



City Council Meeting Agenda

Tuesday, December 5, 2023

1:30 PM

**Hybrid Meeting - Council Chambers and Virtually -
<https://sanjoseca.zoom.us/j/88471470054>**

MATT MAHAN, MAYOR
ROSEMARY KAMEI, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
OMAR TORRES, DISTRICT 3
DAVID COHEN, DISTRICT 4
PETER ORTIZ, DISTRICT 5
DEV DAVIS, DISTRICT 6
BIEN DOAN, DISTRICT 7
DOMINGO CANDELAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
ARJUN BATRA, DISTRICT 10



The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support** - The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.
- **Transportation & Aviation Services** - A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Community & Economic Development** - Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that the name on the card is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants by calling speakers in an orderly manner.
- o When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.

- o Each speaker generally has two minutes to speak per item. The total amount of time allocated for public testimony for each public speakers or for an agenda item may be limited at the Mayor's discretion, depending on the number of speakers or the length of the agenda. (California Government Code Section 54954.3; Council Policy 0-37)
- o To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <https://www.sanjoselegistar.com/Calendar.aspx>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov.

American Disability Act: To request an alternative format agenda under the Americans with Disabilities Act for City-sponsored meetings, events or printer materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

Accommodations: Any member of the public who needs accommodations should email the ADA Coordinator at ADA@sanjoseca.gov or by calling (408) 535-8430. The ADA Coordinator will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

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

How to observe the Meeting (no public comment):

- 1) Cable Channel 26,

- 2) <https://www.sanjoseca.gov/your-government/appointees/city-clerk/council-agendas-minutes/participate-watch-public-meetings>, or
- 3) <https://www.youtube.com/CityofSanJoseCalifornia>

How to submit written Public Comment before the City Council Meeting:

- 1) Use the eComment tab located on the City Council Agenda page. eComments are also directly sent to the ilegislate application used by City Council and staff.
- 2) By email to city.clerk@sanjoseca.gov by 10:00 a.m. the day of the meeting. Those emails will be attached to the Council Item under “Letters from the Public.” Please identify the Agenda Item Number in the subject line of your email.

How to submit written Public Comment during the City Council Meeting:

- 1) Email during the meeting to councilmeeting@sanjoseca.gov, identifying the Agenda Item Number in the email subject line. Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

How to provide spoken Public Comment during the City Council Meeting:

- 1) By Phone: (888) 475 4499. Webinar ID is 884 7147 0054. Click *9 to raise a hand to speak. Click *6 to unmute when called.
Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)
- 2) Online at: <https://sanjoseca.zoom.us/j/88471470054>
 - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
 - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
 - c. When the Mayor calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
 - d. When called, please limit your remarks to the time limit allotted.

Interpretation is available in Spanish and Vietnamese. In your webinar controls, select “Interpretation.” Click the language you would like to hear. (Zoom only)

Se dispone de interpretación en español y vietnamita. En los controles de su seminario web, seleccione "Interpretation" (Interpretación). (Zoom solo)

Thông dịch có sẵn bằng tiếng Tây Ban Nha và tiếng Việt. Trong các điều khiển hội thảo trên web của bạn, hãy chọn “Interpretation” (Phiên dịch). (Zoom chỉ một)

To request interpretation in other languages, please email city.clerk@sanjoseca.gov four days prior to the meeting.

- **Call to Order and Roll Call**

9:30 a.m.- Closed Session, Call to Order in Council Chambers

Open Session, Labor Negotiations Update (See Item 3.2)

Adjourn to Closed Session in Council Chambers Conference Room, W133
See Separate Agenda

23-1648 Closed Session Agenda

1:30 p.m.- Regular Session, Council Chambers, City Hall

- Pledge of Allegiance
- Invocation (Mayor)

Pastor Lorianna Gardere, Bible Way Christian Center

- Orders of the Day

To be heard after Ceremonial Items

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

- 2.1 Approval of City Council Minutes.**
- 2.2 Final Adoption of Ordinances.**
- 2.3 Approval of Council Committee Minutes.**
- 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 23-1649 Agreements for Legal Services Related to the San José Clean Energy Program.

