



City Council Meeting Minutes

**Tuesday, August 29, 2023
1:30 PM**

Hybrid Meeting – Council Chambers and Virtually

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



- **Call to Order and Roll Call**

9:31 a.m. - Closed Session. *See Pages 11-12 for Closed Session Minutes.*

Absent: Councilmembers- All Present.

1:33 p.m. - Afternoon Session.

Absent: Councilmembers- All Present.

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 7)**

Rose Amador-LeBeau of ConXión to Community provided the invocation.

- **Orders of the Day**

The Orders of the Day were approved.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

1.1 Councilmembers Pam Foley and Councilmember Bien Doan presented the commendation recognizing our Disaster Service Workers for their service in providing disaster relief for our communities during the series of storms in early 2023.

1.2 *Not Heard.*

1.3 Councilmember Peter Ortiz presented the proclamation declaring August 26, 2023 as California Farmworker Appreciation Day to highlight, remember, and appreciate the work that farmworkers contribute daily to San José.

2. CONSENT CALENDAR

Public Comment: Blair Beekman, Paul Soto, and caller ‘6910’ offered public comments.

Action: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the Consent Calendar was approved as a whole, the below actions were taken as indicated. (11-0-0)

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 23-1125 Sale of Exempt Surplus Land at South 16th Street to Santa Clara Valley Water District.

Adopt a resolution: (a) Authorizing a 443 square foot property fronting South 16th Street near Coyote Creek as “exempt-surplus land” to the needs of the City under Cal. Gov. Code sect. 54221(f)(1)(C) as the land is not necessary for the City of San José’s use and is being transferred to a local agency for that agency’s use in a flood control project; and (b) Authorizing the City Manager or designee to negotiate and execute a Purchase and Sale Agreement, Quitclaim Deed, and all other documents necessary to effectuate the transfer to Santa Clara Valley Water District from the City of San José, for the sale of a 443 square foot property fronting South 16th Street near Coyote Creek for the consideration of \$12,000 by direct negotiation under San José Municipal Code Sect. 4.20.080 and in accordance with Council Policy No. 7-13(D)(3) as the transferee is a governmental entity and the land is being sold for a public purpose. CEQA: Categorically Exempt, File No. ER23-171, CEQA Guidelines Section 15312, Surplus Government Property Sales. Council District 3. (Economic Development and Cultural Affairs)

Action: **Resolution No. RES2023-306** was adopted, (a) authorizing a 443 square foot property fronting South 16th Street near Coyote Creek as “exempt-surplus land” and (b) authorizing the City Manager or designee to negotiate and execute a Purchase and Sale Agreement, Quitclaim Deed, and all other documents necessary. (11-0-0)

2.8 23-1126 San José Municipal Water System’s Amended Water Supply Assessment for the Seely Avenue Mixed Use Project.

Approve San José Municipal Water System’s Amended Water Supply Assessment for the Seely Avenue Mixed Use Project and the conditions related to land dedication for the construction of the on-site well. CEQA: Statutorily Exempt, File No. PP17-001, Feasibility and Planning Studies; CEQA Guidelines Section 15262. Council District 4. (Environmental Services)

Action: The San José Municipal Water System’s Amended Water Supply Assessment for the Seely Avenue Mixed Use Project was approved. (11-0-0)

2.9 23-1127 Report on Bid and Award of Contract for the 9702 - NSJ Well No. 6 Project.

(a) Report on bid and award of contract for the construction of 9702 - NSJ Well No. 6 Project to the responsive and responsible bidder, Roadrunner Drilling & Pump Company, Inc. in the amount of \$786,310; and (b) Approve a 10% contingency in the amount of \$78,631. CEQA: Mitigated Negative Declaration for the Trimble and Agnews Municipal Groundwater Wells Project, File No. ER20-015 (City Council Resolution No. 80187). Council District 4. (Environmental Services)

Action: (a) The report of bid and award of contract for the construction of 9702 - NSJ Well No. 6 Project was accepted, and (b) a 10% contingency in the amount of \$78,631 was approved. (11-0-0)

2.10 23-1128 Vendor Agreement with P&A Group for Flexible Spending Account, Commuter, and Cobra Benefits Administration for City Employees and their Dependents.

