



# **City Council Meeting**

## **Draft Minutes/Synopsis**

**Tuesday, August 4, 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, AUGUST 4, 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 meeting offered interpretation into Spanish and Vietnamese.*

The Council meeting was teleconferenced from remote locations. The Council of the City of San José convened in a Regular Session at 11:00 AM on Tuesday, August 4, 2020. (See Page XX for Closed Session Minutes.)

Present: Councilmembers - Liccardo, (1:30PM); Jones, Jimenez, Peralez, Diep, Carrasco, Davis, Esparza, Arenas, Foley, Khamis.

Absent: Councilmembers - All present.

**• CALL TO ORDER AND ROLL CALL: 11:00 AM.****PLEDGE OF ALLEGIANCE**

Vice Mayor Chappie Jones led the Pledge of Allegiance.

**INVOCATION**

District 7: Councilmember Maya Esparza provided the Invocation.

**ORDERS OF THE DAY**

Upon unanimous consent, the Orders of the Day and the Amended Agenda were accepted with no changes. (6-0-5. Jones, Jimenez, Peralez, Diep, Esparza, Foley. Absent: Liccardo, Carrasco, Davis, Arenas, Khamis)

**• CLOSED SESSION REPORT**

Assistant City Attorney, Ed Moran noted that the Council voted in closed session today to enter a settlement agreement regarding a lawsuit that was filed. In addition, there was a vote to allow the City Manager to report out on a matter regarding the group lawsuit to give an update on his progress and the vote was unanimous of those present.

(10-0-1. Absent:Esparza)

**• Adjournment**

This meeting will be in memory of Carmen Castellano, a dedicated activist for social change, community leader, and lover of the arts. Through her thirty-five years at San José City College, where she co-founded the Latino Education Association, and as the founder and President of the Castellano Family Foundation, Carmen was a trailblazer, uplifting communities of color and elevating Latino voices. As a philanthropist, Carmen fiercely advocated for greater diversity, equity, and inclusion within philanthropy, and has left an indelible legacy reflected in the many local organizations she supported. She is survived by her husband, Alcario, their three children, Maria, Carmela, and Armando, and five grandchildren.

**1. CEREMONIAL ITEMS**

None presented.

**2. CONSENT CALENDAR**

Public Comments: Blair Beekman commented on pavement work, Vision Zero and 5G surveillance and the need to consider good open practices with the community and talk about these things.

Upon motion by Councilmember Dev Davis, seconded by Councilmember Maya Esparza, and carried unanimously, the Consent Calendar was approved, with item 2.8 pulled, and the below listed actions taken as indicated.

(11-0)

**2.2     20-837            Approval of City Council Minutes.****Recommendation:**

- (a) Regular City Council Meeting Minutes of April 23, 2019
  - (b) Regular City Council Meeting Minutes of June 18, 2019.
  - (c) Regular City Council Meeting Minutes of September 17, 2019.
  - (d) Regular City Council Meeting Minutes of October 8, 2019.
  - (e) Regular City Council Meeting Minutes of October 29, 2019.
  - (f) Regular City Council Meeting Minutes of June 2, 2020.
  - (g) Regular City Council Meeting Minutes of June 16, 2020.
  - (h) Regular City Council Meeting Minutes of June 30, 2020 and July 1, 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.

Action: The Regular City Council Meetings' Minutes of April 23, 2019, June 18, 2019, September 17, 2019, October 8, 2019, October 29, 2019, June 2, 2020, June 16, 2020, June 30, 2020 and July 1, 2020, were approved.

**2.2     20-816            Final Adoption of Ordinances.****Recommendation:**

- (a) **Ord No. 30439** - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 12.41 Gross Acres Situated on the Southwest Corner of Gateway Place and Airport Parkway (2050 Gateway Place) (APNS: 230-01-048 and 230-01-049) from the A(PD) Zoning District to the IP Industrial Park Zoning District.  
[Passed for Publication on 6/23/2020 - Item 10.1 (a) (20-710)]

Action: **Ordinance No. 30439** was adopted.

- (b) **Ord No. 30440** - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.39 Gross Acres Situated Approximately 230 Feet from the Northwest Corner of West San Carlos Street and Meridian Avenue (259 Meridian Avenue; APN: 274-14-152) from the R-2 Two-Family Residence and CO Commercial Office Zoning Districts to a CP(PD) Planned Development Zoning District.  
[Passed for Publication on 6/23/2020 - Item 10.2 (b) (20-711)]

Action: **Ordinance No. 30440** was adopted.

*(Item Continued on the Next Page)*

**2.2 20-816****Final Adoption of Ordinances. (C0nt'd)**

(c) **Ord No. 30441** - An Ordinance of the City of San José Amending Section 3.28.200 of Chapter 3.28 and Section 3.36.410 of Chapter 3.36 of Title 3 of the San José Municipal Code to Implement the Terms of the Alternative Pension Reform Settlement Framework Agreement with City Employee Bargaining Groups Relating to Rehired Tier 1 Member Amortization Interest Costs.

[Passed for Publication on 6/30/2020 - Item 2.8 (c) (20-723)]

Action: **Ordinance No. 30441** was adopted.

(d) **Ord No. 30445** - 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 June 30, 2020 Up Through and Including September 30, 2020.

[Passed for Publication on 6/30/2020 - Item 2.25 (20-777)]

Action: **Ordinance No. 30445** was adopted.

