



City Council Meeting SYNOPSIS

Tuesday, April 20, 2021

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



- **Call to Order and Roll Call**

9:31 a.m. - Closed Session, Call to Order.

Councilmembers Absent: Carrasco, Arenas.

2:36 p.m. - Regular Session

Councilmembers: All Present.

- **Pledge of Allegiance**

Vice Mayor Chappie Jones led the Pledge of Allegiance.

- **Invocation (District 4)**

Berryessa Chinese School Principal, Andrew Hung offered the invocation and shared the music classes' performance titled "The Generals Command."

- **Orders of the Day**

The Orders of the Day were approved.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

2.3 Approval of Council Committee Minutes.

2.4 21-854

Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Jimenez from the Regular Meeting of the Neighborhood Services and Education Committee on April 8, 2021 due to personal travel. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Jimenez) [Rules Committee referral 4/14/2021 - Item A.1.a]

Action: Excused Absence Approved. (10-0-1. Absent: Liccardo)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 21-732

Easement Agreement with the City of Santa Clara for Electrical Utilities.

Adopt a resolution authorizing the City Manager, or their designee, to execute an Easement Agreement with City of Santa Clara, California for electrical utilities installation and maintenance on City-owned property at Assessor's Parcel Number 230-03-101, 230-02-026, and 230-02-007. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts resulting in no physical changes to the environment. (Airport)

Action: **Resolution No. 79973** authorizing the City Manager, or their designee, to execute an Easement Agreement with City of Santa Clara, California for electrical utilities was adopted. (10-0-1. Absent: Liccardo)

2.8 21-733

Amendment to the Equipment Assistance Agreement with San José Stage Company.

Approve a Continuation and First Amendment to extend the term of the Equipment Assistance Agreement with the San José Stage Company so that the organization has until September 25, 2023 to apply for a City building permit for tenant improvements for its renovated theater that will be a part of a mixed-use facility located at 490 South First Street, with no change in the grant amount. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3. (Economic Development)

Action: The amendment to the Equipment Assistance Agreement with San José Stage Company was approved. (10-0-1. Absent: Liccardo)

2.9 21-734

Actions Related to Future Residential Solid Waste Agreements and Residential Junk Pickup Service.

(a) Accept the staff report with the amendments to the term sheet with California Waste Solutions (CWS) and GreenTeam of San José to continue current Residential Junk Pickup service citywide. (b) Adopt a resolution amending Resolution No. 79169, adopted on June 18, 2019, and authorizing the City Manager to: (1) Negotiate and execute an agreement through June 30, 2036 with CWS, in accordance with the term sheets presented to Council on February 8, 2019, and as amended to include Residential Junk Pickup Service, for single-family dwelling recycling collection and processing in Districts A and C, subject to the appropriation of funds. (2) Negotiate and execute an

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2.9 (Cont'd.)

agreement through June 30, 2036 with GreenTeam of San José, in accordance with the term sheets presented to Council on January 15, 2019, and as amended to include Residential Junk Pickup Service, for collection of garbage and collection and processing of recyclables for multi-family dwellings citywide, single-family dwellings in District B, and City Facilities, subject to the appropriation of funds. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (EIR) (Resolution No. 76041), Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Project does not involve new significant impacts beyond those analyzed in the above EIRs. File No. PP19-037. (Environmental Services)

Action: (a) The staff report with the amendments to the term sheet with California Waste Solutions (CWS) and GreenTeam of San José to continue current Residential Junk Pickup service was accepted and (b) **Resolution No. 79974** amending Resolution No. 79169, adopted on June 18, 2019 was adopted. (10-0-1. Absent: Liccardo)

2.10 21-735

Award of a Construction Contract for 2021 Local Streets Concrete #2 Project.

(a) Approve award of a construction contract for the 2021 Local Streets Concrete #2 Project, to the low bidder, Spencon Construction, Inc. in the amount of \$1,481,075. (b) Approve an approximate ten percent contingency in the amount of \$148,000. CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 2 and 7. (Transportation)

Action: The Award of a Construction Contract for 2021 Local Streets Concrete #2 Project was approved. (10-0-1. Absent: Liccardo)

2.11 21-922

Approval of National Child Abuse Prevention Month 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.

As recommended by the Rules and Open Government Committee on April 14, 2021: (a) Approve April 2021 as National Child Abuse Prevention Month scheduled on April 20, 2021 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. (Arenas) [Rules Committee referral 4/14/2021 - Item G.1.b]

Action: The City Council Sponsored Special Event was approved. (10-0-1. Absent: Liccardo)

2.12 21-923

Approval of Proclamation for Earth Day 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.