Adopt a resolution authorizing the City Manager or designee to negotiate and execute an agreement between the City and P&A Group for Flexible Spending Account, Commuter, and COBRA benefits administration for a five-year term for the period of January 1, 2024, through December 31, 2028, for a total cost not to exceed \$435,000 subject to the annual appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Human Resources)

Action: **Resolution No. RES2023-307** was adopted, authorizing the City Manager to negotiate and execute an agreement between the City and P&A Group. (11-0-0)

2.11 23-1129 Report on Bids and Award of Contract for 10232 - San José Mineta International Airport Terminal A Baggage Claim Escalator Replacement Re-Bid Project.

(a) Report on bids and award of a contract for the construction of 10232 - San José International Terminal A Baggage Claim Escalators Replacement Re-Bid Project to the lowest responsive, responsible bidder, Schindler Elevator Corporation, in the amount of \$1,379,164. (b) Approve a 15% contingency in the amount of \$206,875. (c) Adopt the following 2023-2024 Appropriation Ordinance amendments in the Airport Renewal and Replacement Fund: (1) Decrease the Terminal Roofing appropriation by \$500,000; (2) Decrease the Ending Fund Balance appropriation by \$238,000; and (3) Increase the Escalator Replacement appropriation by \$738,000. CEQA: Determination of Consistency with the Norman Y. Mineta San José

Action: (a) The report on bids were accepted and a contract was awarded for the construction of 10232 - San José International Terminal A Baggage Claim Escalators Replacement Re-Bid Project to the lowest responsive, responsible bidder, Schindler Elevator Corporation; (b) a 15% contingency in the amount of \$206,875 was approved; and (c) Appropriation **Ordinance No. 30944** was adopted, making amendments in the Airport Renewal and Replacement Fund. (11-0-0)

2.12 23-1130 Report of Bids and Award of Contract for the 10089 - Sanitary Sewer Repairs Fiscal Year 2022-2023 Package V Project.

(a) Report on bids and award of contract for the construction of 10089 - Sanitary Sewer Repairs Fiscal Year 2022-2023 Package V Project to the lowest responsive, responsible bidder, Southwest Pipeline & Trenchless Corp., in the amount of \$1,444,313; and (b) Approve a 10% contingency in the amount of \$144,431. CEQA: Categorically Exempt, File No. ER22-048, CEQA Guidelines Sections 15301(b) Existing Facilities and 15302(c) Replacement or Reconstruction. Council Districts 2, 6, 7, and 9. (Public Works)

Action: (a) The report on bids was accepted and a contract was awarded for the construction of 10089 - Sanitary Sewer Repairs Fiscal Year 2022-2023 Package V Project to the lowest responsive, responsible bidder, Southwest Pipeline & Trenchless Corp and (b) a 10% contingency in the amount of \$144,431 was approved. (11-0-0)

2.13 23-1131 Master Consultant Agreements with ADS Corp. and V&A Consulting Engineers, Inc. for Citywide Sanitary and Storm Sewer Flow Monitoring Services.

Approve the Master Consultant Agreements for Citywide sanitary and storm sewer flow monitoring services with the following firms: (a) ADS Corp. from the date of execution to December 31, 2026, in an amount not to exceed \$1,500,000 and (b) V&A Consulting Engineers from the date of execution to December 31, 2026, in an amount not to exceed \$750,000. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

Action: The Master Consultant Agreements for Citywide sanitary and storm sewer flow monitoring services were approved. (11-0-0)

2.14 23-1132 Third Amendment to Master Agreement with Ten Over Studio, Inc. for Architectural Services for Various Essential City Facility Projects.

Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Third Amendment to the Master Agreement with Ten Over Studio, Inc. (CPMS No. 9030-B) for architectural services to increase the total compensation by \$500,000, for a total Agreement amount not to exceed \$6,400,000, for the exclusive purpose of allowing the consultant to complete work on the new Fire Training Center and Emergency Operations Center Relocation project and the Police Department-Air Support Unit Hangar project. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: **Resolution No. RES2023-308** was adopted, authorizing the City Manager or designee to negotiate and execute a Third Amendment to the Master Agreement with Ten Over Studio, Inc. (11-0-0)

- 2.15 23-1133 Strengthening Mobility and Revolutionizing Transportation Program Grant Acceptance.**
Approve the following actions to accept and receive Strengthening Mobility and Revolutionizing Transportation grant funding from the United States Department of Transportation for the City of San José's Curb Digitization and Management Pilot Project: (a) Adopt a "Resolution of Local Support" that indicates the City will: (1) Follow all grant program requirements and delivery timelines; and (2) Authorizes the City Manager or designee to negotiate and execute grant agreements and all documents necessary to effectuate the grant with the United States Department of Transportation in an amount not to exceed \$1,999,412 for the Curb Digitization and Management Pilot Project. (b) Adopt the following 2023-2024 Funding Source Resolution and Appropriation Ordinance amendments in the General Purpose Parking Capital Fund: (1) Establish an estimate for Revenue from Federal Government in the amount of \$1,142,602; and (2) Establish the Curb Digitization and Management appropriation to the Department of Transportation in the amount of \$1,142,602. CEQA: Categorically Exempt, File No. ER23-009, CEQA Guideline Section 15301(c) Existing Facilities. (Transportation/City Manager)

Action: (a) Resolution of Local Support **Resolution No. RES2023-309**, (b) Funding Sources **Resolution No. RES2023-310**, and Appropriation **Ordinance No. 30945** were adopted. (11-0-0)

- 2.16 23-1134 Cost Sharing Agreement with Town of Los Gatos for Pavement Maintenance Improvements.**
Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Cost Sharing Agreement with the Town of Los Gatos for pavement maintenance improvements on Blossom Hill Road, Los Gatos Almaden Road and Union Avenue in an amount not to exceed \$734,099. CEQA: Categorically Exempt, File No. ER22-009, CEQA Guidelines Section 15301(c), Existing Facilities. Council District 9. (Transportation)

Action: **Resolution No. RES2023-311** was adopted, authorizing the City Manager or designee to negotiate and execute a Cost Sharing Agreement with the Town of Los Gatos. (11-0-0)

- 2.17 23-1161 Deferred Compensation Advisory Committee Appointment.**
As recommended by the Rules and Open Government Committee on August 23, 2023, approve the appointment of Sean Davis, nominated by the "trades organizations" consisting of the Association of Building, Mechanical & Electrical Inspectors (ABMEI), International Union of Operating Engineers, Local 3 (OE#3) and International Brotherhood of Electrical Workers (IBEW), as the active employee member to the Deferred Compensation Advisory Committee (DCAC) to fill a vacant seat for the remainder of the term, ending on March 1, 2025. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager) [Rules Committee referral 8/23/2023 - Item B.3]

Action: The appointment of Sean Davis to the Deferred Compensation Advisory Committee (DCAC) was approved to fill a vacant seat for the remainder of the term, ending on March 1, 2025. (11-0-0)

- 2.18 23-1169 VEBA Advisory Committee Appointment.**
As recommended by the Rules and Open Government Committee on August 23, 2023, approve the appointment of Elsa Cordova, nominated by the City Manager as the unrepresented employee member, to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee for a term beginning September 1, 2023 and ending May 31, 2024. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager) [Rules Committee referral 8/23/2023 - Item B.4]

Action: The appointment of Elsa Cordova to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee was approved for a term beginning September 1, 2023 and ending May 31, 2024. (11-0-0)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

