



# City Council Meeting

## Draft Minutes/Synopsis

**Tuesday, September 22, 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 MEETING****SAN JOSÉ, CALIFORNIA****TUESDAY, SEPTEMBER 22, 2020**

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

The Council meeting was teleconferenced from remote locations. The Council of the City of San José convened in a Regular Session at 1:33 PM on Tuesday, September 22, 2020. (See Page 23 for Closed Session Minutes.)

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

Absent: Councilmembers - All Present.

**• CALL TO ORDER AND ROLL CALL: 1:33 PM.****INVOCATION**

District 8: Charina B. Tengson Evergreen Valley College Women & Gender Studies Department.

**PLEDGE OF ALLEGIANCE**

Mayor Liccardo led the Pledge of Allegiance.

**ORDERS OF THE DAY**

Upon motion by Councilmember Pam Foley, to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, the Orders of the Day and the Amended Agenda were accepted.  
(11-0)

**• CLOSED SESSION REPORT**

No Report.

**1. CEREMONIAL ITEMS**

None presented.

**2. CONSENT CALENDAR**

Public Comments: Offering comments on the Consent Calendar were: Blair Beekman, Tessa Woodmansee, Mathew Reed, Last four digits of Phone # ending in: 5140, and Jeffrey Buchannan.

Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis, and carried unanimously, the Consent Calendar was approved, with items 2.2, 2.7, 2.12, and 2.17 pulled, and the below listed actions taken as indicated.  
(11-0)

**2.1 20-1109 Approval of City Council Minutes.****Recommendation:**

- (a) City Council Special Meeting Minutes of May 21, 2020.
- (b) City Council Special Meeting Minutes of June 26, 2020.
- (c) City Council Regular Meeting Minutes of August 18, 2020.
- (d) City Council Regular Meeting Minutes of August 25, 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 May 21, 2020, June 26, 2020, August 18, 2020, and August 25, 2020, were approved.

**2.2 20-1119 Final Adoption of Ordinances.****Recommendation:**

- (a) **Ord No. 30475** - An Ordinance of the City of San José 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. [Passed for Publication on 9/1/2020 - Item 8.2 (c)(1) (20-969)]  
[Deferred from 9/15/2020 - Item 2.2 (e)]

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, **Ordinance No. 30475** was adopted.

(10-0-1. Noes: Carrasco)

**2.3 20-1110 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 September 25, 2019.
- (b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 2, 2019.
- (c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 9, 2019.
- (d) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 30, 2019.
- (e) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of August 5, 2020.
- (f) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of August 19, 2020.
- (g) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of September 2, 2020.
- (h) Regular Public Safety, Finance, and Strategic Support Committee Meeting Minutes of August 20, 2020.
- (i) Regular Community and Economic Development Committee Meeting Minutes of September 23, 2019.
- (j) Regular Community and Economic Development Committee Meeting Minutes of October 28, 2019.
- (k) Regular Smart Cities and Service Improvements Committee Meeting Minutes of October 3, 2019.

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**2.3 20-1110 Approval of Council Committee Minutes. (Cont'd)**

(l) Regular Smart Cities and Service Improvements Committee Meeting Minutes of November 7, 2019.

(m) Regular Transportation and Environment Committee Meeting Minutes of October 7, 2019.

(n) Regular Transportation and Environment Committee Meeting Minutes of November 4, 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 20-1078 2020 Settlement Agreement and Mutual Release between Sutter's Place, Inc. dba Bay 101 and City of San José (Case No. 1 14 CV 267311).****Recommendation:**

(a) Approval of the 2020 Settlement Agreement and Mutual Release between Sutter's Place, Inc. dba Bay 101 and City of San José (Case No. 1-14-CV-267311) to settle the consolidated breach of contract action and the regulatory fee action in its entirety.

Action: Upon motion by Councilmember Johnny Khamis to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, the 2020 Settlement Agreement and Mutual Release between Sutter's Place, Inc. dba Bay 101 and City of San José (Case No. 1-14-CV-267311), was approved.

(10-0-1. Noes: Liccardo)

(b) Approve an ordinance amending various sections of Title 16 of the San José Municipal Code relating to Gaming Control to allow jackpots, promotions and tournaments in compliance with State Gambling Law and Regulation; ownership of more than one cardroom in San José; and an owner of a cardroom to play poker and in poker tournaments held at his or her cardroom.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

(City Attorney/City Manager)

Action: **Ordinance No. 30481** was passed for publication.

(10-0-1. Noes: Liccardo)

**2.8 20-1079****Actions Related to the Master Cooperative Agreement Between the VTA and the City for the BART Extension to Berryessa/North San José Station.****Recommendation:**

Adopt a resolution authorizing the City Manager to negotiate and execute the following:

(a) A roadway easement to be conveyed by the Santa Clara Valley Transportation Agency (“VTA”) over a portion of Mabury Road starting approximately at the corner of 1411 Mabury Road;

(b) A roadway easement to be conveyed by the VTA over a portion of Lenfest Road at the intersection of Mabury Road and Lenfest Road along with a utility easement;

(c) A roadway easement from the Santa Clara Valley Water District (“SCVWD”) over a portion of Berryessa Station Way approximately at the intersection of Berryessa Road and Berryessa Station Way;

(d) A sanitary sewer easement conveyed by the SCVWD which runs along Berryessa Station Way approximately at the intersection of Berryessa Road and Berryessa Station Way; and

(e) Two License Agreements from the VTA for utilities crossing the rail road transportation corridor.

