



City Council Meeting Minutes

Tuesday, June 2, 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

JUNE 2, 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. Public comments were accepted via eComment, email, by phone and webinar.

The Council meeting was teleconferenced from remote locations.

20-028 - [See Page 21 for Closed Session Minutes](#)

The Council of the City of San José convened on Tuesday, June 2, 2020 at 11:02 a.m.

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

Absent: Councilmembers - All Present.

- **Invocation (District 6)**

Councilmember Dev Davis provided a written statement from she and Gabrielle Antolovich, Billy DeFrank LGBTQ+ Community Center, acknowledging strides we have made towards social justice, but acknowledging we still have much to do to gain equality for marginalized communities.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Orders of the Day**

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Dev Davis, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.8 added*, and with Item 7.1 modified to a 'negotiate and execute'.
(9-0-2. Absent: Jimenez, Khamis.)

Mayor Sam Liccardo added that today's meeting will be adjourned in honor of George Floyd, whose tragic death at the hands of Minneapolis police sparked nationwide protests, as we contemplate deeply on what our role can be in improving and addressing the plight of so many in our community and communities throughout the country.

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* SEE NEW ITEM 3.8, "Ratification of both May 31, 2020 Proclamation of Local Emergency Resulting from Civil Unrest and May 31, 2020 Emergency Order Imposing a Curfew" ADDED UNDER ORDERS OF THE DAY, 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 AND THE NEED TO TAKE ACTION AROSE AFTER THE POSTING OF THE AGENDA. *Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.1.F.1.b; Council's Rules of Conduct, Resolution No. 79367, Rule 3(d).*

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

Upon motion by Councilmember Pam Foley, 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 20-612 Approval of City Council Minutes.

- (a) Regular City Council Meeting Minutes of May 21, 2019.
 - (b) Regular City Council Meeting Minutes of June 4, 2019.
 - (c) Regular City Council Meeting Minutes of April 28, 2020.
 - (d) Regular City Council Meeting Minutes of May 12, 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.

Public Comment: Blair Beekman pulled Item 2.1, noting letters he had provided for the record addressing the need for affordable housing and rent forgiveness.

Action: The City Council Meeting Minutes were approved. (11-0.)

2.2 20-580 Final Adoption of Ordinances.

- (a) **Ord No. 30411** - An Ordinance of the City of San José Amending Chapter 4.80 of Title 4 of the San José Municipal Code to Add a New Part Related to the Establishment of the Coronavirus Relief Fund. [Passed for Publication on 5/12/2020 - Item 3.4 (20-556)]

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Final Adoption of Ordinances (Cont'd.)

(b) **Ord No. 30415** - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 10.34 Gross Acres Situated on the Northwest Corner of Kiely Boulevard and Northlake Drive (360-400 Saratoga Avenue) (APN: 303-25-044 and 303-25-052) from the CG Commercial General Zoning District to the CP Commercial Pedestrian Zoning District.

[Passed for Publication on 5/12/2020 - Item 10.1(a) (20-527)]

(c) **Ord No. 30420** - An Ordinance of the City of San José Amending Uncodified Ordinance No. 30382 which Established a Temporary Moratorium on Evictions due to Nonpayment of Rent for Residential Tenants where the Failure to Pay Rent Results from Income Loss due to the Novel Coronavirus (COVID-19), to Include the Following Provisions: a) Allow Affected Tenants with Seven Days Following Service of a Nonpayment of Rent Notice to Notify Their Landlords if They Have Been Financially Impacted, b) Expand the Definition of Affected Tenant, c) Add Anti-Retaliation Protection, d) Add a Prohibition on Notices Served in Bad Faith, e) Add a Prohibition of Late Fees, Interest, and Penalty Charges to Affected Tenants during Moratorium, and f) Add a Repayment Period through December 31, 2020. [Passed for Publication on 5/19/2020 - Item 8.3 (20-568)]

(d) **Ord No. 30421** - An Ordinance of the City of San José Amending Section 17.23.310 of Part 3 of Chapter 17.23 of Title 17 of the San José Municipal Code to Not Require Landlords Who Have Entered into Reduced Rent Agreements to Use the Reduced Rent Charged Pursuant to Such Agreement when Calculating the Annual General Increase. [Passed for Publication on 5/19/2020 - Item 8.4 (20-575)]

(e) **Ord No. 30422** - An ordinance of the City of San José Amending Title 20 of the San José Municipal Code Section 20.30.100 of Chapter 20.30, Section 20.40.100 of Chapter 20.40, Section 20.70.200 of Chapter 20.70, Section 20.75.200 of Chapter 20.75, Chapter 20.190, and Section 20.200.1265 of Chapter 20.200 to Include Permanent Supportive Housing, Low Barrier Navigation Center, and Ministerial Approvals to the Municipal Code; and Adding a New Chapter 20.195 Ministerial Approvals and a New Section 20.200.705 Low Barrier Navigation Center to Chapter 20.200 of Title 20 of the San José Municipal Code.

