



City Council Meeting SYNOPSIS

**Tuesday, October 6, 2020
1:30 PM**

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



SYNOPSIS OF THE CITY COUNCIL

OCTOBER 6, 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.

The Council of the City of San José reconvened to Open Session at 1:30 p.m.

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

Absent: Councilmembers - All Present.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 9)**

Councilmember Pam Foley introduced a video of St. Frances Cabrini students with their Starting Arts performance of the Circle of Life from the Lion King.

Mayor Sam Liccardo offered a proclamation honoring the Muwekma Ohlone people and honoring Indigenous Peoples' Day. Charlene Nijmeh, Chairwoman of the Muwekma Ohlone Tribal Council spoke on behalf of the Muwekma Ohlone people, encouraging all to join today as a community of these lands between the Muwekma Ohlone and citizens of San José.

Mayor Liccardo and City Manager, David Sykes offered words of sympathy to the family and honored Harry Mavrogenes, paying tribute to him and acknowledged his years of distinguished public service, with today's meeting adjourned in his honor.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved. (11-0.)

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a Proclamation recognizing October 12, 2020 as Indigenous Peoples' Day.
(Mayor)

Mayor Sam Liccardo presented a proclamation recognizing October 12, 2020 as Indigenous Peoples' Day.

2. CONSENT CALENDAR

The Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of City Council Minutes.

None provided.

2.2 20-1199 Final Adoption of Ordinances.

(a) Ordinance No. 30481 - An Ordinance of the City of San José 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.

[Passed for Publication on 9/22/2020 - Item 2.7 (20-1078)]

(b) Ordinance No. 30483 - An Ordinance of the City of San José Amending Chapter 4.76 of Title 4 of the San José Municipal Code to Add a New Section 4.76.345.6 to Temporarily Expand, Retroactive to October 1, 2020, Eligibility for the Existing Financial Hardship Exemptions for Low Revenue Generating Small Businesses and Small Business Owners with Limited Household Incomes to Include All Persons Engaged in Business in the City Who Satisfy Certain Financial Hardship Requirements.

[Passed for Publication on 9/29/2020 - Item 3.3 (20-1123)]

Action: **Ordinance No. 30481** and **Ordinance No. 30483** 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.

None provided.

2.7 20-1176 Adoption of an Ordinance Ratifying Final Expenditures in Various Appropriations for 2019-2020 and Adoption of the Associated Appropriation Ordinance and Funding Sources Resolution Amendments in 2019-2020.

(a) Adopt an ordinance ratifying final 2019-2020 expenditures in various appropriations as detailed in the report to Council.

(b) Adopt the following 2019-2020 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:

(1) Increase the Construction and Conveyance Tax estimate by \$5,478,216;

(2) Increase the Needs-Based Allocation Transfer to District 1 by \$245,271;

(3) Increase the Needs-Based Allocation Transfer to District 2 by \$161,401;

(4) Increase the Needs-Based Allocation Transfer to District 3 by \$113,621;

(5) Increase the Needs-Based Allocation Transfer to District 4 by \$125,469;

(6) Increase the Needs-Based Allocation Transfer to District 5 by \$218,838;

(7) Increase the Needs-Based Allocation Transfer to District 6 by \$203,610;

(8) Increase the Needs-Based Allocation Transfer to District 7 by \$239,184;

(9) Increase the Needs-Based Allocation Transfer to District 8 by \$180,009;

(10) Increase the Needs-Based Allocation Transfer to District 9 by \$183,937

(11) Increase the Needs-Based Allocation Transfer to District 10 by \$110,851;

(12) Increase the Transfer to the Parks City-Wide Construction and Conveyance Tax Fund appropriation by \$3,224,093; and

(13) Increase the Transfer to the General Fund - Parks Eligible Maintenance Costs appropriation by \$471,932.

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2.7 (Cont'd.)

(c) Adopt the following 2019-2020 Appropriation Ordinance amendments in the South Bay Water Recycling Operating Fund:

(1) Increase the SCVWD - Advanced Water Treatment appropriation by \$2,420,618;

(2) Decrease the Personal Services appropriation to the Environmental Services Department by \$700,000; and

(3) Decrease the Unrestricted Ending Fund Balance by \$1,720,618.

