



City Council Meeting

Draft Minutes/Synopsis

Tuesday, April 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 MEETING

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 7, 2020

Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79450 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the City Council Meeting was not physically open to the public; it was teleconferenced from remote locations. Public comments were accepted via eComment, email, by phone and webinar.

The Council meeting was teleconferenced from remote locations. The Council of the City of San José convened in a Regular Session at 1:32 PM on Tuesday, April 7, 2020

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

Absent: Councilmembers - All Present.

INVOCATION

None presented.

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Councilmember Dev Davis, to move approval, seconded by Councilmember Pam Foley, and carried unanimously, the Orders of the Day and the Amended Agenda were accepted, with item 3.3, Added as follows: "Estimated Budgetary Impacts of Covid-19" adding new sections (b), (c), and (d). Added under Orders of the Day, requires 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. Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.1.E.3; Council's Rules of Conduct, Resolution No. 79367, Rule 3(d). * Item 3.3 was heard immediately after Item 3.1; Item 8.3 "Rent Suspension Urgency Ordinance" was not added under Orders of the Day, and the decision on its addition was deferred to the time of the meeting at which the item would be called.

(11-0)

• CLOSED SESSION REPORT

No report.

1. CEREMONIAL ITEMS

None presented.

2. CONSENT CALENDAR

Upon motion by Councilmember Johnny Khamis to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, the Consent Calendar was approved, with item 2.7 and 2.16 pulled, and the below listed actions taken as indicated.
(11-0.)

2.1 Approval of City Council Minutes.

None presented.

2.2 20-382 Final Adoption of Ordinances.

Recommendation: (a) **Ord No. 30380** - An Ordinance of the City of San José Amending the Title of Part 32 of Chapter 2.08 of Title 2 and Amending Section 2.08.3200 and Section 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 Change 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 Repealing Section 2.08.3250 of Chapter 2.08 of Title 2 of the San José Municipal Code. [Passed for Publication on 3/17/2020 - Item 2.20(a) (20-255)]

Action: **Ordinance No. 30380** was adopted.

(b) **Ord No. 30382** - An Ordinance of the City of San José Enacting a Temporary Moratorium on Evictions Due to Nonpayment of Rent for Residential Tenants where the Failure to Pay Rent Results from Income Loss Resulting from the Novel Coronavirus (COVID-19). [Passed for Publication on 3/17/2020 - Item 8.2 (a) (20-358)]

Action: **Ordinance No. 30382** was adopted.

(c) **Ord No. 30383** - An Ordinance of the City of San José Retroactively Extending the Business Tax Amnesty and Business Improvement District Assessment Amnesty Programs (Ordinance Nos. 30295 and 30296, Respectively) from March 27, 2020 Up Through and Including June 30, 2020. [Passed for Publication on 3/24/2020 - Item 2.21 (20-375)]

Action: **Ordinance No. 30383** was adopted.

(d) **Ord No. 30385** - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 4.70-Gross Acres, Situated Approximately 830 Feet South of the Southeast Corner of North 1st Street and Charcot Avenue (2150 North 1st Street) (APN: 237-17-136; 237-17-157) From the A(PD) Planned Development Zoning District to the Tec Transit Employment Center Zoning District. [Passed for Publication on 3/24/2020 - Item 10.1(c) (20-324)]

Action: **Ordinance No. 30385** was adopted.

(Item Continued on the Next Page)

2.2 20-382 Final Adoption of Ordinances. (Cont'd)

(e) **Ord No. 30386** - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.413-Gross Acre Situated on the Southwest Corner of Hayes Avenue and Lean Avenue (APN:690-29-001), from the R-1-1 Single Family Residence Zoning District to the R-2 Two-Family Residence Zoning District.[Passed for Publication on 3/24/2020 - Item 10.1(b) (20-323)]

Action: **Ordinance No. 30386** was adopted.

2.3 Approval of Council Committee Minutes.**2.4 Mayor and Council Excused Absence Requests.****2.5 City Council Travel Reports.****2.6 Report from the Council Liaison to the Retirement Boards.****2.7 20-383 Declaration and Recording a Statement of the Results of the March 10, 2020 Community Facilities District No. 8 Election.**

Recommendation: Adopt a resolution declaring and recording a statement of the results of the Special Municipal Election for Community Facilities District No. 8, held by all mail ballot on March 10, 2020 at 8:00 p.m.

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

Action: Upon motion by Vice Mayor Chappie Jones to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 79455** was adopted.

(10-1. Recused: Khamis).

2.8 20-384 Settlement of Arabella Marie Quinonez, by and through her Guardian Ad Litem Patricia M. Bye; Isamar Pena; and Carlos Quinonez v. City of San José.

