



# **City Council Meeting MINUTES**

**Tuesday, December 6, 2022**

**11:00 AM**

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

SAM LICCARDO, MAYOR  
CHAPPIE JONES, VICE MAYOR, DISTRICT 1  
SERGIO JIMENEZ, DISTRICT 2  
RAUL PERALEZ, DISTRICT 3  
DAVID COHEN, DISTRICT 4  
MAGDALENA CARRASCO, DISTRICT 5  
DEV DAVIS, DISTRICT 6  
MAYA ESPARZA, DISTRICT 7  
SYLVIA ARENAS, DISTRICT 8  
PAM FOLEY, DISTRICT 9  
MATT MAHAN, DISTRICT 10



**\* COVID-19 NOTICE \***

*Consistent with AB 361 and City of San Jose Resolution Nos. 80628, 80659, 80685, 80724 and 80758, Councilmembers may be teleconferencing from remote locations.*

• **Call to Order and Roll Call**

9:30 a.m. - Closed Session

**22-1778** Closed Session: [See Page 25 for Closed Session Minutes](#)

Absent: Arenas

11:00 a.m. - Morning Session

Present: Councilmembers - Carrasco (via Zoom), Cohen, Davis (via Zoom), Esparza (via Zoom), Foley, Jimenez (via Zoom), Jones, Mahan, Peralez (via Zoom); Liccardo.

Absent: Councilmembers - Arenas

1:35 p.m. - Afternoon Session

Present: Councilmembers - Arenas (via Zoom), Carrasco (via Zoom), Cohen, Davis (via Zoom), Esparza (via Zoom), Foley, Jimenez (via Zoom), Jones, Mahan, Peralez; Liccardo.

Absent: Councilmembers - All Present.

6:00 p.m. - Evening Session

Present: Councilmembers - Arenas (via Zoom), Carrasco (via Zoom), Cohen, Davis (via Zoom), Esparza (via Zoom), Foley, Jimenez (via Zoom), Jones, Mahan, Peralez (via Zoom); Liccardo.

Absent: Councilmembers - All Present.

• **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

• **Invocation (District 10)**

Pastor Danny Sanchez, Founder and Executive Director of the City Peace Project provided the Invocation by sharing a video and leading the chamber in prayer.

- Orders of the Day

None.

- Closed Session Report

None Provided.

## **1. CEREMONIAL ITEMS**

- 1.1 Vice Mayor Jones presented a commendation to the Small Business Advisory Task Force, recognizing their contributions and continued dedication to the small, minority owned, local businesses in San José and ensuring those voices are heard. The Vice-Chair of the Small Business Advisory Task Force, Dennis King, was invited to speak. (Jones)
- 1.2 Councilmember Peralez presented a commendation to KRTY and recognizing their work for over 25 years, providing live country shows to Downtown San Jose at the Rodeo Club and for being the number one Country station in the Bay Area for over 25 years and the number one Country station in the US during their last 3 months on the air. KRTY’s General Manager Nate Deaton was invited to speak. (Peralez)

## **2. CONSENT CALENDAR**

Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Matt Mahan, and carried unanimously, all of the below listed actions were taken as indicated, including the addition of the December 2, 2022 memorandum under Item 2.10, co-authored by Councilmembers Peralez, Foley, Mahan and Mayor Liccardo which calls to, “Accept the Fall IGR report, and urge Congress to pass the Respect for Marriage Act and President Biden to sign the Act into law.” (10-0-1. Absent: Arenas.)

Public Comments: Blair Beekman offered public comment.

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

None provided.

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

None provided.

### **2.3 Approval of Council Committee Minutes.**

None provided.

## 2.4 Mayor and Council Excused Absence Requests

None provided.

## 2.5 City Council Travel Reports.

None provided.

## 2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

### 2.7            22-1779            **Resolution Ordering an Action in Superior Court to Foreclose Convention Center Facilities District Special Tax Lien on a Hotel Property Located at 1510 North First Street.**

Adopt a resolution, pursuant to Government Code Section 53356.1, ordering delinquent Convention Center Facilities District No. 2008-1 (CCFD) taxes assessed against a hotel property located at 1510 North First Street, San José, CA 95112 (Comfort Suites), including any penalties, interests, and costs, be collected through an action brought in the Santa Clara County Superior Court to foreclose on the CCFD special tax lien. CEQA: Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Action: **Resolution No. 80792**, ordering delinquent Convention Center Facilities District No. 2008-1 (CCFD) taxes assessed against a hotel property located at 1510 North First Street, San José, CA 95112 was adopted. (10-0-1. Absent: Arenas.)

### 2.8            22-1780            **Amendment to the Agreement with Sloan Sakai Yeung Wong, LLP for Labor Consulting Services.**

Adopt a resolution authorizing the City Manager to negotiate and execute a Second Amendment to the Consultant Agreement with Sloan Sakai Yeung Wong, LLP (formerly Renne Sloan Holtzman & Sakai, LLP) (Emeryville, CA) for labor consulting services in connection with labor matters to extend the contract term for an additional year from December 31, 2022 through December 31, 2023 for a contract amount not to exceed \$424,500, 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 Manager)

Action: **Resolution No. 80793**, authorizing the City Manager to negotiate and execute a Second Amendment to the Consultant Agreement with Sloan Sakai Yeung Wong, LLP was adopted. (10-0-1. Absent: Arenas.)

- 2.9**      **22-1781**      **2023-2024 Legislative Priorities and Legislative Program.**  
Adopt the 2023-2024 Legislative Priorities and Legislative Program.  
CEQA: Not a Project, File No. PP17-010, City Organizational and  
Administrative Activities resulting in no changes to the physical  
environment. (City Manager)

Action: The 2023-2024 Legislative Priorities and Legislative Program was adopted.  
(10-0-1. Absent: Arenas.)

- 2.10**      **22-1782**      **Fall Intergovernmental Relations Report.**  
(a) Accept the Fall Intergovernmental Relations Report; and (b) Reaffirm all City  
positions summarized in the 2022 Intergovernmental Relations Priority Legislation  
Log (Attachment A to the staff memorandum). CEQA: Not a Project, File No. PP17-  
010, City Organizational and Administrative Activities resulting in no changes to the  
physical environment. (City Manager)

Councilmembers Maya Esparza, Pam Foley, and David Cohen offered additional comments of  
thanks to staff for this report and expressed the importance of this Item.