**2.3 20-838****Approval of Council Committee Minutes****Recommendation:**

(a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of August 14, 2019.

(b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of August 28, 2019.

(c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of September 4, 2019.

(d) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of September 11, 2019.

(e) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of June 10, 2020.

(f) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of June 24, 2020.

(g) Regular Public Safety, Finance, and Strategic Support Committee and Committee Meeting Minutes of August 15, 2019.

(h) Regular Community and Economic Development Committee Meeting Minutes of August 26, 2019.

(i) Regular Smart Cities and Service Improvements Committee Meeting Minutes of September 5, 2019.

(j) Regular Transportation and Environment Committee Meeting Minutes of September 9, 2019.

(k) Regular Neighborhood Services and Education Committee Meeting Minutes of September 12, 2019.

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

Action: The Council Committee Minutes were approved.

**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 20-823 Fiscal Year 2020 2021 Property Tax Levy for General Obligation Bonds.**

**Recommendation:** Adopt a resolution establishing the FY 2020-2021 property tax levy on all taxable property within the City of San José for the purpose of funding the City's general obligation bonded indebtedness and pay the related administration fee to the County. 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: **Resolution No. 79655** was adopted.

**2.8 20-824 Approval of an Ordinance Dedicating Additional Public Right-of-Way as Part of Knox Avenue.**

**Recommendation:** Approve an ordinance dedicating as public right-of-way approximately 21,799 square feet of City-owned property along the north side of Story Road and accepting the right-of-way into the City's street system as part of Knox Avenue. CEQA: Categorically Exempt, CEQA Guideline Section 15332 Infill Development Project, File No. H17-041. Council District 5. (Public Works)

**2.8 20-824 Approval of an Ordinance Dedicating Additional Public Right-of-Way as (Cont'd)**

Assistant City Attorney, Ed Moran observed that Item 2.8 needs to be pulled because under the State Code, Council is required to have a 4/5 vote because the street being approved is less than 40 feet, which is the standard.

Action: Upon motion by Vice Mayor Chappie Jones to move approval, seconded by Councilmember Johnny Khamis, and carried unanimously, **Ordinance No. 30453** was passed for publication.  
(11-0)

**2.9 20-836 Boards and Commissions Appointments.**

**Recommendation:** Approve the following Boards and Commissions appointments:  
(a) Youth Commission:  
(1) Citywide Seat: Aroshi Ghosh to a term ending May 31, 2022;  
(b) Senior Citizens Commission:  
(1) District 4 Seat: Sharon Root to a term ending June 30, 2023;  
(2) District 8 Seat: Kanta Khiatanito a term ending June 30, 2021.  
CEQA: Not a Project, File No. PP17-010, City Organization and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

Action: The Boards and Commissions Appointments Services, were approved.

**3. STRATEGIC SUPPORT****3.1 20-695 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 regarding the City's response to COVID-19. The City Manager highlighted the great work being done by staff, and recognized some of the City's unsung heroes, including the Finance Purchasing and Risk Management Team, which has been working diligently to ensure that all the City's purchasing and risks needs are met during this time. The purchasing team updated all its policies and procedures to help departments handle the new reality of remote working in terms of the City's purchasing processes, in gaining expertise in federal procurement and in contracting guidelines that ensures our eligibility for the Federal relief funds.

The City Manager recognized the following team members: Bernie Reyes. Cindy Johnson. Rhea Schmidt. Emmanuel Fluker. Lisa Watts, Lee Tran. Julianne Esteban. Vicki Davis. Ryan May. fletcher Barnes. B.J. Bean. David Nguyen. Garrett Dau Gallo McGill. Bernal Yen Bao, Ming Kim and Jennifer Chang.

Deputy City Manager Kip Harkness, and the leadership team from the City's Emergency Operations Center provided updates, including a focus on COVID trends in the City and County, testing and tracing efforts, workforce safety and the City's use of digital tools, and emergency operations activities that occurred during the July Council recess. The pop-up testing program operated by Santa Clara Valley Medical Center continues to provide free diagnostic COVID-19 testing around the County. Nasal swab testing is free for everyone—no health insurance or doctor's note is required. No appointment is needed; anyone can simply stop by to get tested. A list of pop-up locations can be found on the Public Health Department's website.

Public Comments: Offering comments on the Report of the City Manager, were: Paul Soto, Todd Williams, Jeremy Taylor, Blair Beekman, Veronica, Molly McCloud, David, and Brenda.

- **Council recessed for lunch at 12:24PM**
- **Council reconvened at 1:30PM**

Mayor Liccardo joined the meeting at approximately 1:30PM.

Mayor Liccardo observed that City Attorney, Rick Doyle will be retiring after an extraordinary career in the City, having served 20 years as City Attorney. Rick is the longest serving City Attorney in the State of California.

Vice Mayor Jones, Councilmembers, and City Manager Sykes took turns to praise his accomplishments for the City, as well as offered testament of his stamina and his ability to endure long Council Meetings, combined with extraordinary abilities to manage multiple crises. There will be a virtual celebration in honor of Rick on Friday, August 7, 2020.