Recommendation: Approve a settlement in the amount of \$185,000, inclusive of attorney fees, and authorize the City Attorney to execute a Settlement Agreement to settle the case of Arabella Marie Quinonez, by and through her guardian ad litem Patricia M. Bye; Isamar Pena; and Carlos Quinonez 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: Settlement of Arabella Marie Quinonez, by and through her Guardian Ad Litem Patricia M. Bye; Isamar Pena; and Carlos Quinonez v. City of San José, was approved.

2.9 20-385 Resolution of Intention to Approve an Amendment to the Contract between the California Public Employees' Retirement System and the City of San José.

Recommendation: 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 from 3/17/2020 - Item 2.11 (20-354)]

Action: Deferred to 4/14/20 per Administration.

2.10 20-404 Authorization to Apply for State of California Office of Emergency Services for Disaster Relief Funding.

Recommendation: Adopt a resolution authorizing the City Manager, Assistant City Manager, or Finance Director to submit applications to the State of California Office of Emergency Services (CalOES), the Federal Emergency Management Agency (FEMA), the U.S. Department of Treasury, and including, without limitation, other federal and state agencies as necessary to apply for Disaster Assistance or related funding, to accept the funds if awarded, and to negotiate and execute all related documents to support the City's response and recovery under the COVID-19 Pandemic.
CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (City Manager)

Action: **Resolution No. 79456** was adopted.

2.11 20-386 Pond A-18 Surplus Property. -

Recommendation: 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 2/25/2020; 3/3/2020; 3/17/2020; and 3/24/2020 Item 2.14 (20-355)]

Action: Deferred to 4/14/20 per Administration.

2.12 20-407 Suspension of Late Payment Charges for Municipal Water System and Multi-Family Dwelling Solid Waste Billings.

Recommendation: Approve an ordinance retroactively suspending late payment charges for City-provided water service billed on a bi-monthly basis and multi-family dwelling solid waste collection service billed on a monthly basis, with due dates ranging from March 17, 2020 through June 30, 2020.
CEQA: Not a Project, File No. PP17 010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Finance)

Action: **Ordinance No. 30386** was adopted.

2.13 20-387**Actions Related to the Purchase Order with JAM Services for Streetlight Poles.****Recommendation:**

Adopt a resolution authorizing the City Manager to:

(a) Execute a purchase order with J.A. Momaney Services, Inc., dba JAM Services, (San José, CA) for Streetlight Poles for the Department of Transportation for an initial twelve-month period starting on or about April 8, 2020 and ending on or about April 7, 2021 for an amount not-to exceed \$330,000; and

(b) Exercise up to four additional one-year options to extend the initial term of the purchase order with the last option year ending on or about April 7, 2025, subject to the annual appropriation of funds.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301, Existing Facilities (Finance)

Action: **Resolution No. 79457** was adopted.

2.14 20-388**Amendment to the City Pay Plan for Various Classifications.****Recommendation:**

Adopt a resolution to amend the City of San José Pay Plan effective April 7, 2020, to:

(a) Create the following classifications:

(1) Police Communications Manager (8517) with a salary range of \$126,600.00 - \$177,386.66 annually; and

(2) Legal Analyst III FT/PT (2122/2125) with a salary range of \$82,056.00 - \$99,985.60 annually.

(b) Retitle the Assistant Communications Manager (8522) classification to Assistant Police Communications Manager (8522).

(c) Delete the Associate Legal Analyst FT/PT (8028/8029) classification.

CEQA: Statutorily Exempt, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Human Resources)

Action: **Resolution No. 79458** was adopted.

2.15 20-397**Actions Related to the California Violence Intervention and Prevention Grant Application.****Recommendation:**

Adopt a resolution:

(a) Authorizing the City Manager to submit a grant application and, if awarded, negotiate and execute a grant agreement with the State of California Board of State and Community Corrections for an amount up to \$1,500,000 in funding and to take all actions necessary to effectuate the grant, including any amendments thereof; and

(b) Authorizing the Director of Parks, Recreation, and Neighborhood Services to negotiate and execute grant agreements with community-based organizations identified in the grant application, including any amendments thereof, up to an amount of \$500,000 per agreement, subject to City Council appropriation.

CEQA: Not a Project, File No. PP17-004, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Parks, Recreation and Neighborhood Services)

Action: **Resolution No. 79459** was adopted.

2.16 20-389 Actions Related to Alteration No. 1A of Community Facilities District No. 8.**Recommendation:**

(a) Adopt a Resolution of Change for Alteration No. 1A of Community Facilities District No. 8 (Communications Hill) ("CFD 8").

