



City Council Meeting SYNOPSIS

**Tuesday, January 5, 2021
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
DAVID COHEN, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
MATT MAHAN, DISTRICT 10



SYNOPSIS OF THE CITY COUNCIL

JANUARY 5, 2021

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.

21-009 CLOSED SESSION: None. (Canceled)

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

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

Absent: Councilmembers - All Present.

• Pledge of Allegiance

Mayor Sam Liccardo led the Pledge of Allegiance.

• Invocation (District 1)

Helen Kassa from the African American Community Agency spoke to mindfulness and world peace.

• Orders of the Day

The Orders of the Day and the Amended Agenda were approved, with the Oaths of Office to be administered prior any actions to be taken by Council. (11-0.)

• Closed Session Report

Mayor Sam Liccardo announced that during a closed session meeting prior to the holiday, Shivaun Nurre was reappointed to serve as the Auditor for the Independent Police Auditor’s Office.

1. CEREMONIAL ITEMS

Oaths of Office were administered for Newly-Elected and Re-Elected Councilmembers.

2. CONSENT CALENDAR

The Consent Calendar was approved and the below listed actions were taken as indicated.

2.1 Approval of City Council Minutes.

None provided.

2.2 21-023 Final Adoption of Ordinances.

(a) **Ordinance No. 30508** - An Ordinance of the City of San José Prezoning Certain Real Property of Approximately 0.99-Gross Acre, Situated Approximately 50 Feet South of the Southeast Corner of Fleming Avenue and Nob Hill Drive (APN: 601-29-008) from Unincorporated Territory to the R-1-8 Single-Family Residence Zoning District.

[Passed for Publication on 12/15/2020 - Item 10.1(a) (20-1647)]

Action: Ordinance No. 30508 was adopted. (11-0.)

2.3 21-055 Approval of Council Committee Minutes.

(a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of September 23, 2020.

(b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 7, 2020.

(c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 14, 2020.

(d) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 21, 2020.

(e) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 28, 2020.

(f) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of November 4, 2020.

(g) Regular Neighborhood Services and Education Committee Meeting Minutes of October 8, 2020.

(h) Regular Neighborhood Services and Education Committee Meeting Minutes of November 12, 2020.

(i) Regular Community and Economic Development Committee Meeting Minutes of October 26, 2020.

(j) Regular Transportation and Environment Committee Meeting Minutes of November 2, 2020.

(Item Continued on the Next Page)

2.3 (Cont'd.)

(k) Regular Smart Cities and Service Improvements Committee Meeting Minutes of November 5, 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: Council Committee Minutes were approved. (11-0.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

Councilmember Dev Davis offered updates from the Federated Pension Board, particularly regarding the pension portfolio and first principal payments made.

2.7 21-024 **Amendment to the Self-Service Luggage Cart Agreement Between the City of San José and Smarte Carte, Inc.**

Approve a Second Amendment to the Airport Self-Service Luggage Cart Agreement between the City of San José and Smarte Carte, Inc., to extend the term for three years, from August 1, 2021 through July 31, 2024, 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.
(Airport)

Action: The Second Amendment between the City of San José and Smarte Carte, Inc., was approved.
(11-0.)

2.8 21-025 **Approval to Provide Financial Relief to Non-Aeronautical Concessionaires and Rental Car Concessions at SJC.**

Adopt a resolution authorizing the City Manager to negotiate and execute amendments to various Airport concession agreements to provide additional financial relief to non-aeronautical concessionaires and rental car concessions from January 1, 2021 through June 30, 2021, to address the continuing impacts of the COVID-19 pandemic. Financial relief for Airport concessionaires could include:

(a) Suspend Minimum Annual Guaranteed (MAG) rent payments and charge only percentage rent from January 1, 2021-June 30, 2021.

(Item Continued on the Next Page)

2.8 (Cont'd.)

- (b) Suspend, defer or modify the terms of the Annual Concession Fee Reconciliation (True Up) as a result of any negotiated adjustments to the MAG amount.
 - (c) Increase the percentage rent as consideration for any further MAG suspension or negotiate flat fee rents.
 - (d) Provide Airport concessionaires the ability to charge higher prices by allowing a higher percentage markup over street prices to allow for an increased pass through of costs.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Airport)

Action: **Resolution No. 79851** regarding Financial Relief to Non-Aeronautical Concessionaires and Rental Car Concessions at SJC was adopted. (11-0.)