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

### 3.2 Labor Negotiations Update.

• Heard at 9:30 AM

### 3.3 20-826 Agreements for Food Distribution and Related Services for COVID 19 Pandemic.

#### **Recommendation:**

Adopt a Resolution authorizing the City Manager to:

- (a) Negotiate and execute a First Amendment to the two Agreements to provide Meals for Limited Duration between the City of San José and World Central Kitchen (Washington, DC) to add up to three options through October 9, 2020, to be concurrent with any extensions by CalOES for the Great Plates Program based on the same terms and conditions; and exercise up to three options to extend the term and amend the maximum compensation for the two Agreements, subject to the appropriation of funds;
- (b) Negotiate and execute a Second Amendment to the two Agreements to Provide Meals for a Limited Duration between the City of San José and Team San Jose (San José, CA) to provide meals to unhoused individuals to extend the Term by adding up to two options through September 30, 2020, and increase the maximum aggregate compensation amounts to \$1,894,800 with \$1,288,464 for service in San José and \$606,336 for service in Santa Clara County and outside of San José;
- (c) Negotiate and Execute a Second Amendment to the two Agreements 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 experiencing food insecurity due to the impacts of the COVID-19 pandemic to add up to two options to extend the term through September 30, 2020, with no change to the aggregate maximum compensation amounts of \$1,300,000 with \$884,000 for service in San José and \$416,000 for service in Santa Clara County and outside of San José; and
- (e) Negotiate and execute an Agreement between the City of San José and Deloitte Consulting, LLP (New York, NY) for providing professional consulting services to plan and implement the food and necessities distribution program response to the COVID-19 emergency, retroactive to March 29, 2020, through June 20, 2020, for a maximum compensation amount of \$498,000.

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

Councilmember Peralez participated in discussions relating to all other items, except (d), where he recused himself because his wife is an employee of The Health Trust.

Deputy City Manager Angel Rios, PRNS Assistant Director Neil Rufino, and Civic Innovation Director Dolan Beckel, gave a presentation and responded to questions.

Public Comments: Offering comments on Agreements for Food Distribution and Related Services for COVID 19 Pandemic, were: Blair Beekman, Veronica, Jeremy Taylor, and Paul Soto:

Action: Upon motion by Councilmember Sergio Jimenez to move approval of the non-bifurcated part of this item (a, b, c, and e), seconded by Councilmember Sylvia Arenas, and carried unanimously, **Resolution No. 79656** was adopted, and staff report, accepted.

(11-0)

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**3.3 20-826****Agreements for Food Distribution and Related Services for COVID 19 (Cont'd).**

(d) Negotiate and Execute a Second Amendment to the two Agreements to Provide Meals for Limited Duration between the City of San José and The Health Trust (San José, CA) to prepare and deliver frozen meals to higher risk-eligible individuals aged 60+ and to unhoused individuals to add up to two options to extend the term through September 30, 2020, and increase the maximum aggregate compensation amounts of \$930,060 with \$725,350 for service in San José and \$204,710 for service in Santa Clara County and outside of San José.

Action: Upon motion by Councilmember Maya Esparza to move approval of (d), seconded by Councilmember Sylvia Arenas, and carried unanimously, **Resolution No. 79656** was adopted.  
(10-0-1. Recused: Peralez)

**3.4 20-827****Potential Ballot Measure for November 3, 2020 Election for Cardroom Revenue Measure.****Recommendation:**

Adopt a resolution of the City Council:

(a) Calling and giving notice, on its own motion, for a Special Municipal Election to be consolidated with the Statewide General Election on November 3, 2020, to submit to the electors of the City of San José a measure to increase the cardroom tax on the gross revenues of cardrooms, add a new tax on the gross revenues of third party providers of proposition player services and increase the number of card tables with the following statement of the measure to be printed in the ballot:

To fund general San José services, including fire protection, disaster preparedness, 911 emergency response, street repair, youth programs, addressing homelessness, and supporting vulnerable residents, shall an ordinance be adopted increasing the cardroom tax rate from 15% to 16.5%, applying the tax to third party providers at these rates: up to \$25,000,000 at 5%; \$25,000,001 to \$30,000,000 at 7.5%; and over \$30,000,000 at 10%, increasing card tables by 30, generating approximately \$15,000,000 annually, until repealed.

(b) Directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San José Mercury News, a newspaper of general circulation within the City of San José, instead of printing the full text of the measure in the Sample Ballot;

(c) Authorizing the City Council or any member or members of the City Council to submit a ballot argument in favor of the measure, pursuant to Elections Code Section 9282;

(d) Authorizing the submittal of rebuttal arguments pursuant to Elections Code Section 9285;

(e) Directing the City Attorney to prepare an Impartial Analysis of the measure, pursuant to Elections Code Section 9280; and

(f) Directing the City Clerk to take all other actions necessary to place this measure on the November 3, 2020 ballot.

*(Item Continued on the Next Page)*



## 3.4 20-827

**Potential Ballot Measure for November 3, 2020 Election for Cardroom (C0nt'd)**

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

City Manager's Chief of Staff Lee Wilcox, gave a presentation and responded to question for the negotiation team, consisting of Assistant City Manager Jennifer McGuire, City Attorney Rick Doyle, Assist Police Chief Dave Knopf, Assistant City Attorney Nora Frimann, and Senior Executive Analyst Anna Szabo.

The proposed ballot measure related to card rooms to be before San Jose Voters during the November 3, 2020 election is aimed at increasing City's revenues as well as increasing card rooms' competitiveness.

Councilmember Davis sought clarifications on regulations about card rooms operations in relation to Title 16 and the associated costs to fund gambling addiction services, as well as the 3 percent annual increase to the two hundred fifty thousand dollars' annually the card rooms must funnel to a nonprofit a group to mitigate gambling addiction.

