



City Council Meeting Synopsis

Tuesday, April 16, 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: 06 a.m.- Closed Session, Call to Order in Council Chambers
Absent: Carrasco

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

- **Invocation**

Hung Vuong Institute, Tae Kwon Do demonstration provided the Invocation.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved with no changes.
(10-0-1. Absent: Esparza)

- **Adjournment**

This meeting will be adjourned in memory of Betty Rose-Morales who passed away on January 22, 2019 at the age of 82. Betty and her husband, Hilbert Morales, owned and operated the El Observador news outlet in San José together since 1986, providing factual, truthful, and useful information to the Hispanic-Latino community. She will be missed by many and remembered for her wisdom, kindness, common sense, and impressive humor.

• Closed Session Report

City Attorney Rick Doyle reported the receipt of authorization to participate in two California Public Utilities Commission proceedings regarding San José Water. Further, the San José Water Groups proposed acquisition of Connecticut Water Services. The vote was unanimous.

1. CEREMONIAL ITEMS

1.1 Mayor Liccardo and Councilmember Raul Perez presented a Proclamation recognizing the week of April 14 20, 2019 as "National Public Safety Telecommunicators Week" in the City of San José honoring the San José Police and Fire Public Safety Dispatchers for their vital contributions that help protect the people of our community.

1.2 Mayor Liccardo and Councilmember Sylvia Arenas presented a Commendation to Sylvia Alvarez for her contributions and service as Evergreen School District longest serving member.

1.3 Mayor Liccardo and Councilmember Maya Esparza presented a Proclamation to Our City Forest in recognition of National Arbor Day.

2. CONSENT CALENDAR

The Consent Calendar was approved as recommended, with Items 2.8 and 2.14 pulled and voted on separately, and the below listed actions taken as indicated. 11-0

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

2.1 Approval of City Council Minutes.

(a) 19-207 Approval of Council Committee Minutes.

Recommendation:

- (a) Transportation and Environment Committee Minutes of October 1, 2018.
- (b) Rules and Open Government Committee Minutes of June 20, 2018.
- (c) Rules and Open Government Committee Minutes of October 3, 2018.
- (d) Rules and Open Government Committee Minutes of October 24, 2018.
- (e) Community and Economic Development Committee Minutes of June 25, 2018.
- (f) Community and Economic Development Committee Minutes of August 27, 2018.
- (g) Community and Economic Development Committee Minutes of September 24, 2018.
- (h) Smart Cities and Service Improvements Committee Minutes of October 18, 2018.
- (i) Public Safety, Finance, and Support Services Committee Minutes of October 4, 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. (City Clerk)

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 19-206 City Auditor's Travel to Kansas City, MO for the Association of Local Government Auditors 2019 Annual Conference.**

Recommendation: Authorize travel for Acting City Auditor Joseph Rois to Kansas City, MO on May 5-7, 2019 to participate in the Association of Local Government Auditors 2019 Annual Conference.

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

Approved as Recommended.

2.8 19-208 Actions Related to Councilmember Raul Peralez's Surplus Campaign Funds

Recommendation: Adopt the following 2018-2019 Appropriation Ordinance and Funding Source Resolution Amendments in the General Fund:

(a) Increase the estimate for Other Revenue by \$16,381;

(b) Increase the appropriation to Council District #3 in the amount of \$14,086;

(c) Increase the appropriation to Council District #4 in the amount of \$1,084; and

(d) Increase the appropriation to Council District #8 in the amount of \$1,211.

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 Clerk/City Manager)

Ordinance No. 30256 Adopted.

Resolution No. 79042 Adopted.

10-0-1. Absent: Esparza

2.9 19-209 Approval of City Hall Facility Free Use on Saturday, May 4, 2019, for Earth Ride.

Recommendation: Adopt a resolution authorizing "Free Use" for events and activities held at City Hall on Saturday, May 4, 2019 for Earth Ride.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates & Fares without changes to or expansion of services.

(Environmental Services)

Resolution No. 79043 Adopted.

2.10 19-210 2019 Americans with Disabilities Act Sidewalk Accessibility Ramps Project.

Recommendation: (a) Approve award of a construction contract for the 2019 Americans with Disabilities Act Sidewalk Accessibility Ramps Project (No. 2092), to the low bidder, JJR Construction, Inc. in the amount of \$685,998.