[Passed for Publication on 5/19/2020 - Item 10.1(a) (20-567)]

Action: **Ordinance No. 30411, Ordinance No. 30415, Ordinance No. 30420, Ordinance No. 30421 and Ordinance No. 30422** were adopted. (11-0.)

2.3 20-637 Approval of Council Committee Minutes.

- (a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of April 22, 2020.
- (b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of May 6, 2020.
- (c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of May 20, 2020.

Action: The City Council Committee Meeting Minutes were approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 20-586 Amendment to Legal Services Agreement with Hawkins, Delafield & Wood LLP for Regional Wastewater Facility Capital Program.

Approve a Fourth Amendment to the Legal Services Agreement with Hawkins, Delafield & Wood LLP, to extend the term of the agreement from June 30, 2020 through June 30, 2024 and revise the scope of services, at no additional cost to the City, to support the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended), resulting in no physical changes to the environment. (City Attorney)

Action: The Fourth Amendment to the Legal Services Agreement with Hawkins, Delafield & Wood LLP was approved. (11-0.)

2.8 20-587 Amendment to Title 3 of the San José Municipal Code Amending the Police and Fire Department Retirement Plan to Allow for Continuation of Survivorship Benefits for Active Fire Members Killed in the Line of Duty.

Approve an ordinance amending Section 3.36.1290 of Chapter 3.36 of Title 3 of the San José Municipal Code to allow spouses and domestic partners of active Fire members killed in the line of duty to continue their survivorship benefits in the event that they remarry or re-establish a domestic partnership.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: **Ordinance No. 30423**, amending Title 3 of the Municipal Code, was passed for publication. (11-0.)

2.9 20-588 Deaccession of Items in the City’s Collections for History San José.

Approve the recommendation of the proposed deaccession of items in the City’s collections in accordance with the History San José Collections Management Policy.

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

Action: Deaccession of Items in the City’s Collections for History San José was approved. (11-0.)

2.10 20-589 Council Policy Priority #13: Cannabis Equity and State of California Equity Act Grant Funding and Related Appropriation Ordinance and Funding Source Resolution Amendments.

(a) Adopt a resolution ratifying the City Manager’s or designee’s execution of a grant agreement with the State of California Governor’s Office of Business and Economic Development to receive \$149,300 in Local Equity Grant Funding, including any extensions or amendments thereof and any subsequent grant agreement with the Governor’s Office of Business and Economic Development in relation thereto, in order to conduct a cannabis equity assessment and further program development of the City’s Cannabis Equity Program.

(b) Adopt the following 2019-2020 Funding Source Resolution and Appropriation Ordinance amendments in the General Fund:

(1) Increase the estimate for Revenue from the State of California by \$149,300; and

(2) Increase the Cannabis Equity Assistance Program appropriation to the City Manager’s Office by \$149,300.

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

(Economic Development/City Manager)

Action: **Resolution No. 79528** regarding Cannabis Equity and State of California Equity Act Grant Funding, Funding Source **Resolution No. 79529**, and appropriation **Ordinance No. 30424** were adopted. (11-0.)

2.11 20-590 Lease Extensions for Office Space with La Familia, LP and 4th Street San Jose Partners, LLC for the Police Department.

Adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an amendment to the agreement with 4th Street San Jose Partners, LLC, and all other necessary documents, to extend an existing lease for one additional year for the San José Police Department Gaming Control Unit located at 210 N. 4th Street, Suite 202;

(b) Negotiate and execute an amendment to the agreement with La Familia, LP, and all other necessary documents, to extend an existing lease for one additional year for the San José Police Department Professional Standards and Conduct (Internal Affairs) Unit located at 777 N. 1st Street, Suites 430 & 666; and

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2.11 (Cont'd.)

(c) Negotiate and execute an amendment to the agreement, and all necessary documents, with La Familia, LP, to extend an existing lease for one additional year for the San José Police Department Children's Interview Center located at 777 N. 1st Street, Suite 320.

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

Action: **Resolution No. 79530** regarding Lease Extensions for Office Space with La Familia, LP and 4th Street San Jose Partners, LLC, was adopted. (11-0.)