Mayor Liccardo highlighted the various elements of the potentially three ballot measures to be placed on the ballot and referenced the costs-analysis contained in the Memorandum from City Clerk, Toni Taber, dated August 3, 2020.

Mayor Liccardo observed that there are at least four, (if not six) pros and cons arguments that every voter will likely see in the measure, even without rebuttal arguments, and encouraged the Council to take the short and near terms budgetary implications of these measures into account

Assistant City Attorney Ed Moran explained that there will be arguments for, and against and there will be a response to each one of those.

Mayor Liccardo cited various social issues associated with gambling as the main reasons he's not in support of the measure. He stated that proximity matters, but studies from National Opinion Research Center found that adults living within short driving distance of a casino had double the probability of pathological problems associated with gambling. Symptomatic of the general outcomes are: spikes in aggravated assault and rape rates, domestic violence, suicide, and child neglect, to mention but a few.

Action: Upon motion by Councilmember Sylvia Arenas to move approval, seconded by Councilmember Raul Peralez, and carried unanimously, **Resolution No. 79657** was adopted, including approval of staff recommendation to:

Adopt a resolution of the City Council:

(a) Calling and giving notice, on its own motion, for a Special Municipal Election to be consolidated with the Statewide General Election on November 3, 2020, to submit to the electors of the City of San José a measure to increase the cardroom tax on the gross

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**3.4 20-827****Potential Ballot Measure for November 3, 2020 Election for Cardroom (Cont'd)**

revenues of cardrooms, add a new tax on the gross revenues of third party providers of proposition player services and increase the number of card tables with the following statement of the measure to be printed in the ballot:

To fund general San José services, including fire protection, disaster preparedness, 911 emergency response, street repair, youth programs, addressing homelessness, and supporting vulnerable residents, shall an ordinance be adopted increasing the cardroom tax rate from 15% to 16.5%, applying the tax to third party providers at these rates: up to \$25,000,000 at 5%; \$25,000,001 to \$30,000,000 at 7.5%; and over \$30,000,000 at 10%, increasing card tables by 30, generating approximately \$15,000,000 annually, until repealed?

(b) Directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San Jose Mercury News, a newspaper of general circulation within the City of San José, instead of printing the full text of the measure in the Sample Ballot;

(c) Authorizing the City Council or any member or members of the City Council to submit a ballot argument in favor of the measure, pursuant to Elections Code Section 9282;

(d) Authorizing the submittal of rebuttal arguments pursuant to Elections Code Section 9285;

(e) Directing the City Attorney to prepare an Impartial Analysis of the measure pursuant Elections Code Section 9280; and

(f) Directing the City Clerk to take all other actions necessary to place this measure on the November 3, 2020 ballot.

Also approved was a friendly amendment from Councilmember Khamis to accept the staff recommendation and not approve rebuttal arguments due to the cost outlined by Staff.

The City Council approved Councilmembers Peralez and Khamis to submit the ballot argument in favor of the measure.

The City Council did not approve including the full text of the measure in the ballot. Further, the City Attorney was directed to prepare an impartial analysis, and the City Clerk was directed to move forward with submitting the ballot and any other action necessary to put it on the ballot for November 2020.

(10-0-1. Noes: Liccardo)

## 3.5 20-828

**Actions Related to Potential Ballot Measure(s) for the November 3, 2020 Election to Amend the City Charter to Expand the Review Authority for the Independent Police Auditor, Change the Size and Composition of the Planning Commission, and/or Change the Timelines to Conduct Redistricting.****Recommendation:**

- (a) Review and discuss the proposed ballot measure for the November 3, 2020 statewide general election to amend the City Charter to expand the review authority for the Independent Police Auditor (IPA) in accordance with the Amended Side Letter Agreement between the City of San Jose and the San Jose Police Officers' Association.
- (b) Review and discuss the proposed ballot measure for the November 3, 2020 statewide general election to amend the City Charter to change the size and composition of the Planning Commission and to change the timelines to conduct redistricting.
- (c) Determine whether the proposed ballot measures should be submitted to the voters separately or consolidated into one measure.
- (d) If the City Council decides that the proposed ballot measures should be submitted to the voters separately or consolidated with the IPA measure:
  - (1) Adopt a resolution of the City Council:
    - (i) Calling and giving notice, on its own motion, for a Special Municipal Election to be consolidated with the Statewide General Election on November 3, 2020, to submit to the electors of the City of San Jose, the following measure: Shall the San Jose City Charter be amended to expand the Independent Police Auditor's oversight to include unredacted review of officer-involved shootings and incidents where an officer used force in a manner that caused death or great bodily injury, as well as review of department-initiated investigations against police officers, and other technical amendments, as agreed to by the San Jose Police Officers' Association? [Separate]
    - (ii) Directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the Mercury News, a newspaper of general circulation within the City of San Jose, instead of printing the full text of the measure in the Sample Ballot;
    - (iii) Authorizing the City Council or any member or members of the City Council to submit a ballot argument in favor of the measure, pursuant to Elections Code Section 9282;
    - (iv) Authorizing the submittal of rebuttal arguments pursuant to Elections Code Section 9285;
    - (v) Directing the City Attorney to prepare an Impartial Analysis of the measure pursuant to Elections Code Section 9280; and
    - (vi) Directing the City Clerk to take all other actions necessary to place this measure on the November 3, 2020 ballot.

