



City Council Meeting MINUTES

Tuesday, March 17, 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

20-019 - Closed Session, Call to Order in Council Chambers

The Council of the City of San José convened in Closed Session on Tuesday, March 17, 2020, at 9:42 a.m. in Council Chambers at City Hall. *(see Closed Session Minutes on Page 23)*

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

**Councilmember Carrasco participated in the meeting from an off-site location: 10010 Clayton Rd, San Jose, CA 95127*

Absent: Councilmembers - Diep, Jimenez.

Regular Session, Council Chambers, City Hall

The Council of the City of San José convened in Open Session on Tuesday, March 17, 2020, at 1:35 p.m. in Committee Meeting Rooms T-118-120 at City Hall. Mayor Sam Liccardo called the meeting to order.

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

**Councilmember Carrasco participated in the meeting from an off-site location: 10010 Clayton Rd, San Jose, CA 95127*

Absent: Councilmembers - All present.

• **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

• **Orders of the Day**

Upon motion by Councilmember Vice Mayor Chappie Jones, seconded by Councilmember Pam Foley and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.3 deferred at the request of the City Manager's Office due to the closure of the County Recorder's Office, and with inclusion of **New Item 3.8, "Incorporate Governor's Executive Order**

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ORDERS OF THE DAY (Cont'd.)

Regarding Teleconference Requirements in the Brown Act into City Open Government (Sunshine) Resolution”; Item 3.9, “Local Assistance Framework”; and Item 8.3, "Small Business Assistance Related to Novel Coronavirus” Added Under Orders of the Day. Also including Amendment of Item 8.2(c), “Actions Related to a Moratorium on Evictions and Income Loss Due to COVID-19” each Requiring a Determination by a Two-Thirds (2/3) Vote of the 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. Council’s Rules of Conduct, Resolution No. 79367, Rule 3(d).

Additionally, **New Item 8.3, “Small Business Assistance Related to Novel Coronavirus.” To be Heard Concurrently with Item 8.2, “Actions Related to a Moratorium on Evictions and Income Loss Due to COVID 19”**
(11-0.)

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

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

2.1 20-304 Approval of City Council Minutes.

Regular City Council Meeting Minutes of March 3, 2020.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Minutes.

None provided.

2.4 20-357 Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Jimenez, from the Regular Meeting of Smart Cities and Service Improvements Committee on March 5, 2020, due to personal travel.

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

[Rules Committee referral 3/11/2020 - Item A.1.a]

Action: The excused absence was approved. (11-0.)

2.5 City Council Travel Reports.

Mayor Sam Liccardo reported on his attendance at a meeting in Sacramento with the Governor and other legislative leaders where, among other things, they advocated for funding for the unhoused and resistance to certain expressions of the Governor’s budget message on allocation of City funds.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the report was accepted. (11-0.)

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 20-273 Amendment to Agreement with Hanson Bridgett LLP for Legal Services Related to Preservation of Benefit Plan Retirees Association, et al v. City of San José, et al. - DEFERRED

Adopt a resolution authorizing the City Attorney to negotiate and execute a Sixth Amendment to the agreement with Hanson Bridgett LLP for legal services related to Preservation of Benefit Plan Retirees Association, et al v. City of San José, et al, to increase the compensation by \$500,000, for a total amount not to exceed \$1,900,000.

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

Deferred to 3/24/20 Per Administration

2.8 20-241 Declaration and Recording a Statement of the Results of the March 10, 2020 Community Facilities District No. 8 Election. - DROP - TO BE RENOTICED TO 4/7/20

Adopt a resolution declaring and recording a statement of the results of the March 10, 2020 Community Facilities District No. 8 all mail ballot election.

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

Dropped – to be Renoticed to 4/7/20

2.9 20-243 Approval of the Terms of an Agreement with the Peace Officer Park Ranger Association (POPRA), International Union of Operating Engineers, Local Union No. 3 (OE#3) for the Term of January 1, 2020 Through June 30, 2023.
Adopt a resolution approving the terms of a collective bargaining agreement between the City and the Peace Officer Park Ranger Association (POPRA), International Union of Operating Engineers, Local Union No. 3 (OE#3) for the term of January 1, 2020 through June 30, 2023, and authorizing the City Manager to execute the agreement with those terms.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

Action: **Resolution No. 79433** approving the Terms of an Agreement was adopted. (11-0.)

