



City Council Meeting Minutes

Tuesday, December 12, 2023

1:30 PM

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

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

- **Call to Order and Roll Call**

- 9:32 a.m. - Closed Session, Call to Order in Council Chambers

- Closed Session: See pages 24-25 for Closed Session Minutes.

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

- Absent Councilmembers: None.

- 1:38 p.m. - Regular Session, Council Chambers, City Hall

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

- Absent Councilmembers: None.

- 6:00 p.m.- Evening Session, Council Chambers, City Hall

- **Pledge of Allegiance**

- Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (Mayor)**

- Rabbi Dana Magat of Temple Emanu-El and Imam Tahir Anwar of the South Bay Islamic Association provided the invocation.

- **Orders of the Day**

- Mayor Matt Mahan stated that the Administration requested that Item 3.7 be deferred to the January 30, 2024 City Council Meeting. City Manager Jennifer Maguire added that there was not adequate time for the Administration to review the ordinance and provide feedback from Item 3.7.

- Motion: Vice Mayor Rosemary Kamei made the motion to accept the request from the Administration, with the item to return on the January 16, 2024 City Council Meeting. The motion was seconded by Councilmember Bien Doan.

- City Clerk Toni Taber made a point of order to inform that there is no City Council Meeting on January 16, 2024.

- Amended Motion: Vice Mayor Rosemary Kamei amended her previous motion to defer the Item to the January 9, 2024 City Council Meeting. The amended motion failed for a lack of second.

- City Manager Jennifer Maguire stated that the accommodation could be made if approved by Council.

Substitute Motion: Councilmember Domingo Candelas made the substitute motion to keep Item 3.7 on the agenda as is. The substitute motion was seconded by Councilmember Peter Ortiz.

Friendly Amendment: Councilmember Bien Doan requested that Item 3.7 be deferred to the January 23, 2024 City Council Meeting. The friendly amendment was not accepted by the maker of the substitute motion.

Matt Loesch, Director, Public Works Department responded to questions from Council.

Action: On a call for question, the Orders of the Day were approved, including the substitute motion to keep Item 3.7 on the agenda as is. (7-4-0. Noes: Doan, Foley, Batra, Mahan.)

Public Comment: Lucila Ortiz, Louise Auerhahn, Ruth Silver Taube, Felwina Opiso-Mondina, Will Smith, Maricon Malimban, Dr. Forest Peterson, Peter Camacho, Danny Mangan, (Zoom) Reyad, Jon Ball, Paul Soto, Jordan Angel, Todd T, Jefferey B., Dennis, Essex, Nor Cal Carpenters provided public comment regarding the Orders of the Day.

• **Adjournment**

Councilmember Bien Doan provided the adjournment in memory and honor of Ms. Luc Ha Thi Le, a dedicated Community Activist who selflessly contributed to our community, particularly the Vietnamese Community, through her volunteerism as a member of Santa Clara County District 3 Roundtable, the Santa Clara County Valley Health Center Tully & Valley Health Center Milpitas Patient-Family Advisory Team, and the Santa Clara County Senior Care Commission. Her legacy of community service continues to inspire us all.

• **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

1.1 Councilmember Peter Ortiz presented the proclamation declaring December 22, 2023 as Sofia Mendoza Day to celebrate the birth and legacy of the activist and community organizer who campaigned for equality in education, policing, healthcare and housing for Latinos in San José.

1.2 Councilmember Domingo Candelas presented the commendation to Association of Indo Americans recognizing their work to foster and promote cultural and social interactions by facilitating cultural events and educational programs pertaining to the Indian American Community in the City of San José.

1.3 Councilmember Arjun Batra presented the commendation to the Hoffman Via Monte Neighborhood Association for their dedicated efforts in bettering the community through community building event initiatives and improving communication channels between neighborhoods in the City of San José.

2. CONSENT CALENDAR

Councilmember Omar Torres requested to pull item 2.10 for comment.

Motion: Upon motion by Councilmember Omar Torres, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the Consent Calendar was approved as a whole, the below listed actions were taken as indicated. (10-0-1. Absent: Doan.)

Public Comment: (In person) Sonia Rodriguez, Dee Aguirre, Sonny Guerra, and (Zoom) Paul Soto provided public comment.

2.1 Approval of City Council Minutes.

None provided.

2.2 Final Adoption of Ordinances.

(a) Ordinance No. 30984 - An Ordinance of the City of San José Amending Various Sections of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (a) Eliminate Commercial Space Requirement for “100% Deed-Restricted Affordable Housing” and Incorporate those References within (1) Chapter 20.40, ‘Commercial Zoning District and Public/Quasi-Public District,’ Section 20.40.100; (2) Chapter 20.55, ‘Urban Village and Mixed-Use Zoning District,’ Sections 20.55.100 and 20.55.203; (3) Chapter 20.70, ‘Downtown Zoning Regulations,’ Section 20.70.100 to Amend Table 20-140; (4) Chapter 20.75, ‘Pedestrian Oriented Zoning Districts,’ Section 20.75.200; (b) Repeal Sections 20.30.460, 20.30.470, 20.30.480, and 20.30.490 Related to Accessory Dwelling Units from Part 4.5, Amend the Title of Part 4.5 to ‘Tiny Home on Wheels’ and Amend Section 20.30.495, ‘Tiny Home on Wheels (Thow)’; Incorporate Minor Reference Edits to Table 20-50, Section 20.30.100, Chapter 20.30, and Section 20.55.201, Chapter 20.55; Add New Part 2.75, ‘Accessory Dwelling Units,’ in Chapter 20.80, ‘Specific Use Regulations;’ and (c) Amend Chapter 20.200, ‘Definitions,’ to Add New Sections 20.200.547, ‘Housing, Affordable Deed Restricted Housing’ and 20.200.549, ‘Housing, Employee’; and Incorporate Minor Edits to Section 20.200.324, ‘Dwelling- Junior Accessory Dwelling Unit or Jadu; and to Make Other Technical, Non-Substantive, or Formatting Changes within those Sections of Title 20 of the San José Municipal Code. [Passed for Publication on 12/5/2023 - Item 10.1(a) (23-1662)]

(b) Ordinance No. 30985 - An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code (Zoning Ordinance) to Add the “Hero Housing Element Residential Overlay” District to Chapter 20.65. [Passed for Publication on 12/5/2023 - Item 10.1(b)(2) (23-1663)]

(c) Ordinance No. 30986 - An Ordinance of the City of San José Amending the Zoning Map to Apply the Hero Housing Element Residential Overlay Zoning District on Certain Real Properties of Approximately 7.64 Gross Acres, Situated Citywide (APNS: 254-29-026, 261-01-106, 261-32-072, 467-22-160, 481-08-015, 484-44-061 and 484-44-063). [Passed for Publication on 12/5/2023 - Item 10.1(b)(3) (23-1663)]