Assistant City Attorney Ed Moran, and Deputy City Attorney Mark Vanni gave a presentation and responded to question.

Assistant City Attorney Ed Moran introduced the item and provided background information on meetings on the IPA, the Planning Commission and on the Census. Today's discussion is about Council direction for the City Attorney Office to come back to Council with a combined ballot measure that includes all three components, with one added: try to save some money.

*(Item Continued on the Next Page)*

**3.5 20-828****Actions Related to Potential Ballot Measure(s) for the November 3, 2020 (Cont'd)**

Council has the option of taking the components both separately, or jointly; the IPA separately and then putting the Planning Commission and the Census ballot measure on a separate one.

- **Council recessed for dinner at 5:43PM**
- **Council reconvened at 6:01PM**

Public Comments: Offering comments were: JT, Carrol Watts, (representing the League of Women Voters); reverend Nanci Palmer-Jones, (Senior Minister of the First Unitarian Church of San José and a member of PACT); Blair Beekman, and Paul Soto.

Councilmember Maya Esparza observed that, the community's voice is an important element in the ballot measure discussion. The community want their voices heard in the public dialogue we're going to be having around IPA powers, Police Reforms, Planning Commission, and other important discussions. Therefore, she sought clarifications on community engagement process and the public's role in that process.

City Manager David Sykes and Employee Relations Director Jennifer Schembri stated the City will explore ways to get some input from the community.

Mayor Liccardo observed that section 411 of City Charter deals with the City Managers' non interfering and administrative authority. Council seeks to be certain that there is no language in City Charter, and/or nothing about passing an Ordinance that would give investigatory authority over police misconduct case to the IPA, so that the IPA don't conflict with 411 in the execution of it duties.

Council had a productive and comprehensive debate. Staff was directed to search for, and/or look at the language in the Charter and if there is any specific language that delegates the City Manager's investigatory authority afforded it.

It was observed that the motion for this item has been made. Council resolved to move on to other items on the agenda, with notation that additional time is required before taking a vote. Council will return to the motion and vote on it. The City Attorneys will check the Charter and ensure Council feels relatively confident there's no trip wire to trigger a crisis.

Upon motion by Vice Mayor Chappie Jones to table this item until later in the meeting, seconded by Councilmember Maya Esparza, and carried unanimously, vote on the item was deferred until later in the evening, with clarifications that Council will come back to that motion.  
(11-0.)

Council returned to Item 3.5 with Mayor Liccardo restating review of the Charter provisions and posing the question relating to anything in the Charter that would create a contradiction or would undermine efforts of the Council to enact a muni code provision that would empower the IPA with investigation authority.

*(Item Continued on the Next Page)*

## 3.5 20-828

**Actions Related to Potential Ballot Measure(s) for the November 3, 2020 (Cont'd)**

Assistant City Attorney Ed Moran confirmed review of the Charter and see no provision that would directly prohibit the granting of the IPA additional authority for investigations.

Mayor Liccardo then clarified for the record that, whereas section 411 clearly indicates that Council cannot meddle in the administrative matters of the City Manager without a Council vote, Section 411 would not, and does not stand as a barrier to Council enactment of a muni code provision that would invest the IPA with investigation authority.

Action: Upon motion by Vice Mayor Chappie Jones to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 79659** was adopted, and staff report, accepted. Further clarification was given to combine all three components, (IPA, Redistricting and Planning Commission), into one, with no rebuttals.

It was also agreed that, synopsis will be published in the Mercury News and City website[s], not the full text. Additional clarification was given to delete “**Unreacted**”, that precedes officer-involved shooting as written in staff report as follows:

**[Consolidated with IPA]:**

Shall the City Charter be amended to: expand the Independent Police Auditor’s oversight, including **unredacted** review of officer-involved shootings and use of force incidents causing death or great bodily injury, review of department-initiated investigations against officers, and other technical amendments; increase the Planning Commission to 11 members with Council appointing one member from each Council District and one “at-large” member; and allow the Council to establish timelines for redistricting when Census results are late.

Also approved was designation of Mayor Liccardo as a member of the Council to write the argument in favor of the ballot measure. In accepting the task, the Mayor offered to work with Council Offices of Members Peralez and Khamis in drafting any arguments as indicated in approval of Item 3.4 above.

The City Council did not approve including the full text of the measure in the ballot. Further, the City Attorney was directed to prepare an impartial analysis, and the City Clerk was directed to move forward with submitting the ballot and any other action necessary to put it on the ballot for November 2020.

(11-0.)

*(Item Continued on the Next Page)*

**3.5 20-828****Actions Related to Potential Ballot Measure(s) for the November 3, 2020 (Cont'd)**

(2) Adopt a resolution of the City Council:

(i) Calling and giving notice, on its own motion, for a Special Municipal Election to be consolidated with the Statewide General Election on November 3, 2020, to submit to the electors of the City of San Jose, the following measure: [Separate]: Shall the San Jose City Charter be amended to change the size and composition of the Planning Commission from 7 to 11 members with Council appointing one member from each Council District and one “at-large” member, and to allow the Council by ordinance to establish timelines to conduct redistricting when Census results are late?

OR

[Consolidated]: Shall the City Charter be amended to: expand the Independent Police Auditor’s oversight, including unredacted review of officer-involved shootings and use of force incidents causing death or great bodily injury, review of department-initiated investigations against officers, and other technical amendments; increase the Planning Commission to 11 members with Council appointing one member from each Council District and one “at-large” member; and allow the Council to establish timelines for redistricting when Census results are late?