2.12 20-592 Actions Related to the Purchase Orders with SmartWAVE Technologies, LLC for Ruckus Wi-Fi Installation, Support, and Maintenance. - DROP

Adopt a resolution authorizing the City Manager to:

(a) Execute a purchase order with SmartWAVE Technologies, LLC (Alpharetta, GA) for Ruckus Wi-Fi installations, including related labor, equipment, materials, and support and maintenance, for the first year of the initial three-year term ending on April 20, 2021 for a maximum compensation not to exceed \$650,000, subject to the appropriation of funds;

(b) Execute purchase orders for the second and third years of the initial term through April 20, 2023 and exercise up to two (2) one-year options to extend the terms through April 20, 2025 for Ruckus Wi-Fi installations, including related labor, equipment, and materials, and support and maintenance for new and existing installations, subject to the annual appropriation of funds; and

(c) Approve a contingency of \$100,000 for increases in demand and unanticipated expenses for new installations, maintenance, and support during the first year of the initial term.

CEQA: Categorically Exempt, File No. PP19-024, CEQA Guidelines Section 15303(d) New Construction of Small Structures. (Finance)

Item Dropped

2.13 20-593 Actions Related to the Predevelopment Loan for Development of City Owned Property Located at 0 Evans Lane.

Adopt a resolution authorizing:

(a) An increase of \$263,374 to the predevelopment loan made to Allied Housing, Inc. for a total of \$707,687 predevelopment services including entitlement, utilities and storm water design for the 5.9 acre City owned property located at 0 Evans Lane, San José; and

(b) The Director of Housing to negotiate and execute all related documents and amendments.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. Council District 6. (Housing)

Action: **Resolution No. 79531** regarding Actions Related to the Predevelopment Loan for Development of City Owned Property, was adopted. (11-0.)

2.14 20-595 Amendment to the Vendor Agreement with P&A Administrative Services, Inc. for Flexible Spending Benefits, Commuter Benefit, and Cobra Administration for City Employees and their Dependents.

Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Vendor Agreement with P&A Administrative Services, Inc. for flexible spending benefits and Internal Revenue Code Section 125 plan administration services for City employees and their dependents to add the scope of services from the existing agreement with P&A Administrative Services, Inc. for Commuter and Consolidated Omnibus Budget Reconciliation Act (COBRA) administration, to extend the term of the Agreement from December 31, 2020 to December 31, 2023, and to increase the not to exceed amount from \$283,500 to a revised total not to exceed amount of \$489,000, subject to the annual appropriation of funds.

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

(Human Resources)

[Deferred from 5/19/2020 - Item 2.9 (20-543)]

Action: **Resolution No. 79532** regarding an Amendment to the Vendor Agreement with P&A Administrative Services, Inc., was adopted. (11-0.)

2.15 20-596 Actions Related to the Newbury Park Master Plan Project Addendum.

(a) Adopt a resolution adopting the Newbury Park Master Plan Project Addendum to the King and Dobbin Transit Village Final Environmental Impact Report and US 101-Oakland/Mabury Transportation Development Policy Environmental Impact Report (Resolution Nos. 74195.1 and 74196) (File No. PP19-055) all in accordance with the California Environmental Quality Act.

(b) Approve the Newbury Park Master Plan regarding one acre of City of San José property, Assessor Parcel Number 254-04-107.

CEQA: Newbury Park Master Plan Project Addendum (File No. PP19-055). Council District 3. (Parks, Recreation and Neighborhood Services)

Action: **Resolution No. 79533** regarding Actions Related to the Newbury Park Master Plan Project Addendum was adopted, including approval of the Newbury Park Master Plan. (11-0.)

2.16 20-597 Park Naming Nomination Golden Oak Park.

Adopt “Golden Oak Park” as the name of a future park, located on the east side of Via del Oro approximately 300 feet north of Raleigh Road.

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

Council District 2. (Parks, Recreation and Neighborhood Services)

Action: The Park Naming Nomination of Golden Oak Park was adopted. (11-0.)

- 2.17 20-598 Report on Bids and Award of Contract for 8959 - Traffic Signal Modification at Hedding Street and Monroe Street.**
(a) Report on bids and award of contract for the 8959 - Traffic Signal Modification at Hedding Street and Monroe Street to the low bidder, Rosendin Electric, Inc., in the amount of \$1,011,035.
(b) Approve a five percent contingency in the amount of \$50,552.
CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council District 6. (Public Works)

Action: The Report on bids and award of the contract with related contingency was approved. (11-0.)

