



City Council Meeting MINUTES

Tuesday, August 25, 2020

11:00 AM

Virtual Meeting <https://sanjoseca.zoom.us/j/91325378626>

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

AUGUST 25, 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.

20-857 Closed Session CANCELLED.

The Council of the City of San José convened on Tuesday, August 25, 2020 at 11:00 a.m.

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

Absent: Councilmembers - All Present.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 7)**

Pastor Danny Sanchez, the City Peace Project, offered the Invocation.

- **Orders of the Day**

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Pam Foley, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with the Joint City of San José Council/Financing Authority heard immediately following the Consent Calendar.

Mayor Sam Liccardo honored and mourned the passing of City Attorney Richard Doyle and added that a future meeting of Council, including Rick's family, would be adjourned in his honor. (10-0-1. Absent: Foley.)

- **Closed Session Report – Closed Session Canceled.**

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

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

2.1 20-953 Approval of City Council Minutes.

- (a) City Council Special Meeting Minutes of July 28, 2020.
- (b) Regular City Council Meeting Minutes of August 11, 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 City Council Minutes were approved. (11-0.)

2.2 20-940 Final Adoption of Ordinances.

- (a) Ordinance No. 30455 - An Ordinance of the City of San José Amending Section 2.08.820 of Chapter 2.08 of Title 2 of the San José Municipal Code to Add an Additional Four Temporary Nonvoting Members to the Arts Commission with Terms from August 11, 2020 to December 31, 2020.
[Passed for Publication on 8/11/2020 - Item 3.7 (20-898)]
- (b) Ordinance No. 30459 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.90 Gross Acre Situated on the North Side of Bark Lane, Approximately 150 Feet West of Weyburn Lane (7201 Bark Lane), from the A(PD) Planned Development Zoning District to the RM(PD) Planned Development Zoning District.
[Passed for Publication on 8/11/2020 - Item 10.1(a)(2) (20-853)]
- (c) Ordinance No. 30460 - An Uncodified Ordinance of the City of San José Temporarily Extending the Term of Specified Land Use Permits by Two Years from the Set Expiration Date, and Tree Removal Permits by Eight Months from the Set Expiration Date.
[Passed for Publication on 8/11/2020 - Item 10.1(b) (20-854)]
- (d) Ordinance No. 30461 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.01 Gross Acres Situated on the West Side of San Felipe Road, Approximately 2,000 Feet North of Yerba Buena Road (4349 San Felipe Road) (APN: 676-36-007) from the R-1-5 Single-Family Residence Zoning District to the A(PD) Planned Development Zoning District.
[Passed for Publication on 8/11/2020 - Item 10.1(c)(1) (20-855)]

Action: **Ordinance No. 30455, Ordinance No. 30459, Ordinance No. 30460, and Ordinance No. 30461** were adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

None provided.

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.

As Council Liaison to the Retirement Boards Councilmember Dev Davis offered a report on both the Federated Pension Plan and the Police & Fire Plan.

2.7 20-921 Approval of Unemployment Insurance Appropriation Ordinance Adjustments to Increase Payment of Claims and Access Reserves.

Adopt the following Appropriation Ordinance Amendments in the Unemployment Insurance Fund:

- (a) Increase the Payment of Claims appropriation by \$500,000; and
- (b) Decrease the Unemployment Insurance Claims Reserve by \$500,000.

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. (Human Resources/City Manager)

Action: Appropriation **Ordinance No. 30464 was adopted.** (11-0.)

2.8 20-922 Actions Necessary to Accept the Assistance to Firefighters Grant Program - COVID-19 Supplemental Funds from the Department of Homeland Security Federal Emergency Management Agency.

(a) Adopt a resolution authorizing the City Manager to take all actions necessary to effectuate an award and performance under the Department of Homeland Security Federal Emergency Management Agency's award under its Fiscal Year 2020 Assistance to Firefighters Grant Program - COVID-19 Supplemental of \$301,125, including City matching funds of \$45,169 for a total of \$346,293.

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

- (1) Establish a City-Wide Expenses appropriation to the Fire Department for the Assistance to Firefighters Grant - COVID-19 Supplemental 2020 in the amount of \$346,293;
- (2) Decrease the Non-Personal/Equipment appropriation to the Fire Department by \$45,169; and

(Item Continued on the Next Page)

2.8 (Cont'd.)

(b) (3) Increase the estimate for Revenue from Federal Government by \$301,124.

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

(Fire/City Manager)

Action: (a) **Resolution No. 79689** regarding the Department of Homeland Security Federal Emergency Management Agency's award; and (b) Appropriation **Ordinance No 30465** and Funding Sources **Resolution No. 79690** were adopted. (11-0.)

2.9 20-938 **Retroactive Approval of Silicon Valley LGBTQ+ Pride Week City Hall Lighting Display Sponsored by Council District 9 and Council District 6 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

(a) Retroactively approve Silicon Valley LGBTQ+ Pride Week scheduled on August 25- September 1, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.