(ii) Directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the Mercury News, a newspaper of general circulation within the City of San Jose, instead of printing the full text of the measure in the Sample Ballot;

(iii) Authorizing the City Council or any member or members of the City Council to submit a ballot argument in favor of the measure, pursuant to Elections Code Section 9282;

(iv) Authorizing the submittal of rebuttal arguments pursuant to Elections Code Section 9285;

(v) Directing the City Attorney to prepare an Impartial Analysis of the measure pursuant to Elections Code Section 9280; and

(vi) Directing the City Clerk to take all other actions necessary to place this measure on the November 3, 2020 ballot.

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

(City Manager)

Action: **Resolution No. 79658** was adopted.

(11-0)

**3.6 20-829****Actions Related to Declarations Suspending Enforcement of Certain Provisions in Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San José Municipal Code.****Recommendation:**

(a) Adopt a resolution of the City Council confirming and ratifying the Declaration of the Director of Emergency Services of the City of San José Suspending Enforcement of Certain Provisions in Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San José Municipal Code issued July 21, 2020.

*(Item Continued on the Next Page)*

**3.6 20-829****Actions Related to Declarations Suspending Enforcement of Certain (Cont'd)**

Office of Economic Development Downtown Manager Blage Zolalich clarified the item before the Council today: confirm and ratify the emergency declaration that was signed by the City Manager on July 21st around the allowance of street business areas and then also to amend the emergency declaration that was issued on June 4th around the expansion of business operations on public sidewalks.

Public Comments: Offering comments were: Paul Sot, Scott Largent, and JT.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. 79660** was adopted.  
(11-0.)

(b) Adopt a resolution of the City Council amending the Declaration of the Director of Emergency Services of the City of San José Suspending Enforcement of Certain Provisions in Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San José Municipal Code issued June 4, 2020, to allow businesses to use sidewalk areas beyond their business frontage with neighboring property consent. CEQA: Categorically Exempt, File No. ER20-159, CEQA Guidelines Section 15304(e) Minor Alterations to Land. (Economic Development)

Action: **Resolution No. 79661** was adopted.  
(11-0.)

**3.7 20-830****Public Hearing for the Fiscal Year 2020-2021 Sanitary Sewer Service and Use Charge and Storm Sewer Service Charge Assessments for the 2020-2021 Santa Clara County Secured Property Tax Roll.****Recommendation:**

Conduct a Public Hearing on the Fiscal Year 2020-2021 annual report prepared by the Director of Finance detailing the Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges filed with the City Clerk's Office; and adopt a resolution to confirm the approval of the report and the placement of the charges as set forth therein on the 2020-2021 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Finance)

Mayor Liccardo declared the public hearing open.

Public Comments: There were no cards.

Mayor Liccardo declared the public hearing closed.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Pam Foley, and carried unanimously, **Resolution No. 79662** was adopted.  
(11-0.)

**3.8 20-831 Public Hearing for the Fiscal Year 2020-2021 Annual Residential Solid Waste Collection Service Charges for the 2020-2021 Santa Clara County Secured Property Tax Roll.**

**Recommendation:** Conduct a Public Hearing on the Fiscal Year 2020-2021 annual report prepared by the Director of Finance detailing the Residential Solid Waste Collection Service Charges filed with the City Clerk's Office; and adopt a resolution to confirm the approval of the report and the placement of charges as set forth therein on the 2020-2021 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony.  
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Finance)

There was no presentation for this item.

Mayor Liccardo declared the public hearing open.

Public Comments: There were no cards.

Mayor Liccardo declared the public hearing closed.

Action: Upon motion by Councilmember Pam Foley to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. 79663** was adopted.  
(11-0.)

**3.9 20-860 Termination of Proclamation of Local Emergency for Civil Unrest.**

**Recommendation:** Adopt a resolution terminating the Proclamation of Existence of a Local Emergency issued by the Director of Emergency Services on May 31, 2020 resulting from civil unrest affecting the City of San José.  
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 7/29/2020 - Item A.1.a]

There was no presentation for this item.

Public Comments: Offering comments were: Blair Beekman, Kathryn Hedges, Paul Soto, and Scot Largent.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Maya Esparza, and carried unanimously, **Resolution No. 79664** was adopted.  
(11-0.)



**3.10 20-861****Actions Related to the 2020 Coronavirus Emergency Supplemental Funding Program Grant Funds Received from U.S. Department of Justice.****Recommendation:**

(a) Adopt a resolution authorizing the City Manager to execute an Agreement for grant awards received from the U.S. Department of Justice in the amount of \$865,998.

PD Division Manager, Lisa Perez responded to question. The PD will manage the grant in the Police Department and reimburse Fire for their expenses.

Public Comments: Blair Beekman offered comments on covid-19 vaccines, stating that the Vaccine itself will not exactly be a silver bullet.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. 79665** was adopted.  
(11-0.)

(b) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:

(1) Establish a City-Wide Expenses appropriation to the Police Department for the Coronavirus Emergency Supplemental Funding Program Grant 2020 in the amount of \$865,998; and

(2) Increase the estimate for Revenue from Federal Government by \$865,998.  
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. (Police/Fire/City Manager)  
[Rules Committee referral 7/29/2020 - Item A.1.a]

Action: **Ordinance No. 30454** was adopted, and **Resolution No. 79666** was adopted.  
(11-0.)

