unanimously, the Council Liaison to the Retirement Board reports were accepted. (11-0.)

2.7 20-006 Amendment to the Agreement with Cruz Strategies, LLC for State Legislative Advocacy Services.

Adopt a resolution authorizing the City Manager to execute the First Amendment to the Agreement for Consultant Services with Cruz Strategies, LLC that includes:

(a) Additional lobbying services obligations for Cruz Strategies, LLC including lobbying services relating to Public Safety Power Shutoff events and advancing energy resiliency;

(b) Increase the total compensation paid for state legislative advocacy services from \$480,000 to \$570,000 for the period of July 1, 2019 to June 30, 2021 (an additional \$5,000 per month for the remaining 18 months of the contract), subject to the appropriation of funds; and

(c) Increase the contract amount for the one-year option to extend the Agreement from July 1, 2021 to June 30, 2022 to provide ongoing services from \$240,000 to \$300,000 (an additional \$5,000 per month), subject to the appropriation of funds.

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

Action: **Resolution No. 79365** was adopted. (11-0.)

2.8 20-007 Retroactive Approval of Eastridge Fall Fiesta Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Retroactively approve the Eastridge Fall Fiesta Event that took place on Thursday, October 25, 2019 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. (Arenas)

Action: The City Council Sponsored Special Event was retroactively approved. (11-0.)

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 20-008 Community Wi-Fi Strategy Update. - DEFERRED

As recommended by the Smart Cities and Service Improvements Committee on November 7, 2019, accept the report on the Citywide approach for the implementation of wi-fi that will help support economic development, City infrastructure, and minimize the digital divide.

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

[Smart Cities and Service Improvements Committee referral - 11/7/19 - Item (d)3]

Deferred to 1/28/20 per Administration

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 20-002 City Council Priority #7: Accessory Dwelling Unit (ADU) Amnesty Program.

- (a) Accept the staff analysis and recommendation to establish an Amnesty Program for unpermitted accessory dwelling units;
- (b) Determine that the City Council Policy Priority #7 is completed and will be removed from the Council Policy Priority list at the next priority-setting session in 2020.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Planning, Building and Code Enforcement)
[Deferred from 12/17/19 - Item 4.4 (19-1207)]

Rosalynn Hughey, Director, Planning, Building and Code Enforcement, provided a presentation and responded to questions from Council.

Motion: Councilmember Pam Foley moved approval of staff recommendations, including the memorandum from Mayor Sam Liccardo, dated January 7, 2020. Councilmember Magdalena Carrasco seconded the motion.

Assistant City Attorney Ed Moran outlined the process and procedures required to formalize the proposed waiver.

The motion was modified to include adoption of a fee resolution that will set fees to \$0 for property owners who meet the criteria for a Financial Hardship Exemption, pending a fees resolution update and an ordinance update to include a fee waiver.

Action: On a call for the question, the motion carried unanimously, and the staff recommendation was approved, with adoption of a fee resolution that will set fees to \$0 for property owners who meet the criteria for a Financial Hardship Exemption, pending a fees resolution update and an ordinance update to include a fee waiver. Also including the memorandum from Mayor Sam Liccardo, dated January 7, 2020, to “Accept staff recommendation and direct staff to include the following elements in an ADU amnesty program: (a) Waive the business tax for property owners who meet the criteria for a Financial Hardship Exemption: (i) Low revenue generating business with gross receipts below two times the poverty level; (ii) Limited household income with adjusted gross income below four times the poverty level; (b) Waive permit fees and impact fees for property owners who meet the same criteria as the business tax Financial Hardship Exemption. (c) Utilize third-party inspectors to conduct ADU inspections, plan check, customer assistance, and consultations without risk of enforcement unless an imminent threat to health and safety is found. (2) Direct staff to return to Council to propose a funding reserve for the program through the budget process.

(11-0.)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 20-003 Submit Letter to VTA In Affirmation and Preservation of Funding for Planned Highway and Streets Projects with Committed VTA Measure B Tax Dollars.

Adopt a position of support for the preservation of existing VTA Measure B highway and streets funding commitments against efforts to divert & redirect the voter-approved funding to nonhighway/streets purposes, and submit a letter to the VTA Board of Directors calling for implementation of Measure B's funding program as passed by voters in 2016, in advance of their January 9, 2020 Board meeting.