(d) Ordinance No. 30987 - An Ordinance of the City of San José Amending Chapter 20.195, “Ministerial Approvals”, of Title 20 of the San José Municipal Code to Establish “Local Ministerial Approvals” for Housing Development Receiving Entitlement Under the Zoning Overlay Districts and to Allow a Streamlined Ministerial Approval Process for Housing Occupied by Agricultural (Farm) Employees within Sections 20.195.010, 20.195.020, 20.195.030 and 20.195.050. [Passed for Publication on 12/5/2023 - Item 10.1(b)(4) (23-1663)]

(e) Ordinance No. 30988 - An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code (Zoning Ordinance) to Add Parts 2 and 3 to Chapter 20.65 Entitled “Overlay Districts,” Including the Establishment of the Affordable Housing Overlay (AHO) District and the Mixed Income Housing Overlay (MIHO)

District. [Passed for Publication on 12/5/2023 - Item 10.2(b) (23-1664)]

(f) Ordinance No. 30989 - An Ordinance of the City of San José Amending the Zoning District Map to Apply the AHO Affordable Housing Overlay and the MIHO Mixed Income Housing Overlay Districts and Remove the Transit Employment Residential Overlay from Selected Parcels. [Passed for Publication on 12/5/2023 - Item 10.2(c) (23-1664)]

Action: (a) **Ordinance No. 30984**, (b) **Ordinance No. 30985**, (c) **Ordinance No. 30986**, (d) **Ordinance No. 30987**, (e) **Ordinance No. 30988**, and (f) **Ordinance No. 30989** were adopted. (10-0-1. Absent: Doan.)

2.3 Approval of Council Committee Minutes.

None provided.

2.4 Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Davis from the Regular Meeting of City Council on November 28, 2023 due to illness. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Davis) [Rules Committee referral 12/6/2023 - Item A.1.a]

Action: The excused absence of Councilmember Dev Davis from the Regular Meeting of City Council on November 28, 2023 was approved. (10-0-1. Absent: Doan.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Amendment to the Airline-Airport Lease and Operating Agreement with British Airways PLC.

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Second Amendment to the Airline-Airport Lease and Operating Agreement with British Airways PLC to terminate the agreement early, effective October 31, 2023.

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

Action: **Resolution No. RES2023-444** was adopted, authorizing a Second Amendment to the Airline-Airport Lease and Operating Agreement with British Airways PLC to terminate the agreement early, effective October 31, 2023. (10-0-1. Absent: Doan.)

2.8 Award of Contract to Sky Harbour Group Corporation for General Aviation Aeronautical Services at the San José Mineta International Airport.

(a) Approve the selection of Sky Harbour Group Corporation for the General Aviation Aeronautical Services at the San José Mineta International Airport.

(b) Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Lease of

Premises for 1210 Aviation Avenue, San José, CA 95110 with Sky Harbour Group Corporation for a lease term of 20-years, with one 5-year option to extend with a minimum lease payment of \$2,865,000 per annum.

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

Action: (a) The selection of Sky Harbour Group Corporation for the General Aviation Aeronautical Services at the San José Mineta International Airport was approved.

(b) **Resolution No. RES2023-445** was adopted, authorizing a Lease of Premises for 1210 Aviation Avenue, San José, CA 95110 with Sky Harbour Group Corporation for a lease term of 20-years, with one 5-year option to extend with a minimum lease payment of \$2,865,000 per annum. (10-0-1. Absent: Doan.)

2.9 Amicus Brief in State of Texas et al. v. The United States of America, et al. (DACA).

Authorize the City Attorney to join in an Amicus Curiae brief being drafted by the County of Los Angeles and City of Los Angeles on behalf of cities and counties in support of appellants/defendants in a challenge to the legality of the DACA program in State of Texas et al. v. The United States of America, et al., Case No. No. 23-40653 (5th Circuit).

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

Action: The City Attorney to join in an Amicus Curiae brief being drafted by the County of Los Angeles and City of Los Angeles on behalf of cities and counties in support of appellants/defendants in a challenge to the legality of the DACA program in State of Texas was authorized. (10-0-1. Absent: Doan.)

2.10 Team San José and Convention and Visitors Annual Performance Audit Report

As recommended by the Community and Economic Development on November 27, 2023, accept the audit report on the annual performance of Team San José and Convention and Visitors.

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) [Community and Economic Development Committee referral 11/27/23- Item (d)1]

Councilmember Omar Torres provided comments regarding the safety of the San José Convention Center.

Vice Mayor Rosemary Kamei provided comments regarding the expectations for the revitalization of San José.

Action: The Team San José and Convention and Visitors Audit Report was accepted. (10-0-1. Absent: Doan.)

2.11 Amendment to the Agreement with Berry, Dunn, McNeil & Parker, LLC for Customer Service Vision and Standards Services.

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute the First Amendment to the Master Consulting Agreement with Berry, Dunn, McNeil & Parker, LLC (Portland, ME) to increase the compensation by \$400,000 for a new maximum compensation not to exceed

\$800,000, and with no other changes to the agreement, 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. RES2023-446** was adopted, authorizing the City Manager or her designee to negotiate and execute the First Amendment to the Master Consulting Agreement with Berry, Dunn, McNeil & Parker, LLC. (10-0-1. Absent: Doan.)

2.12 Resolution Approving the Santa Clara County Multi-Jurisdiction Hazard Mitigation Plan, Volume I and City of San José Annex Volume II, as the City of San José’s Local Hazard Mitigation Plan.

Adopt a resolution approving Volume I and the City of San José Annex, part of Volume II, of the two-volume Santa Clara County Multi-Jurisdiction Hazard Mitigation Plan, as the City of San José’s local hazard mitigation plan.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Manager)

Action: **Resolution No. RES2023-447** was adopted, approving the Santa Clara County Multi-Jurisdiction Hazard Mitigation Plan, Volume I and City of San José Annex Volume II. (10-0-1. Absent: Doan.)

2.13 Actions Related to the Purchase Orders with Kemira Water Solutions, Inc. for Ferric Chloride.

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

- (a) Amend purchase order OP 63578 with Kemira Water Solutions, Inc. (Lawrence, KS) for ferric chloride to increase the total compensation by \$2,000,000, for a revised maximum compensation not-to-exceed \$3,430,000 for the period ending on June 30, 2024; and
- (b) Execute additional annual purchase orders for ongoing ferric chloride purchases pursuant to competitive solicitations facilitated by the Bay Area Chemical Consortium, subject to the appropriation of funds.