**4. PUBLIC SAFETY SERVICES****4.1 20-832****Release of Police Department Video Clips Related to Recent Protests.****Recommendation:**

Accept a report detailing the public release of video clips from the recent protests that are in the possession of or readily available to the Police Department.

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

There was no presentation for this item. Staff was available to respond to questions.

Assistant City Attorney, Ed Moran explained that Council may request the City Manager to come back with additional information but Council may take no action if the action is not specified.

Public Comments: Offering comments were: JT, Scott Largent, Paul Soto Blair Beekman and Kathryn Hedges.

*(Item Continued on the Next Page)*

**4.1 20-832 Release of Police Department Video Clips Related to Recent Protests. (Cont'd)**

Action: Upon motion by Councilmember Sergio Jimenez to defer the item and attach it to the item coming making its way through the Rules Committee, seconded by Vice Mayor Chappie Jones, and carried unanimously, the item was deferred, with clarification to return and consider it with the item coming to the Rules Committee. (11-0)

**5. TRANSPORTATION & AVIATION SERVICES****5.1 20-833 Continued Financial Relief and Amendment to Concession Agreements for Non-Aeronautical Concessionaires at the Norman Y. Mineta San José International Airport.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute amendments to concession agreements to provide continued financial relief to non-aeronautical concessionaires operating on Airport premises retroactive from July 1, 2020 through December 31, 2020, to support Airport concession operations that have been impacted by Airport passenger declines as a result of the COVID-19 pandemic. Financial relief for Airport concessionaires could include: (a) continued suspension of Minimum Annual Guarantee Rent, and charge only percentage rent retroactive from July 1, 2020 through December 31, 2020; and (b) allow Airport concessionaires to charge higher prices by allowing a higher percentage markup over street prices, retroactive from July 1, 2020 through December 31, 2020.

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

There was no presentation for this item.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Pam Foley, and carried unanimously, **Resolution No. 79667** was adopted. (11-0)

**5.2 20-834 Continued Financial Relief and On-Airport Rental Car Operations Agreements and Lease Agreements for Non-Aeronautical Rental Car Concessions at the Norman Y. Mineta San José International Airport.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute amendments to rental car concession agreements to: (a) extend the term retroactive from July 1, 2020 to June 30, 2030; and (b) provide continued temporary financial relief to rental car concessions ("Rental Cars") operating on the Airport premises retroactive from July 1, 2020 through December 31, 2020, to support Rental Car operations that have been directly impacted by Airport passenger activity declines as a result of the COVID-19 pandemic. Financial relief for the Rental Cars could include: (a) continued suspension of the Minimum Annual Guarantee Rent and charging only percentage rent due through December 31, 2020; (b) defer the reallocation date of construction and any relocation of services to a later date; and (c) defer rent adjustment appraisals to a later date and increase rent from leased premises by Consumer Price Index (CPI).

*(Item Continued on the Next Page)*

**5.2 20-834****Continued Financial Relief and On-Airport Rental Car Operations (Cont'd)**

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

There was no presentation for this item.

Action: Upon motion by Councilmember Pam Foley to move approval, seconded by Vice Mayor Chappie Jones, and carried unanimously, **Resolution No. 79668** was adopted.

(11-0.)

**5.3 20-835****Public Hearing for Support of COVID International Services.****Recommendation:**

(a) Conduct a Public Hearing pursuant to California Government Code Section 53083 regarding support for the resumption of international flights by Air Canada, Alaska Airlines, ANA, British Airways, Hainan Airlines, Southwest Airlines, and Volaris Airlines as authorized by the Federal Aviation Administration.

Mayor Liccardo declared the public hearing open.

Public Comments: There were no cards.

Mayor Liccardo declared the public hearing closed.

Action: Upon motion by Councilmember Sergio Jimenez to move approval, seconded by Councilmember Pam Foley, and carried unanimously, Public Hearing for Support of COVID International Services was approved.

(11-0.)

(b) Adopt a resolution authorizing the Director of Aviation or the Director's designee to provide support in the form of fee waivers for the air carrier services outlined in the staff memorandum.

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

Action: **Resolution No. 79669** was adopted.

(11-0)

**6. ENVIRONMENTAL & UTILITY SERVICES****7. NEIGHBORHOOD SERVICES****8. COMMUNITY & ECONOMIC DEVELOPMENT**

**8.1 20-862 Amendments to the City's Citizen Participation Plan.****Recommendation:**

- (a) Approve amendments to the federally-required Citizen Participation Plan (CPP) for the expenditure of funds from the U.S. Housing and Urban Development (HUD) to provide alternate rules for public notices and comment periods when a national, state, or local emergency is declared;
  - (b) Approve amendments to the CPP to allow for virtual attendees to various HUD-required hearings as a regular addition to in-person hearings; and
  - (c) Approve other updates to align with the current federal regulations as amended.
- CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.  
(Housing)  
[Rules Committee referral 7/29/2020 - Item A.1.a]

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, Amendments to the City's Citizen Participation Plan, was approved.  
(11-0)

**8.2 20-863 Public Hearing for the Draft 2020-25 Consolidated Plan and Draft Fiscal Year 2020-21 Annual Action Plan.****Recommendation:**

- (a) Conduct a Public Hearing on the Draft 2020-25 Consolidated Plan and FY 2020-21 Annual Action Plan, as required by the U.S. Department of Housing and Urban Development (HUD), to receive federal housing and community development funding; and
  - (b) Provide Housing Department staff with input on the draft Plans and funding priorities.
- 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. Specific development projects that are funded as a result of the Consolidated Annual Action Plan are subject to project specific CEQA clearance. (Housing)  
[Rules Committee referral 7/29/2020 - Item A.1.a]

Mayor Liccardo declared the public hearing open.

