



City Council Meeting MINUTES

Tuesday, March 3, 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 SAN JOSE CITY COUNCIL

The Council of the City of San José convened in Closed Session on Tuesday, March 3, 2020 at 9:37 a.m. in the Council Chambers at City Hall.

20-017 - Closed Session, Call to Order in Council Chambers

(See Page 11 for Closed Session Minutes)

Absent Councilmembers: Carrasco, Diep.

By unanimous consent, Council recessed from the Closed Session at 10:36 a.m. Council reconvened to Regular Session at 1:31 p.m. in the Council Chambers, and Vice Mayor Chappie Jones called the meeting to order.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, Esparza, Perez, Foley; Liccardo (approximately 2 p.m.)

Absent: Councilmembers - All Present.

• Invocation (District 3)

Students and instructors from the Mariachi Academy of Music performed a traditional Mariachi song for 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, with a new Item 3.4, "The City's Response To Novel Corona Virus Infections In Santa Clara County" to be heard concurrently with Item 3.1, "Report Of The City Manager".*
(10-0-1. Absent: Liccardo.)

* Item 3.4, "The City's Response to Novel Corona Virus Infections in Santa Clara County" requires Determination by a Two-Thirds (2/3) Vote Members of the Council Present at the Meeting, Or, if Less Than Two-Thirds (2/3) of the Members of the Council are Present at the Meeting, a Unanimous Vote of those Members Present that there is a need to take immediate action and the need to take action arose after the posting of the Agenda. Council's Rules of Conduct, Resolution No. 79367, Rule 3(d)."

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

- 1.1 Vice Mayor Chappie Jones and Councilmember Dev Davis presented a Proclamation recognizing March 5, 2020 as World Lymphedema Day. (Davis)
- 1.2 Vice Mayor Chappie Jones and Councilmember Magdalena Carrasco presented a Proclamation declaring March as Women's History Month to recognize the significant contributions women have made in San José's history and the world. (Carrasco)

2. CONSENT CALENDAR

Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Liccardo.)

2.1 Approval of City Council Minutes.

None provided.

2.2 20-221 Final Adoption of Ordinances.

- (a) Ord No. 30366 - An Ordinance of the City of San José Amending the Commercial Solid Waste and Recyclable Material Collection Franchise for the North District to Allied Waste Services of North America, LLC DBA Allied Waste Services of Santa Clara County; and Superseding Ordinance No. 28937. [Passed for Publication on 2/25/20 - Item 6.2(c) (20-177)]
- (b) Ord No. 30367 - An Ordinance of the City of San José Amending the Commercial Solid Waste and Recyclable Material Collection Franchise for the South District to Allied Waste Services of North America, LLC DBA Allied Waste Services of Santa Clara County; and Superseding Ordinance No. 28936. [Passed for Publication on 2/25/20 - Item 6.2(d) (20-177)]

Action: **Ordinance No. 30366** and **Ordinance No. 30367** were adopted. (10-0-1. Absent: Liccardo.)

2.3 Approval of Council Committee Minutes.

None provided.

2.4 20-231 Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Arenas, from the Regular Meeting of the Rules and Open Government Committee on February 26, 2020, due to illness.

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

[Rules Committee referral 2/26/2020 - Item A.1.a]

Action: The Excused Absence Request was approved. (10-0-1. Absent: Liccardo.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 20-201 Amendment to Lease of Airport Premises with G2 Secure Staff, LLC.

Approve a Seventh Amendment to Lease of Airport Premises with G2 Secure Staff, LLC to extend the term for three years, from January 1, 2020 through December 31, 2022, with annual revenue to the City of approximately \$123,656.

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

Action: The Seventh Amendment to the Lease of Airport Premises was approved. (10-0-1. Absent: Liccardo.)

2.8 20-202 Settlement of San José Police Officers' Association Claims.

Approve a settlement between the City and the San José Police Officers' Association ("SJPOA") in the amount of \$763,305.99 to affected SJPOA members and \$10,000 for attorney fees to the SJPOA and authorize the City Attorney to execute a Settlement Agreement.

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

Action: The Settlement Agreement was approved. (10-0-1. Absent: Liccardo.)

2.9 20-222 Pond A-18 Surplus Property. - DEFERRED

Adopt a resolution declaring the City's Pond A-18 property (Assessor's Parcel Numbers 015-32-042 and 015-32-043) as exempt surplus land under Cal. Gov. Code §54221 as the land is surplus to the needs of the City.

CEQA: Determination of Consistency with the San José/Santa Clara Water Pollution Control Plant Master Plan Final EIR (Resolution no. 76858), File No. PP20-006. Council District 4. (Environmental Services/Economic Development)

[(Deferred from 2/25/20 - Item 2.8 (20-168))]

Deferred to 3/17/2020 per Administration

2.10 20-230 Retroactively Approval District 4 Health Fair 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) Retroactively approve the District 4 Health Fair scheduled on February 23, 2020 as a City Council sponsored Special Event and approve the expenditure of funds; and

(b) Retroactively approve and accept donations from various individuals, businesses, or community groups to support the event.