2.9 21-026

Resolution to Join California Cities Gaming Authority.

- (a) Adopt a resolution authorizing the City Manager to execute the Amendment to the Joint Exercise of Powers Agreement to join the California Cities Gaming Authority on behalf of the City of San José; and
 - (b) Approve up to \$30,000 annually as the City's share of the costs of the California Cities Gaming Authority, subject to appropriation.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager) [Deferred from 12/15/2020 - Item 2.10 (20-1625)]

Action: (a) **Resolution No. 79852** to Join California Cities Gaming Authority, including appropriations as approved, was adopted. (10-1. Noes: Liccardo.)

2.10 21-027

Commercial Solid Waste Processing.

Authorize the City Manager to engage in preliminary discussions with Allied Waste Services of North America, LLC, dba Republic Services and Zero Waste Energy Development on the processing of all commercial solid waste for the City of San José at an alternate materials recovery facility.

CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.
(Environmental Services)
[Deferred from 12/15/2020 - Item 2.14 (20-1655)]

Action: Authorization regarding Commercial Solid Waste Processing was approved. (11-0.)

2.11 21-028

Actions Related to the Agreement with Overlay, LLC for Building Performance Ordinance Solution.

Adopt a resolution authorizing the City Manager to:

- (a) Execute an Agreement with Overlay, LLC (Denver, CO) to provide a Building Performance Ordinance Solution, including related professional services, software subscription, support, and maintenance, for an initial two-year term beginning on or about January 6, 2021 through January 5, 2023 for a maximum compensation not to exceed \$114,919 for the initial term;
 - (b) Negotiate and execute amendments and change orders as required for any unanticipated changes such as enhancements, API development, and custom report generation for a contingency amount not to exceed \$25,000 during the initial two-year term, subject to the appropriation of funds; and
 - (c) Exercise up to eight one-year options to extend the term through January 5, 2031 for ongoing licensing, support, maintenance, and related professional services, 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: (a) **Resolution No. 79853** regarding an Agreement with Overlay, LLC was adopted. (11-0.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 21-030

Draft Framework Related to Nonprofit Transfers and the Proposed Real Property Transfer Tax.

Consideration and discussion of the draft framework related to certain transfers of real property to nonprofits and the real property transfer tax on the March 3, 2020 ballot.

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

[Deferred from 2/11/2020 - Item 3.4 (20-133); 3/17/2020 - Item 3.3 (20-257); 12/15/2020 - Item 3.3 (20-1633)]

Action: Accepted, including Mayor Sam Liccardo’s memorandum dated January 4, 2021, to: “1. Accept the recommendations of the March 13, 2020 memorandum of Councilmembers Peralez, Diep, Davis and myself, which includes acceptance of staff’s recommendation

(Item Continued on the Next Page)

3.3 (Cont'd.)

and draft framework and directs the City Manager and City Attorney to explore how to rebate or waive the transfer tax “for real estate transactions that are executed for charitable community-serving purposes for education, health, and human services targeting low-income residents.”

2. Consider as one of the options for the City Manager and the City Attorney to explore: issuance of a waiver or rebate for the collection of the transfer tax on sale of a property by a foundation or other 501(c)(3) nonprofits where those organizations have a charitable community-serving purpose primarily focused on education, health, housing, or human services targeting low-income residents, and a substantial number of the low-income beneficiaries of that organization live within the City of San Jose. Such a waiver might require a simple affidavit signed by the CEO of the organization, with accompanying documentation, and might require approval by the City Manager or Director of Housing.

3. Return to Council before the end of the current fiscal year, June 30, 2021, with a policy that could be considered and approved and then implemented for the new fiscal year starting July 1, 2021.”

With staff to return with ‘clarifications and definitions’ before the end of the fiscal year. (11-0.)

3.4 21-031 **Independent Police Auditor Contract Authority.**

Approve an ordinance amending Sections 4.04.055, 4.04.080, and 4.04.085 and adding Section 4.04.045 to Chapter 4.04 of Title 4, and amending Section 8.04.030 of Chapter 8.04 of Title 8 of the San José Municipal Code to grant contract authority to the Independent Police Auditor, with the same parameters as other Council appointees like the City Clerk and City Auditor, as authorized under Charter Section 809 as amended by Measure G.

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

Action: **Ordinance No. 30510** regarding Independent Police Auditor Contract Authority was passed for publication. (11-0.)

