



City Council Meeting SYNOPSIS

Tuesday, August 10, 2021
<https://sanjoseca.zoom.us/j/93052835954>

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



- **Call to Order and Roll Call**

9:30 a.m. - Closed Session, Call to Order.
Councilmembers Absent: All present.

1:34 p.m. - Regular Session
Councilmembers Absent: All present. (Cohen present virtually)

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 7)**

Reverend Alii Filoialii of the Tafatolu Congregational Church offered the invocation.

- **Orders of the Day**

The Orders of the Day were approved.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

1.1 Presentation of a Proclamation Recognizing August 7, 2021 as Assyrian National Day of Mourning. (Mahan)

Councilmember Matt Mahan introduced representatives from the Assyrian American Association and spoke on the importance of this Proclamation, a commendation was issued to Father Joseph Kachappilly from the Saint Marys' Assyrian Catholic Church, Monica Malik Daoud, Secretary of the Assyrian American Association of San José, Senior Pastor Ladimer Alkhaseh from the Assyrian Evangelical Church of San José, and Afonso Odisha the previous President of the Assyrian American Association of San José.

**1.2 Presentation of a Proclamation Recognizing August 15, 2021 as India Independence Day.
(Arenas)**

Councilmember Sylvia Arenas spoke on the importance of India Independence Day, and she introduced and issued a commendation to Raj Verma from the National Federation of India American Association.

2. CONSENT CALENDAR

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

2.3 Approval of Council Committee Minutes.

2.4 [21-1786](#) Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Cohen from the Regular Meetings of the Rules and Open Government Committee on August 11, 2021 and the Neighborhood Services and Education Committee on August 12, 2021 due to personal vacation. 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 8/4/2021 - Item A.1.a]

Action: The Mayor and Council Excused Absence Requests were approved. (11-0.)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

Action: The Verbal Report on the Council Liaison to the Retirement Boards was presented by Councilmember Pam Foley and accepted. (11-0.)

2.7 [21-1275](#) Approval of India Independence Day Community Event, City Hall Tower and Rotunda Lighting, and Flag Raising Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on May 5, 2021:
(a) Approve the recognition of India Independence Day and Flag Raising on Thursday, August 12, 2021, and City Hall Tower and Rotunda Lighting from August 12 - 19, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
(b) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Arenas) [Rules Committee referral 5/5/2021 - Item G.1.b]

Action: The City Council Sponsored Special Event was approved. (11-0.)

2.8 21-1699

Amendment to the Consultant Services Agreement with the San Jose Downtown Association.

Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Agreement for Consultant Services between the City of San José and the San Jose Downtown Association to include marketing, promotional, placemaking, business development and parking-related services with compensation in an amount not to exceed \$857,966 for services from July 1, 2021 to June 30, 2022. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3. (Economic Development and Cultural Affairs)

Action: **Resolution No. 80121** regarding the Amendment to the Agreement for Consultant Services between the City of San José and the San Jose Downtown Association was adopted. (11-0.)

2.9 21-1700

Amendment to the Funding and Reimbursement Agreement with Google.

Approve the First Amendment to the Funding and Reimbursement Agreement with Google LLC to extend the term to June 30, 2022. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Economic Development and Cultural Affairs)

Action: The First Amendment to the Funding and Reimbursement Agreement with Google to extend the term to June 30, 2022 was approved. (11-0.)

2.10 21-1705

Proposed Amendments to the PTC Deferred Compensation Plan and Tier 3 Defined Contribution Retirement Plan Relating to Councilmembers.

(a) Approve an ordinance to amend Chapter 3.50 of Title 3 of the San José Municipal Code to provide that councilmembers shall no longer actively participate in the PTC Deferred Compensation Plan effective October 3, 2021 and amend Chapter 3.49 of Title 3 of the San José Municipal Code to provide for participation by councilmembers in the Defined Contribution Plan for Unit 99 Employees effective October 3, 2021. (b) Adopt a resolution to: (1) Approve an amendment to the Basic Plan Document for the PTC Plan effective October 3, 2021 to provide that councilmembers shall no longer actively participate in the Plan and authorize the City Manager to execute the amended Basic Plan Document and other documents as necessary to administer the PTC Plan set forth in Chapter 3.50 of the Municipal Code; and (2) Approve an amendment to the Basic Plan Document for the Defined Contribution Plan for Unit 99 Employees effective October 3, 2021 to provide for participation by councilmembers in the Plan and authorize the City Manager to execute the amended Basic Plan Document and other documents as necessary to administer the Defined Contribution 401(a) Plan set forth in Chapter 3.49 of the Municipal Code. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources)

Action: (a) **Ordinance No. 30625** regarding the amendment to Chapter 3.50 of Title 3 of the San José Municipal Code was passed for publication and (b) **Resolution No. 80122** regarding the amendment to the Basic Plan Document for the PTC Plan effective October 3, 2021 was adopted. (11-0.)

2.11 21-1701 Actions Related to the Design-Build Contract for Tenant Improvements at the 4th Street and San Fernando Garage for Office Space for the Community Energy Department and Other City Operations.

Approve an increase to the construction contingency for the 9180 - Tenant Improvements for the San José Community Energy Department Offices Project by \$240,000, from \$351,384 to \$591,384. CEQA: Categorically Exempt, File No. PP19-030, CEQA Guidelines Section 15301 Existing Facilities. Council District 3. (Public Works)

Action: The increase to the construction contingency for the 9180 - Tenant Improvements for the San José Community Energy Department Offices was approved. (11-0.)

2.12 21-1702 Award of Construction Contract for the 2021 Bridge Deck Treatment Project (BIC 2-2).

Approve award of a construction contract for the 2021 Bridge Deck Treatment Project (BIC 2-2), to the low bidder, American Civil Constructors West Coast LLC, Inc. in the amount of \$922,912 and approve an approximate 10% contingency in the amount of \$92,300. CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

Action: The award of a construction contract for the 2021 Bridge Deck Treatment Project (BIC 2-2) was approved. (11-0.)

2.13 21-1807 Boards and Commissions Appointment.

Approve the following Boards and Commissions appointments: (a) Clean Energy Community Advisory Commission: (1) Appoint Glen Garfunkel to a term expiring December 31, 2021; (2) Appoint Mary Tucker to a term expiring December 31, 2023; and (3) Appoint Desiree Grahn to a term expiring December 31, 2023. 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 8/4/2021 - Item A.1.a]

Action: The Boards and Commissions Appointments were approved. (11-0.)

2.14 21-1806 Approval of City Hall Lighting Display Sponsored by Council District 1 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 August 4, 2021: (a) Approve the City Hall Lighting Display Event for Eddie Gale scheduled on August 11, 2021 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. (Jones) [Rules Committee referral 8/4/2021- Item G.1.a]

Action: The City Council Sponsored Special Event was approved. (11-0.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 21-1703 Summer Intergovernmental Relations Report.

(a) Accept the Summer Intergovernmental Relations Update; and (b) Reaffirm all City positions summarized in the Intergovernmental Relations Priority Legislation Log. 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 Summer Intergovernmental Relations Update Report was accepted. (11-0.)

3.4 21-1704 Tax Equity and Fiscal Responsibility Act Hearing for California Municipal Finance Authority's Issuance of Tax-Exempt Multifamily Revenue Bonds to Finance the 425 Auzerais Apartments Project.

(a) Hold a Tax Equity and Fiscal Responsibility Act of 1982 public hearing for the issuance not to exceed \$45,000,000 of tax-exempt private activity revenue bonds by the California Municipal Finance Authority to finance and refinance the acquisition, construction, improvement and equipping of the 130-unit affordable apartment complex to be located at 425 Auzerais Avenue, 429 Auzerais Avenue, 433 Auzerais Avenue, 435 Auzerais Avenue, 437 Auzerais Avenue, and 383 Delmas Avenue in San José by SJ Auzerais, L.P., a California limited partnership; and to pay certain expenses incurred in connection with the issuance of the bonds. (b) Adopt a resolution approving the issuance of tax-exempt revenue bonds, by the CMFA in an aggregate principal amount not to exceed \$45,000,000 to finance and refinance the acquisition, construction, improvement and equipping of the Project, and to pay certain expenses incurred in connection with the issuance of the bonds. CEQA: Exempt per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. Council District 3. (Finance/Housing)

Action: (a) The Tax Equity and Fiscal Responsibility Act of 1982 hearing by the California Municipal Finance Authority was held and (b) **Resolution No. 80170** regarding the approval of the issuance of tax-exempt revenue bonds was adopted. (11-0.)

3.5 21-1712 2021-2023 Information Technology Strategic Plan Report.

As recommended by the Smart Cities and Service Improvements Committee on June 3, 2021, accept the report on the City's proposed 2021-2023 Information Technology Strategic Plan CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments,

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3.5 (Cont'd.)

Annual Reports, and Informational Memos that involve no approvals of any City action. (Information Technology/City Manager) [Smart Cities and Service Improvements Committee referral 6/3/2021 - Item (d)1]

DEFERRED TO 8/17/2021 PER ADMINISTRATION

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-1715 Housing Crisis Workplan Status Report.

As recommended by Community and Economic Development Committee on May 24, 2021, accept the report on progress implementing the City Council approved Housing Crisis Workplan. CEQA: Not a Project, File No. PP17-009, Staff Report, Assessments, annual Reports, and Informational Memos that involve no approvals of any City action. (Economic Development and Cultural Affairs/Housing/Planning, Building and Code Enforcement) [Community and Economic Development Committee referral 5/24/2021 - Item (d)4] [Deferred from 6/22/2021 Item 8.1 (21-1473)]

Action: The Status Report on progress implementing the City Council approved Housing Crisis Workplan was accepted, with a friendly amendment made by Councilmember Raul Peralez requesting staff to return to the Community and Economic Development Committee (CED) in a few months with an update on VMT in regards to residential development production and explore an update to the policy that would allow for council discretion on projects that have VMT impacts.