(b) Approve a 10% contingency in the amount of \$68,600.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301 (c), Existing Facilities. (Transportation)

Approved as Recommended.

11-0

2.11 19-211 List of Pavement Maintenance Projects Eligible for Senate Bill No. 1 Funding.

Recommendation: Adopt a resolution approving a list of pavement maintenance projects eligible for San José's 2019-2020 allocation of the Road Maintenance and Rehabilitation Account funding, which was made available by the approval of Senate Bill No. 1, otherwise known as the Road Repair and Accountability Act of 2017.
CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Citywide. (Transportation)
Resolution No. 79044 Adopted.
11-0

2.12 19-212 Agreement with Fehr & Peers for the Downtown Transportation Plan.

Recommendation: Adopt a resolution authorizing the City Manager or designee to negotiate and execute a contract with Fehr & Peers for planning & design consulting services to develop the Downtown Transportation Plan in an amount not to exceed \$675,000.
CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. Council Districts 3 & 6. (Transportation)
Resolution No. 79045 Adopted.
11-0

2.13 19-214 Actions Related to the Loan Assistance Program for Federal Workers at the Norman Y. Mineta San José International Airport.

Recommendation: Adopt the following 2018-2019 Appropriation Ordinance amendments in the General Fund:
(a) Increase the Budget Stabilization Reserve in the amount of \$10,500,000;
(b) Decrease the Federal Worker Loan Assistance Program City-wide expenses appropriation to the Finance Department in the amount of \$10,000,000; and
(c) Decrease the Federal Worker Loan Assistance Program Guaranty Reserve in the amount of \$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 impact on the environment.
(City Manager)
Ordinance No. 30257 Adopted.
11-0

2.14 19-257

Amendment to the Agreement with Christmas in the Park, Inc. for the Christmas in the Park at Plaza de Cesar Chavez.**Recommendation:**

Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Second Amendment to the Agreement with Christmas in the Park, Inc. to do the following:

(a) Extend the term of the agreement for one of the two three-year extension periods for the period of May 1, 2019 through April 30, 2022 to manage and produce Christmas in the Park at Plaza de Cesar Chavez and to provide reimbursable fees for limited support staff, if needed, with an estimated \$414,600 of in-kind services, calculated on an annual basis;

(b) Delegate authority to the City Manager or his designee to execute the second of the two three-year extension periods provided in the agreement; and

(c) Provide flexibility for use of the Central Service Yard or equivalent space in an alternative location for storage and maintenance of displays, decorations, equipment, and office space.

CEQA: Categorically Exempt, CEQA Guidelines Section 15304(e) Minor Alterations to Land, File No. PP16-031. Council District 3.

(Economic Development)

[Deferred from 4/9/19 - Item 2.12 (19-178)]

Resolution No. 79046 Adopted.

10-0-1. Absent: Esparza

2.15 19-258

Approval of Crime Prevention Series; Personal Safety Meeting 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 referred by the Rules and Open Government Committee on April 10, 2019:

(a) Approve the Crime Prevention Series; Personal Safety Meeting scheduled on April 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 4/10/19 - Adds]

Approved as Recommended.

11-0

2.16 19-259 Approval of the Egg Hunt Event 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.

Recommendation: As recommended by the Rules and Open Government Committee on April 10, 2019:
 (a) Approve the Egg Hunt Event scheduled on April 20, 2019 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 04/10/19 - Item G.1.a]
Approved as Recommended.
11-0

3. STRATEGIC SUPPORT

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

City Manager, David Sykes announced that the Mayor and Council confirmed his appointment of John Ristow to be Director of Transportation.

3.2 Labor Negotiations Update.

3.3 19-213 Board of Fair Campaign and Political Practices Response and Proposed Recommendations to October 16, 2018 Council Referral Regarding Shifting Mayoral Elections from the Gubernatorial Election Cycle to the Presidential Election Cycle.