CEQA: Determination of Consistency with the BART Extension to Milpitas, San José, and Santa Clara Final EIR, BART Extension to Milpitas, San José, and Santa Clara Final Supplemental EIR, and BART Silicon Valley Phase 1 -Berryessa Extension Final 2nd Supplemental EIR, and Addenda thereto, Resolution No. 76126. Council District 4. (Economic Development/Public Works)

Action: **Resolution No. 79717** was adopted.

**2.9 20-1080****Stormwater Permit Annual Report 2019-2020.****Recommendation:**

Adopt a resolution authorizing certification and submittal of the FY 2019-2020 Stormwater Permit Annual Report to the San Francisco Bay Regional Water Quality Control Board by September 30, 2020, in conformance with the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit requirements, pursuant to the Federal Clean Water Act.

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

Action: **Resolution No. 79718** was adopted.

**2.10 20-1081****Amendments to Master Consultant Agreements with CDM Smith and Kennedy/Jenks for Engineering and Construction Management and Inspection Services for Projects at the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program.****Recommendation:**

(a) Approve the Second Amendment to the Master Consultant Agreement with CDM Smith, Inc. for engineering and construction management services for the 7701 - Headworks Project to alter authorized travel expenses, align the agreement with Capital Improvement Program standards, and extend the term from December 31, 2022 to December 31, 2023 with no increase to the maximum total compensation.

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**2.10 20-1081****Amendments to Master Consultant Agreements with CDM Smith and (Cont'd)**

(b) Approve the Third Amendment to the Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. for construction management and inspection services for various capital improvement projects at the San José-Santa Clara Regional Wastewater Facility to alter authorized travel expenses, with no extension to the term or increase to the maximum total compensation.

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

Action: Amendments to Master Consultant Agreements, were approved.

**2.11 20-1082****Report on Request for Proposal for Automated Traffic Signal Performance Measures System.****Recommendation:**

Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an agreement with Econolite Systems, Inc. (Anaheim, CA) for the purchase and deployment of an Automated Traffic Signal Performance Measures System at 100 signalized intersections along 10 major commuter corridors in the City of San José, including software licenses and subscriptions, associated professional services for project management, implementation, training, and maintenance and support for an initial three-year term beginning on or about October 1, 2020 and ending on or about September 30, 2023 with a maximum compensation not to exceed \$236,767, subject to the appropriation of funds;

(b) Negotiate and execute amendments and change orders as required for any unanticipated changes for a contingency amount not to exceed \$24,000 during the initial three-year term, subject to the appropriation of funds; and

(c) Exercise up to seven one-year options to extend the term of the agreement through September 30, 2030 for ongoing software subscriptions, technical support and maintenance, and related professional services as may be required, subject to the appropriation of funds.

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

Action: Report on Request for Proposal for Automated Traffic Signal Performance Measures System, was approved and **Resolution No. 79719** was adopted.

**2.12 20-1083****Emerging Mobility Action Plan Agreement with Nelson\Nygaard Consulting Associates, Inc.****Recommendation:**

Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Nelson\Nygaard Consulting Associates, Inc., for an amount not to exceed \$586,994 to lead a community-based planning effort to develop an Emerging Mobility Action Plan for the City.

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

Action: **Resolution No. 79720** was adopted.

**2.13 20-1098 Right of Entry with Guggenheim Entertainment for 2nd/San Carlos Garage.**

**Recommendation:** Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Right of Entry with Guggenheim Entertainment for its use and activation of the 2nd/San Carlos garage rooftop with no rent payable to the City.  
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
Council District 3. (Transportation)

Action: **Resolution No. 79721** was adopted.

**2.14 20-1144 Boards and Commissions Appointment.**

**Recommendation:** As recommended by the Rules and Open Government Committee on September 16, 2020, approve the following Boards and Commissions appointments:  
(a) Clean Energy Community Advisory Commission Appointments:  
(1) CAAC-Nominated Seat 7: Reappoint Richard Zahner to a term expiring 12/31/2023.  
CEQA: Not a Project, File No. PP17-010, City Organization and Administrative Activities resulting in no changes to the physical environment. (City Clerk)  
[Rules Committee referral 9/16/2020- Item F.1.a.]

Action: The Boards and Commissions Appointment, was approved.

**2.15 20-1151 Approval of the Domestic Violence Awareness Month Rotunda Lighting on October 1-7, 2020 and Community Event Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

**Recommendation:** As recommended by the Rules and Open Government Committee on September 16, 2020:  
(a) Approve October 2020 as Domestic Violence Awareness Month to be recognized 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. (Carrasco)  
[Rules Committee referral 9/16/2020- Item G.1.a]

Action: The Domestic Violence Awareness Month Rotunda Lighting on October 1 7, 2020 and Community Special Event was approved, expenditure of funds, and acceptance of donations from various individuals, businesses, or community groups to support the event were approved.