(b) Adopt an ordinance levying special taxes within CFD 8 pursuant to Alteration No. 1A.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a special project which may result in a potentially significant physical impact on the environment. Council District 7. (Public Works)

Action: Upon motion by Vice Mayor Chappie Jones to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 79460** was adopted, and **Ordinance No. 30387** was adopted. (10-1. Recused: Khamis).

2.17 20-390 Willow Glen Community Benefit Improvement District Financial Report Fiscal Year 2018-2019.**Recommendation:**

Accept the Willow Glen Community Benefit and Improvement District Financial Report for Fiscal Year 2018-2019, which provides information to the public and the property owners in the District regarding the use of the assessments and the management and operations of the District.

CEQA: Categorically Exempt, File No. PP18-060, CEQA Guidelines Section 15301, Existing Facilities. Council Districts 6. (Public Works)

Action: The Willow Glen Community Benefit Improvement District Financial Report Fiscal Year 2018 2019, was approved.

2.18 20-393 Report on Bids and Award of Contract for the 9384 - Sanitary Sewer Condition Assessment Fiscal Year 2019-2020 Package III Project.**Recommendation:**

Report on bids and award of contract for the 9384 - Sanitary Sewer Condition Assessment FY 2019-2020 Package III project to the low bidder, Nor-Cal Pipelines Services, in the amount of \$1,196,966 and approval of a contingency in the amount of \$119,697.

CEQA: Categorically Exempt, File No. PP17-029, CEQA Guidelines Section 15301, Existing Facilities. Council Districts 2, 6, 7, 9 and 10. (Public Works)

Action: Report on Bids and Award of Contract for the 9384 - Sanitary Sewer Condition Assessment Fiscal Year 2019-2020 Package III Project, was approved.

2.19 20-394 Report on Bids and Award of Contract for the 8176 - McLaughlin Avenue Safety Enhancement Project Federal Project No. HSIPL-5005(157).**Recommendation:**

Report on bids and award of contract for the 8176 - McLaughlin Avenue Safety Enhancement Project, to the low bidder, Wattis Construction, Co., in the total amount of \$1,682,160 and approval of a contingency in the amount of \$168,216.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council District 7. (Public Works)

Action: Report on Bids and Award of Contract for the 8176 - McLaughlin Avenue Safety Enhancement Project Federal Project No. HSIPL-5005(157), was approved.

2.20 20-391 Operation and Maintenance Agreement with VTA for the BART Phase 1 Silicon Valley Berryessa Extension Project.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the Santa Clara Valley Transportation Authority and the City of San José for ongoing operation and maintenance of facilities constructed as part of the BART Silicon Valley Berryessa Extension Project.
CEQA: BART Extension to Berryessa Final and Supplemental Environmental Impact Reports, adopted on January 24, 2012, under Resolution Number 76126. Council District 4. (Transportation)

Action: **Resolution No. 79461** was adopted.

2.21 20-414 Approval of District 10 Grant for Kiwanis Club of Almaden.

Recommendation: As recommended by the Rules and Open Government on March 24, 2020, approve a grant to Kiwanis Club of Almaden for their Turnaround Scholarships in the amount of \$1,000.00 to be paid by Council District 10's SAP Center Community Fund City-Wide appropriation.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Khamis)
[Rules Committee referral 3/18/2020 - Item G.2]

Action: The District 10 Grant for Kiwanis Club of Almaden, was approved.

2.22 20-415 Paid Sick Leave Ordinance. - Renumbered to Item 3.4

Recommendation: As recommended by at the Special Meeting of the City Council on April 1, 2020:
(a) Adopt an urgency ordinance mandating that employers in San José not required to provide paid sick time under the federal Emergency Paid Sick Leave Act provide paid sick time to certain employees to be used for health reasons related to COVID-19 and setting forth the facts constituting the urgency.
Please note: Approval of this urgency ordinance requires 8 or more affirmative votes (2/3).

Action: **Urgency Ordinance No. 30390** was adopted.

(b) Approve an ordinance mandating that employers in San José not required to provide paid sick time under the federal Emergency Paid Sick Leave Act provide paid sick time to certain employees to be used for health reasons related to COVID-19.

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. (Liccardo, Carrasco, Esparza, Arenas, Jones, Khamis, Foley)

[Special Meeting of the City Council referral 4/1/20 - Item 3.2]

Renumbered to Item 3.4 (20-437)

Action: **Ordinance No. 30391** was adopted.