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

Councilmember Foley and Davis offered words of support and encouragement and expressed enthusiasm for City Hall being lighted in pride-themed colors to celebrate LGBTQ+ individuals in our community. They honored Silicon Valley Pride's extraordinary work and offered some historical reference. LGBTQ+ Pride CEO Nicole Altamirano, spoke on inclusivity and diversity and the virtual pride celebration being rolled out for 2020.

Public Comments: Robert Geary urged more inclusivity and proper representation for the transgender community.

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

2.10 20-974 **Retroactive Approval of the San José State University Welcome Week City Hall Lighting Display Sponsored by Council District 3 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

(a) Retroactively approve the San José State University Welcome Week scheduled on August 21-23, 2020, as a City Council sponsored Special Event and approve the expenditure of funds.

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

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

2.11 20-981 Retroactive Approval of Muslim American Appreciation and Awareness Month Sponsored by Council District 2 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Retroactively approve Muslim American Appreciation and Awareness Month scheduled on August 19, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.

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

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

Councilmember Sergio Jimenez spoke proudly of Muslim appreciation and awareness and the importance of diversity and freedom of religion. Government Relations Coordinator for the Council on American-Islamic Relations, Sameena Usman, spoke on the contributions of the Muslim Community and their continued service by providing resources during this pandemic.

Public Comments: Husam Hamad of Blossom Valley Muslim Community Center offered appreciation for the recognition. Blair Beekman and Shahnawaz Saigal, Santa Clara Human Relations Commission, spoke to importance of continuing the dialog and urged inclusivity.

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

2.12 20-982 Approval of the Women's Equality Day and Women's Suffrage Centennial Anniversary Community Event sponsored by Council District 8 as a City Council sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

(a) Approve recognition of the Women's Equality Day and Women's Suffrage Centennial Anniversary on Wednesday, August 26, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.

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

Councilmembers Arenas, Davis, Foley and Carrasco honored the trailblazing women that got us as far as we have, the need to continue the fight and making a recommitment to gender equality. It was noted that last week marked the women's suffrage centennial anniversary which commemorated the ratification of the 19th Amendment giving women the constitutional right to vote, although women of color were banned from the polls until as late as the 1960's.

Public Comments: Blair Beekman spoke to equity, Lillian spoke to more women of color being recruited in positions of power, and Ida Crosby opined a Castro Communism invasion of Venezuela and the United States. Robert Geary urged honor and respect for women.

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

- 2.13 20-983 Amendment to the Grant Agreement with Silicon Valley Community Foundation for Census 2020 Community-Based Outreach. - DROP**
Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the grant agreement with Silicon Valley Community Foundation for Census 2020 community-based outreach, increasing the maximum total compensation up to \$120,000 for a total maximum compensation of \$399,125.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)
[Rules Committee referral 8/19/2020 - Item A.1.a]
Item Dropped per Administration.

3. STRATEGIC SUPPORT

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

- 20-923** (a) City Manager's COVID 19 Update (Verbal Report)
(b) City Manager's Report on Other City Matters (Verbal Report)
(*Heard prior to Consent Calendar*)

City Manager, David Sykes highlighted unsung heroes of the PBCE Planning Division Support Group. An update on the SCU Lightening Complex Fire was provided by Fire Chief Robert Sapien, Jr., and an OEC update focusing on state legislation specific to eviction rentals was provided by Director of Intergovernmental Relations, Bena Chang.

The City Council recessed at 11:45 a.m. and resumed at 1:30 p.m. with all Councilmembers present.

Public Comments: (1) Mollie McLeod spoke on the inadequacy of disability-specific resources. (2) Blair Beekman recommended that corporate reserves be used for everyday community. (3) Warren spoke on fire risks at an open space property in his neighborhood.

3.2 Labor Negotiations Update.

None provided.

3.3 20-924 San José Food Distribution Update. - DEFERRED

As recommended by the Smart Cities and Service Improvements Committee on August 6, 2020, accept the report on the update on food and necessities distribution work in support of the City's Pandemic Response which reviews accomplishments, lessons learned, and the transition back to Santa Clara County.

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

[Smart Cities and Service Improvements Committee referral 8/6/2020 - Item (d)2]
Deferred to 9/1/20 Per Administration

3.4 20-925 Public Hearing on the Grant of Franchise to Hummingbird Energy Storage, LLC for Electric Services.

Conduct a Public Hearing and approve an ordinance granting a franchise to Hummingbird Energy Storage, LLC for the purpose of transmitting and distributing electric service in the City's public rights-of-way.

CEQA: Initial Study/Mitigated Negative Declaration for the Hummingbird Energy Storage Project, File No. CP19-020. Council District 2. (Public Works)

Mayor Sam Liccardo opened the public hearing.

Public Comments: (1) Blair Beekman encouraged consideration of renewable energy and breaking away from PG&E. (2) Erik Schoennauer, representing Hummingbird Energy Storage, LLC indicated importance of battery storage. Two additional speakers offered questions and comments, including an inquiry as to how electricity demands may be met.