(d) Adopt the following 2019-2020 Appropriation Ordinance amendments in the General Fund:

(1) Increase the Workers' Compensation Claims - Fire appropriation by \$722,661;

(2) Increase the Workers' Compensation Claims - Police appropriation by \$451,320;

(3) Decrease the Workers' Compensation Claims - Other Departments appropriation by \$518,676;

(4) Decrease the Workers' Compensation Claims - PRNS appropriation by \$179,172;

(5) Decrease the Workers' Compensation Claims - Transportation appropriation by \$102,583;

(6) Decrease the Workers' Compensation Claims - Public Works appropriation by \$71,282;

(7) Increase the Personal Services appropriation to the Planning, Building and Code Enforcement Department by \$368,629; and

(8) Decrease the Personal Services appropriation to the Parks, Recreation and Neighborhood Services Department by \$670,897.

(e) Adopt the following 2019-2020 Appropriation Ordinance and Funding Sources Resolution amendments in the Emergency Reserve Fund:

(1) Decrease the estimate for Revenue from Federal Government by \$5,000,000;

(2) Increase the COVID-19 Emergency Response appropriation by \$749,895;

(3) Decrease the Transfer to the General Fund appropriation by \$5,404,704; and

(4) Decrease the Ending Fund Balance by \$345,191.

(f) Adopt the following 2019-2020 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:

(1) Increase the Construction and Conveyance Tax estimate by \$8,649; and

(2) Increase the Transfer to the General Fund - Park Yards Operating and Maintenance Expenses appropriation by \$8,649.

(g) Adopt the following 2019-2020 Appropriation Ordinance amendments in the Convention Center Facility District Revenue Fund:

(1) Increase the Debt Service: Special Tax Bonds appropriation by \$538; and

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2.7 (Cont'd.)

(g) (2) Decrease the Unrestricted Ending Fund Balance by \$538.
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)

Action: (a) **Ordinance No. 30484** ratifying expenditures; (b) **Appropriation Ordinance 30485** and Funding Resource **Resolution No. 79734**; (c) Appropriation **Ordinance 30486**; (d) Appropriation **Ordinance 30487**; (e) Appropriation **Ordinance 30488** and Funding Resource **Resolution No. 79735**; (f) Appropriation **Ordinance 30489** and Funding Resource **Resolution No. 79736**; and (g) Appropriation **Ordinance 30490** were adopted. (11-0.)

2.8 20-1177 **Permanent Water Easement Agreement Between the City of San José and San José Water Company.**

Adopt a resolution authorizing the City Manager, or his designee, to negotiate and execute all documents necessary for a permanent water easement agreement with the San José Water Company to install water facilities on a portion of APN 230-46-085 in support of the Coleman Highline Project construction.

CEQA: Determination of Consistency with the FMC/Coleman Avenue EIR (SCH# 1999122059), the Airport West Stadium and Great Oaks Place Project EIR (SCH# 2009052053), the General Plan 2040 FEIR (SCH# 2009072096), the General Plan 2040 FSEIR (SCH# 2009072096), and addenda thereto. Council District 3. (Economic Development)

Action: **Resolution No. 79737** regarding an easement agreement with the San José Water Company was adopted. (11-0.)

2.9 20-1175 **Approval of the Bullying Prevention 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.**

(a) Approve October 2020 as Bullying Prevention Month to be recognized by the 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. (Arenas)

Councilmember Sylvia Arenas spoke on bullying prevention, noting unique circumstances during these times where children may be especially vulnerable to on-line bullying. She proposed a challenge, asking everyone to post an act of kindness on the D8 site; she showed a video from Project Cornerstone, which encourages every child to feel valued, respected, and known especially during these unprecedented times.

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

2.10 20-1200 Boards and Commissions Appointments.

- (a) Approve the Downtown Parking Board Appointments:
(1) At-Large Representative: Reappoint Tamiko Rast to a term ending June 30, 2023;
(2) At-Large Representative: JD “David” Heindel to a term ending June 30, 2024;
(3) Downtown Parking Representative: Sarah Mancuso to a term ending June 30, 2023.
- (b) Parks and Recreation Commission:
(1) District 6 Representative: Art Maurice to a term ending June 30, 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 9/30/2020 - Item A.1.a]

Action: The Boards and Commissions Appointments were approved. (11-0.)

2.11 20-1204 Approval of National Night Out as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

- (a) Approve the National Night Out scheduled on October 6, 2020 as a City Council sponsored Special Event and approve the expenditure of funds; and
(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. (City Clerk)
[Rules Committee referral 9/30/2020 - Item A.1.a]

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

2.12 20-1211 Approval of Arteriovenous Malformation 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.