Housing Director Jacky Morales-Ferrand, Deputy Director Regan Haningan, gave a presentation and responded to questions.

Public Comments: Offering comments were: Blair Beekman, Paul Soto JT, Scott Largent, and Robert Aguirre

Mayor Liccardo declared the public hearing closed.

*(Item Continued on the Next Page)*

**8.2 20-863 Public Hearing for the Draft 2020-25 Consolidated Plan and Draft Fiscal (Cont'd)**

Mayor Liccardo announced that Assistant City Attorney Nora Frimann, has been appointed Interim City Attorney. Rick Doyle has retired.

Action: No motion was required. Item to return on August 25, 2020 full update. Council accepted the report, discussion, and feedback.

**9. REDEVELOPMENT – SUCCESSOR AGENCY****10. LAND USE****10.1 Land Use on Consent Calendar**

No Land Use items on Consent Calendar.

**END OF CONSENT CALENDAR****10 Land Use - Regular Agenda**

None presented.

**• OPEN FORUM**

1. Scott Largent recounted his volunteer work and narrated his ordeal with mental health issues. We have opportunity to help people with mental health issues now.
2. Paul Soto expressed sympathy to Councilmember Esparza's loss incurred during the 2019 Gilroy shooting.
3. Robert Aguirre stated that we should have a committee that can review policies put in place by City Council, which impacts the homeless. Representation is required.
4. JT: commented that we're making decision for the homeless without their input.
- 5.. Kaveh: commented on his petition. It's unacceptable for the PD to show up, not taking any action but simply seat in the car and not engage. Councilmember Foley responded and will meet with Kaveh next week as follow up.
- 6.. Blair Beekman: commented on local democracy, and demilitarization of the Police Dept., which he said would lead to less harassment of everyday ordinary people.

**• Adjournment**

**This meeting is in memory of Carmen Castellano, a dedicated activist for social change, community leader, and lover of the arts. Through her thirty-five years at San José City College, where she co-founded the Latino Education Association, and as the founder and President of the Castellano Family Foundation, Carmen was a trailblazer, uplifting communities of color and elevating Latino voices. As a philanthropist, Carmen fiercely advocated for greater diversity, equity, and inclusion within philanthropy, and has left an indelible legacy reflected in the many local organizations she supported. She is survived by her husband, Alcario, their three children, Maria, Carmela, and Armando, and five grandchildren.**

**• ADJOURNMENT**

Mayor Liccardo adjourned the Council Meeting session at 9:44 PM

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

lo/8-4-20 MIN

**MINUTES OF SAN JOSE CITY COUNCIL CLOSED SESSION AGENDA**

The Council meeting was teleconferenced from remote locations. The Council of the City of San José convened for Closed Session by teleconference at 9:34 AM on Tuesday, August 4, 2020.

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

Absent: Councilmembers - Esparza.

Upon motion unanimously adopted, Council recessed at 9:34 AM. to a Closed Session by teleconference to: (A) confer 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) confer with legal counsel - existing litigation: significant exposure to litigation pursuant to sections 54956.9(d)(1): 1. Case Name: City, et al v. Donald J. Trump, et al. Name(s) of Parties(s) Involved: CITY OF SAN JOSE, CALIFORNIA; KING COUNTY, WASHINGTON; ARLINGTON COUNTY, VIRGINIA; BLACK ALLIANCE FOR JUST IMMIGRATION, a California nonprofit corporation; SAM LICCARDO; ZERIHOON YILMA; LOVETTE KARGBO-THOMPSON; DONALD J. TRUMP, in his official capacity as President of the United States; WILBUR L. ROSS, JR., in his official capacity as Secretary of Commerce; U.S. DEPARTMENT OF COMMERCE, U.S. CENSUS BUREAU, STEVEN DILLINGHAM, in his official capacity as Director of the U.S. Census Bureau, and CHERYL L. JOHNSON, in her official capacity as Clerk of the U.S. House of Representatives Court: U.S. District Court, Northern District of California San Jose Division Case No.: 5:20-cv-05167 Amount of Money or Other Relief Sought: Complaint for Declaratory and Injunctive Relief. 2. Case Name: San Jose Mercury News LLC v. City, et al. Name(s) of Parties(s) Involved: SAN JOSE MERCURY NEWS LLC; CITY OF SAN JOSE; SAN JOSE POLICE DEPARTMENT; EDGARDO GARCIA, in his capacity as Chief of Police; and DOES 1-20 Court: Superior Court of the State of California, County of Santa Clara Case No.: 20-CV-368449 Amount of Money or Other Relief Sought: Verified Petition for Writ of Mandate Pursuant to the California Public Records Act and the California Constitution; Complaint for Declaratory and Injunctive Relief; Request for Attorney's Fees and Costs. (C) PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957: Department or Agency: City Attorney Title: Acting City Attorney

By unanimous consent, Council recessed from the Closed Session at 11:00 AM to reconvene to Regular Session at 11:00 PM by teleconference.

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