- 2.18 20-599 Summary Vacation of the 25-Foot and 15-Foot Setback Easements within Tract No. 930.**
Adopt a resolution:
(a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of the 25-foot and 15-foot public easements for light and air (Setback Easements) located within Tract No. 930;
(b) Summarily vacating the Setback Easements, which are excess; and
(c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.
CEQA: Categorically Exempt, File No. ER20-094, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations. Council District 6. (Public Works)

Action: **Resolution No. 79534** regarding Summary Vacation of the 25-Foot and 15-Foot Setback Easements within Tract No. 930 was adopted. (11-0.)

- 2.19 20-600 Amendment to the Master Agreement with Callander Associates Landscape Architecture for Landscape Architectural Design Services for Various City Facility Projects.**
Approve the Third Amendment to the Master Agreement with Callander Associates Landscape Architecture (CPMS Contract No. 8069) extending the term from June 30, 2020 to December 31, 2020 for the sole purpose of allowing the consultant to continue providing design consulting services through completion of Park Yards Strategic Planning Study.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Public Works)

Action: The Third Amendment to the Master Agreement with Callander Associates Landscape Architecture was approved. (11-0.)

3. STRATEGIC SUPPORT

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

- 20-601** (a) City Manager’s COVID-19 Update (Verbal Report)
(b) City Manager’s Report on Other City Matters (Verbal Report)

City Manager, David Sykes, congratulated “Women of influence” as recognized by the Silicon Valley Business Journal, who honored Director of Housing Jacky Morales-Ferrand for work she is doing to keep residents safe and housed during the COVID public health crisis, and policy and legislative adviser, Helen Chapman, who was honored for policy work and long-standing history of serving our community. He additionally offered appreciation to the Fire Department Operations Center.

Updates were provided by Deputy City Manager, Kip Harkness, regarding Santa Clara County health orders, the activation of cooling centers, and power safety shut-off discussions held with PG&E. An update on digital inclusion was provided by Library Director Jill Bourne.

Public Comments: Members of the public offered their concerns on endangerment to the community in regard to COVID-19, with officers not wearing masks and tear gas being used on recent protests in downtown San José. Others expressed the need for a stabilization fund for childcare providers, assistance for the vulnerable homeless population, and the problem of persons of color being disproportionately affected during the pandemic.

Extensive Council discussion followed. Councilmember Maya Esparza recommended that staff arrange a joint meeting be held with the County regarding implementing orders for reopening, and Councilmember Raul Peralez urged a letter to be drafted for our colleagues to allow for greater communication to better prepare and support our community.

Deputy City Manager Jim Ortbal responded to questions regarding cleaning up encampments.

The Council Meeting was recessed at 12:48 p.m., and reconvened at 1:30 p.m. with all members present.

3.2 Labor Negotiations Update.

None provided.

3.3 20-602 Amendment to the Contract with the California Public Employees’ Retirement System (CalPERS) and Amendment to Title 3 of the San José Municipal Code Amending the Defined Contribution Plan for Unit 99 Classifications to Exclude Certain Classifications in the Office of Retirement Services from Membership.

- (a) Approve an ordinance to amend the City of San José’s contract with the California Public Employees’ Retirement System (CalPERS) to allow employees hired on or after November 4, 2014 in certain Unit 99 classifications in the Office of Retirement Services to enroll in CalPERS retirement benefits.

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3.3 (Cont'd.)

(b) Approve an ordinance amending Section 3.49.030 of Chapter 3.49 of Title 3 of the San José Municipal Code, the California Defined Contribution Plan for Unit 99 Employees, to exclude employees hired on or after November 4, 2014 in certain Unit 99 classifications in the Office of Retirement Services from membership, effective July 26, 2020.

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

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Dev Davis and carried, **Ordinance No. 30425** amending the City of San José's contract with the California Public Employees' Retirement System (CalPERS), and **Ordinance No. 30426** amending Section 3.49.030 of Chapter 3.49 of Title 3 of the San José Municipal Code were passed for publication. (10-1. Noes: Khamis.)

3.4 20-603 **Status Report on Measure T - The Disaster Preparedness, Public Safety and Infrastructure General Obligation Bond.**

Accept the status report on the workplan and implementation updates for projects included in the approved Measure T Bond measure.

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

Staff provided a presentation and responded to questions.

Public Comments: Jeffrey Buchanan offered considerations on unallocated revenue being put to good use. Blair Beekman urged public oversight, and Mike Maddingly expressed concerns about smart meters and their alleged EMF emissions. Kathryn Hedges urged an expanded broadband infrastructure and expressed doubts regarding the dangers of EMF emissions. One member of the public adamantly advocated for fixing potholes.