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute agreements for legal services for the Energy Department with (1) Hall Energy Law, P.C. in an initial amount not to exceed \$1,000,000, (2) Keyes & Fox LLP in an initial amount not to exceed \$1,000,000, (3) Braun Blaising & Wynne, P.C. in an initial amount not to exceed \$350,000, (4) Best Best & Krieger LLP in an initial amount not to exceed \$150,000, and (5) Spiegel & McDiarmid LLP in an initial amount not to exceed \$150,000; for an initial term up to five years, with two two-year options to extend the term through June 30, 2032, and to negotiate and execute amendments to each agreement as needed consistent with the scope of the Request for Proposals during the term, 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. (City Attorney)

2.8 23-1650 Restatement of Lease Agreement Between the City of San José and Whispers, Inc. for the City-Owned Property Located at 150 South Second Street.

Recommendation: Adopt a resolution authorizing the City Manager or her designee, to negotiate and execute:
(a) A first restatement of the lease dated February 1, 2013, among the City of San José and Whispers, Inc., a California corporation, for the use of approximately 5,070 square feet of space at the City-owned building located at 150 South Second Street, San José, allowing for an initial term of five years at a rate of \$12,725.70 per month inclusive of base rent and common area maintenance fees for the first year with a 3% annual escalator each year thereafter, totaling \$904,109.05, including a required sewer payment within 30-days of lease execution, for the initial five-year term, and one tenant option to extend for an additional five years for a total of no less than \$932,855.57; and
(b) All other documents, agreements, or amendments necessary to effectuate the first restatement of the lease.
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 and Cultural Affairs)

2.9 23-1651 Amendment to the Master Consultant Agreement with Energeia USA to Provide Technical Consulting Services.

Recommendation: Adopt a resolution authorizing the City Manager or her designee to:

- (a) Negotiate and execute a Second Amendment to the Master Consultant Agreement with Energeia USA for technical consulting services supporting electricity rate and cost of services studies, regulatory compliance support, and energy program support, to increase the maximum compensation from \$320,000 to \$800,000 through June 30, 2026, and extend the term for up to three one-year options through June 30, 2029, subject to the appropriation of funds; and
- (b) Exercise the three one-year options to extend the term of the Master Consultant Agreement through June 30, 2029.

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

2.10 23-1652 Actions Related to an Application for CalRecycle Senate Bill 1383 Local Assistance Grant.

Recommendation: Adopt a resolution authorizing the City Manager or her designee for a period of five years from December 5, 2023 to December 5, 2028 to:

- (a) Submit applications to the California Department of Resources Recycling and Recovery for Senate Bill 1383 Local Assistance Grants, and
- (b) Negotiate and execute all grant documents, including but not limited to, applications, agreements, amendments, and requests for payment, necessary to secure Senate Bill 1383 Local Assistance grant funds upon award and implement the approved grant project.

CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into agreement at the time of application and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Environmental Services)

2.11 23-1653 Actions Related to the Purchase Order with J.D. Power for Electric Vehicle Informational and Educational Assistant Tool.

Recommendation: Adopt a resolution authorizing the City Manager or her designee to:

- (a) Execute a purchase order with J.D. Power (Agoura Hills, CA) to provide an electric vehicle information and educational assistant tool for the Energy Department, including related professional services such as implementation, maintenance, and support, for a maximum compensation not to exceed \$136,800 during the initial one-year term beginning on or around December 1, 2023 and ending November 30, 2024, or as may be adjusted to align with the term of the software subscription;
- (b) Negotiate and execute amendments as required during the initial term for unanticipated changes in requirements for a contingency not to exceed \$20,000, subject to the appropriation of funds; and
- (c) Exercise up to six one-year options to extend the term of the purchase order through November 30, 2030, or as may be adjusted to align with the term of the software subscription, 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)

2.12 23-1654 Amendment to the Agreement with Concern for Employee Assistance Program and Critical Incident Response Program.