2.10 20-244 Annual Summary of Labor Negotiations. - RENUMBERED TO 3.7
Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations.
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)
Renumbered to 3.7 (20-328) See Item 3.7 for Action taken.

2.11 20-245 Resolution of Intention to Approve an Amendment to the Contract between the California Public Employees' Retirement System and the City of San José. - DEFERRED
Adopt a resolution of intention to approve an amendment to the contract between the California Public Employees' Retirement System and the 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 Manager)
Deferred to 3/24/20 per Administration

2.12 20-246 Action Related to the City Healthcare Program.
Adopt a resolution to:
(a) Approve the terms of a Side Letter Agreement related to the lump sum healthcare program between the City of San José and the bargaining units listed below:
(1) Association of Building, Mechanical and Electrical Inspectors (ABMEI)
(2) Association of Engineers and Architects, IFPTE Local 21 (AEA)
(3) Association of Legal Professionals (ALP)
(4) Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP)

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2.12 (Cont'd.)

- (a) (5) City Association of Management Personnel, IFPTE Local 21 (CAMP)
- (6) San José Fire Fighters, IAFF Local 230 (IAFF)
- (7) International Brotherhood of Electrical Workers, Local No. 332 (IBEW)
- (8) Municipal Employees' Federation, AFSCME Local No. 101 (MEF)
- (9) International Union of Operating Engineers, Local No. 3 (OE#3)
- (10) San José Police Officers' Association (POA)
- (11) Peace Officer Park Ranger Association
- (b) Approve the lump sum for executive management and professional employees in Unit 99 and other unrepresented employees consistent with the terms of the Side Letter Agreement with the City's bargaining units.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

Action: **Resolution No. 79434** approving the Terms of an Agreement was adopted, and the lump sum for executive management and professional employees in Unit 99 and other unrepresented employees was approved. (11-0.)

2.13 20-238 **Approval of City Hall Free Use on Saturday By District 6 Office for the 2020 South Bay Trans Day of Visibility on April 4, 2020. -DROP**

Adopt a resolution authorizing "Free Use" for events and activities held at City Hall on Saturday, April 4, 2020 for the 2020 South Bay Trans Day of Visibility co-hosted by the Council District 6 Office and Billy DeFrank LGBTQ Community Center.

Item Dropped

2.14 20-247 **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); and 3/3/20 - Item 2.9 (20-222)]

Deferred to 3/24/20 per Administration

2.15 20-248 Designation of Official Authorized to Apply for Disaster Assistance.

Adopt a resolution designating City of San José officials to be authorized to apply for Federal and State Disaster Assistance.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Finance)

Action: **Resolution No. 79435** designating City of San José officials to be authorized to apply for Federal and State Disaster Assistance was approved. (11-0.)

2.16 20-249 Actions Related to Purchase Orders for Interior and Exterior Painting Services.

Adopt a resolution authorizing the City Manager to:
(a) Execute purchase orders with AG Painting Services (Stockton, CA), Armstrong Painting, Inc. (Stockton, CA), and Daniko Property Maintenance, Inc. (Petaluma, CA) for interior and exterior painting services for the Department of Public Works for an initial twelve-month period, starting on or about March 17, 2020 and ending on or about March 16, 2021 for a total cumulative compensation not-to exceed amount of \$330,000; and
(b) Exercise up to four additional one-year options to extend the initial term of the purchase orders with the last option year ending on or about March 16, 2025, subject to the annual appropriation of funds.
CEQA: Categorically Exempt, File No. ER19-083, CEQA Guidelines 15301, Existing Facilities. (Finance)

Action: **Resolution No. 79436** related to Purchase Orders for painting services was approved. (11-0.)

2.17 20-250 Actions Related to the Purchase Order with San Diego Police Equipment Company, Inc. for Duty and Practice/Training Ammunition.