Motion: Councilmember Maya Esparza moved approval of the status report, and the motion was seconded by Councilmember Dev Davis.

Councilmember Sylvia Arenas requested a friendly amendment, asking for assurance that any water quality savings be spent on water quality projects. The amendment was accepted.

Action: On a call for the question, the motion carried unanimously, and the Status Report on Measure T was accepted, with the inclusion that any water quality savings be spent on water quality projects. (11-0.)

3.5 20-611 Urgency Ordinance and Companion Ordinance to Require Fabric Face Coverings.

As recommended by the Rules and Open Government Committee on May 13, 2020:

(a) Adopt an urgency ordinance adding Chapter 9.61 to Title 9 of the San José Municipal Code that:

(1) Invokes the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health, or safety; and

(2) Mandates the wearing of fabric face coverings across the City of San José when outside of one's home in specific situations, with specific exceptions, as an additional measure to the County's guidance to stop the spread of COVID-19.

(b) Approve a companion ordinance adding Chapter 9.61 to Title 9 of the San José Municipal Code that mandates the wearing of fabric face coverings across the City of San José when outside of one's home in specific situations, with specific exceptions, as an additional measure to the County's guidance to stop the spread of COVID-19.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Jones)
[Rules Committee referral 5/13/2020 - Item G.6; Deferred from 5/19/2020 - Item 3.6 (20-582)]

Public Comments: Members of the public addressed the need for police officers to wear face masks when interacting with the public. One individual questioned the efficacy of face masks in reducing the spread of coronavirus, and another asked if face shields would be accepted under this mandate.

Motion: Councilmember Johnny Khamis moved approval of the proposed ordinance. Councilmember Sergio Jimenez seconded the motion.

Mayor Sam Liccardo suggested that face shields be included to allow flexibility for those with restrictions. This was accepted as a friendly amendment.

Councilmember Pam Foley expressed concerns regarding adding an extra layer of governance to an issue that the County has already addressed.

Action: On a call for the question, the motion carried, and an **Urgency Ordinance No. 30427**, requiring fabric face coverings, was adopted; and its companion ordinance, **Ordinance No. 30428**, adding Chapter 9.61 to Title 9 of the San José Municipal Code, was passed for publication. (10-1. Noes: Foley.)

3.6 20-634 Agreements with Hunger at Home and Veggelution for Distribution of Meals due to COVID-19 Impacts.

Adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an Agreement to Provide Meals for Limited Duration between the City of San José and Hunger at Home (San José, CA) to provide meals to temporarily sheltered, unsheltered, isolated, medically vulnerable, and low-income individuals and families experiencing food insecurity due to the impacts of the COVID-19 pandemic beginning March 19, 2020 and ending on June 19, 2020 with a maximum compensation not to exceed \$900,000; and

(b) Negotiate and execute an Agreement to Provide Meals for Limited Duration between the City of San José and Veggelution (San José, CA) to provide food truck meals to seniors 65-years-old or older, medically vulnerable, and low-income individuals experiencing food insecurity due to the impacts of the COVID-19 pandemic for up to 90 days, with a maximum compensation not to exceed \$69,000.

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

Deputy City Manager Angel Rios, Jr., offered a change to the text in Section (a) to read “...ending on June 19, 2020 with one option to extend the term through July 14 2020 with the maximum competition not to exceed 1.3 million”.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sergio Jimenez and carried unanimously, **Resolution No. 79535** approving Agreements with Hunger at Home and Veggelution for Distribution of Meals was adopted. (11-0.)

3.7 20-635 Update on the Agreement with Santa Clara County for Cost of Distribution of Food and Necessities.

Provide an update on the status of the Santa Clara County Food Reimbursement Agreement negotiation and recommended next steps.

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

City Manager, David Sykes provided an update on the agreement, and Council discussion followed.

Motion: Councilmember Johnny Khamis moved that unless an agreement is signed by the County, the City of San José will begin the transfer of responsibility beginning next Monday, June 8. The motion was seconded by Councilmember Pam Foley.

Action: On a call for the question, the motion failed. (Noes: Jimenez, Peralez, Diep, Carrasco, Esparza Arenas, Jones.)

Public Comments: One member of the public suggested extending food programs to five days a week with one central point for pick-up.

Action: An update on the status of the Santa Clara County Food Reimbursement Agreement negotiations was accepted as presented. No vote required.