**2.16 20-1158 Retroactive Approval of the Mexican Flag Raising Community Event Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

**Recommendation:** As recommended by the Rules and Open Government Committee on September 16, 2020:  
(a) Retroactively approve the Mexican Independence Day Flag Raising Event scheduled on September 15, 2020, as a City Council sponsored Special Event and approve the expenditure of funds.  
(b) Retroactively 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. (Carrasco)  
[Rules Committee referral 9/16/2020- Item G.1.b]

Action: The Mexican Flag Raising Community Special Event was approved, expenditure of funds, and acceptance of donations from various individuals, businesses, or community groups to support the event were approved.

**2.17 20-1137 Approval of National Literacy Month 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.**

**Recommendation:** (a) Approve September 2020 as National Literacy Month 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.  
(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. (Arenas)  
[Rules Committee referral 9/16/2020 - Item A.1.a]

Action: The National Literacy Month Community Special Event was approved, expenditure of funds, and acceptance of donations from various individuals, businesses, or community groups to support the event were approved.

**3. STRATEGIC SUPPORT**

**3.1 20-1034 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 concerning the City’s response to COVID-19. The City Manager highlighted staff’s great work, and recognized some of the City’s unsung heroes, including Transportation Department Sewer Team Maintenance Assistant Carlo Fragoza, who started working with the City six months before COVID.

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### 3.1 20-1034 Report of the City Manager, David Sykes. (Cont'd)

Carlo has not only learned a new job but does it in ways that socially distances him from co-workers and the numerous protocols in place in the City. He is adaptable, maintains a great attitude, and excels on the job.

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 San Jose, City Services, State and Federal Action on Evictions and the Strategic Communications Plan for At-Risk Communities. The City of San José Coronavirus Relief Fund for Arts Organizations is a relief grant program intended to help mitigate COVID-19 related financial impacts by reimbursing San José nonprofit arts and cultural organizations for specific and documentable expenses and income losses due to the pandemic. The fund, which is part of the Federal CARES Act received by the City, will be managed by the Office of Cultural Affairs. Also, the San José Fund, a program offered in partnership between the City of San José's Office of Cultural Affairs and the Center for Cultural Innovation (CCI), is designed to provide relief funding for artists. The San José Fund will distribute \$208,000 in the form of grants. Individual artists and sole proprietor arts businesses can receive up to \$2,000 to help mitigate COVID-19 related financial impacts.

Public Comments: Offering comments on the Report of the City Manager, were: Tessa Woodmansee and Blair Beekman.

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

### 3.2 Labor Negotiations Update.

- Heard at 9:30 AM
- Council recessed for dinner at 5:30PM
- Council reconvened at 6:33PM

### 3.3 20-1084 Audit of Development Fees Work-in-Progress Reserves.

Recommendation: Accept the report on the Audit of Development Fees Work-in-Progress Reserves. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Auditor)

City Auditor Joe Rois gave a presentation. Planning, Building and Code Enforcement Director Rosalynn Hughey responded to questions.

Public Comments: Offering comments on the Audit of Development Fees Work-in-Progress Reserves were: Tessa Woodmansee, Blair Beekman, Last four digits of Phone # ending in: 5140 and Kathryn Hedges.

Action: Upon motion by Councilmember Dev Davis to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, the Audit of Development Fees Work-in-Progress Reserves was approved.  
(11-0)

**3.4 20-1096****Charter Review Commission****Recommendation:**

Adopt a resolution establishing the size, composition, and responsibilities of the Charter Review Commission as directed by the City Council on July 28, 2020.

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

There was no presentation for this item.

Public Comments: Offering comments on the Charter Review Commission were: Tessa Woodmansee, Blair Beekman, Carol Watts, Jeff Buchannan, and Kathryn Hedges.

Action: Upon motion by Vice Mayor Chappie Jones seconded by Councilmember Pam Foley, and carried unanimously, the staff report was accepted, and **Resolution No. 79722** was adopted. Direction was given with the following language clarification to “Evaluate if the mayoral seat should be transitioned to the presidential cycle, and if so, then determine if the Mayor elected in 2022 would serve a 2-year term with the first election being held in 2024, or a six-year term with the first election to be held in 2028.” In addition, the Commission was directed to submit a minority report. (11-0.)

**3.5 20-1089****Government Accountability Measures. – DEFERRED****Recommendation:**

As recommended by the Rules and Open Government Committee on August 19, 2020:

(a) To assist City Hall save money and eliminate wasteful spending as we brace for difficult financial challenges ahead, as well as to create a more accountable and transparent City Hall to better serve our residents, discuss and consider committing the City to the following, with direction to the Administration to work with the City Attorney’s Office to return to Council with the appropriate action, as applicable:

(1) In any year where the City Manager and the Budget Director report a budget surplus in their October budget update, at least 50% of that surplus will be set aside to our Budget Stabilization Fund, until an amount equal to 15% of the General Fund balance has been achieved or be used to pay municipal debt.