Adopt a resolution authorizing the City Manager to:
(a) Exercise option two of four with San Diego Police Equipment Company, Inc. (San Diego, CA) for the purchase of ammunition for duty and practice/training on behalf of the San José Police Department with a new period starting on or about July 1, 2020 and ending on or about June 30, 2021, for an amount not to exceed \$550,000; and
(b) Exercise up to two additional one-year options to extend the term of the purchase order with the last option year ending on or about June 30, 2023, subject to 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. 79437** related to Purchase Order with San Diego Police Equipment Company, Inc. was approved. (11-0.)

2.18 20-251 Action Related to the Purchase Order with Scott’s PPE Recon, Inc. for Turnout Gear Inspection, Cleaning, Repair, and Alternation Services.

Adopt a resolution to authorize the City Manager to:

(a) Execute a purchase order with Scott’s PPE Recon, Inc. (Lodi, CA) for turnout gear inspection, cleaning, repair, and alteration services for the San José Fire Department for a twelve-month period, starting on or about March 20, 2020 and ending on or about March 19, 2021, for an amount not to exceed \$220,000; and

(b) Exercise up to three one-year options to extend the term of the purchase order with the last option year ending on or about March 19, 2024, 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. 79438** related to Purchase Order with Scott’s PPE Recon, Inc., Inc. was approved. (11-0.)

2.19 20-252 Amendment to the City Pay Plan for Various Classifications.

Adopt a resolution to amend the City of San José Pay Plan effective March 17, 2020, to:

(a) Create the Senior Environmental Program Manager (5214) classification with a salary range of \$112,963 - \$148,973 annually.

(b) Retitle the Environmental Services Program Manager (5213) classification to Environmental Program Manager (5213) classification.

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

(Human Resources)

Action: **Resolution No. 79439** amending the City of San Jose Pay Plan was approved. (11-0.)

2.20 20-255 Library and Education Commission and Use of Title Changes for Commissioners.

(a) Approve an ordinance amending Sections 2.08.3200 and 2.08.3220 of Chapter 2.08 of Title 2 of the San José Municipal Code to change the name of the Library and Early Education Commission to the Library and Education Commission and changing the subject matter expertise of the early education-specific seats to education subject matter expertise to align with the goals of the San José Education Initiative Policy.

(b) Adopt a resolution approving revisions to Council Policy 0-4, “Consolidated Policy Governing Boards and Commissions,” changing the name of the Library and Early Education Commission to the Library and Education Commission, changing the subject matter expertise of the early education-specific seats to education subject matter expertise to align with the goals of the San José Education Initiative Policy, and clarifying use of title by City Commissioners.

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2.20 (Cont'd.)

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

Action: **Ordinance No. 30380** amending Chapter 2.08 of the San José Municipal Code passed for publication, and **Resolution No. 79440** approving revisions to Council Policy 0-4 was adopted. (11-0.)

2.21 20-262 Amendment to the Agreement with CMG Landscape Architecture for the 8496 - St. James Park Phase I Design Project.

Adopt a resolution authorizing the City Manager or designee to negotiate and execute a third amendment to the agreement for consultant services with CMG Landscape Architecture for St. James Park Phase I Design Project (Master Agreement No. 662484-0) to increase the maximum total compensation by \$25,000, from \$1,000,000 to \$1,025,000.

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. 79441** amending the Agreement with CMG Landscape Architecture was adopted. (11-0.)

2.22 20-256 Amendment to the City-Generated Zone Tow Services Agreements.

(a) Adopt a resolution authorizing the City Manager to negotiate and execute Third Amendments to the Agreements for City-Generated Zone Tow Services retroactive to January 1, 2020 through June 30, 2020 with one option to extend through the end of the contract term March 31, 2021 with the following tow operators (also known as SJ Towers):

- (1) Alongi Brothers, Inc. (San José, CA)
- (2) Century Tow (San José, CA)
- (3) City Towing, Inc. (San José, CA)
- (4) Courtesy Tow Services, Inc. (San José, CA)
- (5) Matos Auto Towing & Transport (San José, CA)
- (6) Motor Body Company, Inc. (San José, CA)

(b) The proposed amendment includes the following terms and conditions and revisions:

- (1) Reducing the contract compensation fee from \$59 to \$41;
- (2) Modify the definition of “Qualified Vehicles” and related list of qualified vehicle types eligible for reimbursement to include all vehicles types that otherwise meet the criteria for “Qualified Vehicles” under the contract; and
- (3) Credit the tow operators for operator expenses and lost profits related to disposing of all qualified vehicles that meet the defined criteria, against the proposed \$41 contract fee that is required to be remitted to the City.