3.8 20-640 Ratification of both May 31, 2020 Proclamation of Local Emergency Resulting from Civil Unrest and May 31, 2020 Emergency Order Imposing a Curfew.

Adopt a resolution ratifying:

(a) The Director of Emergency Services' May 31, 2020 Proclamation of Local Emergency resulting from civil unrest following the death of George Floyd in Minneapolis, Minnesota; and

(b) The Director of Emergency Services' May 31, 2020 Emergency Order imposing a city-wide curfew.

Added Under Orders of the Day

Chief of Police Edgardo Garcia and City Manager, David Sykes responded to questions from Council, explaining the rationale of imposing the curfew as a result of civil unrest.

Public Comments: Numerous individuals expressed opposition to the curfew, criticism of police tactics, safety concerns regarding the use of tear gas during the COVID-19 pandemic, and the need for peaceful protests. A couple of members of the public offered support to imposing the curfew for public safety.

Motion: Councilmember Dev Davis approved adoption of the resolution ratifying the Emergency Order imposing a city-wide curfew as presented. Councilmember Pam Foley seconded the motion.

Councilmember Raul Peralez requested a friendly amendment, asking that the curfew be only extended to Thursday at 5 a.m. unless further need was indicated. The maker of the motion respectfully declined the friendly amendment.

Substitute Motion: Councilmember Raul Peralez moved approval of the proclamation and emergency order imposing a curfew, with a sunset of 5 a.m. Thursday, June 4, unless a risk to public safety requires further action, which could be addressed at an emergency meeting of the City Council. Councilmember Maya Esparza seconded the motion.

Mayor Sam Liccardo requested a friendly amendment to include an exemption for drivers providing transportation services be included in the ordinance. The amendment was accepted.

Action: On a call for the question, the substitute motion was accepted, and **Resolution No. 79536** ratifying a Proclamation of Local Emergency was adopted, ratifying and continuing (1) the Proclamation of Existence of a Local Emergency issued by the Director Of Emergency Services; (2) Ratifying the May 31, 2020 Declaration of the Director of Emergency Services Imposing a Curfew; and (3) Declaring a Superseding Curfew with a Sunset of 5 a.m. Thursday, June 4, 2020, and to include an exception for drivers providing transportation services, including taxi drivers, transportation network company drivers, such as Uber and Lyft, and private transportation service drivers. (10-1. Noes: Davis.)

The Council Meeting was recessed at 6:45 p.m., and reconvened at 7:15 p.m. with all members present.

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 20-605 Report on Bids and Award of Construction Contract for 8868 - Advanced Facility Control and Meter Replacement - Phase 2 Project at the San José-Santa Clara Regional Wastewater Facility.

(a) Report on bids and award a construction contract for the 8868 - Advanced Facility Control and Meter Replacement - Phase 2 Project to the low bidder, Kiewit Infrastructure West Co., in the amount of \$7,046,100, including Add Alternate Items No. 1 through 5.

(b) Approve a 20 percent contingency in the amount of \$1,409,220.

CEQA: Categorically Exempt, File No. PP16-130, CEQA Guidelines Section 15301, Existing Facilities. (Environmental Services/Public Works)

Action: The Report on bids and award a construction contract for the 8868 - Advanced Facility Control and Meter Replacement - Phase 2 Project with related contingency was approved. (11-0.)

7. NEIGHBORHOOD SERVICES

7.1 20-606 Amendment to the Agreement with Graffiti Protective Coatings, Inc. for Graffiti Abatement Services.

Adopt a resolution authorizing the City Manager to *negotiate* and execute* the Third Amendment to the Agreement for Graffiti Abatement Services with Graffiti Protective Coatings, Inc. (Los Angeles, CA) to extend services for one (1) additional two-year option term through June 26, 2022 for a not-to-exceed compensation of \$2,309,076 for June 27, 2020 through June 26, 2022, 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.

(Parks, Recreation and Neighborhood Services/Finance)

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Sergio Jimenez and carried unanimously, **Resolution No. 79537** executing an Amendment to the Agreement with Graffiti Protective Coatings, Inc. for Graffiti Abatement Services was adopted. **Note: Item was changed to “negotiate and execute” during Orders of the Day.* (11-0.)

7.2 20-604 Actions Related to the Report on Bids and Award of Construction Contract for the 8469 - Tamien Park - Phase II Project.

(a) Report on bids and award of construction contract for the 8469 - Tamien Park - Phase II Project to the lowest responsive bidder, Suarez & Munoz Construction, Inc., for the base bid and Add Alternate No. 1 in the amount of \$1,992,500 and approve a contingency in the amount of \$99,625.