(2) A standing commission shall be created consisting of appointed residents of San José to provide oversight of any ballot measures or policy proposals proposed or endorsed by the City that result in tax increases or additional revenue. The commission shall produce a public report annually to certify whether the Council has allocated dollars as promised when the measure or ordinance was proposed.

(3) Prior to the start of the annual budget season and priority setting session, the intergovernmental team shall report to Council about the latest trends and chatter coming from Sacramento and Washington about potential policy changes and funding opportunities relevant to municipalities so that we may strategically align our priorities and resources to maximize benefits for San José residents.

(4) Direct the City Auditor to commence regular performance audits of three key departments that are constituent-facing - such as Police, Fire, Planning, Housing, Transportation, Public Works, Environmental Services, and Parks - every year henceforth, to identify cost savings and process efficiencies, with results put on the Council agenda for public hearing and review:

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**3.5 20-1089****Government Accountability Measures. – DEFERRED (Cont'd)**

- (i) Audits should reoccur every four years;
- (ii) Amend the City Auditor's 2020-2021 workplan to include an audit of our Police Department, focusing specifically on identifying cost savings and process efficiencies.
- (b) Accept the response from the Administration on the Government Accountability Measures discussed in the memorandum from Councilmember Diep referred to the City Council from the Rules and Open Government Committee on August 19, 2020.
- (c) As an alternative to recommendations (a)(1) and (a)(2) above, adopt a resolution amending City Council Policy 1-18, Operating Budget and Capital Improvement Program Policy, to modify Section 4 (Fund Balance) and Section 15 (Public Involvement).

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. (Diep)

[Rules Committee referral 8/19/2020 - Item G.3]

**Deferred to 10/20/2020 Per Rules and Open Government Committee.**

**3.6 20-1090****Fiscal Recovery Update and Coronavirus Relief Fund Rebalancing.****Recommendation:**

- (a) Receive a report on the status of the City's fiscal recovery efforts related to the COVID-19 pandemic.
- (b) Adopt 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the Coronavirus Relief Fund, the Emergency Reserve Fund, and the General Fund as described in Attachment A to the staff memorandum.

City Manager's Chief of Staff Lee Wilcox, Assistant Finance Director Luz Cofresí-Howe, and Budget Director Jim Shannon, gave a presentation and responded to questions.

Public Comments: Offering comments were: Tessa Woodmansee, Robert Aguirre, Deb Kramer, Phone #: 5140, Dean Daly, Kathryn Hedges, Veronica Amador, Michael Trujillo, Robert Aguirre, and Shani Kleinhoff.

Action: Upon motion by Councilmember Dev Davis to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, staff recommendation was accepted, **Ordinance No. 30482** was adopted, and **Resolution No. 79723** was adopted.

Also approved was Memorandum from Councilmembers Esparza, Peralez and Foley, dated 9/18/2020, with clarifications to the language in item 5 as noted by the Mayor to:

1. Accept the recommendations from the Memorandum dated September 14, 2020 from the Mayor and Councilmembers Diep, Davis, and Jimenez with the clarification that recommendation 1.b. should prioritize the "most needed" locations based on data and with an equity lens. This approach should recognize that complaint-driven responses are inherently inequitable, and that we need a data-driven response.

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**3.6 20-1090****Fiscal Recovery Update and Coronavirus Relief Fund Rebalancing. (Cont'd)**

2. Include all of Monterey Road in the Railroad updates mentioned in 2.b. of the Mayor's Memorandum.
3. Include the current joint maintenance schedule for the Guadalupe and Coyote Creeks in the update to Council on September 22.
4. Include as part of the September 22 update to Council an update on code enforcement activities, including how many staff are actively conducting code enforcement inspections and the percent of code enforcement services that have been fully restored to pre-shelter-in-place levels.
5. Include as part of the December Study Session a plan to comprehensively address and mitigate the negative environmental impact of encampments and blight in our creeks and waterways. (Follow on Jim's comments that a comprehensive plan cannot be available by December for the study session so they can prioritize the cleanups.

Also approved was Memorandum from Mayor Liccardo and Councilmembers Diep, Davis, and Jimenez, to Direct the City Manager to expedite trash pickup and blight by:

1. Significantly expanding the budget within the Emergency Operations Center for cleanups and blight remediation by adding up to an additional \$3,000,000, to be completed on or before December 31, 2020.
  - a. Where legally possible, prioritize the supplemental funding for those bids for cleanup contracts under the pending Request for Bids to contractors hiring unemployed and homeless residents.
  - b. Notwithstanding prior efforts, prioritize the most needed and most highly visible, high-traffic locations—those “sore spots” that have had the greatest impact on our residents' perception of their community for cleaning with this supplemental funding.
2. At the September 22nd public Council hearing, inform the Council about the status of various areas for which partner agencies have responsibility, including:
  - a. Freeway and highway trash:
    - i. The response of Caltrans to City inquiries regarding the geographic allocation of District 4 funding for trash pickup and litter abatement. Please determine, in particular, whether funds for cleanup on freeways in Santa Clara County appear proportionate (based on the population and lane miles) to that of other Bay Area counties, including any supplemental state funding from the most recent budget year. COUNCIL AGENDA: September 22, 2020 ITEM: 3.6
    - ii. Whether the public response of Caltrans spokesperson Matt Rocco to Caltrans' inability to respond adequately to blight at the 280 /Almaden Caltrans-owned site in the September 11, 2020 Mercury News—that the agency “takes the health and safety of its employees very seriously” reflects whether the agency is actually declining to deploy Caltrans staff for cleanups for health-related reasons. Further determine—and invite Caltrans to explain—why the health risks for trash abatement outdoors should be considered more serious than the risks undertaken by the thousands of taxpaying San Jose residents working daily in busy kitchens, hospitals, laundries, and driving buses.