CEQA: San José-Santa Clara Regional Wastewater Facility Master Plan Environmental Impact Report (File No. PP11-043) (Resolution No. 76858). (Finance)

Action: **Resolution No. RES2023-448** was adopted, (a) Amending purchase order OP 63578 with Kemira Water Solutions, Inc., and (b) Executing additional annual purchase orders for ongoing ferric chloride purchases. (10-0-1. Absent: Doan.)

2.14 Actions Related to the Purchase Orders with Hasa Inc. for Liquid 12.5% Sodium Hypochlorite

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

- (a) Amend purchase order OP 63603 with Hasa Inc. (Saugus, CA) for Liquid 12.5% Sodium Hypochlorite to increase the total compensation by \$1,950,000, for a revised maximum compensation not-to-exceed \$3,380,000 for the period ending on or about June 30, 2024; and
- (b) Execute additional annual purchase orders for ongoing Liquid 12.5% Sodium Hypochlorite purchases pursuant to competitive solicitations facilitated by the Bay Area Chemical Consortium, subject to the appropriation of funds.

CEQA: San José-Santa Clara Regional Wastewater Facility Master Plan Environmental Impact Report (File No.

PP11-043) (Resolution No. 76858). (Finance)

Action: **Resolution No. RES2023-449** was adopted, (a) Amending purchase order OP 63603 with Hasa Inc. for Liquid 12.5% Sodium Hypochlorite, and (b) Executing additional annual purchase orders for ongoing Liquid 12.5% Sodium Hypochlorite purchases. (10-0-1. Absent: Doan.)

2.15 Actions Related to the Purchase Order with Hypertec USA, Inc. for Netmotion Platform and Associated Software.

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

- (a) Negotiate and execute a purchase order with Hypertec USA, Inc. (Tempe, AZ) for NetMotion Platform and associated software, including ongoing maintenance and support for a maximum compensation of \$172,480 for a one-year option term beginning December 21, 2023 and ending December 20, 2024, or as may be adjusted to align with the software renewal term;
 - (b) Negotiate and execute amendments as required for any unanticipated changes during the one-year option term beginning December 21, 2023 and ending December 20, 2024, subject to the appropriation of funds; and
 - (c) Exercise up to three additional one-year options to extend the term of the purchase order through December 20, 2027, 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)

Action: **Resolution No. RES2023-450** was adopted, (a) executing a purchase order with Hypertec USA, Inc. for NetMotion Platform and associated software, (b) executing amendments as required for any unanticipated changes during the one-year option term beginning December 21, 2023 and ending December 20, 2024, and (c) Exercising up to three additional one-year options to extend the term of the purchase order through December 20, 2027. (10-0-1. Absent: Doan.)

2.16 Amendment to the Agreement with Granicus, LLC for an Electronic Filing System for Form 700 and Campaign Forms.

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute the Third Amendment to the Agreement with Granicus, LLC (Saint Paul, Minnesota) for an electronic filing system for Form 700 and Campaign Finance Forms to extend services for up to two additional one-year option terms for a total of six options through December 31, 2025 under the same material terms and conditions as the original agreement with a maximum compensation for the option period beginning January 1, 2024 not to exceed \$70,000, 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.

Action: **Resolution No. RES2023-451** was adopted, authorizing the execution of the Third Amendment to the Agreement with Granicus, LLC for an electronic filing system. (10-0-1. Absent: Doan.)

2.17 First Quarter Financial Reports for Fiscal Year 2023-2024.

As recommended by the Public Safety, Finance and Strategic Support Committee on November 16, 2023, accept the First Quarter (period ending September 30, 2023) Financial Reports for Fiscal Year 2023-2024 for the following programs: (1) Debt Management; (2) Investment Management; (3) Revenue Management; and (4) 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 11/16/23 - Item (c)1]

Action: The First Quarter (period ending September 30, 2023) Financial Reports for Fiscal Year 2023-2024 were accepted. (10-0-1. Absent: Doan.)

2.18 Actions Related to the 2024 Weed Abatement Commencement Report.

Adopt a resolution:

(a) Accepting the 2024 Weed Abatement Commencement Report compiled by the County of Santa Clara’s Consumer and Environmental Protection Agency - Weed Abatement Program;

(b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the Weed Abatement Commencement Report are a public nuisance; and

(c) Directing the County of Santa Clara’s Consumer and Environmental Protection Agency -Weed Abatement Program to mail a Notice of Public Hearing to occur on February 6, 2024, at 1:30 p.m. before the City Council to property owners of affected real properties on the Weed Abatement Commencement Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301(h) Existing Facilities, PP18-094. (Planning, Building and Code Enforcement)

Action: **Resolution No. RES2023-452** was adopted, (a) Accepting the 2024 Weed Abatement Commencement Report, (b) Declaring those certain noxious or dangerous weeds as a public nuisance, and (c) Directing the County of Santa Clara to mail a Notice of Public Hearing to occur on February 6, 2024, at 1:30 p.m. (10-0-1. Absent: Doan.)

2.19 Agreement with the City and County of San Francisco to Allocate 2023 Urban Areas Security Initiative Grant Funds.

(a) Adopt a resolution authorizing the City Manager or her designee 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 2023 Urban Areas Security Initiative grant allocation in the amount of \$1,546,772 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 2023 City-Wide Expenses appropriation to the Police Department in the amount of \$94,100;

(2) Establish the Urban Areas Security Initiative Grant - Fire 2023 City-Wide Expenses appropriation to the Fire Department in the amount of \$1,073,379; and

(3) Increase the estimate for Revenue from Federal Government by \$1,167,479.

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. RES2023-453** was adopted, authorizing 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, (b) **Appropriation Ordinance No. 30990** and **Resolution No. RES2023-454** was adopted, to (1) establish the Urban Areas Security Initiative Grant - Police 2023 City-Wide Expenses appropriation, (2) to establish the Urban Areas Security Initiative Grant - Fire 2023 City-Wide Expenses appropriation, and (3) Increase the estimate for Revenue. (10-0-1. Absent: Doan.)

2.20 Affordable Housing Impact Fee and Commercial Linkage Fee Fiscal Year 2022-2023 Annual Report.

Accept the Fiscal Year 2022-2023 Annual Report prepared in accordance with the Mitigation Fee Act (Government Code section 66000 et seq.) on the status and expenditure plans for the City's Affordable Housing Impact Fee and Commercial Linkage 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: The Affordable Housing Impact Fee and Commercial Linkage Fee Fiscal Year 2022-2023 Annual Report was accepted. (10-0-1. Absent: Doan.)