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2.22 (Cont'd.)

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

Action: **Resolution No. 79442** amending the City-Generated Zone Tow Services Agreements was adopted. (11-0.)

2.23 20-264 Actions Related to Mayor and Councilmembers' Travel to Washington, D.C. for the Silicon Valley Leadership Group's Annual Spring Advocacy Trip. - DROP

1. Approve travel and related travel expenses to Washington, D.C. and request excused absence for the following Councilmembers from the following meetings due to Authorized City Business: Silicon Valley Leadership Group Annual Spring Advocacy Trip:

(a) Mayor Liccardo (Source of Funds: Mayor/Council Travel Budget; Dates: March 30-31, 2020; Missed Meetings: None)

(b) Councilmember Khamis (Source of Funds: Council District 10 Office Funds; Dates: March 30-31, 2020; Missed Meetings: None)

2. Approve use of the Mayor/Council Travel Budget for travel expenses:

(a) Mayor Liccardo

3. Approve the receipt of gifts received in an official capacity as a representative of the City in accordance with San José Municipal Code Section 12.08.120.B.

Dropped

2.24 20-280 Approval of the Scottish Flag Raising Sponsored by Council District 10, in Cooperation with the South Bay Scottish Society, as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on March 4, 2020:

(a) Approve the Scottish Flag Raising scheduled on April 6, 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)

[Rules Committee referral 3/4/20 - Item G.1.a]

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

2.25 20-288 Approval of Assyrian New Year (Assyrian Flag Raising) 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.

As recommended by the Rules and Open Government Committee on March 4, 2020:

(a) Approve Assyrian New Year (Assyrian Flag Raising) scheduled on March 20, 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)

[Rules Committee referral 3/4/20 - Item G.1.b]

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

2.26 20-289 Approval of Annual Greek Flag Raising 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.

As recommended by the Rules and Open Government Committee on March 4, 2020:

(a) Approve the Annual Greek Flag Raising scheduled on March 25, 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)

[Rules Committee referral 3/4/20 - Item G.1.c]

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

2.27 20-356 SB 1025 (Umberg) Libraries: Student Success Cards.

As recommended by the Rules and Open Government Committee on March 11, 2020, adopt a position of support for SB 1025 (Umberg).

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

[Rules Committee referral 3/11/20 - Item G.4]

Action: A position of support for SB 1025 (Umberg) was approved. (11-0.)

3. STRATEGIC SUPPORT

3.1 20-363 Report of the City Manager, David Sykes (Verbal Report)

City Manager, David Sykes, Deputy City Manager, and lead on the City's Pandemic Response, Kip Harkness and Chief of Staff, Office of the City Manager, Lee Wilcox, spoke on the effects of COVID-19, operations, and the City's response to the pandemic and actions to be taken to reduce spread of the virus. Potential resources to be provided from the Federal and State governments were discussed, and questions and comments were accepted.

Public Comments: Robert Aguirre spoke to the homeless crisis in light of the COVID-19 epidemic.

Action: No Council action required.

3.2 Labor Negotiations Update

None provided.

3.3 20-257 Draft Framework Related to Nonprofit Transfers and the Proposed Real Property Transfer Tax.

Consideration and discussion of the draft framework related to certain transfers of real property to nonprofits and the proposed real property transfer tax on the March 3, 2020 ballot.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Housing/City Manager)
[Deferred from 2/11/2020 - Item 3.4 (20-133)]

Action: Deferred per Orders of the Day.

3.4 20-258 Actions Related to the Public Safety Power Shutoff Events After Action Report.

Accept the Public Safety Power Shutoff Events After Action Report and direct staff to take appropriate actions to implement the following recommendations:

- (a) Renew focus on Access and Functional Needs planning, with a forward-leaning approach to solidify the City's commitment to our vulnerable populations;
- (b) Update the Power Vulnerability Plan to include lessons learned, including further study critical facility redundant power and transportable power generation to ensure future resiliency to Public Safety Power Shutoff events;
- (c) Continue to improve relationship with PG&E and the County to allow for ongoing open communication before, during and after an event;
- (d) Conduct a review of how to leverage existing City data platforms to more efficiently capture costs associated with large-scale emergencies and disasters;

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3.4 (Cont'd.)