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**3.6 20-1090 Fiscal Recovery Update and Coronavirus Relief Fund Rebalancing. (Cont'd)**

- iii. Whether San Jose Conservation Corps has additional capacity to undertake a larger share of the cleanup work on freeways, to compensate for shortfalls in Caltrans understaffing.
  - iv. Whether San Jose Conservation Corps are being deployed disproportionately outside of the City of San Jose under the SJCC contract with the County of Santa Clara. Further determine Whether the City of San Jose can and should contract directly with the SJ Conservation Corps and other similar agencies to ensure more equitable service.
  - v. Whether and when Santa Clara County will resume its probationer work program to clean county freeways, and whether that work is being allocated equitably in San Jose vis-à-vis other County locations.
- b. Railroads
- i. The anticipated Memorandum of Understanding governing scheduled cleanups by Union Pacific Railroad in San Jose, and the current cleaning schedule currently undertaken by UPRR.
  - ii. The schedule for UPRR's cleaning and clearing the large illegal dumping debris field in South San Jose near Bailey Road.
  - iii. An update on code enforcement activity for adjacent properties, with an emphasis on properties with multiple violations.
  - iv. An update on the use of technology and other strategies to help deter future illegal dumping, trespassing, and other activity at the Monterey Road at Emado Ave illegal dumping site.
- c. Creeks Waterway and clean-up collaboration of Valley Water with the City of San José, and planned outreach and cleaning efforts.
3. During the planned December Study Session, report to Council regarding:
- a. the status of long-overdue efforts to eliminate barriers to more widespread and frequently usage of the 311 app—including repeated sign-in requirements—and an update about how changes to the app have adversely affected public usage.
  - b. the steps that the Emergency Operations Center is taking to verify the quality of the work and the effectiveness of our efforts—including that of private contractors—in cleaning and beautifying San Jose neighborhoods.
  - c. whether opening public bidding to other tow operators outside the City of San Jose will enable more responsive service in clearing abandoned vehicles from our neighborhoods.
  - d. an update on code enforcement activities, including how many staff are actively conducting code enforcement inspections and the percent of code enforcement services that have been fully restored to pre shelter-in-place levels.

This was addended with Memorandum from Vice Mayor Jones, dated 9/18/2020, to:

Accept the recommendation submitted by Mayor Liccardo and Councilmembers Diep, Davis, and Jimenez and recommendation submitted by Councilmembers Esparza, Peralez, and Foley in directing City Manager to allocate funding towards expediting trash pickup and blight through various means equitably across the City.

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**3.6 20-1090****Fiscal Recovery Update and Coronavirus Relief Fund Rebalancing. (Cont'd)**

Direct City Manager to consider best practices adopted by other jurisdictions such as Oakland, Los Angeles, San Francisco, and Dallas. Examples include illegal dumping reward programs and community engagement in litter/dumping prevention through volunteer and campaign activities.

(10-0-1. Recused: Khamis)

(c) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara County Office of Education (SCCOE) that allows the City of San José to receive \$400,000 from SCCOE to purchase additional hotspot devices for San José residents impacted by COVID-19.

Action: **Resolution No. 79724** was adopted.

(d) Adopt a resolution ratifying an amendment to the Agreement with AT&T providing connectivity to residents impacted by COVID-19 that extends the contract term to September 1, 2021, and increases the maximum compensation from \$3,430,000 to \$5,116,000.

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

(Finance/City Manager)

Action: **Resolution No. 79725** was adopted.

**3.7 20-1091****Coronavirus Relief Funds for Resident Assistance Efforts.****Recommendation:**

(a) Approve the resident assistance funding allocation plan for approximately \$7 million in Coronavirus Relief Funds, with total funding contingent on City Council approval of Item 3.6, as well as updates to the previously approved plan based on provider capacity and need.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute the following grant agreements to provide assistance to San Jose residents negatively impacted by the COVID-19 pandemic and pandemic-induced recession:

(1) With Catholic Charities of Santa Clara County in an amount not to exceed \$2,750,000 to provide case management and rental assistance to low-income households;

(2) With Santa Clara County Office of Education in an amount not to exceed \$1,390,000 to provide full-day child care slots, calming kits and access to Inclusion Support Warmline services for extremely low-income families, children in foster care, and children with individual education plans/disabilities;

(3) With First 5 of Santa Clara County, increasing the grant amount previously awarded from \$2.5 million to not to exceed \$3.5 million to provide grants to additional Family Day Care providers, preserving child care slots and employment;