Action: The Fall Intergovernmental Relations Report was accepted and all City positions  
summarized in the 2022 Intergovernmental Relations Priority Legislation Log were reaffirmed. (10-  
0-1. Absent: Arenas.)

- 2.11**      **22-1783**      **Equipment Agreement and Annual Purchase Orders with Optistreams, Inc. for  
a Mobile Operations Satellite Emergency System, including Related Services.**  
Adopt a resolution authorizing the City Manager to: (a) Negotiate and execute an  
Equipment Purchase Agreement for a Mobile Operations Satellite Emergency  
System with Optistreams, Inc. (Wilmington, DE), including base satellite service  
link, training, maintenance, support, and sales tax, beginning on or about December  
7, 2022 with a total maximum compensation not to exceed \$2,187,600; (b) Negotiate  
and execute up to 10 annual purchase orders with Optistreams, Inc. for ongoing  
operational costs, including base satellite service link, signal boost, maintenance and  
support, training, equipment repairs, applicable sales tax, and other related services as  
required with the first annual purchase order beginning on or about December 7,  
2022 with a maximum compensation of \$100,000 and an aggregate not-to-exceed of  
\$1,000,000 for all annual purchase orders over the 10-year period, subject to the  
appropriation of funds; and (c) Negotiate and execute amendments and change orders  
to the Equipment Purchase Agreement and annual purchase orders with Optistreams,  
Inc. for unanticipated changes as required for a contingency not to exceed \$300,000,  
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/Fire/City Manager)

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## 2.11 (Cont'd)

Action: **Resolution No 80794**, authorizing the City Manager to: (a) Negotiate and execute an Equipment Purchase Agreement for a Mobile Operations Satellite Emergency System with Optistreams, Inc was adopted. (10-0-1. Absent: Arenas.)

- 2.12      22-1784      Amendment to the Agreement with SkiData, Inc. for a Parking Access and Revenue Control System for the Department of Transportation.**  
Adopt a resolution authorizing the City Manager to negotiate and execute the Fifth Amendment to the Agreement with SkiData, Inc. (formerly Sentry Control Systems, LLC) (Van Nuys, CA) for the purchase, implementation, and maintenance of a Parking Access and Revenue Control System, to extend the initial term for 12 months through December 31, 2023, with no change in maximum compensation, and negotiate and execute up to 10 one-year options to extend the agreement for ongoing support, maintenance, and related professional services through December 31, 2033 or as may be adjusted to align with the software renewal 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. (Finance/Transportation)

Action: **Resolution No. 80795**, authorizing the City Manager to negotiate and execute the Fifth Amendment to the Agreement with SkiData, Inc. was adopted. (10-0-1. Absent: Arenas.)

- 2.13      22-1775      First Quarter Financial Reports for Fiscal Year 2022-2023.**  
As recommended by the Public Safety, Finance and Strategic Support Committee on November 17, 2022, accept the First Quarter (period ending September 30, 2022) Financial Reports for Fiscal Year 2022-2023 for the following programs: (a) Debt Management; (b) Investment Management; (c) Revenue Management; and (d) Purchasing and Risk Management. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance) [Public Safety, Finance and Strategic Support Committee referral 11/17/2022 - Item (c)1]

Action: The First Quarter (period ending September 30, 2022) Financial Reports for Fiscal Year 2022-2023 were accepted. (10-0-1. Absent: Arenas.)

- 2.14      22-1785      Amendment to the Agreement with HC Group, Incorporated for Federal, State and Local Grant and Contract Management.**  
Approve a retroactive amendment to the Agreement with HC Group, Incorporated to September 30, 2022 and to increase the maximum total compensation by \$42,260 from \$449,613 to \$491,873. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Housing)

Action: Retroactive amendment to the Agreement with HC Group, Incorporated was approved. (10-0-1. Absent: Arenas.)

- 2.15**      **22-1786**      **Amendment to the Agreement with the Pun Group, LLP. for Consultant Services.**  
Approve an amendment to the agreement with the Pun Group, LLP. to increase the maximum total compensation by \$400,000 from \$100,000 to \$500,000 and extend the term from June 30, 2023 to June 30, 2024. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Housing)

Action: Amendment to the agreement with the Pun Group, LLP. was approved. (10-0-1. Absent: Arenas.)

- 2.16**      **22-1787**      **Affordable Housing Impact Fee Fiscal Year 2021-2022 Annual Report.**  
Accept the Fiscal Year 2021-2022 Annual Report prepared in accordance with the Mitigation Fee Act (Government Code section 66000 et seq.) on the status of the City's Affordable Housing Impact Fee and to update the expenditure plan for the Affordable Housing Impact Fee. 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)

Action: Fiscal Year 2021-2022 Annual Report was accepted. (10-0-1. Absent: Arenas.)

- 2.17**      **22-1788**      **Actions Related to the City's Healthcare Program.**  
Adopt a resolution to: (a) Approve the terms of a Side Letter Agreement that is related to the lump sum healthcare program between the City of San José and the bargaining units listed below and authorize the City Manager to execute the Side Letter agreement: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI) (2) Association of Engineers and Architects, IFPTE Local 21 (AEA) (3) Association of Legal Professionals (ALP) (4) Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP) (5) City Association of Management Personnel, IFPTE Local 21 (CAMP) (6) San José Fire Fighters, IAFF Local 230 (IAFF) (7) International Brotherhood of Electrical Workers, Local No. 332 (IBEW) (8) Municipal Employees' Federation, AFSCME Local No. 101 (MEF) (9) International Union of Operating Engineers, Local No. 3 (OE#3) (10) San José Police Officers' Association (POA) (11) Park Ranger Peace Officer Association (POPRA) (12) San José Police Dispatchers' Association (SJPDA) (b) Approve the lump sum healthcare program for executive management and professional employees in Unit 99 and other unrepresented employees consistent with the terms of the Side Letter Agreement with the City's bargaining units. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources)

Action: **Resolution No. 80796** approving the terms of a Side Letter Agreement related to the lump sum healthcare program was adopted. (10-0-1. Absent: Arenas.)

**2.18**      **22-1804**      **Signature Project Requirements Status Report.**  
As recommended by the Community and Economic Development Committee on October 24, 2022, accept staff’s analysis of the effects of changing the minimum size criteria for interior parcels within the General Plan’s Signature Project Policy, pursuant to City Council direction on December 7, 2021, as part of the Four-Year Review of the General Plan hearings. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Planning, Building, and Code Enforcement) [Community and Economic Development Committee referral 10/24/2022 - Item (d)2]

Action: The staff’s analysis of the effects of changing the minimum size criteria for interior parcels within the General Plan’s Signature Project Policy was accepted. (10-0-1. Absent: Arenas.)

**2.19**      **22-1789**      **Actions Related to the Agreement with the City and County of San Francisco to Allocate 2022 Urban Areas Security Initiative (UASI) Grant Funds.**  
(a) Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative, to accept the 2022 UASI grant allocation in the amount of \$1,546,794 and to negotiate and execute additional amendments and related documents without further City Council action.  
(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund: (1) Establish the Urban Areas Security Initiative Grant - Police 2022 City-Wide Expenses appropriation to the Police Department in the amount of \$853,156; (2) Establish the Urban Areas Security Initiative Grant - Fire 2022 City-Wide Expenses appropriation to the Fire Department in the amount of \$312,244; and (3) Increase the estimate for Revenue from Federal Government by \$1,165,400. 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/Fire/City Manager)

Action: (a) **Resolution No. 80797** authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco and (b) **Appropriation Ordinance No. 30851** and **Funding Sources Resolution No. 80798** were adopted. (10-0-1. Absent: Arenas.)

**2.20**      **22-1790**      **Actions Related to the Proposed 2022-2024 Spending Plan for the Supplemental Law Enforcement Services Grant and Revised 2021-2023 Spending Plan for the Supplemental Law Enforcement Services Grant.**  
(a) Approve the proposed 2022-2024 Spending Plan for the Supplemental Law Enforcement Services (SLES) Grant in the amount of \$1,508,164 and authorize the Chief of Police to amend the Spending Plan in conformity to the budget priorities set out in this memorandum to Council and in the event State SLES Grant payments are less or more than expected. (b) Approve the revised 2021-2023 Spending Plan for the SLES Grant in the amount of \$2,607,295. (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Supplemental Law

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## 2.20 (Cont'd)

Enforcement Services fund: (1) Increase the estimate for Revenue from State of California by \$1,779,710; (2) Establish the SLES Grant 2022-2024 City-Wide Expenses appropriation to the Police Department in the amount of \$750,000; and (3) Increase the SLES Grant 2021-2023 City-Wide Expenses appropriation to the Police Department by \$1,029,710. CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment, and File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Police/City Manager)

Action: (a) The proposed 2022-2024 Spending Plan for the Supplemental Law Enforcement Services Grant (b) and the revised 2021-2023 Spending Plan for the SLES Grant in the amount of \$2,607,295 were approved. (c) **Appropriation Ordinance No. 30852** and **Funding Sources Resolution No. 80799** were adopted. (10-0-1. Absent: Arenas.)

### 2.21      22-1791      **Amendment to City-Generated Zone Tow Services Agreements.**

Adopt a resolution authorizing the City Manager to negotiate and execute a sixth amendment to the City-Generated Zone Tow Services Agreements with Alongi Brothers, Inc., Century Tow, City Towing, Courtesy Tow Services, Inc., Matos Auto Towing & Transport, and Motor Body Company, Inc. to: (a) Revise the scope of services to include the Department of Parks, Recreation, and Neighborhood Services, Community Services Division, (BeautifySJ) abatement services that include the removal of junk vehicles. (b) Provide a framework for reimbursement of junk vehicle disposal costs incurred by operators for BeautifySJ abatement tows for fiscal year 2021-2022 (retroactively) and fiscal year 2022-2023 up to a total of \$350,000. (c) Allow the City to continue to provide reimbursement of qualified junk vehicle disposal costs to tow operators for BeautifySJ abatement services above \$350,000 at the discretion of the City Manager, subject to appropriation of funding, through the duration of the agreements as amended and/or extended. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Planning, Building and Code Enforcement/Parks, Recreation and Neighborhood Services)

Action: **Resolution No. 80800** authorizing the City Manager to negotiate and execute a sixth amendment to the City-Generated Zone Tow Services Agreements with Alongi Brothers, Inc., Century Tow, City Towing, Courtesy Tow Services, Inc., Matos Auto Towing & Transport, and Motor Body Company, Inc was adopted. (10-0-1. Absent: Arenas.)

### 2.22      22-1792      **West San José Multimodal Transportation Improvement Plan.**

Adopt a resolution approving the West San José Multimodal Transportation Improvement Plan. CEQA: File No. ER22-247, Determination of Consistency with the Envision San José 2040 General Plan Final Environmental Impact Report (Resolution no. 76041) and Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution no. 77617), and addenda thereto. Council Districts 1 and 6. (Transportation)

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## 2.22 (Cont'd)

Action: **Resolution No. 80801** approving the West San José Multimodal Transportation Improvement Plan was adopted. (10-0-1. Absent: Arenas.)

- 2.23      22-1883      Approval of End of Term Celebration Event Sponsored by Council District 3 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 November 30, 2022: (a) Approve the End of Term Celebration Event scheduled on December 15, 2022 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. (Peralez) [Rules Committee referral 11/30/2022 - Item B.2]

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

- 2.24      22-1886      Approval of District 3 Community Chat Sponsored by Council District 3 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 November 30, 2022: (a) Approve the District 3 Community Chat scheduled on December 20, 2022 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. (Peralez) [Rules Committee referral 11/30/2022 - Item B.3]

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

- 2.25      22-1890      Retroactive Approval of the World AIDS Day Flag Raising and Tower and Rotunda Lighting Sponsored by Council District 3 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 November 30, 2022: (a) Retroactively approve the World AIDS Day Flag Raising and Tower and Rotunda Lighting scheduled on December 1, 2022 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. (Peralez and Foley) [Rules Committee referral 11/30/2022 - Item B.4]

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

- 2.26      22-1894      **Request for Travel Authorization for Councilmember Cohen.**  
As recommended by the Rules and Open Government Committee on November 30, 2022, authorize travel for Councilmember Cohen to Israel from March 17, 2023 to March 27, 2023 to attend the Israel Seminar for Bay Area elected leaders, sponsored by Jewish Community Relations Council (JCRC) and Bay Area Network of Jewish Officials (BANJO). (Source of Funds: Jewish Community Relations Council (JCRC) and personal funds) 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 11/30/2022 - Item B.5]

Action: Travel for Councilmember David Cohen was approved. (10-0-1. Absent: Arenas.)