As recommended by the Rules and Open Government Committee on April 14, 2021: (a) Approve the Earth Day scheduled on April 20, 2021 as a City Council sponsored

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2.12 (Cont'd.)

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. (Carrasco) [Rules Committee referral 4/14/2021 - Item G.1.c]

Action: The City Council Sponsored Special Event was approved. (10-0-1. Absent: Liccardo)

2.13 21-930

Approval of Cataldi Dumpster Day Sponsored by Council District 4 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 April 14, 2021: (a) Approve the Cataldi Dumpster Day scheduled on April 24, 2021 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. (Cohen) [Rules Committee referral 4/14/2021 - Item G.1.d]

Action: The City Council Sponsored Special Event was approved. (10-0-1. Absent: Liccardo)

2.14 21-931

Boards and Commissions Appointments.

Approve the following Boards and Commissions appointments: (a) Senior Citizens Commission: (1) District 7 Seat: Debora Ow to a term ending June 30, 2021. (b) Arts Commission: (1) District 6 Seat: John Callison to a term ending June 30, 2022. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk) [Rules Committee referral 4/14/2021 - Item A.1.a]

Action: The Senior Citizens Commission appointments were approved. (10-0-1. Absent: Liccardo)

2.15 21-932

Amicus Curiae Brief for Court Case Supporting New York City's Rent Stabilization Law.

Authorize the City Attorney to join in Amicus Curiae brief drafted by the City of Los Angeles on behalf of California local jurisdictions supporting New York City in a Second Circuit Court of Appeal case challenging New York City's rent stabilization law. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Attorney) [Rules Committee referral 4/14/2021 - Item A.1.a]

Action: The City Attorney to join in Amicus Curiae brief drafted by the City of Los Angeles on behalf of California local jurisdictions supporting New York City in a Second Circuit Court of Appeal case challenging New York City's Rent Stabilization Law was authorized. (10-0-1. Absent: Liccardo)

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 21-736 Actions Related to Agreements for Reimbursement of Food and Necessities Distribution Services.

(a) Accept the report on the update on the Interagency Food Distribution. (b) Adopt a resolution authorizing the City Manager to negotiate and execute Agreements for Reimbursement of Food and Necessities Distribution Services with the following cities: Campbell, Cupertino, Gilroy, Los Altos, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, City of Santa Clara, Saratoga, and Sunnyvale, for various meal preparation, delivery and grocery distribution services from March 18, 2020 through September 30, 2020, for \$1,958,446.70 including the amounts specified in Table 2.0 of the staff memorandum with each jurisdiction and based on the same terms and conditions. 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 1/26/2021 - Item 3.5 (21-142); 2/9/2021 - Item 3.4 (21-228); 2/23/2021 - Item 3.3 (21-316); and 3/23/21 - Item 3.7 (21-503)]

DROPPED

3.4 21-737 Statement of Policy and City Council Questions for the Prospective Planning, Building and Code Enforcement Department Director.

Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Director of Planning, Building and Code Enforcement as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: The Statement of Policy and City Council Questions related to the selection of a prospective Director of Planning, Building and Code Enforcement was adopted, including the acceptance of the memorandum from Councilmember Sylvia Arenas, dated April 20, 2021, directing the City Manager to include the following questions to the City Council Questions to ask the prospective Director of Planning, Building, and Code Enforcement candidate: (a) The City of San Jose, like most major cities in America, was developed under policies that created and perpetuated segregation – including exclusionary zoning policies, racial covenants, redevelopment/urban renewal policies, and other policies designed to displace communities of color, as well as federal banking regulations that are commonly known as redlining. What is your experience in addressing the history of planning as a tool for segregation and what experience do you have in bringing forward changes that support

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3.4 (Cont'd.)

housing desegregation? (b) What strategies do you propose to implement in the City of San Jose to address housing segregation? (c) How would you balance the need for more jobs and development in the City of San Jose, while also ensuring that communities of concern are not displaced? Also including the acceptance of the memorandum from Mayor Sam Liccardo, dated April 20, 2021, directing the City Manager to include the following in the list of questions for the prospective Director of Planning, Building and Code Enforcement (PBCE): (1) In what concrete ways do you plan to hold yourself and the Department accountable for performance in meeting the public's need for timely inspections, permit issuances, and planning decisions? (2) (If an internal candidate): Can you identify why Development Services has struggled to substantially improve timeliness of inspections, permits, and planning over the past decade? (If an external candidate): What are the primary obstacles to performance improvement for big-city development services teams in meeting deadlines and reasonable timing expectations of their customers? (3) What specifically would you do to improve that (see above) performance? What have you previously done in your organization to improve performance in any of these areas? (4) Describe your experience in leading a transition to digital services. What is needed to make such a transition successful? In contrast, where are dollars wasted in such efforts? (11-0.)