(4) With Destination Home, increasing funds previously awarded from \$500,000 to \$650,000 to provide case management and direct financial assistance to extremely low-income individuals and families;

*(Item Continued on the Next Page)*

### 3.7 20-1091 **Coronavirus Relief Funds for Resident Assistance Efforts.** (Cont'd)

(5) With County of Santa Clara in an amount not to exceed \$500,000 to support and extend the work of the grassroots Community Health and Engagement teams working in East San Jose; and

(6) With Silicon Valley Community Foundation increasing the grant amount previously awarded to from \$5 million to an amount not to exceed \$6.4 million to provide grants to community-based organizations serving at-risk communities in San José and expanding the previously approved grant scope to include legal assistance and certain types of youth-serving organizations.

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)

[Deferred from 9/1/2020 - Item 3.4 (20-971) and 9/15/2020 - Item 3.3 (20-1035)]

Community Services Acting Deputy Director Andrea Flores Shelton, Community and Economic Recovery Branch Assistant Director Michelle McGurk, and Deputy City Manager Kim Walesh, gave a presentation and responded to question.

Public Comments: Offering comments were: Olivia Ortiz, Tessa Woodmanssee, Michael Garcia, (Santa Clara County Childcare Service Director); Rhonda Garza, Phone # 5140, Veronica Amador, Wendy Mahoney and Kathryn Hedges.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, **Resolution No. 79726** was adopted.

(10-0-1. Absent: Foley)

### 3.8 20-1092 **Approval of Citywide Insurance Renewals.**

**Recommendation:**

Adopt a resolution authorizing the Director of Finance to:

(a) Select and purchase City property and liability insurance policies for the period of October 1, 2020 to October 1, 2021, at a total cost not to exceed \$2,896,016 as well as an 18.0% contingency for additional property or assets scheduled, subject to the appropriation of funds, with the following insurance carriers:

(1) Factory Mutual Insurance Company for Property Insurance, including Boiler & Machinery and TRIA Coverage;

(2) Beazley Syndicate 2623/623 at Lloyd's for Terrorism Insurance;

(3) Axis Surplus Insurance Company and RSUI Indemnity Company for \$15 million in excess flood insurance for locations in high and moderate hazard flood zones on a 50/50 quota share basis;

(4) Old Republic Insurance Company, for Airport Owners and Operators Liability including War Risks & Extended Perils Coverage (including Excess Automobile) and Police Aircraft Hull & Liability including War Risks & Extended Perils Coverage;

(5) Gemini Insurance Company for Auto Liability Insurance for the vehicle fleets at the Airport and Regional Wastewater Facility;

*(Item Continued on the Next Page)*

**3.8 20-1092 Approval of Citywide Insurance Renewals. (Cont'd)**

- (6) Hanover Insurance Company for Auto Physical Damage for the Airport shuttle buses;
- (7) QBE Specialty Insurance Company for Secondary Employment Law Enforcement Professional Liability;
- (8) Hartford Life and Accident Insurance Company for Accidental Death, Accidental Dismemberment, and Paralysis Policy for the Police Air Support Unit; and
- (9) Berkley Insurance Company for Government Fidelity/Crime Coverage.
- (b) Select and purchase up to \$4 million in Excess Auto Liability insurance for Airport fleet vehicles including Shuttle Buses for the period of October 1, 2020 to October 1, 2021, at a cost not to exceed \$50,000, subject to the appropriation of funds.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
- (Finance)

There was no presentation for this item.

Public Comments: Offering comments were: Tessa Woodmansee, Phone #: 5140 and Blair Beekman.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Lan Diep, and carried unanimously, Resolution No. **79727** was adopted.  
(10-0-1. Recused: Khamis)

**3.9 20-1140 Extension of Proclamation of Local Emergency Related to COVID-19. - Heard after item 3.1**

Recommendation: Adopt a resolution finding the continued existence of a local emergency and extending the March 6, 2020 Director of Emergency Services' proclamation of a local emergency resulting from community spread of the coronavirus, also known as COVID-19, in the City of San José.  
CEQA: Statutorily Exempt, CEQA Guidelines Section 15269, Emergency Projects Undertaken for Specific Actions Necessary to Prevent or Mitigate an Emergency. (City Manager)  
[Rules Committee referral 9/16/2020 - Item A.1.a]  
**HEARD AFTER ITEM 3.1**

Deputy City Manager Kip Harkness, and the leadership team from the City's Emergency Operations Center gave a presentation and responded to questions.

Public Comments: Offering comments were: Tessa Woodmansee and Blair Beekman.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, **Resolution No. 79728** was adopted.  
(10-0-1. Absent: Jimenez)



**4. PUBLIC SAFETY SERVICES****5. TRANSPORTATION & AVIATION SERVICES****6. ENVIRONMENTAL & UTILITY SERVICES**

- 6.1 20-1093 Agreements with Parsons Transportation Group, Inc., HDR Engineering, CDM Smith Inc., Kennedy/Jenks Consultants, Inc. for Construction Management and Inspection Services at the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program.**

**Recommendation:** Approve Master Consultant Agreements with Parsons Transportation Group, Inc., HDR Engineering, CDM Smith Inc., and Kennedy/Jenks Consultants, Inc. for construction management and inspection services for various capital improvement projects at the San José- Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2026 in amounts not to exceed \$10,000,000 each, subject to the appropriation of funds.