Recommendation: Adopt a resolution authorizing the City Manager or her designee to negotiate and execute an amendment to the consultant agreement between the City and Concern: Employee Assistance Program for the employee assistance program and critical incident response services, to include employee assistance program services for part-time unbenefited employees in the Municipal Employees' Federation Union effective January 1, 2024 and increasing the not-to-exceed agreement amount from \$3,481,561 to a revised not-to-exceed amount of \$3,814,179, for the full term of the agreement, including the renewal option from January 1, 2023, through December 31, 2028, subject to the annual appropriation of funds.

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

2.13 23-1655 Amendment to the AT&T Hotspot Agreement for Digital Inclusion Connectivity.

Recommendation: Adopt a resolution authorizing the City Manager or her designee to negotiate and execute an amendment to the CALNET AT&T Hotspot Agreement to extend the term from November 30, 2023 to June 30, 2024.

CEQA: Categorically Exempt, File No. ER22-134, CEQA Guidelines Section 15301, Existing Facilities. (Library)

2.14 23-1656 Approval of the Proposed 2023 Edward Byrne Memorial Justice Assistance Grant Spending Plan and Adoption of Related Appropriation Actions.

Recommendation: (a) Approve the proposed Spending Plan for the 2023 Edward Byrne Memorial Justice Assistance Grant in the amount of \$395,840.
(b) Adopt a resolution accepting the 2023 Edward Byrne Memorial Justice Assistance Grant in the amount of \$395,840 and authorize the City Manager or her designee to negotiate and execute the Grant Agreement and all related documents for the grant award received from the United States Department of Justice without further City Council action.

(c) Adopt the following 2023-2024 Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:

(1) Increase the estimate for Revenue from Federal Government by \$395,840; and

(2) Establish the 2023 Justice Assistance Grant appropriation to the Police Department in the amount of \$395,840.

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. (Police/City Manager)

2.15 23-1657 Approval of Exception to the City Multifamily Housing Revenue Bond Policy Allowing Four Affordable Housing Developments to Use an Alternate Bond Issuer.

Recommendation: Adopt a resolution:

(a) Authorizing exceptions to the City Council's Multifamily Housing Revenue Bond Policy 1-16 for the issuance of Multifamily Housing Revenue Bonds due to special circumstances, thereby allowing the California Municipal Finance Authority to issue the bonds for the following developments:

- (1) Villa Del Sol Apartments located at 1936 Alum Rock Avenue;
- (2) Martha Gardens Apartments located at 802 South 1st Street;
- (3) Monterey Road Apartments located at 4300-4310 Monterey Rd;
- and
- (4) 2880 Alum Rock Avenue Apartments located at 2880 Alum Rock Avenue.

(b) Authorizing the Director of Finance to hold the Tax Equity and Fiscal Responsibility Act hearings for the Villa Del Sol Apartments, Martha Gardens Apartments, Monterey Road Apartments, and 2880 Alum Rock Avenue Apartments upon receipt of California Debt Limit Allocation Committee approval and debt allocations.

CEQA: Villa Del Sol, 1936 Alum Rock Ave: File Nos. CP20-015 and ER20-092, Mitigated Negative Declaration for Villa Del Sol Mixed-Use Project (Planning Commission Resolution No. 21-002); Martha Gardens, 802 South 1st Street: File Nos. PDC17-022, PD21-011, and ER21-130, South First/East Virginia Street Mixed-Use Development Project Initial Study and Mitigated Negative Declaration (Resolution no. 79906); Monterey Road Apartments, 4300-4310 Monterey Road: Exempt from CEQA review per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Development pursuant to Government Code Section 65913.4, File No. ER20-150; 2880 Alum Rock Avenue Apartment, 2880 Alum Rock Ave: File Nos. CP20-025 and ER20-216, Mitigated Negative Declaration for 2880 Alum Rock Mixed-Use Project (Planning Commission Resolution No. 21-029). (Housing/Finance)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, Jennifer Maguire (Verbal Report)

3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.
TO BE HEARD AT 9:30 A.M.

