



# City Council Meeting Synopsis

**Tuesday, February 12, 2019**

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



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On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9: 07 a.m.- Closed Session, Call to Order in Council Chambers  
Absent: Arenas

1:31 p.m.- Regular Session, Council Chambers, City Hall

- **Invocation**

Reverend Jethroe Moore II from the Rehoboth Christian Center provided the Invocation.

- **Pledge of Allegiance**

Mayor Sam Liccardo, with Third Graders from Easterbrook Discovery School led the Pledge of Allegiance.

- **Adjournment**

We adjourn today's meeting in memory of Harry Powers who passed away at the age of 91 on Monday, December 3, 2018, surrounded by family. Harry is warmly remembered as a gifted and prolific sculptor and painter, an Emeritus Professor of Art at San José State University, an active member of the San José -Dublin Sister City Program and creator of their Spirit of Ireland Award, a loving husband, father, and friend, and a champion of the arts and of the City of San José.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved with the Evening Session cancelled, and with Item 3.5 heard not before 3:30 p.m.

**11-0**

- **Closed Session Report**

No report.

## **1. CEREMONIAL ITEMS**

1.1 Mayor Liccardo and Councilmember Sylvia Arenas presented a proclamation recognizing February 2019 as Dental Health Awareness Month in the City of San José.

1.2 Mayor Liccardo and Councilmember Dev Davis presented commendation to District 6 resident Patricia Gardner, Executive Director of Silicon Valley Council of Nonprofits, for all her work helping non-profit communities connect and establish stronger voices.

## **2. CONSENT CALENDAR**

The Consent Calendar was approved as recommended, with Items 2.10, 2.14 and 2.15 pulled and voted on separately, and the below listed actions taken as indicated.

**11-0**

### **2.1 Approval of City Council Minutes.**

(a) **18-1906 Approval of City Council Minutes.**

**Recommendation:** (a) Regular Council Meeting Minutes of August 8, 2018.  
CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action  
**Approved.**

### **2.2 Final Adoption of Ordinances.**

2.2 **18-1892 Final Adoption of Ordinances.**

**Recommendation:** (a) Ord. No. 30214 - An Ordinance of the City of San José Amending Chapter 11.18 of Title 11 of the San José Municipal Code Related to the Installation of Stop Signs  
**Adopted.**

(b) Ord No. 30215 An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.54 Gross Acre Situated at the Northwest Corner of Monterey Road and Roeder Road (5260 Monterey Road), from the CN Commercial Neighborhood Zoning District to the CP Commercial Pedestrian Zoning District.  
**Adopted.**

**2.3 Approval of Council Committee Minutes.****(a) 18-1911 Approval of City Council Committee Minutes.****Recommendation:**

(a) Regular Joint Meeting for the Rules and Open Government Committee of January 16, 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.

**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 18-1875 Actions Related to the Refund of Construction Fees and Taxes for Westfield DDC, LLC for Project Located at 2847 Stevens Creek Boulevard.****Recommendation:**

(a) Approve a refund of construction fees and taxes in the amount of \$679,964.82 to Westfield DDC, LLC for a project located at 2847 Stevens Creek Boulevard.

(b) Approve a refund for the Strong Motion Instrument Program Assessment fee in the amount of \$4,201.02.

(c) Approve a refund for the Building Standards Administration Special Revolving Fund fee in the amount of \$600.00.

(d) Adopt the following 2018-2019 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:

(1) Increase the Developer Refunds appropriation to the Department of Planning, Building and Code Enforcement in the amount of \$82,000 and

(2) Decrease the Building and Structure Construction Tax Unrestricted Ending Fund Balance by \$82,000.