(e) Update Emergency Operations Center technology tools to better capture situation status and reporting, including Geographic Information Systems resources.

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

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Maya Esparza and carried unanimously, Actions Related to the Public Safety Power Shutoff Events After Action Report were accepted. (11-0.)

3.5 20-259 **Amendment to the Agreement with Delta Dental of California for DHMO and PPO Dental Insurance Group Plans and Services.**

Adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an Amendment to the Vendor Agreement with Delta Dental of California for DHMO and PPO dental insurance group plans and administrative services for City employees, retirees, and their dependents and beneficiaries extending the term of the Agreement from December 31, 2020, to December 31, 2023, and increasing the not to exceed Agreement amount from \$57,434,000 to a revised total plan amount not to exceed \$97,958,000, subject to the appropriation of funds by the City Council;

(b) Negotiate and execute any group plan or policy contracts, Evidence of Coverage documents, Business Associate Agreements, or other ancillary documents necessary to facilitate the above Amendment until December 31, 2023; and

(c) Subject to the terms of City's collective bargaining agreements, terminate the agreement(s) or group plan contract(s) in the event that Delta Dental of California's proposed annual renewal rates are not acceptable by the City Manager.

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

Councilmember Johnny Khamis noted a conflict of interest and his recusal from this item.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Maya Esparza and carried unanimously, **Resolution No. 79443**, Amending the Agreement with Delta Dental of California for DHMO and PPO Dental Insurance Group Plans and Services was adopted. (10-0-0-1. Abstain: Khamis.)

3.6 20-302 Approval of the Fiscal Year 2020-2021 Mayor's March Budget Message.

(a) Conduct a Public Hearing on the FY 2020-2021 Mayor's March Budget Message.

(b) Approve the FY 2020-2021 Mayor's March Budget Message.

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

[Pending 3/11/20 Rules Committee approval]

City Manager, David Sykes provided opening comments, and Budget Director, Jim Shannon followed up with how the March Budget Message will vary widely with February's forecast in light of recent events. Mayor Sam Liccardo discussed how we may leverage state and federal funds, and Council discussion ensued.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Amando Ricardez urged the reopening of the Gardner Community Center, asking that it be taken out of re-use.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the Fiscal Year 2020-2021 Mayor's March Budget Message was accepted. (11-0.)

3.7 20-328 Annual Summary of Labor Negotiations. - RENUMBERED FROM 2.10

Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations.

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)

Renumbered from 2.10 (20-244)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Johnny Khamis and carried unanimously, Annual Summary of Labor Negotiations was accepted. (10-0-1. Absent: Esparza.)

3.8 20-364 Incorporate Governor's Executive Order Regarding Teleconference Requirements in the Brown Act into City Open Government (Sunshine) Resolution.

Adopt a resolution modifying City public meetings and amending the City's Consolidated Open Government and Ethics Resolution No.

77135 to incorporate Section 11 of the Governor's Executive Order N-25-20 regarding teleconference requirements in the Brown Act to allow City legislative bodies to hold public meetings via teleconferencing or otherwise electronically without noticing the teleconferenced

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3.8 (Cont'd.)

locations on the agenda, without making teleconferenced locations accessible to the public, without posting agendas at teleconferenced locations, without requiring members of the legislative bodies to be physically present at the location specified in the meeting notice, and without requiring a quorum of the members of the local body to participate from locations with the City's jurisdiction. (City Clerk)

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Johnny Khamis and carried unanimously, **Resolution No. 79444**, incorporating the Governor's Executive Order Regarding Teleconference Requirements in the Brown Act into City Open Government (Sunshine) Resolution was adopted. (11-0.)

3.9 20-365 Local Assistance Framework.

Accept an update regarding the Local Assistance Framework to aid San José residents, small businesses, and nonprofit community-based organizations with impacts related to the COVID-19 pandemic, including state, federal, and philanthropic assistance.
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)

Assistant to the City Manager, Michelle McGurk, gave a presentation.

Public Comments: Steven Solorio, MEF Union President, spoke to assistance for City employees who are having to use their own sick leave during this time of crisis and childcare issues. Jeffrey Buchanan, Working Partnerships, Silicon Valley, also addressed paid sick leave and assistance for employees.