3.5 21-738 **Office of Immigrant Affairs Activities and Welcoming San José Plan 2021-2024 Report.**

DROPPED

3.6 21-739 **Discussion and Possible Actions Regarding Campaign Finance Regulations.**

Discussion and proposed action and/or direction to staff regarding strengthening local campaign finance regulations including: (a) Disclosure of top donors contributing to campaign committees making independent expenditures in municipal elections directly on all electioneering communications; (b) Enhanced enforcement of electioneering communication and other campaign regulations; (c) Explore innovative approaches to limiting corruption, or the appearance of corruption, of corporate and special interest spending on municipal elections; and (d) Explore amending the scope of the Charter Review Commission to include a review of Section 607, Code of Ethics, and to include an evaluation of whether it would be desirable to establish the San José Board of Fair Campaign and Political Practices directly in the Charter. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk/City Attorney) [Rules Committee referral 11/18/2020 - Item G.2]

Councilmember Pam Foley disclosed an inadvertent Brown Act violation.

Action: Discussion and Possible Actions Regarding Campaign Finance Regulations was heard and accepted to come back for further discussion including the acceptance of the memorandum from Councilmember Sergio Jimenez, dated April 19, 2021, with the modification to item 2(c) as noted per Councilmember Mahan: (1) directing staff to

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3.6 (Cont'd.)

return to Council with ordinances that strengthen our local campaign finance regulations and policies, including: (a) Disclosure of top donors campaign finance contributing to campaign committees making independent expenditures in municipal elections directly on all electioneering communications. (b) Requirements for campaign committees making independent expenditures to file any mailing or distributed flyers (over 200) with the City Clerk, who will serve as a repository for campaign literature without commentary. (c) Update the City of San Jose's campaign finance disclosure web portal to allow the public to more easily access information about campaign donations, including aggregating donation and expenditure data, using the City & County of San Francisco Ethics Commission website as a model: <https://sfethics.org/> (2) Direct staff to return to Council with options for new regulations, taking action as allowed under current state and federal law, to bring greater equity to campaign financing, make campaign financing more representative of the voters of the City of San Jose, and limit corruption, or the appearance of corruption, from corporate and special interest spending on municipal elections, including: (a) Develop a pilot program for public financing of elections, including analysis of recent laws and proposals in Seattle, San Francisco, and Oakland. (b) Implement prohibitions on foreign-influenced committees or donors from making independent expenditures or contributing to campaigns or independent expenditure committees. This would bar committees and donors which meet a threshold of foreign ownership or contributions from being able to influence local elections, modeled after legislation recently passed in Seattle. (c) Limit corporations **and entities** with conflicts of interest from donating to candidates, specifically exploring contribution limits: (i) Proposed in the Fair Elections Initiative of 2020 to prohibit donations from donors, including their lobbyists, seeking large City contracts or discretionary approval of planning and land use decisions on large developments, as well as donors who are regulated under the City's tenant protection ordinances; and (ii) A policy based on California Government Code Section 84308 that governs members to the VTA and other regional boards, requiring recusal where a matter involves a person or entity that has made a contribution in the prior 12 months, and prohibiting such contributions for three months following a decision on that matter. (3) Direct staff to prepare budget estimates, as needed, for the work necessary to implement the recommendations in this memo. The information shall be conveyed through City Manager's Budget Addenda for the FY2021-2022 budget. (10-0-1. Absent: Carrasco)

3.7 21-891

Board of Fair Campaign and Political Practices Appointments.

(a) Interview applicants for appointment to the Board of Fair Campaign and Political Practices. (b) Appoint one (1) applicant to a term ending March 1, 2023. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities, resulting in no changes to the physical environment. (City Clerk) [Deferred from 4/13/2021 - Item 3.3 (21-699)]

Action: The Board of Fair Campaign and Political Practices Appointment was approved. (9-0-2. Absent: Cohen, Liccardo)

4. PUBLIC SAFETY SERVICES

4.1 21-743

Actions Related to the 2020 Internet Crimes Against Children Award.