(b) Adopt the following 2019-2020 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:

(1) Increase the Tamien Park Development (Phase II) appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$67,000; and

(Item Continued on the Next Page)

7.2 (Cont'd.)

(b) (2) Decrease the Tamien Park Development Reserve by \$67,000.
CEQA: Mitigated Negative Declaration for Tamien Park Development Master Plan (Resolution No. 77407), File No. PP14-057. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

Public Comments: A member of the public advocated for the project, indicating it would be of great service to the community.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Raul Peralez and carried unanimously, the report on bids and award of construction contract for the 8469 - Tamien Park - Phase II Project was accepted, and Appropriation **Ordinance No. 30429** was adopted. (11-0.)

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 20-607 Amendment to the Planning Commission Composition Ordinance.

(a) Staff

Approve an ordinance amending Section 2.08.4000 of Chapter 2.08 of Title 2 of the San José Municipal Code to:

- (1) Limit the number of members of the Planning Commission who reside in the same Council District to two;
- (2) Adopt a two-term limit for Commission membership;
- (3) Consider an alternative limit on the number of members of the Planning Commission who reside in the same Council District to one; and
- (4) Consider a provision allowing the Council to override the District limitation by a majority vote.

(b) Planning Commission

(1) Approve an ordinance amending Section 2.08.4000 of Chapter 2.08 of Title 2 of the San José Municipal Code to limit the number of members of the Planning Commission who reside in the same Council District to one; and

(2) Direct staff to expand outreach to include outreach to people on other City commissions and boards as well as the general public.

CEQA: Not a Project, File No. PP17-010, City Organization and Administrative Activities resulting in no change to the physical environment. Planning Commission recommends approval (4-2, Allen and Ballard opposing). (Economic Development/Planning, Building and Code Enforcement/City Clerk)

Rosalynn Hughey, Director, Planning, Building and Code Enforcement provided a presentation

Public Comment: Bobby Gonzalez and Kathryn Hedges spoke to capping the number of commissioners per district, and addressed social and economic inequities presented with the current model.

Extensive conversation followed with a focus on crafting the language for the Charter change for the 2022 election.

8.1 (Cont'd.)

Motion: Councilmember Maya Esparza moved approval of a Charter change in 2022 with the addition of a provision for super majority (8 votes) to override 2 members per Council District. Vice Mayor Chappie Jones seconded the motion.

Councilmember Dev Davis requested a friendly amendment, asking that redistricting in District 7 be considered in 2021, with the Charter change considered in 2022. The amendment was accepted.

Action: On a call for the question, the motion carried unanimously, and **Ordinance No. 30430**, amending Section 2.08.4000 of Chapter 2.08 of Title 2 of the San José Municipal Code Limiting the Term of Planning Commission Appointment to two Consecutive Four-Year Terms, Prohibiting the Appointment of More Than Two Planning Commissioners Residing in The Same Council District, and Providing for a Supermajority Vote (8 Or More) of the Council to Override the Prohibition on More than two Planning Commissioners Residing in the same Council District”, was passed for publication. (11-0.)

8.2 20-636 **Qualifying Rental Developments Paying Affordable Housing Impact Fee Deadline Due to COVID-19.**

(a) Accept staff’s recommendation to extend the Affordable Housing Impact Fee (AHIF) Transition deadline from June 30, 2020 until the expiration of the Proclamation of Local Emergency.

(b) Adopt a resolution amending Resolution No. 77218 as previously amended by Resolutions No. 78010, 78392, 78473, 78576 and 79294 (collectively, the “Housing Impact Fee Resolution”) by updating Section 13 regarding the transition between the Affordable Housing Impact Fee and Inclusionary Housing Ordinance Programs to extend the date on which the transition developments must submit final approved building plans and pay their AHIF from June 30, 2020 to the end of the Proclamation of Local Emergency extended by Resolution No. 79502, and as may be further extended by a resolution of the Council.

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

Public Comments: Jeffrey Buchanan spoke in support of the proposal, adhering to labor standards and protecting workers.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez and carried unanimously, Staff’s recommendations to extend the AHIF transition deadline were accepted, and **Resolution No. 79538** amending Resolution No. 77218 was adopted. (11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 20-608 H19-016 - Site Development Permit for Certain Real Property Located at the Northeast Corner of South Almaden Boulevard and Park Avenue (150 S. Almaden Boulevard). - DEFERRED

(a) Adopt a resolution:

(1) Certifying the Environmental Impact Report (SCH#2018022032) and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a Statement of Overriding Considerations and a related Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act (CEQA); and

(2) Approving a Site Development Permit, subject to conditions, to allow the demolition of the nine existing on-site buildings (including candidate City Landmarks), the removal of 14 ordinance size trees, and the construction of an approximately 3.79 million square feet development comprised of 24,000 square feet of ground floor retail and 3,640,033 square feet of office space and including a request for 24-hour construction and Downtown Design Guidelines exceptions on an approximately 8.1-gross acre site located at the northeast corner of South Almaden Boulevard and Park Avenue.