Mayor Sam Liccardo closed the public hearing.

Extensive discussion followed, and Director, Community Energy Department, Lori Mitchell offered additional comments and responded to questions.

Motion: Councilmember Sergio Jimenez moved approval of the ordinance granting a franchise to Hummingbird Energy Storage, LLC. The motion was seconded by Councilmember Dev Davis.

Mayor Sam Liccardo requested a friendly amendment, asking that the public benefit from any future franchise agreements for energy storage or other energy-resilience focused projects to help support the overall energy-resilience goals of our City. The amendment to the motion was accepted.

Action: On a call for the question, the motion carried unanimously, **Ordinance No. 30466** granting a franchise to Hummingbird Energy Storage, LLC was adopted, including public benefit gleaned from future franchise agreements support energy-resilience goals of our City as indicated by Mayor Sam Liccardo. (11-0.)

3.5 20-926 Community Plan to End Homelessness 2020-25.

Adopt a resolution to endorse the Community Plan to End Homelessness 2020-25.

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

A presentation was provided by Chief of Staff, Office of the City Manager, Lee Wilcox, representatives from the County's Office of Supportive Housing, Destination: Home, Homelessness Response Manager Ray Bramson, and Director of Housing Jacky Morales-Ferrand.

Public Comments: Ten members of the public spoke to the need to end homelessness, offering comments and suggestions regarding the homelessness crisis in San José.

Motion: Councilmember Raul Peralez moved approval of staff recommendations, including his memorandum dated August 24, 2020. The motion was seconded by Councilmember Magdalena Carrasco.

Extensive discussion followed, and staff responded to questions from Council.

Action: On a call for the question, the motion carried unanimously, with staffs' recommendations accepted, and **Resolution No. 79691** endorsing the Community Plan to End Homelessness 2020-25 adopted, including Councilmember Raul Peralez memorandum dated August 24, 2020 to include a Homelessness Impact Evaluation based on the Community Plan to End Homelessness 2020-25 strategies. (11-0.)

The City Council recessed at 6:30 p.m. and resumed at 7:15 p.m. with all Councilmembers present.

3.6 20-927 Council Policy Priority # 5: Commercial Linkage Impact Fee. - DEFERRED

(a) Approve an ordinance adding Chapter 5.11 to Title 5 of the San José Municipal Code enacting a requirement that new non-residential development pay a commercial linkage fee for the provision of affordable housing.

(b) Adopt a resolution establishing the amounts of commercial linkage fees in accordance with Chapter 5.11 of Title 5 of the San José Municipal Code.

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. (Economic Development/Housing)

Deferred to 9/1/2020 Per Administration

3.7 20-947 Proposition 16 on the November 3, 2020 California General Election Ballot.

Receive analysis and adopt a support position for Proposition 16 on the November 3, 2020 California General Election ballot.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager) [Deferred from 8/18/2020 - Item 3.6 (20-872)]
Heard last on the Agenda

Public Comments: Forty-two members of the public spoke, the majority contesting Proposition 16.

Limited Council discussion followed.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Maya Esparza and carried unanimously, a position of support for Proposition 16 was adopted. (11-0.)

4. PUBLIC SAFETY SERVICES

4.1 20-928 Police Department Preliminary After Action Report for the Public Protests, Civil Unrest, and Law Enforcement Response from May 29 - June 7, 2020. - DEFERRED

Accept the Police Department's After-Action Report for the public protests, civil unrest, and law enforcement response from May 29 - June 7, 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. (Police)

Deferred to 9/15/2020 Per Administration

4.2 20-970 Police Department Duty Manual Amendments. - DEFERRED

(a) Approve amendments to the Police Department Duty Manual referenced as one through five in the July 27, 2020 Memo that follow the direction provided by the City Council as part of the police reforms work plan.

(b) Direct the City Manager to:

(1) Strengthen amendment six, to ban the use of rubber bullets in any crowded setting.

(2) Ban the use of the Carotid Restraint for any purpose other than self-defense of the officer or defense of another person, and only where the officer or other person's life is under imminent and serious threat of death--commensurate with the necessary predicate for the use of a firearm.

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

[Deferred from 8/11/2020 - Item 4.1 (20-851); Continued from 8/18/2020 - Item 4.4 (20-884)]

Deferred to 9/15/2020 Per Rules And Open Government Committee

5. TRANSPORTATION & AVIATION SERVICES

5.1 20-929 Actions Related to the Development of Airport Connector and Stevens Creek Lines.

Direct staff, in collaboration with all jurisdictions involved, to pursue the development of both the Airport Connector and Stevens Creek Transit Lines in parallel paths:

- (a) Develop the partnerships, project definition, and funding to deliver a publicly funded and operated transit solution; and
- (b) Develop the legal and procedural processes to allow for a privately funded and operated transit solution.