Recommendation: (a) Accept the recommendation from the Board of Fair Campaign and Political Practices to shift the City's mayoral election from the gubernatorial cycle to the presidential cycle.
 CEQA: Not a Project, File No. PP17 010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Clerk)
 [Deferred from 10/16/2018 - Item 3.9 (18-1393), 3/26/2019 - Item 3.7 (19-137); and 4/9/2019 - Item 3.4 (19-165)]
The motion to shift the City's Mayoral election from the gubernatorial cycle to the presidential cycle did not pass. Approved by Council is Item #2 from Councilmember Jones' and Mayor Liccardo's memo, which is recommendation: 2. Direct Staff and the City Clerk to explore means to increase voter turnout and voter registration for every election for every seat on the City Council, particularly in underrepresented communities, including consideration of (but not limited to) the following:

(Item Continued on the Next Page)

3.3 19-213

Board of Fair Campaign and Political Practices Response and Proposed (Cont'd)

a. Convene a working group that incorporates community organizations, the County Registrar of Voters, and key community-facing City agencies, such as the Office of Immigrant Affairs, Parks & Recreation, and Libraries & Education, to construct a list of concrete actions that will enhance electoral awareness, increase voter registration, and promote a culture of voting within San Jose. Return to Council within 120 days with a proposed list for Council consideration in advance of the 2020 election cycle, and sooner if such items require consideration in the current budget process. In particular:

- 1. Identify trusted messengers and opinion leaders as spokespersons to encourage voting, particularly in underrepresented communities.**
- 2. Identify media outlets-particularly ethnic media- willing to partner with the City or key organizations to encourage voting**
- 3. Identify apps, texting tools, social media, and other technological means including the use of the MySanJose reporting tool-to deliver personalized, non-partisan, pro-voting messages to voters**
- 4. Identify how City can expand use of its community access channel and a potential City-owned radio station to convey PSA's to encourage voting and registration**
- 5. Identify myths and perceptions of negative consequences of voting that require consistent counter-messaging**
- 6. Identify means to promote voting by mail and enrollment as a permanent vote-by-mail voter**
- 7. Identify any lawful, appropriate means of supporting outreach by the County Registrar to ensure updated voter signatures and elimination of any irregularities that will or have resulted the disqualification of ballots appropriate registration for those permanent absentee voters whose ballots are likely to be disallowed because**
- 8. Enabling free parking and relaxation of other City restrictions on parking near voting centers on voting days.**
- 9. Augment the number of "Voter Centers" identified by the Registrar with City facilities-such as by opening space in the lobbies of libraries, community centers, and other conveniently-located City buildings- to substantially improve the access to early voting**
- 10. Ensure that every City Hall department places voter registration forms and information regarding Election Day on the City's public counters**
- 11. Provide voter registration links and other messaging on the City's main website, and on the City's community access cable Chanel programming.**
- 12. Incorporate voter registration and voting reminders within young adult programming through our community centers and programs funded by the Mayor's Gang Prevention Task Force**
- 13. Develop a citywide street banner program to remind residents to vote**
- 14. Provide voter registration materials to utility residential customers, such as through San Jose's Municipal Water System**
- 15. Leverage partnerships with civic and service organizations to register and educate voters in public locations, such as grocery stores, malls, and college campuses in and near underrepresented communities**

(Item Continued on the Next Page)

3.3 19-213

Board of Fair Campaign and Political Practices Response and Proposed (Cont'd)

16. Collaborate with school districts within the City to conduct high school civic outreach activities, including scheduled visits and Q & A's by non-candidate elected officials to engage young adults in local issues and spur voter registration

17. Enhance efforts to provide language assistance to ESL voters

18. Identify any other opportunities resulting from reforms enacted by the California Secretary of State and the County Registrar of Voters to improve voter turnout.

b. Return to Council for consideration of a support position of AB 59 (Kalra), prioritizing putting vote centers on college campuses to boost young voter turnout

Also approved was recommendation #2 from Councilmember Carrasco's memo, dated April 16, 2019 with minor language change to:

1. Direct the City Manager to return with a Manager's Budget Addendum that includes funding to implement Mayor and Vice Mayor Jones's Recommendation 2(a).

2. Ensure the action items in Mayor and Vice Mayor Jones's Recommendation 2(a) are primarily focused on precincts with low voter turnout.

3. Institute a measurement of the effectiveness of the voter engagement strategies in the 2020 election and report back to Council with the result of the strategies.