CEQA: Not a project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Jones, Foley, Davis, Khamis)

Public Comments: Cole Cameron and Monica Mallon offered support to the deferral of this item.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis, and carried unanimously, under Orders of the Day, this item was deferred to January 28, 2020 to provide an opportunity to engage advocates on the issue of reallocation of Measure B tax dollars. (11-0.)

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda – None.

- **Open Forum**

Paul Soto offered appreciation to Councilmember Sergio Jimenez for his presence at recent display of 161 tombstones honoring the homeless people who died in Santa Clara in 2019 and expressed disappointment in the absence and perceived lack of engagement by other officials.

- **Adjournment**

The Council of the City of San José adjourned at 2:34 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,
DRAFT

Toni J. Taber, CMC
City Clerk

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CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 7, 2020

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

Absent Councilmembers: Carrasco (excused)
Councilmember Jimenez (10:15 a.m.); Councilmember Lan Diep (9:57 a.m.);
Councilmember Esparza (10:50 a.m.)

Council recessed at 9:40 a.m. to a Closed Session in Room W133; for the following:

A. PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957: Title: Toni J. Taber, CMC Name: City Clerk B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(1) of the Government Code: Number of matter(s) to be discussed: 1 C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1): 1. Case Name: Estate of Nunez, et al. v. City of San Jose Name(s) of Parties(s) Involved: CITY OF SAN JOSE, MICHAEL SANTOS and ANTHONY VIZZUSI; TONY NUNEZ, individually and as a successor-in-interest to Decedent ANTHONY NUNEZ and THE ESTATE OF ANTHONY NUNEZ Court: U.S. District Court, Northern District of California, San Jose Division Case No.: 17-CV-03860-LHK Amount of Money or Other Relief Sought: Damages according to proof 2. Case Name: City of San Jose, et al. v. AmerisourceBergen Drug Corporation, et al. Name(s) of Parties(s) Involved: AMERISOURCEBERGEN DRUG CORPORATION; CARDINAL HEALTH, INC.; MCKESSON CORPORATION; PURDUE PHARMA L.P.; PURDUE PHARMA, INC.; THE PURDUE FREDERICK COMPANY, INC.; TEVA PHARMACEUTICAL INDUSTRIES, LTD.; TEVA PHARMACEUTICALS USA, INC.; CEPHALON, INC.; JOHNSON & JOHNSON; JANSSEN PHARMACEUTICALS, INC.; ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC. N/K/A JANSSEN PHARMACEUTICALS, INC.; JANSSEN PHARMACEUTICA INC. N/K/A JANSSEN PHARMACEUTICALS, INC.; NORAMCO, INC.; ENDO HEALTH SOLUTIONS INC.; ENDO PHARMACEUTICALS, INC.; ALLERGAN PLC F/K/A ACTAVIS PLS; WATSON PHARMACEUTICALS, INC. N/K/A ACTAVIS, INC.; WATSON LABORATORIES, INC.; ACTAVIS LLC; ACTAVIS PHARMA, INC. F/K/A WATSON PHARMA, INC.; MALLINCKRODT PLC; MALLINCKRODT LLC; INSYS THERAPEUTICS, INC; CVS HEALTH CORP.; THE KROGER CO.; RITE AID OF MARYLAND, INC.; THRIFTY PAYLESS, INC.; WALGREENS BOOTS ALLIANCE, INC.; WALMART, INC. Court: U.S. District Court, Northern District of California, San Jose Division Case No.: 5:19-cv-04529 Amount of Money or Other Relief Sought: Damages according to proof D CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations Employee Organizations: 1. Organization or Name and Title of Unrepresented Employees: Peace Officer Park Ranger Association (POPRA) Nature of negotiations: wages/salaries, hours, working conditions, etc. Name of Existing Contract or MOA: Memorandum of

Closed Session Minutes (Cont'd.)

Agreement — City of San José and Peace Officer Park Ranger Association How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508> Telephone – Employee Relations: (408) 535-8150 2. Organization or Name and Title of Unrepresented Employees: City Association of Management Personnel Agreement (CAMP) Nature of negotiations: wages/salaries, hours, working conditions, etc. Name of Existing Contract or MOA: Benefit & Compensation Summary — City of San José and City Association of Management Personnel Agreement How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508> Telephone – Employee Relations: (408) 535-8150 3. Organization or Name and Title of Unrepresented Employees: Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF) Nature of negotiations: wages/salaries, hours, working conditions, etc. Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508> Telephone – Employee Relations: (408) 535-8150

Minutes Recorded, Prepared and Respectfully Submitted by,

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