2.21 Amendment to Diridon to Airport Connector's Pre-Development Agreement for Intra-Terminal Airport Connection Option.

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute the amendment for the Pre-Development Agreement with the San José Connection Partners to incorporate the Intra-Terminal Airport Connection Option to the scope of work and increase the cost cap for Phase 1 of the project from \$500,000 to \$950,000.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Transportation/Airport)

Action: (a) **Resolution No. RES2023-455** was adopted, executing an amendment for the Pre-Development Agreement with the San José Connection Partners. (10-0-1. Absent: Doan.)

2.22 Acceptance of California Library Connect Grant for Internet Improvement Projects at San José Public Library Locations.

(a) Adopt a resolution accepting the California Library Connect Grant from the California State Library in the amount of up to \$414,481.68; and authorizing the City Manager or her designee to negotiate and execute any Grant Agreements and related City consultant Service Orders, amendments, and all other related documents, including online certifications at time of award acceptance and reimbursement requests, without further City Council action.

(b) Adopt the following 2023-2024 Funding Source Resolution and Appropriation Ordinance amendments in the General Fund:

- (1) Establish an estimate for Revenue from State of California in the amount of \$414,482; and
- (2) Increase the Library Grants appropriation to the Library Department in the amount of \$414,482.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Library/City Manager)
[Rules Committee referral 12/6/2023 - Item A.1.a]

Action: (a) **Resolution No. RES2023-456** was adopted, (a) accepting the California Library Connect Grant. (b) **Resolution No. RES2023-457** and **Ordinance No. 30991** were adopted, and (1) establishing an estimate for Revenue and (2) increasing the Library Grants appropriation to the Library Department. (10-0-1. Absent: Doan.)

2.23 Retroactive Approval and Approval of Special Events Sponsored by Council District 3 as 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 December 6, 2023:

- (a) Retroactively approve the Torres Tree Giveaway scheduled on December 2, 2023 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Approve the La Posada de la Comunidad scheduled on December 14, 2023 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. (Torres) [Rules Committee referral 12/6/2023 - Item B.5]

Action: Council District 3 events were retroactively approved. (10-0-1. Absent: Doan.)

3. STRATEGIC SUPPORT

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

No report provided.

3.2 Labor Negotiations Update.

None provided.

3.3 Building Permitting for Residential Additions or Alterations Audit Report.

As recommended by the Community and Economic Development Committee on November 27, 2023, accept the audit report on the development permitting for residential additions or alterations.

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) [Community and Economic Development Committee referral 11/27/23 - Item (d)2]

Joe Rois, City Auditor, Auditor's Department, Gitanjali Mandrekar, Assistant City Auditor, Auditor's Department, Michelle Mallari, Program Performance Auditor, Auditor's Department, Chris Burton, Director Planning Building and Code Enforcement, PBCE, provided a presentation and answered questions from Council.

Public Comment: (In Person) Krista De La Torre, Kia Goudarzi, (Zoom) Paul Soto and Brian Darby provided public comment.

Krista De La Torre, Organizer at IFPTE Local 21, answered questions from Council regarding discussions centered around staff vacancies.

Action: Upon motion by Vice Mayor Rosemary Kamei, seconded by Councilmember Bien Doan, and carried unanimously, the audit report on the development permitting for residential additions or alterations was accepted. (11-0-0.)

3.4 Annual Comprehensive Financial Report for Fiscal Year Ended June 30, 2023. - HEARD CONCURRENTLY WITH ITEMS 3.5 AND 9.1

Accept Fiscal Year 2022-2023 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)

Rick Bruneau, Director of Finance, Finance Department, Victor Lo, Deputy Director, Accounting Department, David Bullock, Partner: Macias, Gini & O'Connell offered the presentation and responded to questions regarding Items 3.4, 3.5, and 9.1.

Action: Upon motion by Vice Mayor Rosemary Kamei, seconded by Councilmember Omar Torres, and carried unanimously, the Annual Comprehensive Financial Report was accepted. (11-0-0.)

3.5 External Auditor's Report: Report to Those Charged with Governance for the Year Ended June 30, 2023. - TO BE HEARD CONCURRENTLY WITH ITEMS 3.4 AND 9.1

Accept the External Auditor's Report: Report to Those Charged with Governance for the Year Ended June 30, 2023.

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

Rick Bruneau, Director of Finance, Finance Department, Victor Lo, Deputy Director, Accounting Department, David Bullock, Partners: Macias, Gini & O'Connell offered the presentation and responded to questions regarding Items 3.4, 3.5, and 9.1.

Action: Upon motion by Vice Mayor Rosemary Kamei, seconded by Councilmember Sergio Jimenez, and carried unanimously, the External Auditor's Report was accepted. (11-0-0.)

3.6 Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2022-2023.

Accept the Comprehensive Annual Debt Report for the City of San José for Fiscal Year 2022-2023.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)

Rick Bruneau, Director of Finance, Finance Department; and Qianyu Sun, Deputy Director – Debt & Treasury Management, Finance Department, provided a presentation and answered questions from Council.

Action: Upon motion by Councilmember Bien Doan, seconded by Councilmember Arjun Batra, and carried

unanimously, the Comprehensive Annual Debt Report was accepted. (11-0-0.)

3.7 Amendment to Title 24 of the San José Municipal Code for a Proposed Responsible Construction Ordinance.

Approve an ordinance of the City of San José amending Title 24 of the San José Municipal Code to add a new Part 8 of Chapter 24.02 to regulate private development projects by withholding the certificate of occupancy when an owner or contractor have any unpaid final wage theft judgment and exempt certain projects that consist of less than 15,000 square feet of new construction or remodeling, are subject to prevailing wage requirements under state law, or are subject to a project labor agreement or community workforce agreement.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Public Works)

Public Comment: (In person) Lucila Ortiz (Silicon Valley Rising), Felwina Opiso-Mondina, Will Smith, Eddie Wong, Maricon Malimban, Peter Camacho, Ruth Silver Tambe, Louise Auerhahn, Dr. Forest Peterson, Beth F, Chris Giangreco, Hutton Jason E, Danny Mangan, (Zoom) Edmundo, Erica, Jon, Dennis Martin, Brian Pors, Scott Reese, Nor Cal Carpenters, Doug C, Brian Darby, Paul Soto, Reyad, Josh Rodriguez, Todd Trezell, Frank Austin, and Scott Youdall provided public comment.