3.5 21-032 **San José 311 and Digital Strategy Roadmap.**

Accept the report on the implementation of San José 311 and the refreshed Digital Strategy Roadmap, detailing SJ311 status, direction on digital services, and approaches to the addition of new services via online, mobile app, voice, virtual agent, and chat service channels.

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

[Deferred from 12/15/2020 - Item 3.7 (20-1639)]

Action: The report on the implementation of San José 311 and the refreshed Digital Strategy Roadmap was accepted. (11-0.)

3.6 21-033

Actions Related to the 8087 - Trail: Coyote Creek (Mabury Road to Empire Street) Project.

(a) Adopt a resolution authorizing the City Manager to:

(1) Negotiate and execute amendments to the standard consultant agreement with CH2M HILL, Inc. for the 8087 - Trail: Coyote Creek (Mabury Road to Empire Street) project (“Project”) to do the following:

(i) Expand the scope of work to include design of a flood control improvements, design, and implementation of mitigation plan requirements, bid support, and construction management support;

(ii) Increase compensation by up to \$1,344,380 from \$1,355,620 to an amount not to exceed \$2,700,000 to pay for the expanded scope of work; and

(iii) Extend the term of the agreement from December 2021 to December 2024.

(2) Negotiate and execute one or more Fund Transfer Agreements with the Santa Clara Valley Water District (“Valley Water”) setting forth the terms and conditions pursuant to which Valley Water will reimburse the City for the additional design and construction costs associated with including flood control improvements as part of the Project, which costs are estimated to be approximately \$3,600,000.

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

(1) Increase the TRAIL: Coyote Creek (Mabury Road to Empire Street) appropriation by \$1,500,000; and

(2) Decrease the TRAIL: Coyote Creek (Mabury Road to Empire Street) reserve by \$1,500,000.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

Action: (a) **Resolution No. 79854** regarding actions Related to the 8087 - Trail: Coyote Creek and (b) Appropriation **Ordinance No. 30511** were adopted. (11-0.)

3.7 21-063 COVID-19 Paid Sick Leave Ordinance.

(a) Adopt an urgency ordinance that:

(1) Continues, retroactive from January 1, 2021 through June 30, 2021, the paid sick leave benefits that had been provided under the expired federal Emergency Paid Sick Leave Act and the COVID-19 Paid Sick Leave Ordinance;

(2) Adds a private right of action to enforce the benefits;

(3) Makes technical changes to reflect the health orders of the State and the County of Santa Clara; and

(4) Sets forth the facts constituting the urgency.

PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)

(b) Approve an ordinance that:

(1) Continues, retroactive from January 1, 2021 through June 30, 2021, the paid sick leave benefits that had been provided under the expired federal Emergency Paid Sick Leave Act and the COVID-19 Paid Sick Leave Ordinance;

(2) Adds a private right of action to enforce the benefits; and

(3) Makes technical changes to reflect the health orders of the State and the County of Santa Clara.

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

Action: (a) **Urgency Ordinance No. 30512** was adopted, and (b) **Ordinance No. 30513** was passed for publication. (11-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 21-034 Approval to Increase the Rental Car Concessions Customer Facility Charge at the Norman Y. Mineta San José International Airport and Delegate Authority to the Director to Adjust the CFC Based on Current Budget and Passenger Trends.

Adopt a resolution:

(a) Increasing the Customer Facility Charge (“CFC”) from \$7.50 to \$9.00 per day, up to a maximum of five days per rental car contract, effective February 1, 2021, for customers renting vehicles from On-Airport Rental Car Companies, for the purpose of paying the costs of the financing, design and construction of the Consolidated Rental Car Garage, and the costs of providing a common-use transportation system to transport rental car customers between Terminal A and the Consolidated Rental Car Garage, and repealing Resolution No.76048, effective February 1, 2021; and

5.1 (Cont'd.)

(b) Authorizing the Director of Aviation to adjust the CFC to accommodate current budget and passenger trends, but in no case set the rate above \$9.00 per day, up to a maximum of five days per rental car contract.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates & fares without changes to or expansion of services. (Airport)

Action: **Resolution No. 79855** regarding Rental Car Concessions Customer Facility Charges was adopted. (11-0.)

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 21-035 Authorization to Join California Community Power, A New Joint Powers Authority.