(a) Adopt a resolution accepting the Fiscal Year 2020 Internet Crimes Against Children Task Force Award in the amount of \$950,000 and authorizing the City Manager to execute the Grant Agreement and to execute additional amendments and all related documents, including online certificates at time of reimbursement request, without further City Council action. (b) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund: (1) Establish a City-Wide appropriation to the Police Department for the Internet Crimes Against Children State Grant 2020-2021 in the amount of \$834,200; and (2) Increase the estimate for Revenue from State of California by \$834,200. 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, and File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Police/City Manager)

Action: (a) **Resolution No. 79975** accepting the Fiscal Year 2020 Internet Crimes Against Children Task Force Award, (b) Appropriation **Ordinance No. 30560**, and Funding Sources **Resolution No. 79976** regarding Amendments in the General Fund were adopted. (11-0.)

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 21-740

Construction Contingency Increase for the 7382-Digester and Thickener Facilities Upgrade Project at the San José-Santa Clara Regional Wastewater Facility.

(a) Approve a \$14,000,000 increase to the construction contingency amount of \$53,490,625 for a revised total contingency amount of \$67,490,625, increasing the not-to-exceed amount from \$161,415,625 to a total revised contract amount not-to-exceed \$175,415,625 for the 7382 - Digester and Thickener Facilities Upgrade Project. (b) Adopt the following 2020-2021 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund: (1) Decrease the Nitrification Clarifier Rehabilitation appropriation to the Environmental Services Department by \$14,000,000. (2) Increase the Digester and Thickener Facilities Upgrade appropriation to the Environmental Services Department by \$14,000,000. CEQA: San José-Santa Clara Regional Wastewater Facility Digester and Thickener Facilities Upgrade Project Mitigated Negative Declaration, File No. PP15-055. (Environmental Services/Public Works/City Manager)

Action: (a) The increase to the construction contingency of the Digester and Thickener Facilities Upgrade Project was approved, (b) Appropriation **Ordinance No. 30561** Regarding Amendments in the San José-Santa Clara Treatment Plant Capital Fund was adopted. (10-0-1. Absent: Liccardo)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-742

Nomination of The Alameda Park/Schiele Avenue Historic District.

As recommended by the Rules and Open Government Committee on March 24, 2021, adopt a resolution nominating the Alameda Park/Schiele Avenue Historic District and directing the Department of Planning, Building and Code Enforcement to initiate the required process and proceedings to establish the Historic District, including necessary outreach to community members and property owners. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Davis) [Rules Committee referral 3/24/2021 - Item G.2] [Deferred from 3/30/21 - Item 8.5 - 21-672]

DROPPED

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

10.1(a) 21-741

C19-025 - Conforming Prezoning for Property Located at 15415 Woodard Road and Annexation of Parker No. 28.

(a) Approve an ordinance rezoning certain real property of approximately 0.28 acre located on the northeast corner of Woodard Road and Calico Avenue (15415 Woodard Road) and adjacent streets, in Santa Clara County, from unincorporated territory designated as a portion of Parker No. 28 to the R-1-8 Single-Family Residence Zoning District. (b) Adopt a resolution initiating proceedings and setting May 18, 2021, for City Council consideration of the reorganization of territory designated as Parker No. 28, which involves the annexation to the City of San José of approximately 1.36-gross acres of land from Santa Clara County unincorporated territory and the detachment of the same from the appropriate special districts. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Final Supplemental Environmental Impact Report (Resolution No. 77617), and addenda thereto. Council District 9. (Planning, Building and Code Enforcement)

Action: (a) **Ordinance No. 30562** regarding rezoning certain real property of approximately 0.28 gross acre, situated on the northeast corner of Woodard Road and Calico Avenue was passed for publication and (b) **Resolution No. 79977** regarding initiating proceedings and setting May 18, 2021, for City Council consideration of the reorganization of territory designated as Parker No. 28 was adopted. (10-0-1. Absent: Liccardo)

END OF CONSENT CALENDAR

- **Open Forum**

1. Tessa Woodmansee spoke on capitalism, consumerism, greenhouse gases, and urged a halt on the construction of more hotels in San José.
2. Blair Beekman praised the historic preservation in Stockton and urged the need for that in San José particularly in the East Side of San José, and spoke on the charter review process.
3. Joshua Harrell, an SJSU student studying mathematics, stated his belief that his homelessness is due to the persistent failures of San José to approve affordable housing construction.
4. A speaker from District One spoke on an unhoused resident who was residing in his neighborhood for 6-8 months sustaining himself from donations from neighbors and stated there needs to be more resources provided in such an innovative city.
5. Roland spoke on campaign contributions, biases, lobbying, and influences on elected officials.
6. Caller “5140” spoke on campaign finance regulations.
7. Paul Soto apologized to staff and the Mayor for his loss of composure at a meeting last week, spoke on redlining, and the criminal justice system.

- **Adjournment**

The Council of the City of San José adjourned at 6:32 p.m.