CEQA: Not a Project, File No. PP17-004, Adjustment to Fees, Rates & Fares without changes to or expansion of services. (Planning, Building, and Code Enforcement/Transportation/City Manager)

**Approved as Recommended.**

**Ordinance No. 30221 Adopted.**

**11-0**

**2.8 18-1876 Amendment to the Agreement with Buster Simpson for Artwork at the Co-Generation Plant.****Recommendation:**

Approve an amendment to the agreement with artist Buster Simpson to increase the budget by \$55,438 to design, fabricate and install an artwork at the Co-Generation Plant for an amount not to exceed \$345,438.

CEQA: Categorically Exempt, File No. PP16-006, CEQA Guidelines Section 15301, Existing Facilities. (Economic Development)

**Dropped**

**2.9 18-1877 Amendment to the Agreement with LSG Sky Chef, Inc. for Lease of Airport Premises.**

**Recommendation:**

Adopt a resolution authorizing the Director of Aviation to negotiate and execute the Fifth Amendment to the Lease of Airport Premises for in-flight catering services with LSG Sky Chefs, Inc. for a five-year extension through February 14, 2024, subject to early termination by the City with a one-year notice.

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

**Resolution No. 78979 Adopted.**

**11-1**

**2.10 18-1888 Agreement with the California Independent System Operator for San José Clean Energy to Operate as Scheduling Coordinator.**

**Recommendation:**

Adopt a resolution authorizing the Director of Community Energy or her designee to execute the Scheduling Coordinator Agreement and the Meter Service Agreement with the California Independent System Operator allowing San José Clean Energy to operate as a Scheduling Coordinator and to execute any other necessary agreements with the California Independent System Operator to perform its obligations as a Scheduling Coordinator.

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

**Resolution No. 78980 Adopted.**

**10-1. Absent: Liccardo**

**2.11 18-1895 Retroactive Approval of Coffee Hour 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:**

As recommended by the Rules and Open Government Committee on January 30, 2019:  
(a) Retroactively approve the Coffee Hour scheduled on January 24, 2019 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 1/30/19 - Item G.1.b]

**Approved as Recommended.**

**11-0**

**2.12 18-1917 Approval of Day in the Park Fall Family Festival 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:**

As recommended by the Rules and Open Government Committee on February 6, 2019:  
(a) Approve the Day in the Park Fall Family Festival scheduled on October 12, 2019 as a City Council sponsored Special Event and approve the expenditure of funds; and

*(Item Continued on the Next Page)*

**2.12 18-1917 Approval of Day in the Park Fall Family Festival Sponsored by... (Cont'd)**

(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 2/6/19 - Item G.1.a]

**Approved as Recommended.**

**11-0**

**2.13 18-1918 Amended Approval of the Senior Winter Walk and Resource Fair Sponsored by Council District 10, 9, and 2 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 February 6, 2019:

(a) Approve the 12th Annual Senior Winter Walk and Resource Fair scheduled on Friday, February 22, 2019 as a City Council sponsored Special Event and approve the expenditure of funds;

(b) Approve the purchase of various items and gift cards, under \$50 each, for the prize drawing; and

(c) 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. (Khamis)

[Rules Committee referral 2/6/19 - Item G.1.b]

**Approved as Recommended.**

**11-0**

**2.14 18-1920 Naming of 28th Street San José BART Station.****Recommendation:** As recommended by the Rules and Open Government Committee on February 6, 2019, submit 28th Street/Little Portugal to the Valley Transportation Authority (VTA) for consideration as the formal name of the future BART station located at N. 28th Street between E. Santa Clara Street and E. Julian Street.

CEQA: Not a Project, File No. PP17-10, City Organization & Administrative Activities resulting in no changes to the physical environment. (Mayor, Peralez, Carrasco)

[Rules Committee referral 2/6/19 - Item G.3]

**Approved as Recommended.**

**11-0**

**2.15 18-1922 Actions Related to the Federal Worker Loan Assistance Program at the Airport.**

**Recommendation:** Adopt the following 2018-2019 Appropriation Ordinance amendments in the General Fund:

(1) Establish a Federal Worker Loan Assistance Program Guaranty Reserve to the Finance Department in the amount of \$500,000.