Matt Loesch, Director, Public Works; Chris Burton, Director Planning Building and Code Enforcement; and Chris Hickey, Division Manager, Public Works, offered the presentation, and responded to questions.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sergio Jimenez, and carried unanimously, the proposed responsible construction ordinance and concept was supported, *the item was cross-referenced to the January 23, 2024 City Council Meeting with an amended ordinance and further discussion after extensive staff outreach has been done with stakeholders, developers, contractors, and lenders involved.*

Including acceptance of *items A & B* of the joint memorandum from Councilmember Peter Ortiz, Councilmember Omar Torres, Councilmember Sergio Jimenez, and Councilmember Dev Davis, dated December 8, 2023, recommending to: ~~(1) Approve the staff recommendations with the following modifications included:~~ (a) Replace the proposed size threshold exemption from “less than 15,000 square feet of new construction or remodeling” to “less than 10,000 square feet of new construction or remodeling.” (b) Include a Prohibition on Retaliation Section that no developer or permit holder, contractor or subcontractor shall discriminate or retaliate against any person or entity for cooperating with an investigation under this ordinance or for making a complaint concerning an alleged violation of this ordinance. (11-0-0.)

3.8 Status Report on Policies Adopted by Retirement Boards Administration for Operation of Office of Retirement Services Interim Audit Report.

Accept the status report on policies adopted by the Retirement Boards Administration for the operation of the Office of Retirement Services. CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Retirement Services)

Roberto Pena, Director of Retirement Services, Retirement, answered questions from Council.

Public Comment: (Zoom) Paul Soto and Brian Darby provided public comment.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Bien Doan, and carried unanimously, the status report on policies was accepted, with a request from Councilmember Davis that the Office of Employee Relations and City Attorney review any information that comes from the discussions and recommendations prior to coming to Council. (11-0-0.)

3.9 Proposed Ordinance Regulating Foreign Influence in City Elections Prohibiting Foreign-Influenced Business Entities from Making Independent Expenditures, Campaign Contributions or Contributing to Independent Expenditure Committees.

(a) Consider an ordinance amending Part 1 of Chapter 12.06 of Title 12 of the San José Municipal Code to add Section 12.06.112 defining a foreign entity; adding Section 12.06.114 defining a foreign-influenced business entity; adding Section 12.06.116 defining a foreign owner; and amending Part 2 of Chapter 12.06 of Title 12 to add Section 12.06.270 prohibiting foreign-influenced business entities from making independent expenditures, campaign contributions or contributing to independent expenditure committees; and requiring business entities making contributions or independent expenditures to file with the City Clerk a signed certification that the business entity is not “foreign-influenced;”

or

(b) In the alternative, consider an ordinance amending Part 1 of Chapter 12.06 of Title 12 of the San José Municipal Code to add Section 12.06.112 defining a foreign entity; adding Section 12.06.114 defining a foreign-influenced business entity; adding Section 12.06.116 defining a foreign owner; and amending Part 2 of Chapter 12.06 of Title 12 to add Section 12.06.270 prohibiting foreign-influenced business entities from making independent expenditures, campaign contributions or contributing to independent expenditure committees; and requiring business entities making contributions or independent expenditures to file with the City Clerk a signed certification that the business entity is not “foreign-influenced;” and adding Section 12.06.280 providing an exception for foreign-influenced business entities to make contributions or independent expenditures if foreign owners do not participate in the decisions to make independent expenditures, campaign contributions or contributions to independent expenditure committees.

CEQA: Not a Project, File No. PP17 008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Attorney) [Deferred from 11/16/2021 - Item 3.6 (21-2421), 3/22/2022 - Item 3.3 (22-365) and 12/5/2023 - Item 3.3 (23-1665)]

Public Comment: (Zoom) Paul Soto, Huascar Castro, Brian Darby, Jo Nguyen, and Roma Dawson provided public comment.

Action: Upon motion by Councilmember Sergio Jimenez, Seconded by Councilmember David Cohen, and carried unanimously, (a) **Ordinance No. 30993** was *passed for publication*. (11-0-0.)

3.10 Annual Merit Increases and Additional Executive Leave for Council Appointees.

As recommended by the Rules and Open Government Committee on November 29, 2023, adopt a resolution approving a 2.5% merit increase for the City Manager, City Attorney, City Clerk, and City Auditor retroactively effective to July 1, 2023, and granting an additional forty

(40) hours of executive leave to each of these Council appointees for the payroll calendar year 2024.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no

changes to the physical environment. (Mayor) [Rules Committee referral 11/29/2023 - Item B.6] [Deferred from 12/5/2023 - Item 3.7 (23-1726)]

Public Comment: (Zoom) Paul Soto and Brian Darby provided public comment.

Jennifer Schembri, Director of Employee Relations, Office of the City Manager responded to questions from Council.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sergio Jimenez, and carried unanimously, **Resolution No. RES2023-458** was adopted and the item was bifurcated to vote for each 2.5% merit increase for the City Manager, City Attorney, City Clerk, and City Auditor individually as follows:

City Manager: The City Manager's 2.5% merit increase and additional forty (40) hours of executive leave for the payroll calendar year 2024 was approved with the following vote. (11-0-0.)

City Attorney: The City Attorney's 2.5% merit increase and additional forty (40) hours of executive leave for the payroll calendar year 2024 was approved with the following vote. (11-0-0.)

City Auditor: The City Auditor's 2.5% merit increase and additional forty (40) hours of executive leave for the payroll calendar year 2024 was approved with the following vote. (11-0-0.)

City Clerk: The City Clerk's 2.5% merit increase and additional forty (40) hours of executive leave for the payroll calendar year 2024 was approved with the following vote. (10-1-0. Noes: Davis.)

3.11 Resolution on Childcare.

As recommended by the Rules and Open Government Committee on December 6, 2023:

- (a) Consider a resolution of the City Council of the City of San José declaring the City's Commitment to Affordable Childcare;
- (b) Authorize the City Attorney's Office to make such formatting and non-substantive changes and additions as it deems appropriate or necessary.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Kamei) [Rules Committee referral 12/6/2023 - Item C.2]

Public Comment: Rebeca Armendariz, Lucila Ortiz, Jennifer Kelleher Cloyd, Paul Soto, Brian Darby, John Sweeney, Caller "M", and Mansi provided public comment.

Action: Upon motion by Vice Mayor Rosemary Kamei, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. RES2023-459** was adopted, including acceptance of a joint memorandum between Vice Mayor Kamei, Councilmember Davis, and Councilmember Foley. (11-0-0.)

4. PUBLIC SAFETY SERVICES

No items provided.

5. TRANSPORTATION & AVIATION SERVICES

No items provided.

6. ENVIRONMENTAL & UTILITY SERVICES

No items provided.

7. NEIGHBORHOOD SERVICES

No items provided.

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 Actions Related to the 10223-Building: Emergency Interim Shelter Rue Ferrari Expansion Project.