3.3 23-1665 **Proposed Ordinance regulating foreign influence in City elections prohibiting foreign-influenced business entities from making independent expenditures, campaign contributions or contributing to independent expenditure committees.**

Recommendation: Approve an ordinance amending Part 1 of Chapter 12.06 of Title 12 of the San Jose Municipal Code to add new Section 12.06.090 defining a foreign entity; add Section 12.06.100 defining a foreign-influenced business entity; adding Section 12.06.140 defining a foreign owner; and amending Part 2 of Chapter 12.06 of Title 12 to add Section 12.06.270 prohibiting foreign-influenced business entities from making independent expenditures, campaign contributions or contributing to independent expenditure committees.

CEQA: Not a Project: PP17-008 - Not a Project: General Procedure & Policy Making resulting in no changes to the physical environment.
(City Attorney)

3.4 23-1658 **Amendment to the City's Pay Plan for the Director of Retirement Services and Chief Executive Officer, Assistant Director and Chief Investment Officer, Senior Investment Officer, and Investment Officer Classifications.**

Recommendation: (a) Accept the Director of Retirement Services and Chief Executive Officer (CEO) compensation study results.
(b) Accept the Chief Investment Officer (CIO) and Retirement Investment Officers compensation study results.
(c) Adopt a resolution amending the City of San José Pay Plan effective December 5, 2023, as follows:

(1) Change the total annual salary range for the classification of Director of Retirement Services and Chief Executive Officer U (7501) from \$244,134.49 - \$345,857.33 to \$244,134.49 - \$376,488.00;

(2) Change the total annual salary range for the classification of Assistant Director and Chief Investment Officer U (7506) from \$279,737.54 - \$375,102.57 to \$279,737.54 - \$408,300.00;

(3) Change the total annual salary range for the classification of Senior Retirement Investment Officer U (7507) from \$152,703.48 - \$238,033.77 to \$152,703.48 - \$266,409.00; and

(4) Change the total annual salary range for the classification of Retirement Investment Officer U (7505) from \$144,514.82 - \$204,364.25 to \$144,514.82 - \$231,660.00.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Retirement Services)
[Deferred from 9/19/2023 Item 3.6 (23-1241) and 9/26/2023 Item 3.6 (23-1296)]

3.5 23-1659 Actions Related to the Purchase Orders with Hi-Tech Emergency Vehicle Service, Inc. and Golden State Fire Apparatus, Inc. for Fire Apparatuses.

Recommendation: Adopt a resolution authorizing the City Manager or her designee to:

- (a) Execute purchase orders with Hi-Tech Emergency Vehicle Service, Inc. (Oakdale, CA) and Golden State Fire Apparatus, Inc. (Sacramento, CA) for fire apparatuses for a one-year term beginning on or about December 6, 2023, and ending on or about December 5, 2024, for a combined not-to-exceed amount of \$10,154,416;
- (b) Approve a contingency of \$1,500,000 for unanticipated modifications to fire apparatus orders and specifications, subject to the appropriation of funds; and
- (c) Exercise up to six additional one-year options to extend the term of the purchase orders, with the last option year ending on or about December 5, 2030, subject to the appropriation of funds.

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

3.6 23-1660 Report on Bids and Award of Contract for Construction of 9149 - Police Department Training Center Relocation.

Recommendation: (a) Report on bids and award of a contract for the construction of 9149 - Police Department Training Center Relocation Project to the lowest responsive, responsible bidder, Midstate Construction Corporation, for the base bid and bid alternate Nos. 1, 2, 3, 4, and 5 in the amount of \$28,748,000; and

- (b) Approve a 20% contingency in the amount of \$5,749,600.

CEQA: Categorically Exempt, File No. ER23-188, CEQA Guidelines Section 15301, Existing Facilities and Section 15303 New Construction and Conversion of Small Structures. Council District 2. (Public Works)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 23-1661 Mutual Termination and Settlement of Lease Agreement and Release of Claims Between the City of San José and 4th Street Foods, Inc., as Assignee of Cupertino Flames, LLC, Dba Flames Eatery and Bar and New Lease Agreement Between the City of San José and Home Eat, LLC at 88 South Fourth Street, Suite 150.**

Recommendation: Adopt a resolution authorizing the City Manager, or her designee, to negotiate and execute:

(a) A Mutual Termination of Lease Agreement and Release of Claims related to the lease dated December 16, 2003, as amended on December 14, 2004, June 27, 2006, April 2, 2009, and August 11, 2009 between the City of San José as successor in interest of the Redevelopment Agency of the City of San José, as Landlord, and 4th Street Foods, Inc. as assignee of Cupertino Flames, LLC, doing business as Flames Eatery and Bar, previously Century Flames, Inc., doing business as Flames Coffee Shop, as Tenant, for the lease of a portion of the City-owned Fourth and San Fernando Street Garage located at 88 South Fourth Street, Suite 150; and

(b) A Lease Agreement between the City of San José, as Landlord, and Home Eat, LLC, a California limited liability company, as Tenant, for the use of approximately 11,035 square feet of restaurant and banquet ground floor space at 88 South Fourth Street, Suite 150 for a 63-month initial term at an annual rental rate of \$281,061.45 for the first year, \$383,180.44 for the second year, \$394,675.86 for the third year, \$406,516.13 for the fourth year, \$418,711.62 for the fifth year, and \$105,445.71 for the remaining three months of the lease term, totaling \$1,989,591.21 for the initial five-year term, and three mutual option periods with rental rates to be established by staff at then-current fair market value.

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 and Cultural Affairs)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

CONTINUE GENERAL PLAN FOURTH REVIEW CYCLE FOR 2023 HEARING

10.1 Land Use on Consent Calendar

- (a) 23-1662 PP22-002 - An Ordinance Amending Various Sections of Title 20 of the San José Municipal Code and to Make Other Technical, Non-Substantive, or Formatting Changes.**

Recommendation: Approve an ordinance of the City of San José amending various sections of Title 20 of the San José Municipal Code (Zoning Ordinance or Zoning Code) to:

- (1) Eliminate commercial space requirement for “100% deed-restricted affordable housing” and incorporate those references within (a) Chapter 20.40, ‘Commercial Zoning District and Public/ Quasi-Public district,’ Section 20.40.100; (b) Chapter 20.55, ‘Urban Village and Mixed-use Zoning district,’ Sections 20.55.100 and 20.55.203; (c) Chapter 20.70, ‘Downtown Zoning Regulations,’ Section 20.70.100; (d) Chapter 20.75, ‘Pedestrian oriented Zoning districts,’ Section 20.75.200;
- (2) Repeal Sections 20.30.460, 20.30.470, 20.30.480, and 20.30.490 related to Accessory Dwelling Units from Part 4.5, amend the Title of Part 4.5 to ‘Tiny Home on Wheels (THOW);’ and incorporate minor reference edits to Table 20-50, Section 20.30.100, Chapter 20.30, and Section 20.55.201, Chapter 20.55; add new Part 2.75, “Accessory Dwelling Units,’ in Chapter 20.80, ‘Specific Use Regulations; and
- (3) Amend Chapter 20.200, ‘Definitions,’ to add new Sections 20.200.547, ‘Housing, Affordable Deed Restricted Housing;’ 20.200.549, ‘Housing, Employee,’ and incorporate minor edits to Section 20.200.324, ‘Dwelling-Junior Accessory Dwelling Unit or JADU; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

CEQA: Determination of Consistency with the Final Supplemental Environmental Impact Report (SEIR) for the City of San José 2023-2031 Housing Element Update (Resolution No. RES2023-262). Planning Commission recommends __ (X-X-X) (Item 5.a on the 11/15/2023 Planning Commission agenda). (Planning, Building and Code Enforcement)

- (b) **23-1663** **GPT23-007, PP23-006 & C23-108 - Amendment to Title 20 (Zoning Ordinance), Chapter 20.65 (Overlay Districts) and Chapter 20.195 (Ministerial Approvals).**

Recommendation: (1) **Drop per City Staff Request:** Adopt a resolution approving the General Plan Text Amendment to amend the Envision San José 2040 General Plan to amend the Residential Neighborhood land use designation to increase density for sites included in the HERO Housing Element Residential Overlay District.

(2) Approve an ordinance amending Chapter 20.65 “Overlay Districts” to include “HERO Housing Element Residential Overlay District,” and amending the Zoning District Map to include the “HERO Housing Element Residential Overlay District.”

(3) Approve an ordinance amending Chapter 20.195 “Ministerial Approvals” to establish “Local Ministerial Approvals” for housing developments receiving entitlements under the zoning overlay districts and to allow a streamlined ministerial approval process for housing occupied by agricultural (farm) employees within Section 20.195.010, 20.195.020, 20.195.030, and 20.195.050.

CEQA: Determination of Consistency with the City of San José 2023-2031 Housing Element Update Supplemental Environmental Impact Report (Resolution No. RES2023-262). Planning Commission recommends _ (X-X-X) (Item 8.c on the 11/15/2023 Planning Commission agenda). (Planning, Building and Code Enforcement)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 23-1664 GP23-005 & GPT23-005 - A City Initiated General Plan Amendment, a Zoning Ordinance Update, an Amendment to the Zoning Map to Create New and Modify Existing Housing Overlay Districts on Certain Properties in North San José.

Recommendation: (a) Adopt a resolution amending the Envision San José 2040 General Plan to add AHO Affordable Housing Overlay and MIHO Mixed-Income Housing Overlay to Chapter 5 “Special Land Use Designations and Overlays;” and make clarifying edits to Chapter 5 “Transit Employment Center.

(b) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram to add the AHO Affordable Housing Overlay to five parcels, change the Overlay from TERO to AHO on five parcels, add the MIHO Mixed Income Overlay to 13 parcels, as well as remove the TERO Transit Employment Residential Overlay from two parcels in North San José.

(c) Approve an ordinance amending San José Municipal Code Title 20 of the San José Municipal Code (Zoning Ordinance) to amend Chapter 20.65 “Overlay Districts” to establish the “AHO Affordable Housing Overlay District,” and the “MIHO Mixed-Income Housing Overlay,” amending the Zoning District Map to add the AHO Affordable Housing Overlay to five parcels, change the Overlay from TERO to AHO on five parcels, add the MIHO Mixed Income Overlay to 13 parcels, as well as remove the TERO Transit Employment Residential Overlay from two parcels in North San José.

CEQA: Determination of Consistency with the City of San José 2023-2031 Housing Element Update Supplemental Environmental Impact Report (Resolution No. RES2023-262). Planning Commission recommends __ (X-X-X) (Item 8.b on the 11/15/2023 Planning Commission agenda). Council Districts 4 and 6. (Planning, Building and Code Enforcement)

CONTINUE GENERAL PLAN FOURTH REVIEW CYCLE FOR 2023 HEARING TO DECEMBER 12, 2023

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the City Council.

- **Adjournment**

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 total amount of time allocated for public testimony for each public speaker or for an agenda item is in the discretion of the Chair of the meeting and may be limited when appropriate. (California Government Code Section 54954.3; Council Policy 0-37) 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 only the agenda item when called to speak for that item, and only topics related to City business when called to speak during open forum 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.