- As recommended by the Rules and Open Government Committee on September 30, 2020:
(a) Approve October 2020 as Arteriovenous Malformation Awareness Month Sponsored by Council District 2 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)
[Rules Committee referral 9/30/2020 - Item G.1.a]

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2.12 (Cont'd.)

Councilmember Sergio Jimenez introduced 14-year-old Mariah Fischer who discussed her experiences with and resilience in overcoming Arteriovenous Malformation (AVM).

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

3. STRATEGIC SUPPORT

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

No report was provided.

3.2 Labor Negotiations Update.

None provided.

3.3 20-1179 Report on Request for Proposal for Citywide Janitorial Services.

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

(a) Negotiate and execute agreements with Flagship Facility Services, Inc. (San José, CA), PRIDE Industries One Inc. (Roseville, CA), Impec Group Inc. (Santa Clara, CA), and Universal Building Services and Supply Co. (Richmond, CA) for Janitorial Services for an initial one-year term beginning on or about October 7, 2020 through October 6, 2021 with a total maximum compensation for all agreements not to exceed \$13,077,388 for the initial term;

(b) Negotiate and execute amendments and change orders as required to add, delete, or modify services to address seasonal variations, budgetary constraints, or unanticipated changes in demand, subject to the appropriation of funds; and

(c) Exercise up to 9 one-year options to extend the terms of the agreements through October 6, 2030, 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: The report was accepted, and **Resolution No. 79738** regarding agreements for Citywide Janitorial Services was adopted. (11-0.)

3.4 20-1182

Vacation of a Portion of Marburg Way with Reservation of a Public Sanitary Sewer Easement Within the Area Being Vacated and Sale of the Vacated Property to the Santa Clara Valley Transportation Authority.

Conduct a Public Hearing and adopt a resolution to authorize the following:

- (a) Approve the report of the Director of Public Works setting forth the facts justifying the vacation of a portion of Marburg Way with the reservation of a public sanitary sewer easement within the vacated area (“Subject Portion”);
- (b) Vacate the Subject Portion which is unnecessary for current or prospective public use as a street;
- (c) Direct the City Clerk to record a certified copy of the resolution of vacation for the Subject Portion with the Office of the Recorder, County of Santa Clara;
- (d) Declare the Subject Portion of the City-owned Marburg Way as “exempt surplus land” to the needs of the City under Cal. Gov. Code §54221(f)(1)(D) as the land is not necessary for the City of San José’s use and is being transferred to another local agency for a necessary use; and
- (e) Direct the City Manager to negotiate and execute a Purchase and Sale Agreement and Quitclaim Deed, and all other necessary documents to effectuate the transfer to the Santa Clara Valley Transportation Authority from the City of San José, for the sale of the Subject Portion of the surplus City-owned Marburg Way for \$1 by direct negotiation under San José Municipal Code Section 4.20.080 as the transferee is a governmental agency.

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 3. (Economic Development/Public Works)
[Deferred From 9/29/2020 - Item 3.4 (20-1127)]

Action: **Resolution No. 79739**, regarding vacation of a portion of Marburg Way with the reservation of a public sanitary sewer easement was adopted. (11-0.)

4. PUBLIC SAFETY SERVICES

4.1 20-1218 Urgency and Regular Ordinance to Control Feral Pig Population.

As recommended by the Rules and Open Government Committee on September 30, 2020:

Consider and adopt a temporary urgency ordinance, and consider and approve a regular ordinance, to amend Section 10.32.140 of Chapter 10.32 of Title 10 of the San José Municipal Code to exclude any person authorized by the California Department of Fish and Wildlife pursuant to a depredation permit from the prohibition of the shooting of bows and crossbows in the City of San José.

CEQA: Use of the Final EIR for the Santa Clara Valley Habitat Conservation Plan, File No. PP13-103. (Jimenez and Khamis)
[Rules Committee referral 9/30/2020 - Item G.2]

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

Action: The report was accepted, ordinances to be completed once direction has been considered regarding geographic areas and other safety measures (11-0.)

5. TRANSPORTATION & AVIATION SERVICES

5.1 20-1180 Better Bike Plan 2025.

As recommended by the Transportation and Environment Committee on August 31, 2020, accept the Better Bike Plan 2025.