Assistant City Attorney Ed Moran responded to questions. Mayor Sam Liccardo asked that the maker of the motion include consideration of bringing the budget action back next week to accelerate disbursement of the \$2 million of the funds, which are restricted for affordable housing so we can be united with the County in this effort as we are fundraising.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Maya Esparza and carried unanimously, the Local Assistance Framework Update was accepted, with actions to include the disbursement of \$2 million of funds in response to COVID-19 at the next meeting of the City Council as outlined by Mayor Sam Liccardo. (11-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 20-260 Award of Construction Contract for the 2020 Major Streets Concrete and ADA Ramps Project.

- (a) Approve award of a construction contract for the 2020 Major Streets Concrete and ADA Ramps Project, to the low bidder, Wattis Construction Company, Inc. in the amount of \$1,576,234.
- (b) Approve an approximate five percent contingency in the amount of \$78,801.
- CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, Award of Construction Contract for the 2020 Major Streets Concrete and ADA Ramps Project with related contingencies was approved. (10-0-1. Absent: Esparza.)

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 20-261 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 2/25/20 - Item 6.6 (20-181) and 3/3/20 - Item 6.2 (20-208)]

Deferred to 3/24/20 per Administration

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 20-263 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.

- (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.

8.1 (Cont'd.)

(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 from 3/3/2020 - Item 8.1 (20-206)]

Deputy Director of Housing, Rachel VanderVeen, responded to questions.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sylvia Arenas and carried unanimously, **Resolution No. 79445**, related to 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 was adopted. (11-0.)

8.2 20-358 **Actions Related to a Moratorium on Evictions and Income Loss Due to COVID-19.**

(a) Approve an ordinance that establishes a moratorium on non-payment of rent evictions for tenants with incomes affected by the novel coronavirus (COVID-19). Specifically, the ordinance would:

1. temporarily prohibit the eviction of a residential tenant for non-payment of rent, if that tenant meets the criteria listed in the ordinance regarding COVID-19; and
2. Provide that the moratorium will commence upon the Council's adoption of a resolution declaring the commencement and making findings regarding COVID-19 and that such moratorium would expire in thirty days unless extended.

Action: **Ordinance No 38382** approving an ordinance related to establishing a Moratorium on Evictions and Income Loss Due to COVID-19 was passed for publication.

Item heard concurrently with Item 8.3.

(b) Adopt an urgency ordinance that establishes a moratorium on non-payment of rent evictions for tenants with incomes affected by the COVID-19 virus. Specifically, the ordinance would:

1. Invoke the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health or safety, to temporarily prohibit eviction of a tenant for nonpayment of rent, if that tenant meets the criteria listed in the ordinance regarding COVID 19; and

(Item Continued on the Next Page)

8.2 (Cont'd.)

2. Provide that the moratorium will commence upon the Council's adoption of a resolution declaring the commencement and making findings regarding COVID-19 and that such moratorium would expire in thirty days unless extended.

Please note: Approval of this urgency ordinance requires 8 or more affirmative votes (2/3)

Action: **Urgency Ordinance No 38381** approving an emergency ordinance establishing a Moratorium on non-payment of rent evictions for tenants with incomes affected by the COVID-19 virus was adopted. *Item heard concurrently with Item 8.3.*

(c) Adopt a resolution declaring the commencement of a thirty-day temporary moratorium on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from COVID-19, and setting forth the facts constituting such urgency.

Action: **Resolution No. 79446** declaring the commencement of a thirty-day temporary moratorium on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from COVID-19, and setting forth the facts constituting such urgency was adopted. *Item heard concurrently with Item 8.3.*

(d) Discuss and direct the City Attorney to return with an ordinance and urgency ordinance that establishes a moratorium for non-payment of rent for small business tenants with incomes affected by the COVID-19 virus.

(e) Discuss creating a funding pool and/or budget changes for San José residential tenants and small businesses for those impacted by the COVID-19 virus.