2.23 20-416**Cancellation of City Council Committee, Board, and Commission Meetings, with a few Exceptions, Updates to the January - June 2020 City Council Committee Workplans.****Recommendation:**

As recommended by the Rules and Open Government Committee on March 25, 2020, ratify the action of the City Manager, acting as Director of the Office of Emergency Services, to order cancellation of City Council Committee, Board, and Commission Meetings, with the exception of the Rules and Open Government Committee, Federated Employees Retirement System Board, Police and Fire Department Retirement Board, Work2Future Board, Planning Commission, and Historic Landmarks Commission from March 19, 2020 through April 30, 2020.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)
[Rules Committee referral 3/25/20 - Item G.3]

Action: The Cancellation of City Council Committee, Board, and Commission Meetings, with a few Exceptions, Updates to the January - June 2020 City Council Committee Workplans, was approved.

2.24 20-434**Proposed Advertising Revisions to Council Expenditure Policy 0-38.****Recommendation:**

Adopt a resolution approving revisions to City Council Policy 0-38, City Council Expenditure and Reimbursement Policy allowing advertisement expenditures related to Public Service Announcements during a declared national, state or local emergency. (City Attorney)

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

Action: **Resolution No. 79462** was adopted.

3. STRATEGIC SUPPORT**3.1 20-392****Report of the City Manager, David Sykes.****Recommendation:**

- (a) City Manager's COVID-19 Update (Verbal Report).
- (b) City Manager's Report on Other City Matters (Verbal Report)

Heard before Consent

City Manager David Sykes provided updates on the impacts of COVID-19 and its budget impacts. The community will receive an invitation to a virtual town hall in the next week where additional updates will be provided. The City Manager will field questions from community members. Input from community stakeholders are welcome.

Deputy City Manager Kip Harkness, and the leadership team from the City's Emergency Operations Center provided updates on the impacts of COVID-19, including information on the City's Roadmap for the duration of the pandemic, local assistance programs, State, and Federal funding resources, as well as a synopsis of the City's communications strategy and public education campaign.

Action: No motion was required. Council accepted the verbal report.

3.2 Labor Negotiations Update.

None presented.

3.3 20-401 Estimated Budgetary Impacts of COVID-19.

Recommendation:

- (a) Accept a report from the City Manager describing estimated budgetary impacts from COVID-19 and the approach for how those impacts will be addressed in Fiscal Years 2019-2020 and 2020-2021.
- (b) Adopt a resolution authorizing the City Manager or designee accept to the COVID-19 Emergency Homelessness Funding Grant from the State of California in the amount of \$3,919,821, and to negotiate and execute related documents without further City Council action to accept these grant funds.

City Manager David Sykes and Budget Director Jim Shannon, gave a presentation and responded to questions.

The Budget Office provided an estimated budgetary impacts of COVID-19, outlined reduction targets for each Department, as well as evaluated options that can best address the budgetary shortfalls while still prioritizing the most critical needs of our communities.

Public Comments: Offering comments on the Estimated Budgetary Impacts of COVID-19 were: David Mei, Janice Lee, Blair Beekman, Christina Erisman, Raymond Bai, Mimouna Aveda, Miguel Flores, Richard Shao, Daisy, Richard Sanchez, Chung, and Marc Rosevich. City Clerk Toni Taber read Roman Dawson's comments for the record.

Action: Upon motion by Councilmember Sylvia Arenas to move approval, seconded by Councilmember Maya Esparza, and carried unanimously, **Resolution No. 79463** was adopted, including approval of the Memorandum from Councilmember Arenas to:

Accept the Mayors memo and:

- 1) Report back to the Council, in advance of the release of the City Manager's Proposed Budget, an informational memo that shows how the Mayor's proposed equity screen on budget cuts will be applied.
- 2) Recommend that the administration model their equity screen similar to that used by the City of Seattle.
- 3) Bring back to Council proposed changes to the format of council and committee memos that bring Equity considerations into every memo from the City Administration, Council Appointees, and Commissions, in line with cities like Seattle that have participated in the GARE process.

(Item Continued on the Next Page)

3.3 20-401**Estimated Budgetary Impacts of COVID-19. (Cont'd)**

Recommendation from Mayor Sam Liccardo Memorandum include:

Direct the City Manager to return throughout the budget process to:

1. Incorporate the same reduction strategies to the Mayor's and Council Offices and Council Appointee budgets as directed to other City departments.
2. Leverage the expertise, creativity, and insight of our employees by modifying the existing Employee Suggestion Program to help identify optimal cost savings and efficiencies, by:
 - a. Facilitating our employees' suggestions for budget reductions, revenue increases, or cost savings, giving each responding employee the option to select any combination of the following:
 - i. Allowing the employee's suggestion to be made either anonymously or with attribution;
 - ii. Allowing the suggestion to remain confidential within the City Manager's Budget Office, (without disclosure to anyone within the employee's department) or to be shared with all City Staff, the Council, and Public.
 - b. Identifying promising suggestions for Council consideration with evaluations of their feasibility and fiscal impacts. These suggestions should be specific, quantifiable, and offer the opportunity for immediate budgetary savings.
3. Evaluate proposals for reductions in services with an equity screen, the criteria of which must be made transparent to the Council and the public.
(11-0.)
- (c) Adopt the following Appropriation Ordinance Amendments in the General Fund:
 - (1) Decrease the 2019-2020 Ending Fund Balance Reserve in the amount of \$10,000,000; and
 - (2) Establish a Transfer to the Emergency Reserve Fund in the amount of \$10,000,000.
- Action: **Ordinance No. 30388** was adopted.
(11-0.)
- (d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Emergency Reserve Fund:
 - (1) Establish an estimate for Transfers and Reimbursements in the amount of \$10,000,000;
 - (2) Establish an estimate for Revenue from the State of California in the amount of \$3,919,821;
 - (3) Decrease the Ending Fund Balance in the amount of \$500,000; and
 - (4) Establish an appropriation for COVID-19 Emergency Response in the amount of \$14,419,821.

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3.3 20-401**Estimated Budgetary Impacts of COVID-19. (Cont'd)**

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

Heard immediately after Item 3.1

Action: **Ordinance No. 30389** was adopted, and **Resolution No. 79464** was adopted. (11-0.)

- Council recessed at 6:20PM
- Council reconvened at 6:50PM

3.4 20-437**Paid Sick Leave Ordinance. - Renumbered from Item 2.22****Recommendation:**

As recommended by at the Special Meeting of the City Council on April 1, 2020:

(a) Adopt an urgency ordinance mandating that employers in San José not required to provide paid sick time under the federal Emergency Paid Sick Leave Act provide paid sick time to certain employees to be used for health reasons related to COVID-19 and setting forth the facts constituting the urgency.

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

There was no presentation for this item.

Public Comments: Offering comments on Paid Sick Leave Ordinance were Jeff Buchanan and. Jill Cafarro.

Action: The motion by Councilmember Maya Esparza to move forward with the ordinance as written, seconded by Councilmember Sylvia Arenas, did not gain currency.

Action: Upon substitute-motion by Councilmember Sergio Jimenez to move approval, And grant employers the two weeks to abide by the change, seconded by Councilmember Dev Davis, and carried unanimously, Urgency Ordinance - No. 30390 was adopted including approval of staff recommendation but with amendment or language change to "SECTION 11B" (Exemptions) from "on the effective date" to "within two weeks of effective date" for employees of healthcare providers.(11-0.)

(b) Approve an ordinance mandating that employers in San José not required to provide paid sick time under the federal Emergency Paid Sick Leave Act provide paid sick time to certain employees to be used for health reasons related to COVID-19.

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. (Liccardo, Carrasco, Esparza, Arenas, Jones, Khamis, Foley)

[Special Meeting of the City Council referral 4/1/20 - Item 3.2]

Renumbered from Item 2.22 (20-415)

Action: **Ordinance No. 30391** was adopted.

4. PUBLIC SAFETY SERVICES**5. TRANSPORTATION & AVIATION SERVICES****6. ENVIRONMENTAL & UTILITY SERVICES****6.1 20-395 Agreement with Valley Water for the Sale of Pond A-18 for the Shoreline Levee Project.**

Recommendation: Adopt a resolution authorizing the City Manager to negotiate 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; 3/3/2020; 3/17/2020; and 3/24/2020 Item 6.1 (20-359)]

Action: Deferred to 4/14/20 per Administration.

6.2 20-396 Actions Related to Power Procurement, Carbon-Free Allocations, and Integrated Resource Plan Time Change.

Recommendation: Adopt a resolution:
(a) Increasing the authority granted to the Director of Community Energy or her designee for the procurement of power supply products, other than Resource Adequacy products, by \$393,300,000, from \$690,000,000 to an amount not to exceed \$1,083,300,000 in aggregate, in Calendar Years 2020 through 2026, subject to the Energy Risk Management Policy, the appropriation of funds, and Risk Oversight Committee approval of all contracts with a duration of ten years or more;
(b) Increasing the authority granted to the Director of Community Energy or her designee for the procurement of Resource Adequacy products by \$76,200,000, from \$461,800,000 to \$538,000,000 in aggregate, in calendar years 2021 through 2043, subject to the Energy Risk Management Policy, the appropriation of funds, and Risk Oversight Committee approval of all contracts with a duration of ten years or more;
(c) Approving the acceptance of low carbon power products from Pacific Gas & Electric's hydroelectric and nuclear generating plants; and
(d) Amending Subsection B of Resolution No. 78711 to modify the timing for the Community Energy Department to present San José Clean Energy's Integrated Resource Plan for City Council approval prior to submitting the Integrated Resource Plan to the California Public Utilities Commission.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Community Energy)

Community Energy Director Lori Mitchell gave a presentation and responded to questions.