(a) Adopt a resolution:

- (1) Finding that the award of the proposed design-build contract for the 10233- Building: Emergency Interim Shelter Rue Ferrari Expansion Project will result in lower costs and/or faster Project completion than if the City used the design-bid-build method of project delivery.
 - (2) Authorizing the Director of Public Works to negotiate a Design-Build Contract for the 10233- Building: Emergency Interim Shelter Rue Ferrari Expansion Project as follows:
 - (i) Begin negotiating with the highest ranked Design-Build Entity, Level 10 Construction LP;
 - (ii) Begin negotiating with the next highest Design-Build Entity, if having negotiating with Level 10 Construction LP, the Director of Public Works determines that the City’s interests are best served by beginning negotiations with the next highest ranked Design-Build Entity; and
 - (iii) Begin negotiating with each of the other Design-Build Entities in order of their ranking as the Director of Public Works deems appropriate.
 - (3) Authorizing the Director of Public Works to:
 - (i) Award and execute the Design-Build Contract for the 10233 - Building: Emergency Interim Shelter Rue Ferrari Expansion Project in an amount not to exceed \$25,000,000 with the Design-Build Entity with whom the City has successfully completed negotiations;
 - (ii) Decide any timely bid protest(s) and make the City’s final determination as to the final rankings of Design-Build Entities that responded to the Request for Proposals for the Project; and
 - (iii) Negotiate and execute Task Orders up to the Contract not to exceed amount as necessary to meet Project completion.
 - (4) Approve a contingency in the amount of 10 % of the negotiated Design-Build Contract not to exceed amount for City approved changes to the design scope and unforeseen conditions that might arise in the construction.
 - (5) Approve the 10233: Building: Emergency Interim Shelter Rue Ferrari Expansion Project as a “Committed Addition” to the 2024-2025 Base Budget, certifying that all operating and maintenance costs associated with the Project will be included in future Five-Year General Fund Forecasts, beginning with 2025-2029 Forecast.
- (b) Adopt the following Fiscal Year 2023-2024 Appropriation Ordinance Amendments in the Homeless Housing, Assistance, and Prevention Fund:
- (1) Increase the estimate for Revenue from the State of California by Printed on 12/13/2023 City of San

José Page 25 City Council Amended Agenda December 12, 2023 \$7,000,000; and
 (2) Increase the Emergency Shelters appropriation to the Housing Department by \$7,000,000; CEQA: Determination of Consistency with the Mitigated Negative Declaration for the Emergency Interim Housing Programs Project (Resolution No. 2023-380), File No. ER23-254. Council District 2. (Public Works/Housing/City Manager)

Mayor Mahan requested that the presentations and public comment for Items 8.1 and 8.2 be heard together, and that the items be voted on separately.

Omar Passons, Deputy City Manager; Matt Loesch, Public Works Director; Ragan Henninger, Housing Deputy Director; and Jim Shannon, Budget Director offered the presentation and responded to questions for Items 8.1 and 8.2.

Public Comment: (In Person) Gail Osmer, Deborah Kempkoble, Teresa Paulumbo, Gary Naden, and (Zoom) Paul Soto, provided public comment for Items 8.1 and 8.2.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember David Cohen, and carried unanimously, (a) **Resolution No. RES2023-460** regarding actions related to the 10223-Building: Emergency Interim Shelter Rue Ferrari Expansion Project, and (b) **Ordinance No. 30994** regarding amendments in the Homeless Housing, Assistance, and Prevention Fund were adopted. (11-0-0.)

8.2 Actions Related to the 10338 - 1300 Berryessa Supportive Parking Project.

(a) Adopt a resolution:

(1) Authorizing the Director of Public Works to approve the Initial Study/Mitigated Negative Declaration prepared for the RV Safe Parking Project at 1300 Berryessa Road (Planning File No. ER23-081) in compliance with the California Environmental Quality Act and implement the related Mitigation Monitoring and Reporting Program.

(2) Authorizing the Director of Public Works to:

- (i) Award and execute a contract for the construction of the 10338 - 1300 Berryessa Supportive Parking Project to the lowest responsive, responsible bidder in an amount not to exceed \$15,000,000;
- (ii) Decide any timely bid protest(s) and make the City's final determination as to the lowest responsive bidder that is responsible as needed to award the contract; and
- (iii) Approve a contingency in the amount of 15% of the contract amount.

(3) Approve the 1300 Berryessa Supportive Parking Project as a "Committed Addition" to the 2024-2025 Base Budget, certifying that all operating and maintenance costs associated with the Project will be included in future Five-Year General Fund Forecasts, beginning with the 2025-2029 Forecast.

(b) Adopt the following Fiscal Year 2023-2024 Appropriation Ordinance Amendments in the General Fund:

- (1) Decrease Measure E - Interim Housing Constructions and Operations Reserve (15% HSP) by \$450,000; and
- (2) Increase the Measure E - Supportive Parking Site Berryessa Road (15% HSP) City-Wide Expenses appropriation to the Housing Department by \$450,000.

CEQA: Draft Mitigated Negative Declaration and Initial Study for the RV Safe Parking Project at 1300 Berryessa Road (Planning File No. ER23-081). Council District 3. (Public Works/Housing/City Manager)

Omar Passons, Deputy City Manager; Matt Loesch, Public Works Director; Ragan Henninger, Housing Deputy Director; and Jim Shannon, Budget Director offered the presentation and responded to questions for Items 8.1 and 8.2

Public Comment: (In Person) Gail Osmer, Deborah Kempkoble, Teresa Paulumbo, Gary Naden, and (Zoom) Paul Soto, provided public comment for Items 8.1 and 8.2.

Action: Upon motion by Councilmember David Cohen, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the staff recommendation was accepted, (a) **Resolution No. RES2023-461**, regarding actions related to the 10338 - 1300 Berryessa Supportive Parking Project, and (b) **Appropriation Ordinance 30995** regarding the Fiscal Year 2023-2024 Appropriation Ordinance Amendments in the General Fund were adopted.