CEQA: Not a Project, PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact on the environment, and PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Mayor)

Item heard concurrently with Item 8.3.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Sylvia Arenas and carried unanimously, **Urgency Ordinance No 38381** and **Resolution No. 79446** were adopted, and **Ordinance No. 38382** was passed for publication. Additionally, the City Attorney was directed to return with an ordinance and urgency ordinance that establishes a moratorium for non-payment of rent for small business tenants with incomes affected by the COVID-19 virus.

Small Business Assistance Related to Novel Coronavirus.

To bring much-needed relief to small businesses in San José adversely impacted by COVID-19,

approve direction to the City Manager to:

1. Take the following actions:
 - a. Work with our Congressional delegation to urge the Trump Administration and the Small Business Administration to formally declare a disaster stemming from COVID-19 infections in Santa Clara County or geographic region that includes Santa Clara County so that federal assistance may be directed here specifically;
 - b. Reach out to the Governor's office to request priority for Santa Clara County over any state or federal assistance dollars, reflecting our heightened vulnerability;
 - c. Through the 2020-2021 Budget Process, set aside funding for our Office of Economic Development so they can build the capacity to:
 - i. Provide technical assistance to small businesses eligible for SBA loans;
 - ii. Become a singular resource for small businesses in need to learn about the various private and government relief programs available to them;
 - d. Reach out to the Silicon Valley Community Foundation and corporate partners in San José such as Google, Cisco, Adobe, and Apple in attempt to create a relief fund to give grants assisting small businesses impacted by COVID-19 to cover employee wages, rent, and other fixed costs similar to the \$5M fund Amazon has created for Seattle;
 - e. Reach out to the Silicon Valley Organization, other ethnic and minority chambers of commerce, and small business owners to create a Small Business Recovery Task Force to advise us on policy recommendations and assist with outreach to the business community;
 - f. Reassess the purpose of work2future to see what additional resources they may need to provide workforce training for an anticipated wave of newly unemployed workers due to COVID-19 under their current mandate or whether in light of these new circumstances we must broaden their mission;
 - g. Partner with local business organizations on co-marketing for a Shop Local campaign and delivery options;
 - h. Reduce or waive fees for city parking meters and garages during the crisis; and
2. Explore the possibility of:
 - a. Deferring collection of business taxes until February 2021;
 - b. Deferring payment of utility bills;
 - c. Providing no-interest loans to qualified small businesses, to be paid back with federal assistance monies or private grants as these resources become available.

CEQA: Not a Project, PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact on the environment, and PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Diep)

8.3 (Cont'd.)

Director of Housing Jacky Morales-Ferrand offered a presentation and read changes of the draft ordinance into the record, and she and Deputy City Attorney Christopher Alexander responded to questions. Extensive Council discussion followed.

Public Comments: Carl Davis Jr. representing Silicon Valley Black Chamber of Commerce promoted a 2-way mobile communications platform during this time of crisis. Jeffrey Buchanan (Working Partnerships, Silicon Valley) expressed support for actions being taken today and further asked that the City work on policies that will ensure employers provide protections for their workforce. Dennis King, representing the Hispanic Chamber of Commerce, encouraged Council to think about offering technical assistance to the many workers that need to fill out forms. Armando Ricardez encouraged assistance for restaurants suffering a severe economic impact.

Motion: Councilmember Lan Diep moved approval of staff recommendations, including his memorandum dated March 12, 2020 and the memorandum from Vice Mayor Jones and Councilmember Carrasco, dated March 13, 2020. Councilmember Dev Davis seconded the motion.

Mayor Sam Liccardo recommended amending references to setting aside \$2 million into a Business Continuity Fund and leaving this amount open-ended for now. Councilmember Lan Diep agreed to the revision of item (3) in the memorandum from Vice Mayor Chappie Jones and Councilmember Magdalena Carrasco as indicated below in "Action".

Vice Mayor Chappie Jones requested a friendly amendment, to change the wording "create a Small Business ~~Advisory Recovery~~ Task Force" to advise us on policy recommendations. The friendly amendment was accepted by the makers of the motion.