Adopt a resolution:

(a) Authorizing the City Manager or his/her designee to join San José Clean Energy to the new Joint Powers Authority (California Community Power or CC Power) and execute the California Community Power Agency Joint Powers Agreement provided as Attachment 1 to the staff memorandum; and

(b) Authorizing the City of San José to pay a share of CC Power's annual costs in an amount not to exceed the contract authority of the City Manager for the corresponding Fiscal Year, 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. (Community Energy)

Action: **Resolution No. 79856** regarding the City joining California Community Power, A New Joint Powers Authority was adopted. (11-0.)

7. NEIGHBORHOOD SERVICES

7.1 21-036 Police Activities League Operating Model Contract.

Approve guiding principles for an agreement between the City of San José and San José Police Activities League to provide operations of the J.R. Blackmore Police Activities League Stadium Complex, including operating athletic programs, performing minor facility maintenance and conducting fundraising activities.

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

Council District 5. (Parks, Recreation and Neighborhood Services)
[Deferred from 12/15/2020 - Item 7.1 (20-1640)]

Action: Approved, including the joint memorandum from Councilmember Maya Esparza and Councilmember Magdalena Carrasco, dated December 18, 2020, to:

1. Approve Staff's recommendation to approve guiding principles for an agreement between the City of San José and the San José Police Activities League to provide operations of the J.R. Blackmore Police Activities League Stadium Complex, including operating athletic programs, performing minor facility maintenance and conducting fundraising activities. (11-0.)

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-037 Conditional Summary Vacation, Declaration of Surplus, and Sale of a Portion of North Almaden Boulevard. -DROP

Adopt a resolution:

(a) Approving the report of the Director of Public Works setting forth the facts justifying the conditional summary vacation of an approximately 1,381 square foot portion of North Almaden Boulevard located northeast of the North Almaden Boulevard and East Santa Clara Street intersection (Subject Portion);

(b) Conditionally vacating the Subject Portion, which after the satisfaction of the condition, will be superseded by relocation;

(c) After satisfaction of the condition, directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara;

(d) Declaring the Subject Portion "exempt surplus land" to the needs of the City;

(e) Authorizing the City Manager, or their designee, to negotiate and execute a Purchase and Sale Agreement with adjacent property owner Kenneth S. Tersini and the Kenneth S. Tersini Living Trust for the sale of approximately 674 square feet of conditionally vacated City-owned "excess surplus property" on a portion of Almaden Boulevard, between N. Almaden Boulevard and W. Santa Clara Street, in the amount of \$218,477 in accordance with Cal Gov. §54221(f)(1)(B) and San José Municipal Code §4.20.070(A);

(Item Continued on the Next Page)

8.1 (Cont'd.)

(f) Authorizing the City Manager, or their designee, to negotiate and execute a Purchase and Sale Agreement with adjacent property owner Bit Holdings Sixty-Eight, Inc. for the sale of approximately 707 square feet of conditionally vacated City-owned “excess surplus property” on a portion of Almaden Boulevard, between N. Almaden Boulevard and W. Santa Clara Street, in the amount of \$1 in accordance with to Cal Gov. §54221(f)(1)(B) and San José Municipal Code §4.20.070; and
(g) Authorizing the City Manager, or their designee, to negotiate and execute all other documents necessary to complete the transactions.
CEQA: Determination of Consistency to the Supplemental Environmental Impact Report for the Almaden Corner Hotel Project, File No. H18-038. Council District 3. (Economic Development/Public Works)
[Deferred from 12/15/2020 - Item 8.2 (20-1643)]
Item 8.1 was dropped.

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

- (a) **21-038** **ST20-003 - Street Renaming of Public Streets Along Portions of Bird Avenue, South Montgomery Street, South Autumn Street, and North Autumn Street to Barack Obama Boulevard. - TO BE HEARD IMMEDIATELY AFTER CONSENT**
- Adopt a resolution approving the renaming of portions of Bird Avenue, South Montgomery Street, South Autumn Street, and North Autumn Street, extending approximately 4,300 feet between Interstate 280 in the south and West St. John Street in the north, as Barack Obama Boulevard.
CEQA: Not a Project pursuant to CEQA Guidelines Section 15061(b) (3). Council Districts 3 and 6. (Planning, Building and Code Enforcement)
Heard immediately after Consent.

Action: **Resolution No. 79857** approving the renaming of portions of Bird Avenue, South Montgomery Street, South Autumn Street, and North Autumn Street, was adopted. (11-0.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda – none provided.

- **Open Forum**

1. Blair Beekman spoke to an open government process.

- **Adjournment**

The Council of the City of San José adjourned at 7:19 p.m.