(2) Decrease the Budget Stabilization Reserve by \$500,000.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Finance/City Manager)

**Ordinance No. 30222 Adopted.**

**10-1. Absent: Jimenez**

**3. STRATEGIC SUPPORT****3.1 Report of the City Manager, David Sykes (Verbal Report)**

No report.

**3.2 Labor Negotiations Update.****3.3 18-1878 Approval of the 2018- 2019 Mid-Year Budget Review Report.**

**Recommendation:** (a) Approve the 2018-2019 Mid-Year Budget Review Report.  
(b) Adopt a resolution amending the 2018-2019 Schedule of Fees and Charges (Resolution No. 72737, as amended) to decrease the Vehicle Impound Fee from \$290.00 per release to \$122.00 per release.

**Approved as Recommended.**

**Resolution No. 78931 Adopted.**

**9-0-2. Absent: Carrasco, Esparza**

(c) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2018-2019 Mid-Year Budget Review Report.

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. (City Manager)

**Ordinance No. 30223 Adopted.**

**Resolution No. 78982 Adopted.**

**9-0-2. Absent: Carrasco, Esparza**

**3.4 18-1880 Status Report on Measure T - Disaster Preparedness, Public Safety and Infrastructure Bond.**

**Recommendation:**

Accept the status report on the workplan and implementation of projects included in the approved Disaster Preparedness, Public Safety and Infrastructure Bond measure.

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

(Public Works/Transportation)

**Approved as recommended, including approval of Memorandum from Mayor Sam Liccardo, Councilmember Lan Diep, Councilmember Dev Davis, Councilmember Raul Peralez, and Councilmember Johnny Khamis with recommendation to:**

**Accept the status report on Measure T, and direct the City Manager to return to the Transportation and Environment Committee in the next 6-8 months with an update on the City's approach to developing Zero Net Carbon (ZNC) municipal buildings to inform the projects to be funded under Measure T. Include a review of:**

**a. Municipal best practices for sustainable design and construction, and staff recommendations for ZNC standards for new municipal facilities, with some analysis of the impacts of ZNC on construction cost, life-cycle cost, and the City's Climate Smart goals;**

**b. Best practices for improving resiliency to disasters where the City can utilize a combination of photovoltaics and storage to meet energy load requirements in facilities, and effectively take critical facilities "off the grid."**

**This includes acceptance of recommendation #1 of the Replacement Memo from Councilmember Jimenez, to:**

**Accept the status report on Measure T and agendaize the following recommendations for the City Council meeting on February 26, 2019;  
LED LIGHTING**

**1. Direct staff to prioritize replacement of LED lights in City Parks as part of the Light replacement work for City Facilities; with clarifications to include outdoor Parks, and with staff directed to return to Closed Session with Councilmember Jimenez' memo on February 26, 2019.**

**This was added with acceptance of a friendly amendment from Councilmember Dev Davis to incorporate best practice into the prioritization replacement portion of the LED lights work for City Facilities. This was further modified with acceptance of two friendly amendments from Councilmember Lan Diep directing staff to conduct an analysis of zero net carbon measuring from the building and destruction of buildings as well as an analysis on the potential use of cross laminate timber for buildings in San José.**

**10-0-1. Absent: Carrasco**



**3.5 18-1879 Actions Related to the Donor Advised Governance Structure Proposed for the San José Digital Inclusion Fund.**

**Recommendation:**

(a) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City and the California Emerging Technology Fund (CETF) to manage small cell usage fee revenue and matching fundraising revenue allocations (from the City to CETF), subject to appropriation of funds, to implement a Digital Inclusion Fund.