- 2.27      22-1897      **Approval of Santa Visits Alviso and Breakfast with Santa Holiday Events Sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**  
As recommended by the Rules and Open Government Committee on November 30, 2022: (a) Approve the Santa Visits Alviso Holiday Event scheduled on December 10, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (b) Approve the Breakfast with Santa Holiday Event scheduled on December 10, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and (c) Approve and accept donations from various individuals, businesses, or community groups to support the events. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Cohen) [Rules Committee referral 11/30/2022 - Item B.6]

Action: The City Council Special Events were approved. (10-0-1. Absent: Arenas.)

- 2.28      22-1900      **Retroactive Approval of Multiple Special Events Sponsored by Council District 7 as a City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.**  
As recommended by the Rules and Open Government Committee on November 30, 2022: (a) Retroactively approve the Shirakawa Elementary Family Movie Night scheduled on June 3, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (b) Retroactively approve the Shirakawa Elementary Promotion scheduled on June 9, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (c) Retroactively approve the Dahl Kinder Promotion scheduled on June 15, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (d) Retroactively approve the Dahl 6th Grade Promotion scheduled on June 16, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (e) Retroactively approve the Shirakawa 8th Grade Promotion scheduled on June 16, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (f) Retroactively approve the Santee 6th Grade Promotion scheduled on June 16, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (g) Retroactively approve the Santee Kinder Promotion scheduled on June 17, 2022 as a City Council sponsored Special

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## 2.28 (Cont'd)

Event and approve the expenditure of funds; (h) Retroactively approve the 2nd Annual Lone Bluff NA Ice Cream Social scheduled on June 18, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (i) Retroactively approve the Tully Night Market scheduled on July 13, July 20, July 27, August 3, August 10, August 17, August 24, and August 31, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (j) Retroactively approve the Communications Hill Movie Night scheduled on July 15, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (k) Retroactively approve the Lone Bluff Senter Neighborhood BBQ scheduled on July 16, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (l) Retroactively approve the Rocksprings Park Family Movie Night scheduled on July 21, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (m) Retroactively approve the Lone Bluff Way Dumpster Day scheduled on August 6, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (n) Retroactively approve the Flory Drive Dumpster Day scheduled on August 20, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (o) Retroactively approve the Kennedy Family Movie Night scheduled on August 26, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (p) Retroactively approve the Community Day at the VACC scheduled on August 27, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (q) Retroactively approve the Meadows Family Movie Night scheduled on September 9, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (r) Retroactively approve the Communications Hill Mid-Autumn Festival scheduled on September 10, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (s) Retroactively approve the Yerba Buena Moon Festival scheduled on September 10, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (t) Retroactively approve the VACC Moon Festival scheduled on September 16, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (u) Retroactively approve the Franklin Family Movie Night scheduled on September 16, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (v) Retroactively approve the Dahl Dumpster Day scheduled on September 24, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (w) Retroactively approve the Lairon Family Resource Center Resource Fair scheduled on September 24, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (x) Retroactively approve the Dahl Family Movie Night scheduled on September 30, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (y) Retroactively approve the Sylvandale Middle School Clean Up scheduled on October 1, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (z) Retroactively approve the Ramblewood Dumpster Day scheduled on October 8, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (aa) Retroactively approve the O.B. Whaley Family Movie Night scheduled on October 14, 2022 as a City Council sponsored

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## 2.28 (Cont'd)

Special Event and approve the expenditure of funds; (ab) Retroactively approve the Seven Trees Trunk or Treat scheduled on October 28, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (ac) Retroactively approve the Kennedy Elementary Costume Parade scheduled on October 31, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; (ad) Retroactively approve the Communications Hill Dumpster Day scheduled on November 5, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and (ae) Approve and accept donations from various individuals, businesses or community groups to support the events. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Esparza) [Rules Committee referral 11/30/2022 - Item B.7]

Action: The City Council Special Events were retroactively approved. (10-0-1. Absent: Arenas.)

## 2.29      22-1901      **Boards and Commissions Appointment.**

Approve the following Boards and Commissions appointment: (a) Arts Commission:(1) Citywide Seat: Anthony Cordova to a term ending June 30, 2026. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk) [Rules Committee referral 11/30/2022 - Item A.1.a]

Action: Anthony Cordova was appointed to the Citywide Seat for the Arts Commission to a term ending Jun 30, 2026. (10-0-1. Absent: Arenas.)

## **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      22-1793      **Statement of Policy and Questions for the Prospective Director of Finance.**

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

Action: Upon motion by Vice Mayor Jones, seconded by Councilmember Matt Mahan and carried unanimously, the Statement of Policy and City Council Questions were adopted. (10-0-1. Absent: Arenas.)

- 3.4 22-1794 City Initiatives Roadmap: COVID-19 Recovery Task Force Status Report.**  
(a) Accept the COVID-19 Recovery Task Force Report. (b) Accept the COVID-19 Recovery Task Force recommendation to advance implementation of the COVID-19 Task Force Report: (1) Authorize expenditure from the \$2.0 million COVID-19 Recovery Task Force appropriation in the American Rescue Plan Fund to implement the 10 recommendations listed in Figure 4; (2) Direct staff to provide semi-annual status reports to the Community and Economic Development Committee on implementation of the COVID-19 Recovery Task Force Report; and (3) Incorporate relevant recommendations into the City’s Children and Youth Services Master Plan process. (c) Direct staff to evaluate and consider other COVID-19 Recovery Task Force recommendations as part of future annual budget processes. (d) Determine that Fiscal Year 2022-2023 City Initiatives Roadmap item “COVID-19 Recovery Task Force” is completed. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Manager)

Deputy City Managers Rosalyn Hughey and Rob Lloyd, and Assistants to the City Manager, Aurelia Bailey and Carlos Velazquez provided the presentation and responded to questions.

Public Comments: Executive Director, Recovery Café San Jose, Kathy Cordova; Paul Soto; Louise Auerhahn; and Blair Beekman offered public comments.

Action: Upon motion by Raul Peralez, seconded by Councilmember Maya Esparza and carried unanimously, the COVID-19 Recovery Task Force Report and recommendations were accepted. (10-0-1. Absent: Arenas.)

- 3.5 22-1795 Annual Comprehensive Financial Report for Fiscal Year Ended June 30, 2022. - TO BE HEARD CONCURRENTLY WITH ITEMS 3.6 AND 9.1.**  
Accept the Fiscal Year 2021-2022 Annual Comprehensive Financial Report for the City of San José. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Finance)

**HEARD CONCURRENTLY WITH ITEMS 3.6 AND 9.1**

Finance’s Director, Julia Cooper; Deputy Director of Accounting, Rick Bruneau; and Partner of Macias, Gina & O’Connell LLP, David Bullock provided the presentation and responded to questions.

Public Comment: Paul Soto offered public comment.

Action: Upon motion by Sergio Jimenez, seconded by Councilmember Maya Esparza and carried unanimously, the Fiscal Year 2021-2022 Annual Comprehensive Financial Report for the City of San José was accepted. (9-0-2. Absent: Arenas, Carrasco.)

**3.6 22-1796 External Auditor’s Report: Report to Those Charged with Governance for Fiscal Year Ended June 30, 2022. - TO BE HEARD CONCURRENTLY WITH ITEMS 3.5 AND 9.1.**

Accept the Report to Those Charged with Governance for the fiscal year ended June 30, 2022 as issued by Macias Gini & O’Connell LLP, the City of San José external auditor. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Finance) TO BE HEARD CONCURRENTLY WITH ITEMS 3.5 AND 9.1

**HEARD CONCURRENTLY WITH ITEMS 3.5 AND 9.1**

Finance’s Director, Julia Cooper; Deputy Director of Accounting, Rick Bruneau; and Partner of Macias, Gina & O’Connell LLP, David Bullock provided the presentation and responded to questions.

Action: Upon motion by Councilmember Maya Esparza, seconded by Vice Mayor Chappie Jones, and carried unanimously, the Council accepted the Report to Those Charged with Governance for the fiscal year ended June 30, 2022 as issued by Macias Gini & O’Connell LLP, the City of San José external auditor. (10-0-1. Absent: Arenas.)

**3.7 22-1797 Comprehensive Annual Debt Report for Fiscal Year Ended June 30, 2022.**

Accept the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2021-2022. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)

Finance Department’s Director, Julia Cooper and the Debt & Treasury Management Deputy Director, Qianyu Sun provided the presentation and responded to questions.

Public Comments: Paul Soto and Blair Beekman offered public comments.

Action: Upon motion by Councilmember Matt Mahan, seconded by Councilmember Raul Peralez, and carried unanimously, the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2021-2022 was accepted. (9-0-2. Absent: Arenas, Carrasco.)

**4. PUBLIC SAFETY SERVICES**

**5. TRANSPORTATION & AVIATION SERVICES**

**5.1 22-1902 Actions Related to the 10201-SJC Airport Accessibility Upgrades Phase 3A-Terminal Buildings Re-Bid Project.**

(a) Report on bids and award of contract for the 10201 - Norman Y. Mineta San José International Airport (SJC) Airport Accessibility Upgrades Phase 3A - Terminal Buildings Re-Bid Project (Project) to the lowest responsive bidder, Rodan Builders Inc., in an amount of \$16,590,000, and approve a contingency in the amount of

*(Item continued on next page)*

## 5.1 (Cont'd)

\$2,488,500. (b) Adopt the following 2022-2023 Appropriation Ordinance amendments in the Airport Revenue Fund: (1) Decrease the Airline Agreement Reserve by \$2,327,000; and (2) Increase the Transfer to the Airport Surplus Revenue Fund by \$2,327,000. (c) Adopt the following 2022-2023 Appropriation Ordinance and Funding Sources Resolution amendments in the Airport Surplus Revenue Fund: (1) Increase the estimate for Transfers and Reimbursements by \$2,327,000; and (2) Increase the Transfer to the Airport Renewal and Replacement Fund by \$2,327,000. (d) Adopt the following 2022-2023 Appropriation Ordinance and Funding Sources Resolution amendments in the Airport Renewal and Replacement Fund: (1) Increase the estimate for Transfers and Reimbursements by \$2,327,000; and (2) Increase the Terminal Accessibility Upgrades appropriation to the Airport Department in the amount of \$2,327,000. CEQA: Determination of Consistency with the Final Environmental Impact Report for the Norman Y. Mineta San José International Airport (Resolution No. 79497), File No. ER22-262 [Airport, Accessibility Upgrades Phase 3A]. (Airport/Public Works/City Manager) [Rules Committee referral 11/30/2022 - Item A.1.a]

Action: (a) Report on bids and award of contract for the 10201 - Norman Y. Mineta San José International Airport (SJC) Airport Accessibility Upgrades Phase 3A with approved contingency. (b) **Appropriation Ordinance No. 30853**, (c) **Appropriation Ordinance No. 30854**, **Funding Sources Resolution No. 80802** (d) **Appropriation Ordinance No. 30855**, and **Funding Sources Resolution No. 80803**, were adopted. (10-0-1. Absent: Arenas.)

**The Council recessed the Morning Session at 12:54 p.m. and reconvened at 1:35 p.m. for the Afternoon Session with all Councilmembers present.**

## **6. ENVIRONMENTAL & UTILITY SERVICES**

- 6.1            22-1798            2023 Power Rates, Service Options and Financial Reserve Policy.**
- (a) Adopt a resolution amending San José Clean Energy's rate-setting methodology and service options as follows: (1) Maintaining the renewable energy content of GreenSource at 60 percent renewable and setting rates, inclusive of the Power Charge Indifference Adjustment and Franchise Fee Surcharge, according to the rate schedule in Attachment A to the staff memorandum, effective the later of January 1, 2023, or when Pacific Gas & Electric Company's 2023 generation rates and Power Charge Indifference Adjustment rate become effective; (2) Suspending GreenValue service and transferring customers from GreenValue to GreenSource service, effective the later of January 1, 2023, or when Pacific Gas & Electric Company's 2023 generation rates and Power Charge Indifference Adjustment rate become effective; (3) Continuing to set rates for TotalGreen at \$0.005 or \$0.01 per kilowatt-hour above GreenSource, depending on rate class, according to the rate schedule in Attachment B to the staff memorandum, effective the later of January 1, 2023, or when Pacific Gas & Electric Company's 2023 generation rates and Power Charge Indifference

*(Item continued on next page)*



## 6.1 (Cont'd)

Adjustment rate become effective; and (4) Amending the discount for the SJ Cares program, which is open to California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) customers, to 10 percent below GreenSource rates while continuing to provide SJ Cares customers with GreenSource renewable content, according to the rate schedule in Attachment C to the staff memorandum, effective the later of January 1, 2023, or when Pacific Gas & Electric Company's 2023 generation rates and Power Charge Indifference Adjustment rate become effective. (b) Adopt a resolution approving the San José Clean Energy Financial Reserves Policy (Attachment D to the staff memorandum) that establishes a framework to build reserves to at least 180 days of operating expenses. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Community Energy)

Director of Community Energy, Lori Mitchell and Assistant Director, Zach Struyk provided the presentation and responded to questions.

Public Comment: Paul Soto offered public comments

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember David Cohen and carried unanimously, (a) **Resolution No. 80804** amending San José Clean Energy's rate-setting methodology and service options and (b) **Resolution No. 80805** approving the San José Clean Energy Financial Reserves Policy was adopted. (10-0-1. Absent: Arenas.)

## 7. NEIGHBORHOOD SERVICES

## 8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1            22-1799            **Actions Related to the San José Hotel Business Improvement District Beginning Fiscal Year 2023-2024.**
- (a) Public hearing to consider the renewal of the San José Hotel Business Improvement District for an additional ten years from its current expiration date of June 30, 2023 to June 30, 2033. (b) Public hearing to approve the budget and the levy of assessments for the renewed San José Hotel Business Improvement District beginning Fiscal Year 2023-2024. (c) Adopt a resolution of formation renewing the San José Hotel Business Improvement District, approving the assessment rate and budget, and authorizing the levy of assessments beginning Fiscal Year 2023-2024. (d) Approve an uncodified ordinance renewing the San José Hotel Business Improvement District, approving the assessment rate and budget, and authorizing the levy of assessments beginning Fiscal Year 2023-2024. 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. (Economic Development and Cultural Affairs)

*(Item continued on next page)*

## 8.1 (Cont'd)

Mayor Sam Liccardo opened the public hearing.

Public Comments: Paul Soto and Kathryn Hedges offered public comments.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Paul Soto, seconded by Councilmember Maya Esparza and carried unanimously, (c) **Resolution No. 80806** renewing the San José Hotel Business Improvement District was adopted and (d) **Uncodified Ordinance No. 30856** renewing the San José Hotel Business Improvement District was passed for publication. (10-0-1. Absent: Arenas.)

**The Council recessed the Afternoon Session at 2:20 p.m. and reconvened at 6:00 p.m. for the Evening Session with all Councilmembers present.**

- 8.2        22-1805        Affordable Housing Siting Policy. - NOT TO BE HEARD BEFORE 6:00 P.M.**  
As recommended by the Community and Economic Development Committee on November 28, 2022: (a) Accept the status report on the proposed Affordable Housing Siting Policy that includes research addressing City Council direction from the August 31, 2021 City Council meeting. (b) Adopt a resolution approving the Affordable Housing Siting Policy and repealing the former Dispersion Policy under Resolution 67604. 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) [Community and Economic Development Committee referral 11/28/2022 - Item (d)3] **NOT TO BE HEARD BEFORE 6:00 P.M.**

Housing Department's Director Jacky Morales-Ferrand, Deputy Director Rachel VanderVeen, Division Manager Kemit Mawakana, and Senior Development Officer Joshua Ishimatsu offered the presentation and responded to questions.

Public Comments: Sacred Heart, Matt King; Paul Soto; Kristen Clements; Si Se Puede Collective, Gabriel; Silicon Valley Interfaith Coalition, Steve Pinkston; Policy and Communications Director, Destination: Home, David Low; Director of Policy, Silicon Valley at Home, Matthew Reed; Blair Beekman; SV Catalyze, Alex Shoor; Caller with a Number ending in 7168; Director of Policy and Organizing, Amigos de Guadalupe, Jeremy Barousse; Melissa Sheklian; Caller with a Number ending in 0319; Housing Action Coalition's Ali Sapirman; Erin Neff; Saratoga Area Senior Coordinating Council offered public comments.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pam Foley, and carried unanimously, (a) the status report on the proposed Affordable Housing Siting Policy was accepted and (b) **Resolution No. 80807**, approving the Affordable Housing Siting Policy was adopted. (11-0.)

**8.3            22-1876            PP22-015 - Amendment to Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code for the Parking and Transportation Demand Management Policy Ordinance. - TO BE HEARD IMMEDIATELY AFTER CONSENT**

(a) Approve an ordinance of the City of San José amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (1) Add Part 9 Transportation Demand Management (TDM) to the retitled Chapter 20.90 Parking, Loading and Transportation Demand Management; (2) Revise tables and text for in Chapter 20.90 to remove parking minimums, modify parking space design standards, and modify parking requirements for bicycle and two-wheeled motorized vehicle parking and remove parking reduction exceptions; (3) Revise tables and text in 20.70 Downtown Zoning Regulations to remove requirements and references to mandatory minimum off-street parking; (4) Remove references to parking requirements in Chapters 20.55, 20.80, 20.150, 20.180, 20.190 and 20.195; (5) Revise and add text to expand/modify processes for issuing outdoor event permits, outdoor vending permits and conversion of existing parking to outdoor use in Chapter 20.80 Specific Use Regulations; and (6) Make other technical, non-substantive, or formatting changes within those section of Title 20 of the San José Municipal Code. (b) Direct staff to continue suspending enforcement until June 30, 2023, of land use permits and provisions of the San José Municipal Code to continue to allow outdoor business operations on private property that have previously registered under and been in compliance with the San José Al Fresco program. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. Planning Commission recommended approval 11/16/2022 Item 5.b. (9-0-1, Ahluwalia absent). (Planning, Building and Code Enforcement) [Deferred from 11/29/2022 - Item 8.4 (22-1749)]

**ITEM 8.3 AND 8.4 WERE HEARD TOGETHER FOLLOWING ITEM 8.2.**

**THE HEARING WAS SPLIT BETWEEN THE MORNING SESSION FOLLOWING THE CONSENT CALENDER AND THE EVENING SESSION FOLLOWING ITEM 8.2 OF THE COUNCIL.**

Public Comments: Ali Sapirman with the Housing Action Coalition offered public comment during the Morning Session of the Council.

Deputy Director, Planning, Building, and Code Enforcement, Michael Brilliot; Deputy Director, Department of Transportation, Jessica Zenk; and Division Manager, Department of Transportation Ramses Madou provided a presentation and responded to questions.

*(Item continued on next page)*

### 8.3 (Cont'd)

Public Comments: Marco Hernandez; San Jose Director for SPUR, Fred Buzo; Blair Beekman; Juan Estrada; Mark Lazzarini; Samuel Gutierrez; Natural Resources Defense Council, Rabi Abonour; Paul Soto; Janet Holt; Sacred Heart Community Service, Matt King; Gabriel; Trudy Ellerbeck; Jeremy Barousse; Shawna Feci; Sandra; Caller ending in Number 7168; Beth; GreenTRIP Video Conference Kendra, Policy Analyst with Transform; Environmental Advocacy Assistant, Santa Clara Valley Audubon Society, Rani Fischer; Alex Shoor; David Noel; Mohan Mahal; Gary Dillabough; Marlee Smith; CFerrigno; Wesley Lee; Matthew Reed; Christine K; Jake Wilde; Robert Reese; Lalo Mendez; Lawrence Ames; Jordan Grimes; Gabby Mendoza; Brian; and Sangeeta offered public comments during the Afternoon Session of the council.

Motion: Councilmember Pam Foley moved approval of Mayor Sam Liccardo's November 29, 2022, which includes suspension of enforcement against outdoor dining and outdoor uses on private property as recommended in Staff's Supplemental Memorandum dated November 23, 2022 until this new program is approved by Council and implemented. The motion was seconded by Councilmember Matt Mahan.

Action: On a call for the question, the motion carried unanimously, approving Mayor Sam Liccardo's November 29, 2022 memorandum to:

1. Modify the ordinance to provide simpler compliance and greater flexibility for outdoor dining in zoning designations and districts outside of downtown.
  - a. Allow outdoor uses on private property within 150 feet of a residential use to apply for a permit through a simpler, less expensive process than that prescribed for a Special Use Permit—such as the process used for a Public Works “parklet permit.”
  - b. The permit should enable businesses and restaurants to continue using their private parking lots within 150 feet of a residential use where those businesses do not violate any specified conditions for safe and neighborhood-friendly operation.
    - i. Return to Council with the list of those specified conditions, the violation of which could provide the basis for the revocation of a permit to operate outdoors.
    - ii. One of those conditions should incorporate a “catchall” prohibition on any conduct creating a “public nuisance” as defined by other statutory and case law.
2. Suspend enforcement against outdoor dining and outdoor uses on private property as recommended in Staff's Supplemental Memorandum dated November 23, 2022 until this new program is approved by Council and implemented.

**Ordinance No. 30857** was passed for publication. (11-0.)

**8.4            22-1877            GPT22-006 - Amendment to the City Council Policy 5-1 Transportation Analysis for Affordable Housing Projects. - TO BE HEARD IMMEDIATELY AFTER CONSENT.**

(a) Adopt a resolution amending City Council Policy 5-1 entitled “Transportation Analysis Policy” to streamline environmental review under Vehicle Miles Traveled (VMT) for affordable housing projects and market rate projects in designated City Planned Growth Areas, and to provide a process for City Council to consider adopting a Statement of Overriding Consideration under the California Environmental Quality Act (CEQA) for housing projects meeting the land use policies of the General Plan with Significant and Unavoidable Impacts in high VMT areas. (b) Direct City staff to return to the City Council with amendments to General Plan 2040 to implement changes to City Council Policy 5-1 approved by the City Council in Recommendation (a). CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. Planning Commission recommended approval for staff’s Recommendation and rejection of the Alternative Recommendation from Transportation and Environment Committee, 11/16/2022 Item 5.c. (7-2-1, Casey and Ornelas-Wise opposed, Ahluwalia absent). (Planning, Building and Code Enforcement) [Deferred from 11/29/2022 - Item 8.5] **TO BE HEARD IMMEDIATELY AFTER CONSENT**

**ITEM 8.3 AND 8.4 WERE HEARD TOGETHER FOLLOWING ITEM 8.2.**

Deputy Director, PBCE, Michael Brilliot; Deputy Director, Department of Transportation, Jessica Zenk; and Division Manager, Department of Transportation Ramses Madou offered a presentation and responded to questions.

Motion: Councilmember Raul Peralez moved Councilmember Dev Davis' 11/23/2022 memorandum co-authored by Peralez. Councilmember Davis seconded the motion.

Substitute Motion: Councilmember David Cohen moved the staff recommendation including Councilmember Sergio Jimenez's 11/28/2022 memorandum, with recommendations on the parameters of policy and policy exceptions on a hybrid engagement process led by developers and city staff, and options for an expedited process still guided by City determined guidelines including a conversation on the right amount of inclusionary housing to return to a February 2023 City Council meeting.

Councilmember Raul Peralez requested a friendly amendment that the affordable housing restriction discussion be included at the February 2023 Council meeting. The friendly amendment was accepted by both the maker of the motion and the seconder.

Mayor Sam Liccardo requested a friendly amendment to include that the amount of affordable housing should be greater than the city-wide requirement. The friendly amendment was accepted by both the maker of the motion and the seconder.

Councilmember Raul Peralez provided clarification that in the agenda language the proposed resolution had referred to “TE Committee Recommendation w/Add’l Staff Edits”

*(Item continued on next page)*

## 8.4 (Cont'd)

Action: On a call for the question, the motion carried unanimously, adopting **Resolution No. 80808**, to approve staff recommendations and to accept Councilmember Sergio Jimenez' November 28, 2022 memorandum to include Items #1 and #3 from the memorandum from Councilmember Davis and Peralez dated **11/23/2022 as noted below:**

1. Accept **Staff's memorandum** and approve the Resolution: T&E COMMITTEE RECOMMENDATION WITH ADDITIONAL STAFF EDITS with the following change:
  - a. Delete existing section (b) language on page A-5 and replace with: Provides significant benefit to neighborhood vibrancy in some way, such as by including appropriate neighborhood-serving commercial space as part of the project.
3. Direct staff to ensure that before the approval of a privately initiated General Plan Amendment, the applicant shall submit a proposed project as part of a zoning application so that it can be heard concurrently with the General Plan Amendment by the Planning Commission and City Council.

*With a modification from Councilmember Sergio Jimenez 11/28/22 memo to:*

1. *Prohibit a Statement of Overriding Considerations under CEQA for any project due to significant and unavoidable transportation impacts in each of the following areas:*
  - a. *Coyote Valley Conservation Program Area, as defined by AB948 (see attached map);*
  - b. *Outside of the Urban Growth Boundary ("Greenline");* or
  - c. *Any other land formally designated for conservation.*

Also including returning with recommendations on the parameters of policy and policy exceptions on a hybrid engagement process led by developers and city staff and allowing for an expedited process still guided by City-determined guidelines, including a conversation on the appropriate amount of inclusionary housing. With the affordable housing restriction to be presented at the February 2023 Council meeting, and to include the friendly amendment from Mayor Sam Liccardo that the amount of affordable housing should be greater than the city-wide requirement. (11-0.)

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

- 9.1            22-1806            **Successor Agency to the Redevelopment Agency of the City of San José - Audited Financial Statements for Fiscal Year Ended June 30, 2022. – TO BE HEARD CONCURRENTLY WITH ITEMS 3.5 AND 3.6.**
- Accept the Fiscal Year 2021-2022 Independent Auditor's Reports and Basic Financial Statements for the Successor Agency to the Redevelopment Agency of the City of San José. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Finance) TO BE HEARD CONCURRENTLY WITH ITEMS 3.5 AND 3.6

**HEARD CONCURRENTLY WITH ITEMS 3.5 AND 3.6**

*(Item continued on next page)*

## 9.1 (Cont'd)

Finance's Director, Julia Cooper; Deputy Director of Accounting, Rick Bruneau; and Partner of Macias, Gina & O'Connell LLP, David Bullock provided the presentation and responded to questions.

Action: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Jones and carried unanimously, the Council accepted the Fiscal Year 2021-2022 Independent Auditor's Reports and Basic Financial Statements for the Successor Agency to the Redevelopment Agency of the City of San José. (10-0-1. Absent: Arenas.)

**THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE ADJOURNED AND THE REGULAR MEETING OF THE CITY COUNCIL RECONVENED AT 12:24 P.M.**

## **10. LAND USE**

### **10.1 Land Use on Consent Calendar**

*No Land Use Items on Consent Calendar*

### **10 Land Use – Regular Agenda**

None provided

### **• Open Forum**

1. Blair Beekman spoke to the need for an easier dialogue and process to create a good democracy for the community. He also questioned how the city will work towards an open and accessible process to renewable energy.
2. Jesse Noble spoke on a cannabis project that they consider a project for the community and questioned who they should contact to continue work on this project.
3. Paul Soto spoke on the diversity and history of East San Jose as a birthplace of Civil Rights movements and expressed frustration on the language used by developers within the city. He also spoke on the Low Rider presentation in the Smithsonian.
4. Ali Sapirman thanked the Council for passing a memo on Item 2.10 and expressed thanks to the City's leadership.

- **Adjournment**

The Council of the City of San José adjourned at 10:16 p.m. in honor of Mary Jimenez Fierros, who was an East San José resident and was part of the “Rosie Riveters”. Rosie the Riveter was a cultural icon of World War II, representing the women who worked in factories and shipyards, many of whom produced munition.

Minutes Recorded, Prepared, and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk



SAN JOSÉ CITY COUNCIL CLOSED SESSION

**DECEMBER 6, 2022**

The Council of the City of San José convened into Closed Session at 9:30 a.m.  
This meeting was teleconferenced from remote locations.

Present: Councilmembers - Carrasco, Cohen, Davis, Esparza, Foley, Jimenez, Jones, Mahan, Peralez; Liccardo.

Absent: Councilmembers - Arenas.

Closed Session Item(s) discussed:

**A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:**

Initiation of litigation pursuant to Sections 54956.9(d)(4) of the Government code:

Number of matter(s) to be discussed: 1

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

1. Case Name: Rosenbaum, Zachary v. City of San Jose, et al.  
Name(s) of Partie(s) ZACHARY ROSENBAUM, CITY OF SAN JOSE;  
Involved: OFFICERS RYAN FERGUSON #3921; SGT. HATEZNBUEHLER #3899; DUNN #4309; SGT. GUTIERREZ #3359; ANDERSON #3884; TAPIA #4743; VALLEJO #3929; OCHOA #3683 and DOES 1-25  
Court: United States District Court; For the Northern District of California  
Case No.: 5:20-cv-04777-NC  
Amount of Money or Damages according to proof.  
Other Relief Sought:
2. Case Name: Garcia, Marina Rodriguez and Bernadette Garcia de Rodriguez v. City of San Jose, et al.,  
Name(s) of Partie(s) Garcia, Marina Rodriguez and Bernadette Garcia de  
Involved: Rodriguez v. City of San Jose and Ryan Hahn and Does 1-20,  
Court: Santa Clara County Superior Court  
Case No.: 21CV381906  
Amount of Money or Damages according to proof.  
Other Relief Sought:

3. Case Name: City of Syracuse, NY; et a., v. Bureau of Alcohol, Tobacco, Firearms, and Explosives; et al.,  
 Name(s) of Partie(s) Involved: CITY OF SYRACUSE, NY, CITY OF SAN JOSE, CA, CITY OF CHICAGO, IL, CITY OF COLUMBIA, SC, EVERYTOWN FOR GUN SAFETY ACTION FUND and EVERYTOWN FOR GUN SAFETY SUPPORT FUND, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, REGINA LOMBARDO, in her official capacity as Acting Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, UNITED STATES DEPARTMENT OF JUSTICE, and WILLIAM BARR, in his official capacity as ATTORNEY GENERAL, U.S. Department of Justice,  
 Court: US District Court - Southern District of New York  
 Case No.: 1:20-CV-06885-GHW  
 Amount of Money or Other Relief Sought: Damages according to proof.

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

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or Name and Title of Unrepresented Employees: **Municipal Employees’ Federation, AFSCME Local 101, AFL-CIO (MEF)**  
 Nature of negotiations: wages/salaries, hours, working conditions, etc.  
 Name of Existing Contract or MOA: Memorandum of Agreement – City of San José and Municipal Employees’ Federation, AFSCME Local 101, AFL-CIO  
 How to Obtain a copy of Existing Contract or MOA: Web: <https://www.sanjoseca.gov/your-government/departments/employee-relations/labor-relations-information/bargaining-units-labor-contract-info>  
 Telephone – Employee Relations: (408) 535-8150
2. Organization or Name and Title of Unrepresented Employees: **San José Police Officers’ Association (SJPOA)**  
 Nature of negotiations: wages/salaries, hours, working conditions, etc.  
 Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and San José Polices’ Association

How to Obtain a copy of Existing Contract or MOA: Web: <https://www.sanjoseca.gov/your-government/departments/employee-relations/labor-relations-information/bargaining-units-labor-contract-info>  
Telephone – Employee Relations: (408) 535-8150

By unanimous consent, Council recessed from the Closed Session to reconvene in Regular Open Session at 11:00 a.m. in the Council Chamber.