CEQA: Determination of Consistency to the Envision General Plan 2040 Final Programmatic Environmental Impact Report [SCH# 2009072096] and the Envision San José 2040 General Plan Final Supplemental Environmental Impact Report [SCH # 2009072096], and addenda thereto, File No. ER20-156. (Transportation)

[Transportation and Environment Committee referral 8/31/2020 - Item (d)1] [Deferred from 9/29/2020 - Item 5.1 (20-1159)]

Action: The San José Better Bike Plan 2025 was accepted, including the joint memorandum from Mayor Sam Liccardo and Councilmembers Esparza, Peralez, Carrasco and Davis, dated October 2, 2020, with direction as follows:

1. Direct staff to assess temporary COVID-19 related street closures, and explore opportunities to close them permanently to motor vehicle traffic, as well as conduct a citywide review of additional opportunities to modify streets for bicycle and pedestrian only use. Report back to the Transportation and Environment Committee in early 2021.

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5.1 (Cont'd.)

2. When staff updates Council Policy 5-1: Transportation Analysis Policy look for ways to integrate the San José Better Bike Plan 2025 (PLAN) into that process in a way that accelerates PLAN implementation when new development projects are considered.
3. Aggressively pursue regional, state and federal dollars through the Measure B Active Transportation funding, the State Active Transportation Program (ATP) and Affordable Housing Sustainable Community grant programs, the Highway Safety Improvement Program (HSIP) and other grant programs to implement the PLAN. Further, as the Bay Area contemplates a regional transportation measure for 2022 or beyond, ensure that regional complete street and active transportation dollars remain a priority, and that San José is well-positioned to access that funding.
4. Continue to coordinate paving program --that is already supported by Measure T, Measure B and Senate Bill 1 funding -- with PLAN implementation in a way that prioritizes “low-stress” on-street bike facilities in addition to overall miles paved.
5. To advance the equity components of the PLAN focused on education and encouragement programs that support a thriving and equitable bicycle culture in San José, staff should work with the Mayor’s Office of Strategic Partnerships, to identify and pursue philanthropic funding. This effort should also be coordinated with our community-based organizations and outreach partners.
6. Refocus Equity goal and metrics on improving the mobility of low-income residents by prioritizing provision of safe, high-quality bike facilities serving high-need neighborhoods and destinations.
7. Reconsider how we could forge better continuous east-west connections--via high-quality buffered or protected bike lanes--from neighborhoods in East and South-Central San José to job and education centers in Downtown and North San José.
 - a. In particular, where appropriate studies reveal a safe approach for doing so, focus should be given to finding high-quality east-west routes in the center of the City, between the cluster of proposed routes along Brokaw in the North, and Story in the South.
 - b. Prioritize those east-west connections in future capital expenditures.
8. For the Spring 2021 report to the Transportation & Environment Committee, DOT staff should bring forward performance measures to track annual progress of the three PLAN goals of Safety, Mode Share, and Equity.

(11-0.)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

(a) 20-1203 C20-013 and SP20-027 - Conforming Rezoning and Special Use Permit on Certain Real Property Located at 796 Delmas Avenue.

(a) Approve an ordinance rezoning that certain real property located on the northeast corner of Delmas Avenue and West Virginia Street from the R-2 Two-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District on an approximately 0.18-gross acre site.

(b) Adopt a resolution approving, subject to conditions, a Special Use Permit to allow an existing commercial building to be occupied with a church/religious assembly use located on the northeast corner of Delmas Avenue and West Virginia Street (796 Delmas Avenue).

CEQA: Categorically Exempt pursuant to CEQA Guidelines Section 15301(a) for Existing Facilities. Council District 3. (Planning, Building and Code Enforcement)

[Deferred from 9/29/2020 - Item 10.1(a) (20-1130)]

Action: **Ordinance 30493** rezoning property located at 796 Delmas Avenue was passed for publication, and **Resolution No. 79740** approving a Special Use Permit was adopted. (11-0.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda – none provided.

OPEN FORUM

1. Blair Beekman spoke to openness, good choices and peaceful ways of addressing issues surrounding the military prison industrial complex.
2. A member of the public expressed criticism of using Zoom for City meetings and the need for more money for parks, especially in maintaining the Rose Garden.

ADJOURNMENT

The Council of the City of San José adjourned at 5:04 p.m. in memory of Harry Mavrogenes and in acknowledgement of his three decades of distinguished public service. Harry began his career in the City's Planning Department (1971-1980) and served as the San Jose Redevelopment Agency's Principal Planner (1980-1985), Director of Program Development (1985-1986), Downtown Plan Coordinator (1987-1990), Deputy Executive Director (1998-2003), and Executive Director (2003-2011). We offer our deepest sympathy to his wife Olga and daughters Emily, Stephanie and Maria.