(b) Direct Staff to file a Notice of Determination pursuant to Section 15094 of the State CEQA Guidelines.

CEQA: City View Plaza Project Tower Supplemental Environmental Impact Report to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). Council District 3. (Planning, Building and Code Enforcement)

Deferred to 6/9/2020 per Administration

• Open Forum

- Blair Beekman urged the gradual implementation of smart meters.
- Robert Geary and Scott Largent and another member of the public advocated for better de-escalation techniques when dealing with crowd control and criticized the use of violence during protests.
- Jean Cohen thanked our City leaders for leading with compassion.

- **Adjournment**

The Council of the City of San José was adjourned at 11:00 p.m. in honor of George Floyd, whose tragic death at the hands of Minneapolis police sparked nationwide protests, as we contemplate deeply on what our role can be in improving and addressing the plight of so many in our community and communities throughout the country.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

rmk/06-02-2020 MIN

**JOINT CITY OF SAN JOSE CITY COUNCIL AND FINANCING AUTHORITY
BOARD AGENDA**

1:30 p.m.

June 2, 2020

Virtual Meeting

The Meeting of the Joint City of San José City Council and Financing Authority Board was called to order at 10:54 p.m.

1. **20-609** **Actions Related to the City of San José Financing Authority Lease Revenue Bonds, Series 2008E (Ice Centre Refunding Project).**
 - (a) City Council adopt a resolution approving and authorizing the negotiation, execution and delivery of a Second Amendment to the Continuing Covenant Agreement with U.S. Bank National Association relating to the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008E-1 and Series 2008E-2 (Ice Centre Refunding Project) and authorizing other related actions.
 - (b) City of San José Financing Authority Board adopt a resolution approving and authorizing the negotiation, execution and delivery of a Second Amendment to the Continuing Covenant Agreement with U.S. Bank National Association relating to the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008E-1 and Series 2008E-2 (Ice Centre Refunding Project), and approving and authorizing the negotiation, execution and delivery of a Fourth Amendment to the Amended and Restated Indenture of Trust, and authorizing other related actions.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. (Finance)

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Pam Foley and carried unanimously, Staff's recommendations were accepted, and City Council **Resolution No. 79539** and **City of San José Financing Authority Board Resolution 147** were adopted. (11-0.)

• **Adjournment**

The Joint Meeting of the City of San José Council and Financing Authority Board was adjourned at 10:55 p.m.

The meeting of the San José City Council reconvened at 10:55 p.m.

CLOSED SESSION MINUTES

TUESDAY, JUNE 2, 2020

The Council of the City of San José convened into Closed Session at 9:31 a.m.
The Session was teleconferenced from remote locations.

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

Absent: Councilmembers - All present.

A. Conference with Legal Counsel - Anticipated Litigation: Initiation of Litigation Pursuant to Section 54956.9(D)(4) of the Government Code: Number of Matter(S) to be Discussed: 1

B. Conference with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(D)(1):

1. Case Name: Bushey V. Bushey, Et Al.

Name(S) of Parties(S) Involved: Shannon Bushey, Registrar o Voters for the County Of Santa Clara, in Her Official Capacity; Toni Taber, City Clerk for the City of San Jose, in her Official Capacity.

Court: Superior Court of the State of California, County of Santa Clara

Case No.: 20-CV-365450

Amount of Money or Other Relief Sought: Petition for Writ Of Mandate

2. Case Name: Oakley, Et Al. V. Devos, Et Al.

Name(s) of Parties(s) Involved: Eloy Ortiz Oakley, In His Official Capacity as Chancellor of California Community Colleges; Board of Governors of the California Community Colleges; Foothill-De Anza Community College District; Los Rios Community College District; Los Angeles Community College District; State Center Community College District; San Diego Community College District; Betsy Devos, in Her Official Capacity as the United States Secretary of Education; U.S. Department of Education.

Court: U.S. District Court for the Northern District of California San Francisco Division

Case No.: 3:20-CV-03215

Amount of Money or other Relief Sought: Amicus Brief

The Closed Session Meeting was Adjourned at 10:31 a.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk