



City Council Meeting MINUTES

Tuesday, March 28, 2023

1:30 PM

**Hybrid Meeting – Council Chambers and Virtually –
<https://sanjoseca.zoom.us/j/88957084529>**

MATT MAHAN, MAYOR
ROSEMARY KAMEI, VICE MAYOR, 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



- **Call to Order and Roll Call**

9:30 a.m. - Closed Session

23-415 Closed Session: [See Page 19 for Closed Session Minutes](#)

Absent: Jimenez.

1:32 p.m. - Afternoon Session

Present: Councilmembers - Torres, Cohen (via Zoom), Ortiz, Davis, Doan, Candelas, Foley, Batra, Kamei; Mahan.

Absent: Councilmembers - Jimenez.

6:10 p.m. - Evening Session

Present: Councilmembers - Torres, Cohen (via Zoom), Ortiz, Davis, Doan, Candelas, Foley, Batra, Kamei; Mahan.

Absent: Councilmembers - Jimenez.

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 3)**

San José Taiko, one of the U.S.'s most prominent taiko performance groups, provided the invocation through a drumming performance.

- **Orders of the Day**

Upon motion by Councilmember Pam Foley, seconded by Councilmember Domingo Candelas, and carried unanimously, the Orders of the Day were approved with the deferral of Item 3.6 to the April 11, 2023 City Council Meeting and deferral of Item 6.1. (10-0-1. Absent: Jimenez.)

Public Comment: Blair Beekman, Erica Valentine, Brian, Frank Austin (UA Local 393), and Rosa Vargas, Dominic Torreano, Brian Pors (UA Local 393), Mauricio Velarde, Mundo Escarcega, and Danny Mangan offered public comment.

- **Closed Session Report**

City Attorney Nora Frimann provided the closed session report, reporting the potential for the City to file a lawsuit, and should it be filed additional information will be made public at the time of the filing. Also, the City Attorney spoke on receiving the authority to stipulate a dismissal in the Coyote Valley litigation that was noticed in the closed session agenda and that the City Attorney will be filing that stipulation with opposing council jointly to the court.

1. CEREMONIAL ITEMS

- 1.1 Councilmember Peter Ortiz presented a proclamation, declaring March 31, 2023 as Cesar Chavez Day to celebrate the birth and legacy of the civil rights and labor movement activist who started the movement for equal rights and fair treatment of workers, especially farmworkers, in the City of San José. (Ortiz)
- 1.2 Vice Mayor Rosemary Kamei presented a commendation, recognizing Colter Cook for his service with Keep Coyote Creek Beautiful and invited him to speak. (Kamei)
- 1.3 Councilmember Omar Torres provided a commendation to San José Taiko for their dedication to the development of the taiko art form and celebrating 50 years of service in North America. It is evident not only through performances, but also in its diverse educational programs. The San José Taiko Conservatory includes nationally recognized programs like the highly acclaimed tour residencies and the Junior Taiko program, as well as the Adult Recreational Class, Public and Corporate Workshops, School Outreach Program, Taiko Intensives, and Master Classes. (Torres)
- 1.4 Councilmember Domingo Candelas presented a commendation, recognizing Evergreen High School Girls' Basketball Team and celebrating these young women for making history on the team's CCS title win. (Candelas) **TO BE HEARD IN THE EVENING**

2. CONSENT CALENDAR

Upon motion by Councilmember Dev Davis seconded by Councilmember Omar Torres and carried unanimously, all the below listed actions were taken as indicated. (10-0-1. Absent: Jimenez.)

Public Comment: Alex Shoor, Blair Beekman, and Lorie Bird offered public comments.

- 2.1 **23-487** **Approval of City Council Minutes.**
(a) City Council Meeting Minutes of March 21, 2023. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: The City Council Minutes were approved. (10-0-1. Absent: Jimenez.)

- 2.2 23-445 Final Adoption of Ordinances.**
(a) Ordinance No. 30893 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 2.7-Gross-Acres Situated on the Southeast Corner of North Jackson Avenue and Berryessa Road (APNS 254-80-021, 022 and 023) from the A(PD) Planned Development Zoning District to the CP Commercial Pedestrian Zoning District. [Passed for Publication on 3/14/2023 - Item 10.1(b)(b) (23-370)]

Action: (a) **Ordinance No. 30893** was adopted, rezoning certain real property of approximately 2.7-gross-acres situated on the southeast corner of north Jackson Avenue and Berryessa Road. (10-0-1. Absent: Jimenez.)

- 2.3 23-468 Approval of Council Committee Minutes.**
(a) Regular Joint Meeting for the Rules and Open Government Committee Minutes of March 1, 2023. (b) Regular Joint Meeting for the Rules and Open Government Committee Minutes of March 8, 2023. (c) Regular Public Safety, Finance and Strategic Support Committee Minutes of March 16, 2023. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: The Council Committee Minutes were approved. (10-0-1. Absent: Jimenez.)

- 2.4 23-469 Mayor and Council Excused Absence Requests**
Request for excused absences for Councilmember Cohen from the following Regular Meetings due to authorized City Business: (a) City Council on March 21, 2023; and (b) Joint Meeting for the Rules and Open Government Committee on March 22, 2023. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Cohen) [Rules Committee referral 3/22/2023 - Item A.1(a)]

Action: The excused absences for Councilmember Cohen were approved. (10-0-1. Absent: Jimenez.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

- 2.7 23-446 Boards and Commissions Appointment.**
Approve the following Boards and Commissions appointment: (a) Planning Commission: (1) District 3 Seat: Appoint Anthony Tordillos for a term ending June 30, 2024. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

Action: The appointment for the Planning Commission District 3 Seat was approved, appointing Anthony Tordillos for a term ending June 30, 2024. (10-0-1. Absent: Jimenez.)

- 2.8 23-430 **Setting a Public Hearing for the Cost of Sidewalk Repairs for June 13, 2023.**
Adopt a resolution setting a public hearing on Tuesday, June 13, 2023, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities. (Finance)

Action: **Resolution No. RES2023-72** was adopted, setting a public hearing on Tuesday, June 13, 2023, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. (10-0-1. Absent: Jimenez.)

- 2.9 23-431 **Naming of a New Public Park Located at 1343 The Alameda.**
Adopt “The Beautiful Way Park” as an official park name per City Council Policy 7-5, Naming of City-Owned Land and Facilities, as recommended by staff and as a result of a public outreach process. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making results in no changes to the physical environment. Council District 6. (Parks, Recreation, and Neighborhood Services)

Action: The name “The Beautiful Way Park” was adopted as an official park name for a new public park located at 1343 The Alameda per City Council Policy 7-5, Naming of City-Owned Land and Facilities. (10-0-1. Absent: Jimenez.)

- 2.10 23-432 **Report on Bids and Award of Contract for the 9982 - Bascom, Mayfair, Roosevelt, and Seven Trees Community Centers Improvement Project.**
(a) Accept a report on bids and award of contract for the 9982 - Bascom, Mayfair, Roosevelt, and Seven Trees Community Centers Improvement Project to the lowest responsive, responsible bidder, City Building, Inc., in the amount of \$1,938,436, and
(b) Approve a construction contingency in the amount of \$290,765. CEQA: Categorically Exempt, File No. ER22-272. CEQA Guidelines Section 15301, Existing Facilities. Council Districts 3,5,6, 7. (Public Works)

THIS ITEM WAS DEFERRED.

Public Comment: Blair Beekman offered public comment.

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Rosemary Kamei, and carried unanimously the report on bids and award of contract for the 9982 - Bascom, Mayfair, Roosevelt, and Seven Trees Community Centers Improvement Project was deferred. (11-0.)

- 2.11 23-470 **Retroactive Travel Authorization for Councilmember Jimenez.**
(a) Retroactively authorize travel for Councilmember Jimenez to Washington, D.C. from March 24, 2023 to March 28, 2023 to attend the National League of Cities Congressional City Conference and the Sister Cities International Spring Leadership Meeting. (Source of Funds: District 2 Funds) (b) Excuse Councilmember Jimenez from the regular meeting of the City Council on March 28, 2023. 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 3/22/2023 - Item A.1(a)]

Action: The travel authorization for Councilmember Jimenez was retroactively authorized. (10-0-1. Absent: Jimenez.)

- 2.12 23-471 **Retroactive Authorization for the 2022 Staffing for Adequate Fire and Emergency Response (Safer) Grant Application.**
Adopt a resolution retroactively authorizing the City Manager to apply for a grant from the Federal Emergency Management Agency/Department of Homeland Security for funding to add 14.0 Firefighter positions to the Fire Department. CEQA: Not a Project, File No. P17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Fire) [Rules Committee referral 3/22/2023 - Item A.1(a)]

Action: **Resolution No. RES2023-73** was adopted, authorizing the City Manager to apply for a grant from the Federal Emergency Management Agency/Department of Homeland Security for funding to add 14.0 Firefighter positions to the Fire Department. (10-0-1. Absent: Jimenez.)

- 2.13 23-474 **Approval of Music in the Valley Festival Sponsored by Council District 9 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 March 22, 2023: (a) Approve the Music in the Valley Festival scheduled on April 30, 2023 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. (Foley) [Rules Committee referral 3/22/2023 - Item B.4]

Action: The City Council sponsored special event was approved. (10-0-1. Absent: Jimenez.)

- 2.14 23-477 **Approval of Cesar Chavez Day Flag Raising Ceremony 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.**
As recommended by the Rules and Open Government Committee on March 22, 2023: (a) Approve the Cesar Chavez Day Flag Raising Ceremony scheduled on March 30, 2023 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. (Jimenez) [Rules Committee referral 3/22/2023 - Item B.5]

Action: The City Council sponsored special event was approved. (10-0-1. Absent: Jimenez.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 23-433 Status of Open Audit Recommendations as of December 31, 2022.

Accept the Status of Open Audit recommendations as of December 31, 2022. 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 Auditor)

City Auditor Joe Rois provided the presentation and responded to questions with Chief of Staff of Planning, Building, Code Enforcement Alex Powell, Director of Housing Jacky Morales-Ferrand, and Director of Parks, Recreation and Neighborhood Services Jon Cicirelli and Director of Office of Economic Development and Cultural Affairs Nanci Klein.

Public Comments: Brian and Blair Beekman offered public comments.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Arjun Batra, and carried unanimously, the Status report of Open Audit recommendations was accepted. (10-0-1. Absent: Jimenez.)

3.4 23-425 Board of Fair Campaign and Political Practices Interview.

(a) Interview applicants for appointments to the Board of Fair Campaign and Political Practices. (b) Appoint up to two (2) applicants to a term ending March 1, 2027. PLEASE NOTE: APPROVAL OF THIS ITEM REQUIRES AFFIRMATIVE VOTES OF EIGHT MEMBERS (2/3) OF THE CITY COUNCIL. San José Municipal Code Section 2.08.1610. (c) If any vacancies remain, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

City Clerk Toni Taber described the process as follows: Councilmembers will each have the opportunity to ask the candidates a question but are not required to ask a question. The Candidates will answer in a round-robin format and will have two minutes to respond. At the end of the interview, the Council may appoint up to two individuals. They will vote among the final individuals present during both the February 28, 2023 Council meeting and the March 28, 2023 Council Meeting. Appointments require 2/3 of the Council Vote. If a vacancy remains following the conclusion of the Item, the appointment process will return to a later City Council Meeting.

The applicants present to answer questions during the March 28, 2023 Council meeting were:

1. Venkata Naga Vasundhara
2. Gregory Ebert
3. Kashvi Jain

(Item continued on next page.)

3.4 (Cont'd.)

The following candidates present during the February 28, 2023 Council meeting and available to be elected but not to answer questions during the March 28, 2023 Council meeting are:

4. Christopher Lee
5. Ravi Pathak
6. Jennifer Tonnis.

The candidates were given two minutes to introduce themselves.

The candidates were then asked the following questions:

Councilmember Rosemary Kamei: How you would keep yourself up-to-date on FPPC regulations?

Councilmember Peter Ortiz: If there was one piece of Campaign law that you would change or delete, what would it be and why?

Councilmember Pam Foley: How do you plan to set your politics aside when an issue comes before you?

Councilmember Domingo Candelas: What is your understanding of the purpose of this commission?

Councilmember Arjun Batra: In terms of responsibilities for this commission, what are you supposed to be investigated, and how would you go about investigating as an illustration of one particular item, whatever you find?

Councilmember Bien Doan: Do you understand the time commitment that is involved in volunteering for this position and if so what are the three qualities you bring onto the board?

Mayor Matt Mahan: If you were to encounter a situation in which you really felt that a candidate was acting or not acting in a way that you supported personally, but is in adherence with the rules as written, what would your reaction be?

The Candidate Kashvi Jain was disqualified due to not meeting a qualification.

City Clerk Toni Taber passed out a ballot for Councilmembers to select up to two candidates. Any candidate receiving eight or more votes will be approved for appointment.

DURING THE TALLYING OF VOTES IN ROUND 1, THE COUNCIL HEARD ITEM 3.5

In the first round of voting, the candidates received the following number of votes:

1. Venkata Naga Vasundhara: 7 (Cohen, Davis, Doan, Foley, Batra, Kamei, Mahan.)
2. Gregory Ebert: 6 (Torres, Cohen, Ortiz, Davis, Candelas, Kamei.)
3. Christopher Lee: 0
4. Ravi Pathak: 3 (Doan, Foley, Mahan.)
5. Jennifer Tonnis: 3 (Torres, Ortiz, Candelas.)

Christopher Lee was removed from the next round of voting. A second round of voting was held.

(Item continued on next page.)

3.4 (Cont'd.)

DURING THE TALLYING OF VOTES IN ROUND 1, THE COUNCIL HEARD THE PRESENTATION FOR ITEM 8.1.

In the second round of voting, the candidates received the following number of votes:

1. Venkata Naga Vasundhara: 9 (Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra, Kamei, Mahan)
2. Gregory Ebert: 8 (Torres, Cohen, Ortiz, Davis, Candelas, Foley, Kamei, Mahan)
3. Ravi Pathak: 1 (Doan.)
4. Jennifer Tonnis: 1 (Torres.)

Venkata Naga Vasundhara and Gregory Ebert were appointed to the remaining two seats of the Board of Fair Campaign and Political Practices with terms ending March 1, 2027. The Council took no additional action.

3.5 23-434 Statement of Policy and City Council Questions for the Prospective Director of Public Works.

Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Director of Public Works as described in this memorandum, 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)

THIS ITEM WAS HEARD DURING THE TALLYING OF ROUND 1 VOTES IN ITEM 3.4.

Public Comments: None provided.

Action: Upon motion by Councilmember Omar Torres, seconded by Councilmember Peter Ortiz, and carried unanimously, a statement of policy and City Council questions related to the selection of a prospective Director of Public Works was adopted. (10-0-1. Absent: Jimenez.)

3.6 23-435 Wage Theft Prevention Policy Revision.

Adopt a resolution approving amendments to Council Policy 0-44, Wage Theft Prevention Policy, revising mandatory disqualification from procurement, removing the exemption for City of San José public works projects, evaluating limiting consideration of wage theft history and impact in lieu of disqualification to evaluation for certain procurement of limited services, and exempting from mandatory disqualification future procurements for janitorial services or security guard services if the proposer can demonstrate the ability to comply with certain labor requirements including wages, hours, working conditions, and a grievance process to address wage claims, and make other clarifying changes. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Public Works)

DEFERRED PER ORDERS OF THE DAY, TO RETURN APRIL 11, 2023.

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

- 6.1 23-436 **Reach Code Ordinance Update for Electric Vehicle Infrastructure in New Multifamily Developments.**
(a) Adopt findings related to local modifications of the state codes based upon local geographical, topographical, and climatic conditions. (b) Approve an ordinance of the City of San José Amending Sections 24.10.110 and 24.10.200 of Chapter 24.10 of Title 24 (Technical Codes) of the San José Municipal Code as a Reach Code to Increase Requirements Related to Electric Vehicle Charging Stations for Multifamily Residential. CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from a decision-making body. (Environmental Services/Planning, Building and Code Enforcement)

DEFERRED PER ORDERS OF THE DAY.

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 23-437 **Berryessa Flea Market Advisory Group Status Report.**
Accept the status report on the creation of the Flea Market Advisory Group. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 4. (Economic Development and Cultural Affairs)

Office of Economic Development and Cultural Affairs' Director, Nanci Klein, Assistant to the City Manager Lori Severino, Business Development Officer Adolfo Ruelas, and Senior Executive Analyst Nathan Donato-Weinstein provided the presentation and responded to questions

THE PRESENTATION WAS HEARD DURING THE TALLYING OF ROUND TWO VOTES IN ITEM 3.4

Public Comments: Jesus Flores (Latino Business Foundation Silicon Valley), Alex Shoor (Catalyze SV), Roberto Gonzalez (Berryessa Flea Market Association), Kelly Snider (Real Estate Development Program, SJSU), and Blair Beekman offered public comments.

Action: Upon motion by Councilmember Arjun Batra, seconded by Councilmember David Cohen, and carried unanimously, the Council accepted the status report on the creation of the Flea Market Advisory Group. (10-0-1. Absent: Jimenez.)

8.2 23-438 First Substantial Amendment to the Fiscal Year 2021-2022 Annual Action Plan to Report the Home Investment Partnerships American Rescue Plan Program Allocation Awarded by the United States Department of Housing and Urban Development.

(a) Hold a public hearing to allow for public comment. (b) Adopt a resolution relating to the following actions regarding a first amendment to the existing Fiscal Year 2021-2022 Annual Action Plan to report on the HOME Investment Partnerships American Rescue Plan Program Allocation Plan using HOME Investment Partnerships American Rescue Plan Program funds awarded by the United States Department of Housing and Urban Development to the City of San José: (1) Approve the changes relating to the Substantial Amendment to the Fiscal Year 2021-2022 Annual Action Plan to apply the HOME Investment Partnerships American Rescue Plan Program Allocation Plan; and (2) Authorize the Housing Department to submit the Substantial Amendment to the United States 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, and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Housing)

Housing Department Director Jacky Morales-Ferrand, Senior Development Officer Stephanie Gutowski, Division Manager for Homeless Response Kelly Hemphill provided the presentation and responded to questions.

Public Comments: Mayor Mahan opened the public hearing. Blair Beekman offered public comment. Mayor Mahan closed the public hearing.

Action: Upon motion by Councilmember Arjun Batra, seconded by Councilmember Omar Torres, and carried unanimously, (b) **Resolution No. RES2023-74** was adopted, relating to actions regarding a first amendment to the existing Fiscal Year 2021-2022 Annual Action Plan to report on the HOME Investment Partnerships American Rescue Plan Program Allocation Plan using HOME Investment Partnerships American Rescue Plan Program funds awarded by the United States Department of Housing and Urban Development. (10-0-1. Absent: Jimenez.)

8.3 23-439 City Initiatives Roadmap: Emergency Housing System Expansion.

Accept the staff report on Site Identification and Operational Considerations for Emergency Interim Housing. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Housing/Public Works)

Deputy City Manager Omar Passons, Deputy City Manager Jim Ortbal, Housing Director Jacky Morales-Ferrand, and Public Works Assistant Director Matt Loesch, provided the presentation and responded to questions with Assistant City Manager Lee Wilcox

Public Comments: Blair Beekman offered public comment.

Action: Upon motion by Councilmember Arjun Batra, seconded by Councilmember Bien Doan, and carried unanimously, the Council accepted the staff report on Site Identification and Operational Considerations for Emergency Interim Housing. (10-0-1. Absent: Jimenez.)

8.4 23-447 Grant Agreement with Jamboree Housing Corporation for Operation of SureStay Hotel Located at 1488 North First Street.

(a) Adopt a resolution authorizing the Director of Housing, or designee, to negotiate and execute the following: (1) A conditional construction grant agreement and related documents with Jamboree Housing Corporation in an amount of up to \$4,000,000 of Measure E funds for immediate capital repair needs for 72 interim housing units at the SureStay Hotel by Best Western, located at 1488 North First Street; (2) An amendment to the current operations grant agreement with LifeMoves to increase the amount by \$367,100 of Measure E funds and extend the term of the subcontractor (Jamboree), for a total grant award not to exceed \$1,700,000 for property management and supportive services at the SureStay Hotel by Best Western, located at 1488 North First Street; and (3) An operations grant agreement beginning in Fiscal Year 2023-2024 with three one-year options to extend, for a grand total not to exceed \$9,000,000 of Measure E funds with Jamboree Housing Corporation for the SureStay Hotel by Best Western, located at 1488 North First Street. (b) Adopt the following 2022-2023 Appropriation Ordinance Amendments in the General Fund: (1) Decrease the Measure E - 40% Extremely Low-Income Households Reserve by \$4,000,000; and (2) Establish a Measure E - SureStay Hotel Repairs (40% ELI) appropriation to the Housing Department in the amount of \$4,000,000. CEQA: Exempt per Public Resources Code 21083 and CEQA Guidelines Section 15301 Existing Facilities, File No. ER23-023. Council District 6. (Housing/City Manager)

Housing Director Jacky Morales-Ferrand provided a brief background on the Item and responded to questions with Assistant City Manager Lee Wilcox

Public Comments: Preston Prince (Santa Clara County Housing Authority) and Michael Massie (Jamboree Housing Corporation) offered public comments.

Motion: Councilmember Bien Doan made a motion to defer Item 8.4 to the April 11, 2023 City Council Meeting for additional time to study the Item. Councilmember Arjun Batra seconded the motion.

Substitute Motion: Upon motion by Councilmember Dev Davis, seconded by Councilmember Candelas, (a) **Resolution No. RES2023-75** and (b) **Appropriation Ordinance No. 30894** were adopted. (9-1-1. Noes: Doan. Absent: Jimenez.)

• Afternoon Session Open Forum

1. Justyn Time spoke on the origins of the word “Abracadabra” and spoke on teachings of God.
2. Blair Beekman expressed good luck to the City and spoke on thoughts on peace, the future of peace talks and what it means to be human. Blair also asked about the topic of development and housing.

The Afternoon Session of the City Council meeting adjourned at 5:40 p.m. and reconvened at 6:10 p.m.

Evening Session

Present: Councilmembers - Torres, Cohen (via Zoom), Ortiz, Davis, Doan, Candelas, Foley, Batra, Kamei; Mahan.

Absent: Councilmembers - Jimenez.

CEREMONIAL ITEM 1.4 WAS HEARD.

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

Public Comment: Mike Sodergren, Valerie Armento, Alex Shoor offered public comments.

Motion: Upon motion Councilmember Pam Foley, seconded by Councilmember Omar Torres, and carried unanimously, all the below listed actions were taken as indicated. (9-0-2. Absent: Davis, Jimenez.)

10.1(a) 23-440 Burbank No. 47 - Ordering the Annexation of Certain Real Property Located at 560 Bascom Avenue.

Adopt a resolution ordering the annexation of the territory designated as Burbank No. 47, which involves the annexation to the City of San José of approximately 1.31 gross acres from Santa Clara County unincorporated territory located on the east side of South Bascom Avenue between Basile Avenue and Parkmoor Avenue (APNs 277-29-044 and 277-29-044) and portions of Basile Avenue and South Bascom Avenue, and the detachment of the same from the appropriate special districts, including Central Fire Protection District, Valley Water, Santa Clara County Lighting District, Santa Clara County Library District, and Burbank Sanitary District. CEQA: Determination of Consistency with Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041, and Addendum thereto. Council District 6. (Planning, Building and Code Enforcement) [Deferred from 3/14/2023 - Item 10.1(a) (23-369)]

Action: **Resolution No. RES2023-76** was adopted, ordering the annexation of the territory designated as Burbank No. 47. (9-0-2. Absent: Davis, Jimenez.)

10.1(b) 23-441 HL22-003 & MA22-003 - City Landmark Designation and Historical Property (Mills Act) Contract for Certain Real Property Located at 619 N First Street.

(1) Adopt a resolution designating 619 N. First Street (HL22-003) as a City Landmark of special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature. (2) Adopt a resolution approving the Historical Property Contract (Mills Act) between the City of San José and the property owner,

(Item continued on next page.)

10.1(b) (Cont'd.)

Jamila Stanford, for the property located at 619 N. First Street (APN: 259-18-055) on a 0.18-gross acre site. CEQA: Exempt pursuant to CEQA Guidelines Section 15331 for Historical Resources and Rehabilitation. Historical Landmarks Commission recommends approval [Item 3.a., 3/1/2023 Historic Landmarks Commission Agenda] (5-0-2, Janke and Royer absent). Council District 3. (Planning, Building and Code Enforcement)

Motion: (b)(1) **Resolution No. RES2023-77** and (b)(2) **Resolution No. RES2023-78** was adopted, designating 619 N. First Street (HL22-003) as a City Landmark and approving the Historical Property Contract (Mills Act) between the City of San José and the property owner, Jamila Stanford (9-0-2. Absent: Davis, Jimenez.)

END OF LAND USE CONSENT CALENDAR.

10 Land Use – Regular Agenda

10.2 23-442 **Burbank No. 44, C20-011 & ER20-146 - Ordering the Annexation of Santa Clara County Territory Located at 1883-1887, 1891-1995, 1897-1899 West San Carlos Street and 13 Boston Avenue.**

Adopt a resolution ordering the annexation of the territory designated as Burbank No. 44 which involves the annexation to the City of San José of approximately 0.895-gross acre of land located on the northeast corner of West San Carlos Street and Brooklyn Avenue (APNs: 274-16-050, 052, 053, 069 and 070), and the detachment of the same from the appropriate special districts including County Lighting District, Central Fire Protection District, Burbank Sanitary District, and Santa Clara County Library District. CEQA: Determination of Consistency with the Environmental Impact Report for the 1881 West San Carlos Project (Burbank 44/C20-011/ CP20-020/T20-016), (Resolution No. RES2023-49). Council District 6. (Planning, Building and Code Enforcement) [Renoticed from 3/7/2023 - Item 10.2 (23-320) and 3/14/2023 - 10.2 (23-371)]

THIS ITEM WAS HEARD AFTER 10.4.

Planning, Building, and Code Enforcement's Deputy Director Robert Manford provided a presentation and responded to questions.

Public Comments: Sal Caruso, Mike Sodergren (Preservation Action Council San Jose), and Valerie Armento (Council for the Burbank Sanitary District) offered public comment.

Motion: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. RES2023-79** was adopted, ordering the annexation of the territory designated as Burbank No. 44. (10-0-1. Absent: Jimenez.)

SP21-044 & HP21-001 - Special Use Permit and Historic Preservation Permit for Certain Real Property Located at 19 North Second Street.

(a) Adopt a resolution certifying the 19 North Second Street Mixed-Use Project Supplemental Environmental Impact Report, make certain findings concerning significant impacts, mitigation measures, alternatives, and adopt a statement of overriding considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA). (b) Adopt a resolution approving, subject to conditions, a Special Use Permit to allow the removal of the majority of the roof and interior (except for stairway core) of an existing 15,000-square foot, two-story building, the retention and integration of the building walls, street-facing façade and a portion of the existing roof and the construction of a 22-story, 240-foot-high mixed use 100% affordable senior housing project with 220 multifamily residential units and approximately 18,643 square feet of commercial space with up to four commercial condominiums on an approximately 0.22-gross acre site. (c) Adopt a resolution: (1) Approving, subject to conditions, a Historic Preservation Permit to allow the removal of the majority of the roof and interior (except for stairway core) of a City Landmark and the construction of a 22-story within the walls of the City Landmark that would integrate and restore the street-facing façade and a portion of the existing roof on an approximately 0.22-gross acre site, and accepting the finding of the Historic Landmarks Commission, under Section 1348.240 of the Historic Preservation Ordinance that the project would not be detrimental to the City Landmark in the application of the Commission's recommendation to retain the Realty building sign above the central entry, fenestration, doors, existing windows, vestibule vaulted ceiling and bas relief, and 18-foot-11-inch setback of the new construction from the original building, as well as the retention of the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby in accordance with the project description; or (2) Approving, subject to conditions, a Historic Preservation Permit to allow the removal of the majority of the roof and interior (except for stairway core) of a City Landmark and the construction of a 22-story within the walls of the City Landmark that would integrate and restore the street-facing façade and a portion of the existing roof on an approximately 0.22-gross acre site, accepting the findings of the Department of Planning, Building and Code Enforcement staff that under Section 1348.240 of the Historic Preservation Ordinance that the project would be detrimental to the City Landmark, and accepting staff's recommendation of a hardship, pursuant to Section 13.48.260 of the Historic Preservation Ordinance in order to accept the Commission's recommendation. CEQA: 19 North Second Street Mixed-Use Project Supplemental Environmental Impact Report. Planning Commission recommends approval of (a) and (b) [Item 5.a., 2/22/2023 Planning Commission Agenda] (9-0). Historic Landmarks Commission recommends approval of (c) [Item 3.a., 2/1/2023 Historic Landmarks Commission Agenda] (4-3-0; Janke, Arnold, Ayala opposed). Council District 3. (Planning, Building and Code Enforcement) Attachments [Deferred from 2/28/2023 - Item 10.5 (23-279)]

(Item continued on next page.)

10.3 (Cont'd.)

Planning, Building, and Code Enforcement's Deputy Director Robert Manford provided a presentation and responded to questions.

Kurt Anderson (Anderson Architects, Inc.) spoke to merits of the project and was available for questions.

Public Comments: Alex Shoor (Catalyze SV) and Mike Sodergren (Preservation Action Council) offered public comments.

Motion: Upon motion by Councilmember Omar Torres, seconded by Councilmember Peter Ortiz, and carried unanimously, (a) **Resolution No. RES2023-80**, (b) **Resolution No. RES2023-81**, and (c) **Resolution No. RES2023-82** were adopted, certifying the 19 North Second Street Mixed-Use Project Supplemental Environmental Impact Report, approving a Special Use Permit, and approving a Historic Preservation Permit. (10-0-1. Absent: Jimenez.)

10.4 23-444 C20-012 & SP20-024 - Conventional Rezoning and Special Use Permit on Certain Real Property Located at 2740 Ruby Avenue. - TO BE HEARD AT 6:00 P.M.

(a) Adopt a resolution certifying the Wat Khmer Kampuchea Krom Temple Project Environmental Impact Report, making certain findings concerning significant impacts, mitigation measures and alternatives and adopt a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA). (b) Approve an ordinance rezoning an approximately 1.86-gross acre site, on certain real property located on the northeast corner of Ruby Avenue and Norwood Avenue from the R-1-5 Single-Family Residence Zoning District to the PQP Public/Quasi-Public Zoning District. (c) Adopt a resolution approving, subject to conditions, a Special Use Permit to allow the removal of 21 trees (20 ordinance-size, one non-ordinance size, with 75 replacement trees) for the construction of an approximately 13, 902-square foot private gathering facility (Wat Khmer Buddhist Temple) with an alternative parking arrangement on an approximately 1.86-gross-acre site. CEQA: Wat Khmer Kampuchea Krom Temple Project Environmental Impact Report. Planning Commission recommends approval [Item 5.b., 2/22/2023 Planning Commission Agenda] (8-1; Garcia opposed). Council District 8. (Planning, Building and Code Enforcement) TO BE HEARD AT 6:00 P.M.

THIS ITEM WAS HEARD FOLLOWING LAND USE CONSENT.

Planning, Building, and Code Enforcement's Deputy Director Robert Manford, Principal Planner David Keyon, and Historic Preservation Officer Dana Peak Historic provided the presentation and responded to questions.

(Item continued on next page.)

10.4 (Cont'd.)

Founder of the Khmer Buddhist Foundation and Applicant Lina Lam spoke to the merits of the project and Consultant Erik Schoennauer provided a brief presentation in support of the project.

Public Comments: 99 members of the public offered public comments.

Motion: Councilmember Domingo Candelas moved to accept the March 24, 2023 joint memorandum co-authored Mayor Matt Mahan, Vice Mayor Rosemary Kamei, Councilmember Domingo Candelas, Councilmember Sergio Jimenez and Councilmember Pam Foley. This motion was seconded by Councilmember Bien Doan.

Friendly Amendment: Councilmember Arjun Batra requested a friendly amendment that the applicant continues good faith communications and negotiations for any possible accommodation desired by the Community. This amendment was not accepted.

The March 24, 2023 joint memorandum co-authored Mayor Matt Mahan, Vice Mayor Rosemary Kamei, Councilmember Domingo Candelas, Councilmember Sergio Jimenez and Councilmember Pam Foley approved the following:

Approve the Planning Commission's recommendation and ensure the following conditions of approval are included in the permit:

1. Require the maximum allowable occupancy on-site at any one time to be 300 guests.
 - a. For any event over 100 people on-site, require the identification and presence of an onsite event compliance, traffic control, and security coordinator.
2. Require a parking management plan so that the surrounding community's parking burdens are mitigated.
 - a. A system of valet parking shall be used for any event that exceeds the current parking available on-site, and off-site parking shall be made available and encouraged.
 - b. When the parking lot is unable to accept additional vehicles, require the temple to communicate through signage the alternative parking options available to guests.
 - c. Require adequate, secure bike parking is made available on-site. COUNCIL AGENDA: 03/28/2023 ITEM: 10.4
 - d. To protect pedestrian safety, the applicant shall work with the city to provide sidewalks and a traffic circle to slow the pace of cars and increase safety on the street.
 - e. Direct city staff to explore appropriate traffic calming measures near the project to increase traffic safety.
3. Confirm no late-night usage of the temple is allowed. The regular hours of operation shall be set at 9:00 am to 10:00 pm.
4. Require the applicant to remove the designated, outdoor smoking area from the project plans.
5. All trash and refuse storage areas should be effectively screened from view, covered, and maintained in an orderly state.
6. A six-foot sound barrier shall be erected along the perimeter between the temple and the neighboring homes on Sweetleaf, Pin Oak Ct., and alongside the currently existing single-family home.

(Item continued on next page.)

10.4 (Cont'd.)

7. The applicant is required to communicate construction plans and timelines to the neighbors within a 500-foot radius of the project.
 - a. Prior to construction, the applicant shall host a virtual or in-person community meeting explaining the timeline for construction and any construction impacts.
 - b. The applicant shall establish a primary point of contact to the community that is shared at the community meeting.
 - c. Construction of the project shall not take place on weekends.

Motion: Upon motion by Councilmember Domingo Candelas, seconded by Councilmember Bien Doan, and carried unanimously, (a) **Resolution No. RES2023-83**, certifying the Wat Khmer Kampuchea Krom Temple Project Environmental Impact Report, and (c) **Resolution RES2023-84**, approving a Special Use Permit, were adopted and (b) **Ordinance No. 30895**, rezoning certain real property located on the northeast corner of Ruby Avenue and Norwood Avenue from the R-1-5 Single-Family Residence Zoning District to the PQP Public/Quasi-Public Zoning District was passed for publication. (10-0-1. Absent: Jimenez.)

• Evening Session Open Forum

1. Mike Sodergren expressed their desire for Applicants to be present during hearings and not only Architects and Consultants. He also spoke to a need for policies to protect existing places of worship.
2. Misrayn Mendoza expressed thanks for approving a place for peace for the Cambodian population and the need for these places in the City.

• Adjournment

The Council of the City of San José adjourned at 9:59 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,



Grace Turner
Deputy City Clerk

get/03-28-23 MIN

SAN JOSÉ CITY COUNCIL CLOSED SESSION

MARCH 28, 2023

The Council of the City of San José convened into Closed Session at 9:30 a.m.
This meeting was held in City Hall Conference room W-133

Present: Councilmembers - Jimenez, Torres, Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra
Kamei; Mahan.

Absent: Councilmembers - All Present.

Closed Session Item(s) discussed:

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:

Imitation of litigation pursuant to Section 54956.9(d)(4) of the Government Code:

Number of matter(s) to be discussed: 2

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

1. Case Name: In re: Claim of Bellini
Name(s) of Partie(s)
Involved:
Court: Workers Compensation Appeals Court
Case No: ADJ11636938, ADJ11636883, ADJ13516073, ADJ8776670,
ADJ17403439, ADJ9865869
Amount of Money or Benefits
Other Relief Sought:
2. Case Name: Sanderlin, Derrick et al., v City of San Jose, et al.
Name(s) of Partie(s) DERRICK SANDERLIN, CAYLA SANDERLIN, BREANNA
Involved: CONTRERAS, PIETRO DI DONATO, SHANTE THOMAS,
ADIRA SHARKEY, JOSEPH STUKES, CITY OF SAN
JOSE, EDGARDO GARCIA, JASON DWYER,
CHRISTOPHER SCIBA, JONATHAN BYERS, JARED YUE
Court: U.S. District Court, Northern District of California, San Jose
Division
Case No: 5:20-cv-04824-BLF
Amount of Money or Damages according to proof
Other Relief Sought:
3. Case Name: FFV Coyote LLC, et al. v. City of San Jose

Name(s) of Partie(s) Involved: FFV COYOTE LLC, a Washington limited liability company; EMC7, LLC, a Washington limited liability company; ERIC F. BONETTI; DAVID R. BONETTI; GLEN C. KRAL and SUSAN S. KRAL, as Trustees of the Kral 1994 Trust; BENSON GROUP LLC, a California limited liability company; JEAN BEU, as Trustee of the Jean Beu California Property Trust; LEE LESTER/BAILEY LLC, a California limited liability company; and F.R. LESTER CAPITAL, LLC, a California limited liability company
Court: United States District Court
Case No: 5:22-CV-00837-VKD
Amount o Money or Other Relief Sought: Damages according to proof.

C. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6:

Significant exposure to litigation pursuant to Section(s) 54956.9(d)(2) and (e)(1) of the Government Code:

Number of matter(s) to be discussed: 2

By unanimous consent, Council recessed from the Closed Session to reconvene in Regular Open Session at 2:26 p.m. in the Council Chamber.