**Resolution No. 78983 Adopted.**

**11-0**

(b) Adopt the following 2018-2019 Funding Sources Resolution and Appropriation Ordinance amendments in the General Fund:

(1) Increase the Estimate from Other Revenue by \$750,000; and

(2) Increase the Digital Inclusion Program appropriation to the City Manager's Office by \$750,000.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment and File No. PP17-004, 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)

**Heard after 3:30 P.M.**

**Resolution No. 78984 Adopted.**

**Ordinance No. 30224 Adopted.**

**11-0**

**4. COMMUNITY & ECONOMIC DEVELOPMENT**

**4.1 18-1881 Substantial Amendment to the Fiscal Year 2017-2018 Annual Action Plan.**

**Recommendation:**

(a) Hold a Public Hearing on the proposed Substantial Amendments to the Fiscal Year 2017-2018 Annual Action Plan to fund a new activity not previously described in that Action Plan in order to expend \$124,764 in remaining grant funding on homelessness prevention programs.

**Approved as Recommended.**

**11-0**

(b) Adopt a resolution approving the proposed Substantial Amendment for submission to U.S. Department of Housing and Urban Development.

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. (Housing)

**Resolution No. 78985 Adopted.**

**11-0**

**4.2 18-1882 Report on the Feasibility of Deferring Both the Business License Tax and Residential Occupancy and Apartment Rent Ordinance Fees Paid by Landlords Impacted by the Federal Shutdown Tenant Eviction Moratorium.**

**Recommendation:** Accept the staff report regarding the feasibility of deferring taxes and fees paid by landlords affected by the federal shutdown tenant eviction moratorium.  
 CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.  
 (Housing/Finance)  
**Accepted.**  
**11-0**

## **5. NEIGHBORHOOD SERVICES**

## **6. TRANSPORTATION & AVIATION SERVICES**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

**7.1 18-1886 Report on Bids and Award of Contract for the 8946 - Sanitary Sewer Repairs FY 18-19 Package I Project.**

**Recommendation:** Report on bids and award of contract for the 8946 - Sanitary Sewer Repairs FY 2018-2019 Package I to the low bidder, Devaney Engineering, Inc. in the amount of \$1,117,856 and approval of a contingency in the amount of \$111,786.  
 CEQA: Categorically Exempt, File No. PP17-029, CEQA Guidelines Sections 15301, Existing Facilities and 15302, Replacement or Reconstruction. Council District 1.  
 (Public Works)  
**Approved as Recommended.**  
**11-0**

**7.2 18-1887 Summary Vacation of a 25-Foot Wide Sidewalk Easement Along East Brokaw Road, Bering Drive, and Devcon Court.**

**Recommendation:** Conduct a Public Hearing and adopt a resolution:  
 (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a 25-foot wide sidewalk easement along East Brokaw Road between Bering Drive and US-101 off-ramp, Bering Drive between East Brokaw Road and Devcon Court, and the north side of Devcon Court;  
 (b) Summarily vacating the sidewalk easement, which has been determined to be excess; and  
 (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.  
 CEQA: Addendum to the North San José Development Policies Update Final Environmental Impact Report (Resolution No. 72768), Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto (File No. HA13-040-02). Council District 3. (Public Works)  
**Approved as Recommended.**  
**Resolution No. 78986 Adopted.**  
**11-0**

**8. PUBLIC SAFETY****9. REDEVELOPMENT – SUCCESSOR AGENCY****10. LAND USE**

None presented.

**• Open Forum**

Blair Beekman offered comments on 5G, health warnings, and the need to allow neighborhood groups to organize.

**• Adjournment:** 6:26 p.m.

**We adjourn today’s meeting in memory of Harry Powers who passed away at the age of 91 on Monday, December 3, 2018, surrounded by family. Harry is warmly remembered as a gifted and prolific sculptor and painter, an Emeritus Professor of Art at San José State University, an active member of the San José -Dublin Sister City Program and creator of their Spirit of Ireland Award, a loving husband, father, and friend, and a champion of the arts and of the City of San José.**

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting.  
This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN**

**THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

## 3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Council, Committee, Board or Commission.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.