CEQA: Not a Project, File No. PP17-001, Feasibility and Planning studies with no commitment to future actions. (Transportation)

A presentation was given by Director of Department of Transportation, John Ristow and Ramses Madou, DOT Division Manager.

Public Comments: Members of the public, including Alec Shore, Catelyze SV and Blair Beekman advocated for a sustainable San José. Scott Kneiss expressed cost and parking concerns; others noted this should be tabled until VTA is working, and opined the impact to VTA riders, citing it is not equity focused.

Staff responded to questions.

Motion: Vice Mayor Chappie Jones moved the memorandum he coauthored with Mayor Sam Liccardo, and Councilmembers Peralez, Carrasco and Davis. Councilmember Dev Davis seconded the motion.

Action: On a call for the question, the motion carried unanimously, and actions related to the Development of Airport Connector and Stevens Creek Lines were approved, including the joint memorandum from Mayor Sam Liccardo, Vice Mayor Chappie Jones, Councilmember Raul Peralez, Councilmember Magdalena Carrasco and Councilmember Dev Davis, dated August 21, 2020, to: Accept staff recommendation with the following direction:

1. Ensure City Department of Transportation (DOT) and Valley Transportation Authority (VTA) coordination on further development of the Airport Connector and Stevens Creek Line.
 2. Incorporate lessons learned on new technology into VTA's "High Capacity Transit Study", soon to be launched Stevens Creek "Vision Study", and the "Next Gen" study, which is currently underway, and slated for completion by the end of the year.
 3. Continue staff advocacy with the Metropolitan Transportation Commission (MTC) to include the Airport Connector and Stevens Creek corridor transit solutions as part of the transportation element of Plan Bay Area 2050 – preferably under Period 1 projects scheduled to be completed prior to 2035.
 4. Ensure staff coordination between DOT, Public Works, City Attorney's Office, and VTA to fully investigate and work through legal questions and framework for private option.
 5. Include in future workplans for the Office of Racial Equity and DOT - and in partnership with VTA and transit advocacy groups – the development of a strategy focused on Airport Connector and Stevens Creek Lines accessibility and affordability.
- (10-0-1. Absent: Esparza.)

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 20-930 Actions Related to the Integrated Resource Plan and Power Procurement.

Adopt a resolution:

(a) Approving two portfolios to be submitted to the California Public Utilities Commission as part of the 2020 Integrated Resource Plan as follows:

(1) Portfolio resulting in 46 million metric tons of carbon emissions from the electric system by 2030;

(2) Portfolio resulting in 38 million metric tons of carbon emissions from the electric system by 2030 as the preferred portfolio.

(b) Amending Subsection A of Resolution No. 78711 to modify some of the criteria for the 2018 Integrated Resource Plan approved by City Council, and approving 2020 Integrated Resource Plan criteria that prioritize building additional renewable resources to meet state and local low-carbon goals and CPU regulatory requirements.

(c) Authorizing the Director of Community Energy to use the findings from the Integrated Resource Plan modeling analysis to finalize, approve, and submit to the California Public Utilities Commission the 2020 Integrated Resource Plan; provided that such final plan reflects the criteria and includes the two portfolios approved by City Council herein; and provided further that the Director will submit the final 2020 Integrated Resource Plan to City Council pursuant to an information memorandum within ten days of filing the plan with the California Public Utilities Commission;

(d) Subject to the Energy Risk Management Policy, the appropriation of funds, and Risk Oversight Committee approval of all contracts with a duration of five years or more, increasing the authority granted to the Director of Community Energy or her designee for the procurement of:

(1) Long-term renewable energy by \$500,000,000 for a total not to exceed amount of \$1,500,000,000 in aggregate in Calendar Years 2024 through 2043; and

(2) Short- and medium-term power supply products, other than Resource Adequacy products, by \$212,000,000 to an amount not to exceed \$275,000,000 in aggregate in Calendar Years 2024 through 2032.

(e) Amending Resolution No. 79109 to authorize the Director of Community Energy or her designee to use \$130,000,000 previously authorized for long-term power supply contracts for the Calendar Years 2021 through 2023 for either long-term or short-term power supply products other than Resource Adequacy; provided that, energy procurement shall not exceed the coverage ratios established in the Risk Management Regulations.

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

(Community Energy)

(Item Continued on the Next Page)

6.1 (Cont'd.)

Director, Community Energy Department, Lori Mitchell gave presentation on the Integrated Resources Plan (IRP) and responded to questions.

Public Comments: Blair Beekman offered appreciation for the efforts, and Dean Daily questioned the advantages of going completely carbon free.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Lan Diep and carried unanimously, **Resolution No. 79692** regarding Actions Related to the Integrated Resource Plan and Power Procurement was adopted. (11-0.)