Action: Upon motion by Councilmember Johnny Khamis to move approval, seconded By Councilmember Maya Esparza, and carried unanimously, **Resolution No. 79465** was adopted. (11-0.)

7. NEIGHBORHOOD SERVICES**8. COMMUNITY & ECONOMIC DEVELOPMENT****8.1 20-398 Emergency Order and Shelter Crisis Declaration for COVID-19 Emergency.****Recommendation:**

(a) Adopt a resolution:

(1) Ordering a suspension of the City Zoning Code, the General Plan and other requirements applicable to shelters established or expanded during the COVID-19 emergency pursuant to the City's emergency powers under California Government Code Section 8634;

(2) Declaring the existence of a continued shelter crisis in the City of San José, pursuant to and in accordance with the provisions of California Government Code Section 8698 et seq., Citywide for facilities and properties as authorized by the City Manager during the COVID-19 emergency; and

(3) Ratifying the City Manager's March 20, 2020 declaration of Shelter Crisis.

(b) Direct the Administration to take actions to address the emergency and Shelter Crisis as set forth in the Resolution.

CEQA: Statutorily Exempt, CEQA Guideline Section 15259, Emergency Projects.

(Housing) [Rules Committee referral 3/18/20 - Item A.1.a]

[Deferred from 3/24/2020 Item 8.3 (20-377)]

There was no presentation for this item.

City Manager David Sykes provided introduction, and City Attorney Rick Doyle elaborated, and responded to questions.

Public Comments: Offering comments were: Jeff Buchanan, Blair Beekman, Robert Aguirre, Miguel Flores, Kathryn Hedges, Johnny's iPhone, Linette Duarte, Steve Phan, and Antonio Deriutti.

Action: Upon motion by Councilmember Maya Esparza to move approval and defer her memo, seconded by Councilmember Raul Peralez, and carried unanimously, **Resolution No. 79466** was adopted, including the deferral of Memorandum from Councilmember Maya Esparza, dated April 7, 2020, and the approval of the Memorandum from Mayor Sam Liccardo, Vice Mayor Chappie Jones, Councilmember Raul Peralez, Councilmember Dev Davis to:

1. Ratify the Shelter Crisis Declaration declared previously by the City Manager.

2. Direct the City Manager to reallocate \$17,232,510 of the Homeless Housing, Assistance, and Prevention (HHAP) funds towards the lease, purchase, and/or construction of emergency housing, including prefabricated modular units, during the declared Shelter Crisis for individuals impacted by the COVID-19 pandemic, including:

a. \$13,000,000 that was previously directed for the development and operations of a potential navigation center

b. \$4,232,510 that was previously directed for innovative housing solutions.

(Item Continued on the Next Page)

8.1 20-398**Emergency Order and Shelter Crisis Declaration for COVID-19... (Cont'd)**

This was amended with Item #2 from Councilmember Arenas memorandum to:

2) Exclude from the reallocation the HHAP funding dedicated for programs that serve families with children (including Motel Vouchers and Safe Parking programs).
(11-0.)

8.2 20-399**Actions Related to the Moratorium on Evictions for Nonpayment of Rent for Small Business Tenants Financially Impacted by the Novel Coronavirus (COVID-19).****Recommendation:**

(a) Accept staff's report and support the Santa Clara County Board of Supervisors' decision to adopt an Urgency Ordinance establishing a moratorium on evictions for nonpayment of rent for small business tenants financially impacted by the novel coronavirus ("COVID-19").

OR

(b) Adopt an urgency ordinance that establishes a moratorium on non-payment of rent evictions for small business commercial tenants whose business was financially impacted 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 the eviction of a commercial tenant for nonpayment 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.

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

There was no presentation for this item.

Economic Development Director Kim Walesh observed that the OED had only a five slide overview. In the interest of time, however, staff recommendation is to just go with the County Ordinance. She responded to questions.

Mayor Liccardo clarified that, this is relating only to the moratorium on the evictions of small business tenants, not residential tenants. Therefore, wishing to speak on residential tenants may wait for the next item.