Including the acceptance of the memorandum from Councilmember Matt Mahan, dated August 9, 2021, recommending approving the following staff recommendations: Adopt staff recommendation to accept the status report and direct the City Manager to ensure that the next Housing Crisis Workplan status report include: (1) A metrics-based estimate of potential impact (e.g., number of new units produced, increase in permit applications, decrease in average inspection wait time, etc.) for each strategy that has been prioritized in the workplan, and (2) An ongoing assessment of actual impact in terms of the identified metric(s) for each completed strategy, and (3) Discussion of the overall prioritization of strategies based on estimated impact and learnings from recent implementation of the workplan.

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8.1 (Cont'd.)

Also including the acceptance of the memorandum from Mayor Sam Liccardo, dated August 9, 2021, recommending approving the following staff recommendations: (1) Direct the City Manager—through the Housing Catalyst or other staff in the Housing Department, working in concert with the Mayor’s staff – to identify and communicate with those affordable and market-rate housing builders who currently have entitlements, but have not moved forward on their projects to receive either a building permit or occupancy permit. (2) Return to Council within 60-90 days with the developers’ reported barriers to housing construction for approved projects. (10-0-1. Absent: Cohen)

8.2 21-1716 Declaration of Surplus and Sale of Property Located at 1590-1600 Las Plumas Avenue.

Adopt a resolution: (a) Declaring the property located at 1590-1600 Las Plumas Avenue as “exempt surplus land” pursuant to California Government Code §54221(f)(1)(D) and in accordance with San José Municipal Code §4.20.080(B)(2) as a transfer of surplus property to another local, state, or federal agency for that agency’s use; and (b) Authorizing the City Manager, or designee, to negotiate and execute: (1) A Purchase and Sale Agreement with the Santa Clara Valley Transportation Authority for the sale of approximately 1.76 acres of City-owned property, containing an approximately 30,881 square foot industrial concrete structure, located at 1590-1600 Las Plumas Avenue, further identified as Assessor’s Parcel Number 254-03-039, as “exempt surplus land”, for the price of \$3,817,000 for use related to the construction of the Bay Area Rapid Transit Silicon Valley Phase II Project; and (2) All other necessary documents to complete the property transfer to the Santa Clara Valley Transportation Authority. CEQA: Santa Clara Valley Transportation Authority’s Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report, File No. ER21-065 (Resolution Number 80060). Council District 3. (Economic Development and Cultural Affairs/Environmental Services)

Action: **Resolution No. 80171** regarding the declaration of surplus and sale of property located at 1590-1600 Las Plumas Avenue was adopted. (10-0-1. Absent: Cohen)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10. Land Use - Regular Agenda

CP21-004 - Administrative Hearing on the Appeal of the Planning Commission's Approval of a Conditional Use Permit for the Serpentine Pavilion Project.

(a) Conduct an Administrative Hearing to consider the appeal of the Planning Commission's approval of a conditional use permit to allow a one-time eight-month outdoor temporary event, including a temporary structure (Serpentine Pavilion) and individual events including but not limited to musical and theatrical performances, speaker series, movie screenings, and media exhibitions with total on-site capacity of up to 500 attendees, including up to five mobile food trucks on a 2.8-acre site located at 300 South 1st Street and 345 South 2nd Street. (b) Adopt a resolution denying the permit appeal and approving, subject to conditions, a conditional use permit to allow a one-time eight-month outdoor temporary event, including a temporary structure (Serpentine Pavilion) and individual events including but not limited to musical and theatrical performances, speaker series, movie screenings, and media exhibitions with total on-site capacity of up to 500 attendees, including up to five mobile food trucks on a 2.8-acre site located at 300 South 1st Street and 345 South 2nd Street. CEQA: Exempt, CEQA Guidelines Section 15304(e) for minor temporary use of the land having negligible or no permeant effects on the environment (Planning File No. CP21-004). Council District 3. (Planning, Building and Code Enforcement)

Action: (a) The Administrative Hearing to consider the appeal of the Planning Commission's approval of a conditional use permit for the Serpentine Pavilion Project was held and (b) **Resolution No. 80172** regarding the denial of the permit appeal was adopted. (10-0-1. Absent: Cohen)

• **Open Forum**

1. Paul Soto spoke to the importance of protecting those without power and unheard voices in the city.
2. Blair Beekman spoke to street violence, police infrastructure, and better equity practices.
3. Roland stated the Council Chambers dialogue is not being heard clearly through Zoom and spoke to safety concerns of the new Delta Variant.
4. Caller '5140' spoke to electricity and water prices, light rail issues, and Zoom connectivity concerns.

• **Adjournment**

The Council of the City of San José adjourned at 6:04 p.m.