6.2 20-931 **Actions Related to the Issuance of Non-Exclusive Franchise Agreements for the Collection, Transport, and Disposal of Residential Clean-Out Material and Construction and Demolition Debris.**

(a) Conduct a public hearing on the applications of the companies listed below for Non-Exclusive Franchises for the non-exclusive collection, transport, and disposal of residential clean-out material and construction and demolition debris:

(1) Yellowsack Inc.;

(2) A-Force Roll Off, LLC;

(3) Mohammed Abdo dba iDump - San José Dumpster Rentals.

(b) Adopt ordinances granting the franchises for these companies.

(c) Approve the Non-Exclusive Franchise Agreements with these companies for the collection, transport, and disposal of residential clean-out material and construction and demolition debris, for the term beginning the effective date of the ordinance granting the franchise through June 30, 2021.

CEQA: Categorically Exempt, File No. ER20-162, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services)

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley and carried unanimously, **Ordinance No. 30467** granting the franchise for A-Force Roll Off, LLC; **Ordinance No. 30468** for Mohammed Abdo dba iDump - San José Dumpster Rentals; and **Ordinance No. 30469** for Yellowsack Inc., were passed for publication; and Non-Exclusive Franchise Agreements with these companies for the collection, transport, and disposal of residential clean-out material and construction and demolition debris, for the term beginning the effective date of the ordinance granting the franchise through June 30, 2021 were approved. (11-0.)

6.3 20-932

2019 San Francisco Bay Area Integrated Regional Water Management Plan and Proposition 1 Integrated Regional Water Management Program Grant.

(a) Adopt a resolution:

(1) Approving the 2019 San Francisco Bay Area Integrated Regional Water Management Plan, a comprehensive, non-binding water plan that analyzes and prioritizes water supply, wastewater and recycled water, stormwater and flood protection, and watershed management and habitat protection and restoration needs and projects in the nine county Bay Area region; and

(2) Authorizing the City Manager to negotiate and execute a Local Project Sponsor Agreement with the Association of Bay Area Governments (ABAG) to effectuate a \$3,203,550 grant with City matching funds of 65% for a total project cost of \$9,215,000 relating to the River Oaks Stormwater Capture Project for the term ending on or about September 2024, and all related documents necessary for the grant.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Storm Sewer Capital Fund:

(1) Establish an estimate for Revenue from State of California in the amount of \$1,518,000; and

(2) Establish the River Oaks Stormwater Capture Project appropriation to the Public Works Department in the amount of \$1,518,000.

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. (Public Works/Environmental Services/City Manager)

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley and carried unanimously, (a) **Resolution No. 79693** Approving the 2019 San Francisco Bay Area Integrated Regional Water Management Plan; and (b) Appropriation **Ordinance No 30470** and Funding Sources **Resolution No. 79694** were adopted. (11-0.)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 20-941 Report on Economic Indicators to Evaluate Need for Continuing the Eviction Moratorium and Extension of COVID-19 Eviction Moratorium to September 30, 2020.

- (a) Accept the staff report on economic indicators to guide City Council's decision-making regarding the eviction moratorium.
 - (b) Adopt a resolution extending the temporary moratorium through September 30, 2020 on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from COVID-19.
- CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Housing)

Deputy Director, Housing Dept. Rachel VanderVeen provided a presentation.

Public Comments: Mike Trujillo, Mary Helen Doherty, Kathryn Hedges, Mitch Mankin (SV@Home), Jeffrey Buchanan, and Kevin Ma offered support. Blair Beekman expressed human rights concerns.

Staff responded to questions.

Motion: Councilmember Raul Peralez moved acceptance of his memorandum of August 24, 2020. Councilmember Magdalena Carrasco seconded the motion.

Council discussion ensued. Deputy City Attorney, Chris Alexander responded to questions regarding limiting extensions to every 60 days. In response Mayor Sam Liccardo questioned extending current payment of rent until the end date of the emergency period. He suggested that recommendation #3 from Councilmember Raul Peralez' memorandum be returned for discussion at a future meeting of the Council.

Councilmember Pam Foley additionally questioned the timing of item #3 due to the potential risk of exposing the City to liability. Mayor Sam Liccardo noted he could accept the motion on the table if the eviction moratorium was contiguous with the local emergency declaration.

The makers of the motion indicated agreement with postponing Item #3 *"Prohibit non-payment of rent that was not paid during the COVID-19 pandemic as a cause for eviction at any time after the eviction moratorium ends"*, with the discussion regarding matching it up with the Governor's emergency declaration to be heard at a future Council date. Councilmember Raul Peralez asked that it be returned to Council on September 29, 2020.

(Item Continued on the Next Page)

8.1 (Cont'd.)