Public Comments: Offering comments were: Daniels Reyes, Kathryn Hedges, and Alex. Paul Soto and Lisa were recognized to the speak but deferred commentary until Item 8.3

Action: Upon motion by Councilmember Johnny Khamis to move approval, seconded by Councilmember Pam Foley, and carried unanimously, option (a) of staff's report was accepted as follows:

(Item Continued on the Next Page)

8.2 20-399**Actions Related to the Moratorium on Evictions for Nonpayment of Rent (Cont'd)**

Accept staff's report and support the Santa Clara County Board of Supervisors' decision to adopt an Urgency Ordinance establishing a moratorium on evictions for nonpayment of rent for small business tenants financially impacted by the novel coronavirus ("COVID-19"), as indicated, (per clarification that, this relates only to the moratorium on the evictions of small business tenants, not residential tenants. (11-0).

(c) Approve an ordinance that establishes a moratorium on non-payment of rent evictions for small business tenants whose business was financially impacted by the novel coronavirus (COVID-19). Specifically, the ordinance would:

- (1) Temporarily prohibit the eviction of small business tenants 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 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: **This item was not discussed, not approved.**

(d) Adopt a resolution declaring the commencement of a thirty-day temporary moratorium on evictions due to nonpayment of rent for small business commercial tenants where the failure to pay rent results from the financial impacts of COVID-19 upon the business and setting forth the facts constituting such urgency. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Economic Development)

Action: **This item was not discussed, not approved.**

8.3 20-452**Rent Suspension.****Recommendation:**

- (a) Enact an emergency resolution for a residential rent suspension for 90 days for all units if the tenant can demonstrate a direct financial impact due to the coronavirus pandemic and;
 - (b) The rent suspension will be retroactive to April 1st, 2020
 - (c) Direct staff to return in 90 days if further action is required.
- CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (Carrasco, Peralez)

City Attorney Rick Doyle gave a brief presentation and stated the unconstitutionality of the proposal. He referenced his memo dated, April 6, 2020 for further guidance, and responded to questions.

He stated that the Fifth Amendment prohibits the taking or acquiring of another person's property without compensation.

(Item Continued on the Next Page)

8.3 20-452**Rent Suspension. (Cont'd)**

Public Comments: Offering comments on Rent Suspension were 70 community members as follows: Sun Hee Yao, Jim Ha, Huang Chung Lo, Stanley Singh, Unnamed female commenter, Sandy Perry, (representing Affordable Housing Network); Jessica Matthew, Catherine Dulgam, Lauren Monette, Sequa Wayne, Unnamed female commenter, Unnamed 15-year-old commenter, Michael Trujillo, David Mei, Last four digits phone #6519: Pedro Garcia, Flor de Leon, (Community Organizer at Somos Mayfair); Robert LaSalle, Camille Llanes-Fontanilla, (Executive Director at Somos Mayfair); Maria Martinez, (Coordinator at Somos Mayfair), Last four digits phone #0608 Karen, Kathryn Hedges, Gladys Fuentes, Tam Teng, Alex, Jeff Buchanan, (representing Working Partnerships USA); Last four digits phone #1637, Last four digits phone #3402 Kevin, Jillian Gomez, David Darby, Vasquez, (full time college student); Roxanna, (translator in Spanish for Unnamed female commenter); Roxanna, (translator in Spanish for another Unnamed female commenter); Unnamed female commenter, Ken, Kat Mikhail, Andrew, Winnie, Erin Katz, (Regional Organizing Director of California Unity); Laura Mundial, Selma Andres, Rosa Gonzalez, Mona, Karen Chao, Unnamed female commenter, Unnamed male commenter, Unnamed male commenter, Dolores Gonzalez, Olivia Ortiz, Anil Babar, Michael Liang, Monica Marlon, Matthew Reid, Araceli Arellano, Mark Molino, Alexander Brown, Roberto Moore, Linda Harris, Mark Andrews, Unnamed female commenter, Steve Liu, Semur Shah, Laura, Daniel Reyes, Chung, Dan, Jose Manuel Valles, and Last four digits phone #3619.

Vice Mayor Chappie Jones reminded the community that the Rent Suspension proposal had been withdrawn to calm the overwhelming concerns voiced by speakers during public comments.

Mayor Liccardo called a cessation to new public comments at 11:30 p.m. as Council would vote on no proposal tonight.

Councilmember Raul Peralez stated the need to skirt the Rules and Open Government Committee and directly agendize a rent freeze item for Council consideration that would obligate landlords in receipt of some form of mortgage relief to ensure that a portion of such relief transfers down to the tenant at a bare minimum.

City Attorney Rick Doyle iterated that, while Council will not debate the merits of this item or any specifics on taking action on it, the Brown Act does allow the Council to direct staff to bring back a future agenda item within the subject matter.