(c) Retroactively approve the expenditure of District funds for event flyers, snacks for volunteers, table cloths, art supplies for a kids' craft table, and other professional program-related supplies.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Diep)

[Rules Committee referral 2/26/20 - Item A.1.a]

Action: The City Council Sponsored Special Event was retroactively approved. (10-0-1. Absent: Liccardo.)

3. STRATEGIC SUPPORT

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

Heard concurrently with Item 3.4 per Orders of the Day. See Item 3.4 for Action taken.

3.2 Labor Negotiations Update.

None provided.

3.3 20-203 Approval of a New City Council Policy on Suicide Prevention.

Adopt a resolution approving a new City Council Policy 0-45, entitled “Suicide Prevention Policy.”

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

Public Comments: Speaking to the dire need for adequate services and prevention measures were: Paul Escobar, Mary Gloner (Project Safety Net), Paul Soto, Victor Ojakian, Kathy, Blair Beekman and Scott Largent.

Assistant to the City Manager, Sarah Zaraté, responded to questions, and Council discussion continued.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 79421** was adopted, approving a New City Council Policy on Suicide Prevention, including Councilmember Raul Peralez’ memorandum, dated February 28, 2020, accepting staffs’ recommendations and directing the City Manager to provide an update to the Public Safety, Finance and Strategic Service (PSFSS) Committee annually on the issue of suicide prevention and include strategies that will further promote the policy.
(11-0.)

3.4 20-240 The City's Response to Novel Corona Virus Infections in Santa Clara County.

1. Seek Council approval to place on the agenda a discussion and any necessary action to enable the City’s robust response to the public health emergency announced by the County related to the COVID-19, particularly in light of the revelation of seven infected County residents.
 - a. Consideration of the matter shall be placed on the agenda pursuant to Government Code Section 54954.2(b)(2), such that information gathered over the last 72 hours has given rise to a need for urgent attention to mitigate more widespread infection of novel coronavirus among residents of the City of San José.
2. Request that the City Manager or his designee inform the Council during that meeting about:
 - a. The status of the City’s Emergency Operations Center activation;
 - b. The status of the City’s preparatory efforts-in collaboration with public health experts at the County, State, and Federal authorities-in anticipation of a potentially larger report of infections in the days ahead,
 - c. A description of the actions may need to be taken immediately by the City-and a discussion of the threshold by which the City should determine that additional actions must be undertaken-to protect the health and safety of our residents and employees, with particular attention to the halt of public gatherings in city facilities; and
 - d. How the City may participate in a communications strategy with the County to ensure more ubiquitous public awareness of proactive

(Item Continued on the Next Page)

3.4 (Cont'd.)

measures that individuals should take to mitigate the spread of COVID-19, particularly in monolingual and other hard-to-reach communities, through social media, and youth-targeted channels.

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

(Mayor)

Heard concurrently with Item 3.1 per Orders of the Day.

City Manager, David Sykes gave an introduction, and members of the Pandemic Management Team, including Deputy City Manager, Civic Innovation & Digital Strategy, Kip Harkness and Rosario Neaves provided a presentation and responded to questions.

Public Comments: Members of the public, Blair Beekman, Mark Trout, Paul Soto and Scott Largent, expressed their concerns.

Action: No Council action required.

4. PUBLIC SAFETY SERVICES

4.1 20-204 Unmanned Aircraft System Policy and Procedures.

Accept and approve the Police Department's proposed policies and procedures regarding the use of Unmanned Aircraft Systems.

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

(Police)

Chief of Police Edgardo Garcia offered opening statements, and Lt. Steve Lagoria provided a presentation. Extensive conversation followed.

Public Comments: Members of the public, Blair Beekman, Paul Soto and Scott Largent, offered comments.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez and carried unanimously, the Police Department's proposed policies and procedures regarding the use of Unmanned Aircraft Systems was accepted, with additional clarification regarding the use of unmanned aircraft (UAS) over people, and clarify use if UAS to capture images within homes or yards. Staff to provide an information memorandum with requested data.
(10-0-1. Absent: Khamis.)

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 20-205 Report on Bids and Award of Contract for 8927 - Fowler Pump Station Replacement Project.

(a) Report on bids and award of contract for 8927 - Fowler Pump Station Replacement project to the low bidder, JMB Construction, Inc., in an amount not to exceed \$2,759,500 and approval of a project contingency in the amount of \$551,900.

(b) Adopt the following 2019-2020 Appropriation Ordinance amendments in the Water Utility Capital Fund:

(1) Increase the Fowler Pump Station Replacement appropriation to the Environmental Services Department in the amount of \$1,190,000; and

(2) Decrease the Unrestricted Ending Fund Balance by \$1,190,000.

CEQA: Categorically Exempt, File No. PP19-034, CEQA Guidelines Section 15301(b), Existing Facilities. Council District 8. (Environmental Services/City Manager)

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, the report on bids and award of a contract was accepted, and **Ordinance No. 30375** was adopted. (10-0-1. Absent: Khamis.)