Action: On a call for the question, the motion was carried unanimously, (b) **Resolution No. 79695**, “A Resolution of the Council of the City of San José Extending the Temporary Moratorium to September 30, 2020 on Evictions Due to Nonpayment of Rent for Residential Tenants where the Failure to Pay Rent Results from Income Loss Resulting from Covid-19”, was adopted, also including Councilmember Raul Perez’ memorandum dated August 24, 2020, directing the City Manager to:

- 1. Explore amending the Eviction Moratorium to extend the Eviction Moratorium to align with the Local Declared State of Emergency,*
- 2. Return with an analysis on the economic indicators evaluating the need of a moratorium with every extension of the Local Declared State of Emergency for Council’s consideration to end the existing Eviction Moratorium if needed,*
- 3. Prohibit non-payment of rent that was not paid during the COVID-19 pandemic as a cause for eviction at any time after the eviction moratorium ends.*

Including the deferral of consideration of Item #3 until September 29, 2020 and to otherwise ensure that the eviction moratorium extends as long as the Declaration of Emergency is in place.

(11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

- (a) **20-933 C19-050 - Conforming Rezoning for Real Property located at 550-600 East Brokaw Road.**

Approve an ordinance rezoning that certain real property located on the southeast corner of East Brokaw Road and Junction Avenue (550-600 East Brokaw Road) from an A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District on an approximately 19.70-acre site.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. File No. C19-050. Council District 3. (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Lan Diep and carried unanimously, **Ordinance No. 30471** was passed for publication. (11-0.)

(b) 20-934 **PDC18-041 & PD18-047 - Planned Development Rezoning and Planned Development Permit for Real Property located at 1168 Brace Avenue.**

(a) Approve an ordinance rezoning that certain real property located at the south side of Brace Avenue approximately 280 feet easterly of Newport Avenue (1168 Brace Avenue) from the R-1-8 Single-Family Residence Zoning District to the R-M(PD) Planned Development Zoning District to allow up to four single-family attached residences on an approximately 0.28-gross acre site.

(b) Adopt a resolution approving, subject to conditions, the partial demolition of an existing single-family residence and the removal of three ordinance-size trees for the construction of four multi-family units on an approximately 0.28-gross acre site.

CEQA: Categorically Exempt, CEQA Guidelines Section 15303(b) for New Construction or Conversion of Small Structures. File Nos.

PDC18-041 & PD18-047. Planning Commission recommends approval (7-0). Council District 6. (Planning, Building and Code Enforcement)

Item 10.1(b) was pulled by Rosalynn Hughey, Director, Planning, Building and Code Enforcement, noting the incorporation of “Condition #27”, which was added to the resolution.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Lan Diep and carried unanimously, (a) **Ordinance No. 30472** rezoning certain real property located at the south side of Brace Avenue was passed for publication; and (b) **Resolution No. 79696**, the partial demolition of an existing single-family residence and the removal of three ordinance-size trees, was adopted. (11-0.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 20-935 **Administrative Hearing on the Appeal of the Planning Commission's Approval of Conditional Use Permit Amendment No. CPA16-035-01 for the Bascom Andoil Carwash Amendment Project.**

(a) Conduct an Administrative Hearing to consider the Appeal of the Planning Commission’s approval of the Conditional Use Permit Amendment, Permit No. CPA16-035-01, for the Bascom Andoil Carwash Amendment Project, which permits the addition of an automatic car wash, the reduction in overall project square footage, and site improvements at an existing gas station on an approximately 0.8-gross acre lot located at 3702 South Bascom Avenue.

(b) Adopt a resolution denying the permit appeal and approving, subject to conditions, Conditional Use Permit Amendment No. CPA16-035-01, for the Bascom Andoil Carwash Amendment Project, which permits the addition of an automatic car wash, the reduction in overall project square footage, and site improvements at an existing gas station on an approximately 0.8-gross acre site, on the southeast corner of South Bascom Avenue and Woodard Road (3702 South Bascom Avenue).

CEQA: Categorically Exempt, CEQA Guidelines Section 15332 (Class 32), Infill Development Projects. Council District 9. (Planning, Building and Code Enforcement)

(Item Continued on the Next Page)

10.2 (Cont'd.)

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

Mayor Sam Liccardo opened the Administrative Hearing.

Public Comments: Appellant Kathleen Flynn and Attorney Ben Levinson asked to deny the conditional use permit citing traffic concerns, and twelve additional constituents asked that it be denied. Tony Andary, representing the applicant Andarys Enterprise Inc., and four members of the public urged approval of the project.

Upon motion by Mayor Sam Liccardo closed the Administrative Hearing.

Councilmember Pam Foley provided her reasoning for denial of the appeal, suggesting the applicant has submitted an updated design addressing concerns.

Motion: Councilmember Pam Foley moved approval of her memorandum of August 24, 2020, accepting the recommendation of staff to deny the appeal of the Planning Commission's approval of the Conditional Use Permit Amendment for the Bascom Andoil Carwash Amendment Project and approval of the conditional use permit amendment, including the memorandum from Mayor Sam Liccardo, dated August 24, 2020. The motion was seconded by Councilmember Johnny Khamis.

Considerable discussion and review followed regarding actions taken to address safety, traffic and noise concerns. Additionally, car wash hours were suggested to be changed from 8 a.m. to 8 p.m. The makers of the motion expressed agreement to the changed hours.