Action: On a call for the question, the motion carried unanimously, staffs' recommendations were accepted, including Councilmember Lan Diep's memorandum dated March 12, 2020 (with item e. amended as noted): to bring much-needed relief to small businesses in San Jose adversely impacted by COVID-19, approve direction to the City Manager to: 1. Take the following actions: a. Work with our Congressional delegation to urge the Trump Administration and the Small Business Administration to formally declare a disaster stemming from COVID-19 infections in Santa Clara County or geographic region that includes Santa Clara County so that federal assistance may be directed here specifically; b. Reach out to the Governor's office to request priority for Santa Clara County over any state or federal assistance dollars, reflecting our heightened vulnerability; c. Through the 2020-2021 Budget Process, set aside funding for our Office of Economic Development so they can build the capacity to: i. Provide technical assistance to small businesses eligible for SBA loans; ii. Become a singular resource for small businesses in need to learn about the various private and government relief programs available to them; d. Reach out to the Silicon Valley Community Foundation and corporate partners in San Jose such as Google, Cisco, Adobe, and Apple in attempt to create a relief fund to give grants assisting small businesses impacted by COVID-19 to cover employee wages, rent, and other fixed costs similar to the \$5M fund Amazon has created for Seattle; e. Reach out to the Silicon Valley Organization, other ethnic and minority chambers of commerce, and small business owners to create a Small Business ~~Advisory Recovery~~ Task Force to advise us on policy recommendations and assist with outreach to the business community; f. Reassess the purpose of Work2future to see what additional resources they may need to provide workforce training for an anticipated wave of newly unemployed workers due to

(Item Continued on the Next Page)

8.3 (Cont'd.)

COVID-19 under their current mandate or whether in light of these new circumstances we must broaden their mission; g. Partner with local business organizations on co-marketing for a Shop Local campaign and delivery options; h. Reduce or waive fees for city parking meters and garages during the crisis; and 2. Explore the possibility of: a. Deferring collection of business taxes until February 2021; b. Deferring payment of utility bills; c. Providing no-interest loans to qualified small businesses, to be paid back with federal assistance monies or private grants as these resources become available.

Also including the memorandum from Vice Mayor Jones and Councilmember Carrasco, dated March 13, 2020, (with Item #3 amended as noted) approving staff recommendations and including the following recommendations in support of business continuity, as well as landlord and renter relief. Small Business Continuity of Service 1. Direct Staff to include a moratorium on evictions for commercial leases for small businesses. 2. ADD “Work with the small business advisory task force” Establish an Office of Small Business, or full-time point of contact, within OED and/or City Hall that would provide assistance and guidance to small businesses in emergency situations such as the COVID-19 outbreak; designate a full-time employee/s for this role or partner with a nonprofit organization to provide direct and timely communication to small businesses, including recommended management practices in response to COVID19, resources available to help mitigate the impact of the health crisis and preserve business continuity, such as federal loan opportunities through SBA, unemployment assistance through State’s Employment Development Department (EDD), tax relief, and technical support. 3. To complement federal and state funding, reserve funds to establish a Business Continuity Fund of ~~\$2 million~~ that would support small businesses, which includes “mom and pop” landlords, that can demonstrate a direct loss due to the COVID-19 outbreak through no-interest loans for small businesses and grants for micro-businesses (new enterprises or sole proprietorships with no more than two employees). Tenants and Landlords 4. Per Councilmember Arenas’ memo of March 9, 2020, direct the City Manager to bring forward emergency budget changes to allocate additional funding for Destination: Home’s homelessness prevention program, specifically for families facing COVID-19 related loss of income. Release the \$2 million currently held for next fiscal year. 5. Direct staff to develop a communications strategy to ensure tenant relief resources are accessible and available in multiple languages. 6. Direct staff to propose a strategy on how unpaid or deferred rent payments will be handled.

(11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

10 Land Use - Regular Agenda

No Land Use items.

- Notice of City Engineer's Pending Decision on Final Maps

FOR RECEIPT:

Tract: 10539
Location: 555 South Winchester Boulevard
District: 1
Lots/Units: 9/96
Type: Condominium
Developer: Pulte Group

FOR APPROVAL:

Tract: 10456
Location: 15980 Carlton Ave
District: 9
Lots/Units: 1/6
Type: SFD
Proposed Decision: Approved
Developer: Carlton Partners LLC

- Open Forum

None provided.

- Adjournment

The meeting of the Council of the City of San José was adjourned at 7:55 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Toni J. Taber, CMC
City Clerk

rmk/03-17-20 MIN