Including acceptance of the following portions of the amended joint memorandum: Item 1, the noted portion of Item 2c, Item 2d, and Item 3, from Mayor Matt Mahan, Vice Mayor Rosemary Kamei, Councilmember Omar Torres, Councilmember David Cohen, and Councilmember Dev Davis, dated December 8, 2023, recommending to:

(1) Accept staff recommendations (a)(1) and (b). (2) Direct staff to return to Council in January 2024 with ~~(a) A detailed, itemized breakdown of the proposed \$5 million operations budget and \$15 million construction budget;~~ (b) A policy alternative that reduces the operations budget to \$2.5 million; (c) A revised construction budget that reduces the total project cost by 25% to 50% and consider a phased approach that prioritizes opening the site sooner; and (d) A timeline detailing when individuals will be allowed onto the site. (3) Continue to work with the County on a potential cost-sharing model for operations. (11-0-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

CONVENE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

9.1 Successor Agency to the Redevelopment Agency of the City of San José - Audited Financial Statements for Fiscal Year Ended June 30, 2023. – HEARD CONCURRENTLY WITH ITEMS 3.4 AND 3.5

Accept the Fiscal Year 2022-2023 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)

Rick Bruneau, Director of Finance, Finance Department, Victor Lo, Deputy Director, Accounting Department, David Bullock, Partners: Macias, Gini & O’Connell offered the presentation and responded to questions regarding Items 3.4, 3.5, and 9.1.

Action: Upon motion by Councilmember Bien Doan, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the Fiscal Year 2022-2023 Independent Auditor’s Reports were accepted. (11-0-0.)

10. LAND USE

10.1 Land Use on Consent Calendar - HEARD AT 6:00 P.M.

Councilmember Pam Foley requested to pull Item 10.1(c) for further discussion and requested that the vote be taken separately.

Public Comment: (Zoom) Brian, Caller "M", Nick, and Paul Soto provided public comment.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember David Cohen, and carried unanimously, the Land Use Consent Calendar was approved, *excluding Item 10.1(c) which was voted on separately*; the below actions were taken as indicated for items 10a and 10b. (11-0-0.)

(a) C23-105 - City-Initiated Conforming Rezoning of Two Certain Real Properties Located at 4343 Leigh Avenue.

Approve an ordinance rezoning two certain real properties of approximately 4.0 acres situated at the northwest corner of Leigh Avenue and Gunston Way from the R-1-8 Single-Family Residential Zoning District to the PQP Public/Quasi Public Zoning District located at 4343 Leigh Avenue.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. (File No. C23-105). Council District 9. (Planning, Building and Code Enforcement)
HEARD AT 6:00 P.M.

Action: Upon motion by Councilmember Jimenez, seconded by Councilmember Cohen, and carried unanimously, **Ordinance No. 30966** was *passed for publication*. (11-0-0.)

(b) GP22-004, C22-015, & ER23-055 - Privately-Initiated General Plan Amendment and a Privately-Initiated Conforming Rezoning on Certain Real Property Located on the Northeast Corner of Doyle Road and Lawrence Expressway.

(1) Adopt a resolution adopting the Doyle Road General Plan Amendment Project Negative Declaration, for which an Initial Study was prepared, all in accordance with CEQA, as amended.

(2) Adopt a resolution approving the General Plan Amendment to amend the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Public/Quasi-Public to Light Industrial.

(3) Approve an ordinance rezoning certain real property of approximately 1.1 gross acres situated on the northeast corner of the intersection of Doyle Road and Lawrence Expressway (APN 381-19015) from the R-1-8 Single-Family Residence Zoning District to the LI Light Industrial Zoning District.

CEQA: Doyle Road General Plan Amendment Project Initial Study/Negative Declaration (File Nos. GP22-004; C22-015; ER23-055). Planning Commission recommends approval (9-0-2, Bickford and Cantrell absent) (Item 7.a on the 11/15/2023 Planning Commission agenda). Council District 1. (Planning, Building and Code Enforcement)
HEARD AT 6:00 P.M.

Action: Upon motion by Councilmember Sergio Jimenez , seconded by Councilmember David Cohen , and carried unanimously, (b)1 **Resolution No. RES2023-462** and (b)2 **Resolution No. RES2023-463** were adopted, and (b)3 **Ordinance No. 30997** was *passed for publication.* (11-0-0.)

(c) GP23-006 - City-Initiated General Plan Amendment to Change the Envision San José 2040 General Plan Land Use Designation for Mobilehome Parks in the City of San José.

Adopt a resolution amending the Envision San José 2040 General Plan Land Use designation for 12 mobilehome parks from the Residential Neighborhood General Plan Land Use designation to the Mobilehome Park General Plan Land Use designation and one mobilehome park from the Neighborhood Community/Commercial General Plan Land Use designation to the Mobilehome Park General Plan Land Use designation

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. (File No. GP23-006). Planning Commission recommends approval (8-1-2, Garcia opposed; Bickford and Cantrell absent) (Item 7.b on the 11/15/2023 Planning Commission agenda). Council Districts 3, 4, 5, 6, 7, 8, and 9. (Planning, Building and Code Enforcement)

HEARD AT 6:00 P.M.

Public Comment: (Zoom) Caller 0590, Nancy Stevens, Jill Borders, Glenna Howcroft, Call in User 2, Patrick Grimes, Caller 8139, Brian Darby, Dan, Paul Soto, and (In Person) Madison Nguyen provided public comment.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Bien Doan, and carried unanimously, **Resolution No. RES2023-464** amending the Envision San José 2040 General Plan Land Use designation for 12 mobilehome parks was adopted. (11-0-0.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 GP22-005, C23-100, C23-101, C23-102, & C23-103 - City-Initiated General Plan Amendment and City-Initiated Conforming Rezonings for Parcels Located Within and Adjacent to Willow Street Neighborhood Business District.

(a) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation of 35 parcels from Mixed Use Commercial to Neighborhood Community Commercial, 17 parcels from Mixed Use Commercial to Mixed Use Neighborhood, two parcels from Mixed Use Commercial to Residential Neighborhood, and two parcels from Mixed Use Commercial to Open Space, Parkland, and Habitat within or directly adjacent to the Willow Street Neighborhood Business District (Calle Willow).

(b) Approve an ordinance rezoning three parcels from MUC Mixed Use Commercial Zoning District to CP Commercial Pedestrian Zoning District, one parcel from RM Multiple Residence Zoning District to CP Commercial Pedestrian Zoning District, four parcels from MUC Mixed Use Commercial Zoning District to MUN Mixed Use Neighborhood Zoning District, 13 parcels from CP Commercial Pedestrian Zoning District to MUN Mixed Use Neighborhood Zoning District, two parcels from MUC Mixed Use Commercial Zoning District to R-1-8- Single Family Residence Zoning District, and two parcels from

MUC Mixed Use Commercial Zoning District to OS Open Space Zoning District located on those certain real properties in various locations within or adjacent to the Willow Street Neighborhood Business District (Calle Willow) in the City of San José.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda Thereto (File Nos. GP22-005, C23-100, C23-101, C23-102, & C23-103). Planning Commission recommends approval (9-0-2, Bickford and Cantrell absent) (Item 8.a on the 11/15/2023 Planning Commission agenda). Council District 3. (Planning, Building and Code Enforcement)

Public Comment: (Zoom) Brian and Paul provided public comment.