Action: On a call for the question, the motion carried unanimously, (b) **Resolution No. 79697**, denying the permit appeal and approving, subject to conditions, Conditional Use Permit Amendment No. CPA16-035-01 for the Bascom Andoil Carwash Amendment Project, was adopted, including the August 24, 2020 memorandum from Councilmember Pam Foley, including the change of hours, to:

(1) Accept the recommendation of staff to deny the appeal of the Planning Commission's approval of the Conditional Use Permit Amendment No. CPA16-035-01 for the Bascom Andoil Carwash Amendment Project.

(2) Approve the conditional use permit amendment, to amend the previously approved permit File No. CP16-035-01, as recommended by the Planning Commission with the following conditions:

- a. Developer agrees to construct City standard driveway, curb, gutter, bulb outs, and sidewalk along the north side of Woodard Road, east of Starview Drive for approximately 100 feet.
- b. Developer agrees to provide a voluntary contribution of \$15,000 towards enhanced pedestrian improvements at Woodard Road and Starview Drive.
- c. Operation of the carwash will be between the hours of 8:00am – ~~8:30pm~~ 8:00 p.m.

Also including the memorandum from Mayor Sam Liccardo, dated August 24, 2020: accepting staff recommendation to deny appeal of the Planning Commission's approval of Conditional Use Permit Amendment No. CPA16-035-01 for the Bascom Andoil Carwash Amendment Project.

(11-0.)

OPEN FORUM

1. Blair Beekman spoke on renter and tenant forgiveness.
2. Robert Geary suggested the City set up a commission for the unhoused, so they may be adequately represented.
3. A member of the public asked if council is going to vote on Laura's Law.
4. Several additional members of the public offered complaints that council has not represented them in their opposition to Proposition 16.

ADJOURNMENT

The Council of the City of San José adjourned at 12:13 a.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

A handwritten signature in blue ink, appearing to read "Toni J. Taber", with a stylized flourish at the end.

Toni J. Taber, CMC
City Clerk

rmk/08-25-20 MIN

JOINT CITY OF SAN JOSE CITY COUNCIL/FINANCING AUTHORITY

AUGUST 25, 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 Joint 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.

The Joint City of San José Council/Financing Authority convened on Tuesday, August 25, 2020 at 3:00 p.m.

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

Absent: Councilmembers - All Present.

1. 20-936 City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2020A (Civic Center Refunding Project).

(a) City Council take the following actions:

(1) Conduct a Public Hearing for the approval of the issuance by the City of San José Financing Authority of Taxable Lease Revenue Bonds, Series 2020A (Civic Center Refunding Project) in order to finance the acquisition and construction of public improvements of the City of San José consisting of a full build-out of existing space within the 4th and San Fernando Garage for office space which will be occupied by the San José Community Energy Department and other City operations (the "Community Energy Department Project"); and

(2) Adopt a resolution approving and authorizing the execution of documents and approving related actions in connection with the issuance by the City of San José Financing Authority of Taxable Lease Revenue Bonds, Series 2020A (Civic Center Refunding Project) in the maximum principal amount not to exceed \$365,000,000 in connection with the refinancing of certain public capital improvements of the City of San José and the financing of the Community Energy Department Project.

(b) City of San José Financing Authority Board adopt a resolution authorizing the issuance and sale of the Taxable Lease Revenue Bonds, Series 2020A (Civic Center Refunding Project) in the maximum principal amount not to exceed \$365,000,000 in connection with the refinancing of certain public capital improvements of the City of San José and the financing of the Community Energy Department Project, and approving and authorizing the execution of documents and approving related actions.

CEQA: Categorically Exempt, File No. PP19-030, CEQA Guidelines Section 15301, Existing Facilities, and;

1. **20-936 City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2020A (Civic Center Refunding Project) (Cont'd.)**

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)

UNDER BOTH THE DEBT MANAGEMENT POLICY AND SAN JOSE MUNICIPAL CODE SECTION 4.34.200, APPROVAL OF THE ISSUANCE OF THE LEASE REVENUE BONDS REQUIRES A TWO-THIRDS VOTE BY THE CITY COUNCIL (8 VOTES)

Director of Finance Julia H. Cooper and Finance Deputy Director, Nikolai Sklaroff offered a presentation.

Mayor Sam Liccardo opened the public hearing.

Public Comments: (1) Blair spoke to importance of the public process and usefulness of bonds.

(2) A member of the public complained that no new funds should be spent.

Councilmember Pam Foley indicated to the speaker that this involved no new expenditures for the City.

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Johnny Khamis and carried unanimously, the Public Hearing was closed. (11-0.)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Pam Foley and carried unanimously, City Council (a) **Resolution No. 79698**, approving related actions in connection with the issuance by the City of San José Financing Authority of Taxable Lease Revenue Bonds, Series 2020A (Civic Center Refunding Project); and (b) **Financing Authority Resolution No. 148**, authorizing the issuance and sale of the Taxable Lease Revenue Bonds, Series 2020A (Civic Center Refunding Project) were adopted. (11-0.)