6.2 20-208 Agreement with Valley Water for the Sale of Pond A-18 for the Shoreline Levee Project. - DEFERRED

Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Valley Water for the sale of Pond A-18 and related easements to support the Shoreline Levee Project consistent with the criteria directed by the Treatment Plant Advisory Committee and Council in October of 2015 and 2017.

CEQA: Determination of Consistency with the San José/Santa Clara Water Pollution Control Plant Master Plan Final EIR (Resolution No. 76858) and all addenda thereto. File No. PP20-006. Council District 4. (Environmental Services/Economic Development)

[Deferred from 2/25/2020 - Item 6.6 (20-181)]

Deferred to 3/17/2020 per Administration

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 20-206 Tax Equity and Fiscal Responsibility Act Hearing for California Municipal Finance Authority's Issuance of Tax-Exempt Multifamily Revenue Bonds to Refinance and Rehabilitate the Vista Park II Apartments. - DEFERRED

(a) Allow under Section I, B. of the City Council Policy 1-16, Policy for the Issuance of Multifamily Housing Revenue Bonds, to permit the California Municipal Finance Authority ("CMFA") to issue private-activity bonds for the acquisition and rehabilitation of the Vista Park II, an 83-unit apartment complex located at 3975 Vistapark Dr. by Vista Park II, L.P. a California limited partnership.

(b) Hold a Tax Equity and Fiscal Responsibility Act of 1982 public hearing for the issuance not to exceed \$20,000,000 in tax-exempt private-activity bonds by CMFA to refinance and rehabilitate the Project and to pay certain expenses incurred in connection with the issuance of the bonds.

(c) Adopt a resolution approving the issuance of Tax-Exempt Revenue Bonds by CMFA in a principal amount not to exceed \$20,000,000 to be used to finance the Project and to pay certain expenses incurred in connection with the issuance of the tax-exempt private activity bonds. CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. Council District 10. (Housing)

Deferred to 3/17/2020 per Administration

8.2 20-207 Housing Opportunities for Persons with Aids Permanent Supportive Housing Grant Award from the U.S. Housing and Urban Development Department.

(a) Adopt a resolution authorizing the Director of Housing to:

(1) Accept the Housing Opportunities for Persons with AIDS Permanent Supportive Housing ("HOPWA PSH") competitive grant award of \$1,256,461 from the United States Department of Housing and Urban Development to continue supporting permanent supportive housing activities for low-income persons living with HIV/AIDS and their families; and

(2) Negotiate and execute a three-year grant agreement awarding \$1,222,902 in HOPWA PSH funding to The Health Trust for the Housing for Health Program retroactive to November 15, 2019.

(b) Adopt the following 2019-2020 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund:

(1) Increase the estimate for Revenue from Federal Government in the amount of \$1,256,461; and

(2) Increase the HOPWA PSH appropriation to the Housing Department in the amount of \$1,256,461.

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8.2 (Cont'd.)

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact to the environment; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Housing/City Manager)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, **Resolution No. 79422** accepting the HOPWA PSH competitive grant award was adopted; and Funding Sources Resolution Amendments **Resolution No. 79423**, and Appropriation **Ordinance No. 30376** were adopted. (11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar – none.

10 Land Use - Regular Agenda

None provided.

OPEN FORUM

1. Blair Beekman urged action on green sustainability funding and a shoreline levee project.
2. Paul Soto objected to a perceived imbalance of power on the Planning Commission, with four out of six members residing in District 6.
3. Nicholas Robinson objected to unfair treatment by authorities as a victim of an assault. Mayor Sam Liccardo advised him of the complaint process and his right to fair treatment.
4. Tom Skinner spoke on a minimum wage complaint filed and the need for enforcement action. Mayor Sam Liccardo advised that this is an issue currently being addressed by the City Attorney's Office.
5. Scott Largent addressed the homeless crisis in the City of San José.

ADJOURNMENT

Mayor Sam Liccardo adjourned the meeting of the City Council at 3:27 p.m. in honor of Vincent Tarpey, a beloved community member.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 3, 2020

The Council of the City of San José convened into Closed Session at 9:37 a.m.

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

Absent: Councilmembers - Carrasco, Diep.

CLOSED SESSION

Council recessed at 9:37 a.m. to a Closed Session in Room W133; for the following:

A. 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; B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1): (1) In re: Claim of Stewart; Court: Workers Compensation Appeals Court; Case No.: ADJ7621759; Amount of Money or Other Relief Sought: Benefits; (2) In re: Claim of Espino; ; Court: Workers Compensation Appeals Court; Case No.: ADJ12129974; Amount of Money or Other Relief Sought: Benefits; (3) Alvarez, et al. v. City, et al.; Names Of Partie(s) Involved: Rosalba Avila Alvarez; Genaro Verduzco; Tracy Melendez; Jose Raul Corona; City of San José; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 17-CV-314395; Amount of Money or Other Relief Sought: Damages according to proof; (4) Johnson v. City, et al.; Names Of Partie(s) Involved: Gary Johnson; Carlos Lopez; Gladys Perez; City of San José; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No.: 18-CV-334363; Amount of Money or Other Relief Sought: Damages according to proof.