Action: Upon motion by Councilmember Torres, Seconded by Councilmember Ortiz, and passed unanimously, (a) **Resolution No. RES2023-465** was adopted, and (b) **Ordinance No. 30998** was passed for publication. (11-0-0.)

10.3 GPT23-001 & ER23-031 - A General Plan Text Amendment to Amend the Santana Row/Valley Fair Urban Village Plan Located at 425 South Winchester Boulevard.

(a) Adopt a resolution adopting the 425 South Winchester Boulevard Project Mitigated Negative Declaration for which an Initial Study was prepared, and the related Mitigation Monitoring and Reporting Program, all in accordance with CEQA, as amended.

(b) Adopt a resolution amending the Envision San José 2040 General Plan pursuant to Title 18 of the San José Municipal Code to:

(1) Modify the Santana Row/Valley Fair Urban Village Plan Figure 5-2, “Building Height Diagram,” to change the allowed height from 65 feet to 85 feet for 425 S Winchester Blvd, the 0.55-gross-acre subject site;

~~(2) Amend Figure 5-3, “New Development Adjacent to Residential Neighborhood Land Use Designation,” to modify the setback for new development when adjacent to residential and urban residential land use designations from 40 feet to 20 feet;~~

(3) Amend Figure 5-3, “New Development Adjacent to Residential Neighborhood Land Use Designation,” to the stepback plane for new development when adjacent to residential and urban residential land use designations from 45 degrees to 55 degrees; and

(4) Amend Figure 5-3, “New Development Adjacent to Residential Neighborhood Land Use Designation,” to no setback and no stepback plane required for new commercial development adjacent to sites that have a Residential Neighborhood land use designation with an existing legally established commercial use.

CEQA: 425 South Winchester Boulevard Project Initial Study/Mitigated Negative Declaration (File Nos. GPT23-001 & ER23-031). Planning Commission failed to make a recommendation (Item 8.a on the 12/6/2023 Planning Commission agenda). Council District 1. (Planning, Building and Code Enforcement)

Ruth Cueto, Principal Planner, Mark Tersini, and Jung Suh (Lowney Arch) offered the presentation and responded to questions.

Public Comment: (In Person) Raza Malir, Bill Shaffer, David Duquette, Phylis Weber, George Casey, Daphna Woolfe, Scott, Chris, Hank, (Zoom) Roberta, Nick Kriazis, Greg Chiste, Amy Cody, Brian Darby, M, Paul Soto, Michele, and Elizabeth Swan Brading provided public comment.

Michael Brilliot, Deputy Director offered insights to Vice Mayor Rosemary Kamei's questions regarding the maps and concluded that her request would be for the portion adjacent to the three properties on the hotel sight, and that the setback would be 20 feet, and the rest of the residential properties would remain 40 feet.

Action: Upon motion by Councilmember Vice Mayor Rosemary Kamei, seconded by Councilmember Peter Ortiz, and carried unanimously, the staff recommendation was accepted, excluding staff recommendation #2 noted above, to remain as is in the Urban Village Plan; (a) **Resolution No. RES2023-466**, adopting the 425 South Winchester Boulevard Project Mitigated Negative Declaration was adopted, and (b) **Resolution No. 2023-467**, amending the Envision San José 2040 General Plan pursuant to Title 18 of the San José Municipal Code was *passed for publication*. (11-0-0.)

CLOSE GENERAL PLAN FOURTH REVIEW CYCLE FOR 2023 HEARING

- **Open Forum - continued from the afternoon.**

(In Person)

1. Gerbern Seraphn provided insight on his lack of support system pursuing a higher education.
2. David provided comment regarding concern for the meeting process, and concern for trust that the Council will listen to public concerns.
3. Raza expressed extreme disappointment in Council and that votes have been lost from the neighborhood.
4. Chris, Vice President of the Winchester Orchard Neighborhood Association, expressed his concern with how discouraging the vote was for the Hotel project, and that a highly flawed process was approved.

(Zoom)

1. Brian Darby expressed that money will always take precedent within the City.
2. Paul Soto discussed Sal Si Puedes neighborhood and its influence worldwide, including the farm workers movement, Chicano movement, and the Lowrider movement.
3. Blair Beekman expressed concern regarding national security issues and hope that we can continue better ideals and practices regarding tech accountability.

- **Adjournment**

The Council of the City of San José adjourned at 11:47 p.m. in memory and honor of Ms. Luc Ha Thi Le, a dedicated community activist of San José.

Minutes Recorded, Prepared, and Respectfully Submitted by,

DRAFT

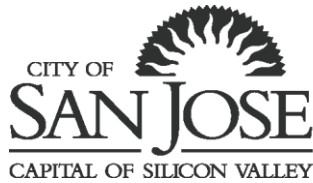
Daniel Aguilar
Deputy City Clerk, City of San José

Approved at Council on:

of Actions: 21

Attest By:

Toni J. Taber, CMC City Clerk
City of San José



NORA FRIMANN, CITY ATTORNEY

Office of the City Attorney

SAN JOSÉ CITY COUNCIL CLOSED SESSION AGENDA

December 12, 2023

The Council of the City of San José convened into Closed Session at 9:32 a.m.
The meeting was held in Council Chambers Conference Room, W133.

Present: Councilmembers - BATRA, CANDELAS, COHEN, DAVIS, DOAN, FOLEY,
JIMENEZ, ORTIZ, TORRES, KAMEI, MAHAN.

Absent: Councilmembers - NONE.

Item(s) to be discussed:

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

1. Case Name: Baltazar, Anna v. City of San Jose; County of Santa Clara; California Department of Parks and Recreation, et al.

Name(s) of Party(ies) Anna Baltazar (plaintiff); City of San Jose, Santa Clara County, and California Department of Parks and Recreation, and Does 1-50

Court: Santa Clara Superior Court

Case No: 22-CV-406402

Amount of Money or Other Relief Sought: Damages according to proof

2. Case Name: Test Claim for Unfunded Mandates Relating to the California Water Quality Control Board, San Francisco Region

Name(s) of Party(ies) City of San Jose, Water Quality Control Board, San Francisco Region

Court: Commission on State Mandates

Case No: N/A

Amount of Money or Other Relief Sought: Test Claim for Unfunded Mandate in an amount according to proof

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(1) of the Government code:

Number of matter(s) to be discussed: 4

C. PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957:

1. Department or Agency: City Manager's Office
Title: City Manager
2. Department or Agency: City Attorney's Office
Title: City Attorney
3. Department or Agency: City Auditor's Office
Title: City Auditor
4. Department or Agency: City Clerk's Office
Title: City Clerk