Action: The motion by Councilmember Raul Peralez to agendize rent freeze on the next City Council Agenda, on Tuesday April 14, 2020, seconded by Councilmember Magdalena Carrasco, passed unanimously, including the deferral of the Memorandum from Councilmember Carrasco and Councilmember Peralez, dated April 3, 2020. (10-1. Noes: Khamis).

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE**10.1 Land Use on Consent Calendar**

- (a) 20-402 C19 035 & H19 045 Conforming Rezoning and Site Development Permit for Real Property Located at 25, 101 & 181 Metro Drive.

Recommendation: (a) Approve an ordinance rezoning certain real property of an approximately 7.22-gross acre site from A(PD) Zoning District to IP Industrial Park at 25, 101, & 181 Metro Drive.

There was no presentation for this item.

Public Comments: 1. Robert Aguirre commented on the removal of trees in the City. I think we have been doing a terrible job of removing trees and not replacing them, even though that's one of the things that is necessary to provide good, clean air for the community. 2. Richard Sanchez was recognized to speak; his microphone was inaudible.

Action: Upon motion by Councilmember Pam Foley to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Ordinance No. 30394** was passed for publication.
(11-0.)

(b) Adopt a resolution adopting a Site Development Permit to remove 14 ordinance-size trees, and to allow the conversion of approximately 37,974 square feet of ground floor commercial/retail space to office space and the addition of approximately 26,088 square feet to an existing 448,295-square foot office building on an approximately 7.22-gross acre site.

CEQA: Determination of Consistency with the North San José Area Development Policy Final Environmental Impact Report (Resolution No. 72768), the Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), the Envision San Jose General Plan Final Supplemental Environmental Impact Report (Resolution No. 77617), and addenda thereto. Planning Director recommends approval. Council District 3. (Planning, Building and Code Enforcement)

Heard immediately after regular Consent Calendar

Action: **Resolution No. 79469** was adopted.

END OF CONSENT CALENDAR**10 Land Use - Regular Agenda****• Open Forum**

No cards.

• Adjournment

MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF SAN JOSE HOUSING AUTHORITY AGENDA

1:30 PM.

April 7, 2020

REMOTE LOCATIONS

Mayor Liccardo adjourned the regular session of The Council of the City of San José and reconvened a Meeting of the Joint Session of the City Council and the Board of Commissioners of the San José Housing Authority at 11:42PM in remote locations.

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

Absent: Councilmembers - All Present.

• CALL TO ORDER AND ROLL CALL: 11:42 PM.**1. 20-403 Support for the 2021 Moving to Work Annual Plan.****Recommendation:**

Board of Commissioners for the Housing Authority of the City of San José (City Housing Authority) authorize the City Housing Authority's Executive Director to submit a letter to the Santa Clara County Housing Authority to support the 2021 Moving to Work Annual Plan.

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

There was no presentation for this item.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded By Councilmember Pam Foley, and carried unanimously, Support for the 2021 Moving to Work Annual Plan, was approved.
(11-0.)

• OPEN FORUM

1. Jose Manuel Valles: commented on interpretation of the constitution, and the use of police power
2. Blair Beekman offered comments on permitting public commentary on the rent item.
3. Eric Tapier addressed how the road to hell is paved with good intentions, socialism, and central planning.
4. Victor Vasquez expressed disappointment with today's decision, because the public is not asking the City to give the public something for free but to protect our interests.
5. Veronica, East Side District 5 resident, urged Council to support a rent suspension for the people, and use the power the people gave the Council to protect the most vulnerable.
6. Avi Shai commented that this is unfair because the landlord and the tenant are in the same difficult situation.
7. Annie stated that many people are hurting and are barely hanging on. Housing is a human right and a moratorium is the only logical solution.
8. The person with the phone number ending 1367, addressed item 10.1: Land Use on Consent Calendar, and the 14 ordinance-size trees that are to be removed.
9. Bill stated that we should help tenants and property owners alike; landlords should not always be picked upon to sacrifice.
10. Fay recounted her client's case, a tenant who is a software engineer with a tech company, and he just paid 60 percent of the rent without any job impact on his income at all.
11. Joseph Magno, a postal carrier and organizer in the Filipino community stated that the City cannot ask The most vulnerable communities to stop working without suspending rent.
12. Mark Andrews commented on extending a helping hand to landlords and the poor alike.
13. Brenda spoke to anxiety among us all struggling residents, seniors, undocumented class, and all races who are counting on the City to find options and solutions that would help everyone.
14. Wey Gao commented that he and his wife have three young kids to bring up, and rely on the only rental property they have to help them overcome today's financial crisis.

• ADJOURNMENT

Mayor Liccardo adjourned the Joint Meeting session at 12.02 AM

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

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