10-0-1. Noes: Jimenez

3.4 19-215

Review of the Retirement Plan's Pension and Post-Employment Healthcare Plan Actuarial Valuations as of June 30, 2018.**Recommendation:**

Review the following actuarial valuation reports:

(a) Federated City Employees' Retirement System Actuarial Valuation (Pension) as of June 30, 2018; and

(b) Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2018; and

(c) Police and Fire Department Retirement Plan Actuarial Valuation (Pension) as of June 30, 2018; and

(d) Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2018.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Retirement Services)

Approved as Recommended.

10-0-1. Absent: Carrasco

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 19-216 Actions Related to the Memorandum of Understanding with Sharks Ice, LLC for the Expansion of the Solar4America Ice.

Recommendation: (a) Accept status report on City and Sharks Ice, LLC process for the Fourth Expansion of Solar4America Ice at San José.
(b) Adopt a resolution authorizing the City Manager to negotiate and execute a memorandum of understanding with Sharks Ice, LLC outlining each party's roles in the proposed expansion of Solar4America Ice at San José, including the following:
(1) Completion of the feasibility study needed for bond financing;
(2) Development and review of possible parking solutions for the facility;
(3) City's review and approval of Sharks Ice, LLC project delivery and contractor prequalification process; and
(4) Terms and conditions for reimbursing Sharks Ice, LLC for work performed by the design team it has assembled, including reimbursement being contingent on the Council approving the project and proposed taxable debt financing, and the proceeds of the financing being enough to pay for construction and design costs of the project.
CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Economic Development)
Approved as Recommended.
10-0-1. Absent: Carrasco

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 19-227 Launch of Service to Small Commercial Customers by San José Clean Energy in June 2019.

Recommendation: Adopt a resolution approving San José Clean Energy to launch service to small commercial customers in June 2019.
CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.
(Community Energy)
Approved as Recommended.
10-0-1. Absent: Carrasco

7.2 19-218 Actions Related to the Agreements with ABB Inc. for Maintenance Services at the San José/Santa Clara Regional Wastewater Facility.

Recommendation:

Adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an agreement with ABB Inc., dba ABB DE, Inc., (Wickliffe, OH) to upgrade distributed control units at the San José/Santa Clara Regional Wastewater Facility, including hardware, software, programming, configuration, and related professional services, beginning May 1, 2019 and ending December 31, 2022 for a maximum not-to-exceed compensation of \$6,377,000, subject to the appropriation of funds;

(b) Negotiate and execute the Water Care Enhanced Agreement with ABB Inc., dba ABB DE, Inc. (Wickliffe, OH) and annual purchase orders pursuant to the terms of the Water Care Enhanced Agreement for ongoing support and maintenance (\$233,194 per year) and as-needed parts replacement and repair and rebuilding services (estimated at \$500,000-\$750,000 per year) for a five-year term beginning May 1, 2019 and ending April 30, 2024 and for a combined compensation not to exceed \$3,915,970, subject to the appropriation of funds; and

(c) Negotiate and execute amendments and change orders to the agreements as required for unanticipated changes, subject to the appropriations of funds.

CEQA: Categorically Exempt, File No. PP18-104, CEQA Guidelines Section 15301(a), Existing Facilities. (Finance/Environmental Services)

Dropped.

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 19-219 Disposition and Development Agreement for Block H with Z & L Properties for the North San Pedro Housing Project Area.

Recommendation:

Adopt a resolution finding that Fulton Street Ventures (Z & L Properties) is in default of its obligations pursuant to a Disposition and Development Agreement for Block H in the North San Pedro Housing Project Area and authorizing the Executive Officer to pursue all available remedies, including but not limited to exercising the Successor Agency's right to retake and offer the property for sale (Right of Reverter), pursuant to the terms of the Disposition and Development Agreement and refer approval of this default action to the County-wide Oversight Board for its approval.

CEQA: Not a Project, File No. PP17-003, Agreements and Contracts, Services that involve no physical changes to the environment. (Successor Agency)

Dropped.

10. LAND USE

- **Open Forum**

There were no cards.

- **Adjournment:** 6:34 p.m.

This meeting is adjourned in memory of Betty Rose-Morales who passed away on January 22, 2019 at the age of 82. Betty and her husband, Hilbert Morales, owned and operated the El Observador news outlet in San José together since 1986, providing factual, truthful, and useful information to the Hispanic-Latino community. She will be missed by many and remembered for her wisdom, kindness, common sense, and impressive humor.

**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.

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.