2. **20-937 City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2020B (Ice Centre Project).**

(a) City Council take the following actions:

(1) Conduct a public hearing for the approval of the issuance by the City of San José Financing Authority of Taxable Lease Revenue Bonds, Series 2020B (Ice Centre Project) (the “2020B Bonds”) in order to finance the acquisition and construction of public improvements of the City of San José consisting of two additional ice rinks and related facilities at the Solar4America Ice Centre at San José;

(2) Adopt a resolution authorizing the City Manager to negotiate and execute:

(a) The Second Amended and Restated Ice Centre Lease and Management Agreement between the City of San José and Sharks Ice, LLC;

(b) The Agreement for the Fourth Expansion of the Ice Centre of San José between the City of San José and Sharks Ice, LLC; and

(Item Continued on the Next Page)

City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2020B (Ice Centre Project) (Cont'd.)

(2) (c) All other documents necessary to effectuate the Second Amended and Restated Ice Centre Lease and the Agreement for the Fourth Expansion of the Ice Centre;

(3) Adopt a resolution approving and authorizing the execution of documents and approving related actions in connection with the issuance by the City of San José Financing Authority of the 2020B Bonds in the maximum principal amount not to exceed \$155,000,000 in connection with the refunding of the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008E-1 and Series 2008E-2 (Ice Centre Refunding Project) ("2008E Bonds") and the financing of the Ice Centre Project;

(4) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund:

(a) Increase the Beginning Fund Balance by \$919,284;

(b) Decrease the estimate for Revenue from the Use of Money/Property by \$1,980,479;

(c) Decrease the Ice Centre Debt Service Payment appropriation to the Finance Department by \$2,249,247;

(d) Decrease the Repairs - Structures appropriation to the Finance Department by \$440,865;

(e) Decrease the Repairs - Mechanical appropriation to the Finance Department by \$278,000;

(f) Decrease the Repairs - Miscellaneous appropriation to the Finance Department by \$165,000;

(g) Decrease the Repairs - Electrical appropriation to the Finance Department by \$90,000;

(h) Decrease the Repairs - Unanticipated/Emergency appropriation to the Finance Department by \$75,000;

(i) Establish the Refunding of Previous Base Rent Payments to the Finance Department in the amount of \$1,553,040;

(j) Establish a Transfer to the General Fund - Administrative Expenses appropriation in the amount of \$75,000;

(k) Increase the Ice Centre Oversight Expenses appropriation to the Finance Department by \$23,546;

(l) Establish the Capital Rehabilitation Reserve in the amount of 585,000; and

(m) Increase the Unrestricted Ending Fund Balance by \$331.

(b) City of San José Financing Authority Board adopt a resolution authorizing the issuance and sale of the Taxable Lease Revenue Bonds, Series 2020B (Ice Centre Project) in the maximum principal amount not to exceed \$155,000,000 in connection with the refunding of the Series 2008E Bonds and the financing of the Ice Centre Project and approving and authorizing the execution of documents and approving related actions.

(Item Continued on the Next Page)

2. **20-937 City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2020B (Ice Centre Project) (Cont'd.)**

CEQA: Initial Study/ Mitigated Negative Declaration for the Solar4America Ice Facility Expansion Project (Resolution No. 79388).
(Finance/City Manager)

UNDER BOTH THE DEBT MANAGEMENT POLICY AND SAN JOSE MUNICIPAL CODE SECTION 4.34.200, APPROVAL OF THE ISSUANCE OF THE LEASE REVENUE BONDS REQUIRES A TWO-THIRDS VOTE BY THE CITY COUNCIL (8 VOTES)

Director of Finance Julia H. Cooper and Economic Development Director, Nanci Klein offered a presentation.

Mayor Sam Liccardo opened the public hearing.

Public Comments: (1) A member of the public spoke to long-term solutions. (2) John Gustafson offered support. (3) A member of the public voiced the need for adequate parking.

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Johnny Khamis and carried unanimously, the Public Hearing was closed. (11-0.)

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Magdalena Carrasco, and carried unanimously, City Council (a)(2) **Resolution No. 79699**, approving the Second Amended and Restated Ice Centre Lease and the Agreement for the Fourth Expansion of the Ice Centre; (a)(3) **Resolution No. 79700**, regarding Bonds and financing of the Ice Centre Project; (a)(4) **Appropriation Ordinance 30473** and **Funding Sources Resolution 79701**; and (b) **Financing Authority Resolution No. 149**, authorizing the issuance and sale of the Taxable Lease Revenue Bonds, Series 2020B (Ice Centre Project) in the maximum principal amount not to exceed \$155,000,000 in connection with the refunding of the Series 2008E Bonds and the financing of the Ice Centre Project and approving and authorizing the execution of documents and approving related actions, were adopted. (11-0.)

ADJOURNMENT

The Joint meeting was adjourned, and the meeting of the City of San José City Council was reconvened