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

There was no presentation for this item.

**Public Comments:** Offering comments were: Tessa Woodmansee, Blair Beekman, and phone # 5140.

**Action:** Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sergio Jimenez, and carried unanimously, Agreements with Parsons Transportation Group, Inc., HDR Engineering, CDM Smith Inc., Kennedy/Jenks Consultants, Inc. was accepted.  
(11-0.)

**7. NEIGHBORHOOD SERVICES****8. COMMUNITY & ECONOMIC DEVELOPMENT**

- 8.1 20-1094 Citywide Residential Anti-Displacement Strategy. - Not heard before 5:00 P.M.**

**Recommendation:** (a) Accept the staff report and approve the 10 recommendations of the Citywide Residential Anti-Displacement Strategy.  
(b) Approve workplans for the first three recommendations:  
(1) Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners;  
(2) Establish a Neighborhood Tenant Preference for Affordable Housing; and

*(Item Continued on the Next Page)*

## 8.1 20-1094

**Citywide Residential Anti-Displacement Strategy. – (Cont'd).**

(3) Explore a Community Opportunity to Purchase Program/Ordinance.  
(c) Direct staff to return to the City Council with an update on progress in 12 months.  
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)  
[Deferred from 9/1/2020 - Item 8.1 (20-968)]  
**Not heard before 5:00 PM.**

Housing Director Jacky Morales, Housing Policy and Grants Division Manager Kristen Clements, Housing Policy Development Officer Jacklyn Joanino and Partnership for the Bay's Future Fellow Asn Ndiaye, gave a presentation and responded to questions.

Council had a comprehensive and productive debate. In anticipation of lengthy discussion, Council unanimously resolved to extend the curfew.

Action: Upon motion by Councilmember Maya Esparza to extend the curfew, seconded by Councilmember Sylvia Arenas, and carried unanimously, the meeting was extended to 12:45AM.

(9-0-2. Noes: Davis Khamis)

Public Comments: Offering comments were: Mary Ellen Doherty, Tessa Woodmansee, Michael Trujillo, Olivia Ortiz, Rosemary Grantham, Selma Angeles, Amati Bateman, (representing SURJ/Sacred heart); Kevin Ma, Kathryn Hedges, Jewell Buchannan, Camille Llanes-Fontanilla, Tulin Dean, Luis Franco, Unnamed speaker, Phone #: 5140, Estafania, (D3); Lisa Serrano, Anil Barber, Alex Shoppe, Robert Aguirre, Jeff Buchannan, Veronica Amador, Tim Beaubien, Maria Teresa Bacanas, Emilia, Miguel Vasquez, Jesse Gonzalez, Andrea Portello, Jessica Montezuma, Mathew Reed, Elma Arredondo, Gabriel Enrique, and Jacklin Franco.

Action: Councilmember Johnny Khamis moved approval of his memo, which implements staff memo, together with Memorandum from Mayor Liccardo, Vice Mayor Jones, and Councilmembers Diep, Davis and Foley, dated 9/18/2020, and the Memorandum from Councilmembers Esparza and Peralez, dated 9/18/2020 Pam Foley seconded no action taken due to substitute motion.

Action: Upon substitute motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Sylvia Arenas, and carried unanimously, the Citywide Residential Anti-Displacement Strategy was accepted, including approval of items from the Memorandum from Councilmembers Jimenez, Peralez, Carrasco, Esparza and Arenas, dated 9/18/2020, to:

1. Accept staff report and approve the 10 recommendations of the Citywide Residential Anti-Displacement Strategy.

*(Item Continued on the Next Page)*

## 8.1 20-1094

**Citywide Residential Anti-Displacement Strategy. – (Cont'd).**

2. Approve workplans for the first three recommendations:
  - a. Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners, based on County Covid dashboard data;
  - b. Establish a Neighborhood Tenant Preference for Affordable Housing; and
  - c. Explore a Community Opportunity to Purchase Program/Ordinance.
3. Direct staff to return to the City Council with an update on progress on the first three recommendations in 6 months, as well as provide quarterly updates to the Community and Economic Development Committee and the Neighborhood Services and Education Committee.
4. Direct the City Manager to explore eligible uses for unspent CARES Act funds to provide additional support for the work described in Recommendation 2.a.
5. Direct Housing staff to collaborate with the Office of Racial Equity, with a focus on data for the equitable use of resources.

Also approved was the following items from Councilmembers Esparza and Peralez, dated 9/18/2020, to:

1. Coordinate work on the Citywide Residential Anti-Displacement Strategy with ongoing work on the Affordable Housing Siting Policy, including incorporating consideration of equitable dispersion in the elements of the Anti-Displacement Strategy relating to Affordable Housing production, including recommendations 7, 8, and 9.

Also approved were items from the Memorandum from Mayor Liccardo, Vice Mayor Jones, and Councilmembers Diep, Davis and Foley, dated 9/18/2020, to:

1. Accept Staff's recommendations for the Residential Anti-Displacement Strategy.
2. For the recommendation workplans below, direct City Staff to include exploration and analysis of the following:
  - a. Recommendation 1: Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners:
    - (1) Describe the annual costs to the City for the collaborative court and for any additional expenditure on attorneys
  - b. Recommendation 2: Establish a Neighborhood Tenant Preference for Affordable Housing:
    - (1) Consider how the City could lawfully encourage affordable housing developers to partner with neighborhood-serving non-profits that have demonstrated a strong understanding with the community, and can facilitate transparent and objective preferences for local residents

*(Item Continued on the Next Page)*

## 8.1 20-1094

**Citywide Residential Anti-Displacement Strategy. – (Cont'd).**

c. Recommendation 3: Explore a Community Opportunity to Purchase Program/Ordinance:

- (1) Limit the range of properties subject to the program to those most suitable for community ownership by:
  - i. As San Francisco has, exempting single-family homes and duplexes
  - ii. Impose an upper limit on the number of units (e.g., 50 units) due to the infeasibility of a community-based organization obtaining access to financing a large transaction

(2) Ensure property owners receive market value—as determined through open bidding—particularly through a right-of-first-refusal process

(3) Minimize the process delay in the sale timeline, taking into consideration a seller's vulnerability to market movement, interest rate volatility and risk, and impacts of delay on property valuations

(4) Establish criteria to restrict eligibility to those nonprofit qualified community developers that have the capacity to successfully transact a community purchase

(5) If any for-profit entities shall be allowed to participate in the community purchase process, impose strict criteria to avoid conflicts of financial interest with community, city, and program goals

(6) Establish a pilot period with an end date to return to Council with results and evaluation after implementation, upon engaging stakeholders including but not limited to affordable housing developers, community organizations, landowners, real estate brokers, and lenders.

This was modified with approval of item #5 from Councilmember Khamis's memo to:

- 5) Return to the Community and Economic Development Committee, with a cross-reference to the full Council, after the framework for the COPA is developed to provide an update and provide any further guidance that may be required.  
(10-0-1. Noes: Khamis)

## 8.2 20-1141

**Substantial Amendments for Technical Reasons to the FY 2015-20 Consolidated Plan and the FY 2019-20 Annual Action Plan, and Revision to the Final Draft FY 2020-21 Annual Action Plan, for Funds Received from the U.S. Department of Housing and Urban Development in the Second Round Allocation of Funding Under the Coronavirus Aid, Relief, and Economic Security Act.**

**Recommendation:**

Hold a public hearing and adopt a resolution to approve the following changes made for technical reasons to spend funds received from the U.S. Department of Housing and Urban Development ("HUD") in the second round allocation of Emergency Solutions Grant ("ESG") funds awarded by HUD pursuant to the Coronavirus Aid, Relief, and Economic Security ("CARES") Act:

- (a) A Second Substantial Amendment to the FY 2015-20 Consolidated Plan to add hygiene and sanitation services as eligible uses of ESG funds;

*(Item Continued on the Next Page)*

**8.2 20-1141 Substantial Amendments for Technical Reasons to the FY 2015-20 (Cont'd)**

(b) A Third Substantial Amendment to the City's FY 2019-20 Annual Action Plan to add the same expenditure plan for ESG CARES Act Round Two allocation as was approved by the City Council on August 11, 2020, in connection with adoption of the City's Final Draft FY 2020-21 Annual Action Plan, and a revision to remove that same ESG CARES Act Round Two expenditure plan from the City's Final Draft FY 2020-21 Annual Action Plan, to satisfy HUD's technical guidance for Substantial Amendments for CARES Act funding; and

(c) Authorize staff to submit the Substantial Amendments to HUD.

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. (Housing)

[Rules Committee referral 9/16/2020 - Item A.1.a]

There was no presentation for this item.

Public Comments: Offering comments were: Tessa Woodmansee and Blair Beekman.

Action: Upon motion by Councilmember Maya Esparza to move approval, seconded by Councilmember Pam Foley, and carried unanimously, **Resolution No. 79729** was adopted.

(11-0.)

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

No Land Use items on Consent Calendar.

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

None presented.

**• OPEN FORUM**

1. Tessa Woodmansee commented the City should on war footing to combat climate catastrophe.
2. Blair Beekman noted that the world will gather together at the UN and in this year of COVID 19, and it's only with the ideas of sustainability can we beat this crisis.

• **ADJOURNMENT**

Mayor Liccardo adjourned the Council Meeting session at 12:49AM

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC  
City Clerk

10/9-22-20 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 9:00 AM on Tuesday, September 22, 2020.

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

Absent: Councilmembers - All present.

Upon motion unanimously adopted, Council recessed at 9:00AM. to a Closed Session by teleconference to: (A) discuss: PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957: Department or Agency: City Attorney's Office. Title: City Attorney.

By unanimous consent, Council recessed from the Closed Session at 1:30 PM to reconvene to Regular Session at 1:33 PM by teleconference.

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