- 3.3 23-1137 Proposed Revisions to the Revolving Door Policy Under Title 12 of the San José Municipal Code, the City's Ethics and Open Government Provisions under Title 12 of the San José Municipal Code, and Resolution 79187 Governing the Board's Regulations and Procedures.**
(a) Approve an ordinance of the City of San José amending Title 12 of the San José Municipal Code to amend Section 12.04.080 of Chapter 12.04 to authorize the City Clerk to dismiss without prejudice insufficient complaints or complaints that are outside the jurisdiction of the Board of Fair Campaign and Political Practices; Section 12.05.020 of Chapter 12.05 to regulate the scheduling of Special Elections for certain initiative measures; Section 12.06.295 of Chapter 12.06 to remove limitations on the amount a candidate may loan to their own campaign or campaign committee; and Section 12.12.440 of Chapter 12.12 to remove the late filing fee for weekly lobbyists reports; (b) Approve an ordinance amending Title 12 of the San José Municipal Code as to amend Sections 12.10.020 and 12.10.030 of Chapter 12.10 to redefine the exception to the Revolving Door Ordinance and reduce the prohibition from two years to one year; and PLEASE NOTE: APPROVAL OF THIS ORDINANCE REQUIRES AFFIRMATIVE VOTES BY 2/3 OF THE MEMBERS OF THE COUNCIL PRESENT AT THE MEETING. [San José City Charter Section 607]. (c) Adopt a resolution amending the Regulations and Procedures for the San José Board of Fair Campaign and Political Practices concerning Investigations and Hearings and repealing Resolution 79187 as recommended by the Board of Fair Campaign and Political Practices. CEQA: Not a Project, File No. PP17-008, General

Procedure and Policy Making resulting in no changes to the physical environment.
(City Attorney/City Clerk) [Deferred from 5/23/2023 - Item 3.4 (23-765)]

Deputy City Attorney Matthew Tolnay and City Auditor Joe Rois provided the presentation and responded to questions with City Attorney Nora Frimann.

Public Comments: Poncho Guevara (Silicon Valley Council of Non-Profits), Kyra Kazantzis (Silicon Valley Council of Non-Profits), Alison Brunner (Law Foundation of Silicon Valley), Trami Cron (Chopsticks Alley Art), Usha Srinivasan (Mosaic America), Shawn Gerth (Educare California), Gregory Kepferle (Catholic Charities), Socorro Montaña (Latinos United for a New America), Blair Beekman, Quyen Vuong (International Children Assistance Network), Paul Soto, and Mia Veal offered public comments.

Motion: Councilmember Sergio Jimenez moved to exempt all 501(c)(3) from the Revolving Door Policy; changing the Revolving Door Policy for those outside of that, from two years to one year; staff recommendations; and additional staff recommendations brought forward during the presentation. Councilmember David Cohen seconded the motion.

Deputy City Attorney Matthew Tolnay clarified that the staff memorandum encompasses all of these changes.

Councilmember Dev Davis requested that the motion be bifurcated to vote separately on the amendment to Title 12 of the San José Municipal Code Section 12.10.020, which defines the exception to the Revolving Door Ordinance. Councilmember Jimenez accepted bifurcating the vote.

Friendly Amendment: Vice Mayor Rosemary Kamei requested that the motion include a clear definition of what the City considers 501 (c)(3). Councilmember Jimenez did not accept this friendly amendment.

The Council took three separate votes, to bifurcate the vote of item (b) of the staff recommendation and take action on staff recommendations (a) and (c) separately.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by David Cohen, and carried unanimously, the staff recommendations were approved as indicated, with a bifurcated vote on item (b) of the staff recommendation, and separate votes to approve items (a) and (c) of the staff recommendation.

1. (b) The amendment to Title 12 of the San José Municipal Code Section 12.10.030 of Chapter 12.10 was approved, and **Ordinance No. 30947** was passed for publication. (9-2-0; Noes: Doan, Mahan)
2. (b) The amendment to Title 12 of the San José Municipal Code Section 12.10.020 of Chapter 12.10 was approved, and **Ordinance No. 30947** was passed for publication. (7-4-0; Noes: Davis, Doan, Batra, Mahan)
3. (a) **Ordinance No. 30946**, amending Title 12 of the San José Municipal Code to amend Section 12.04.080 of Chapter 12.04, was passed for publication and (c) **Resolution No. 2023-312** was adopted, amending the Regulations and Procedures for the San José Board of Fair Campaign and Political Practices concerning Investigations and Hearings and repealing Resolution 79187 as recommended by the Board of Fair Campaign and Political Practices. (10-1-0; Noes: Doan)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

None provided.

10 Land Use – Regular Agenda

- 10.2 23-1135 PDC22-088, PD22-020, T22-030 & ER22-195 - Rezoning, Planned Development Permit, and Vesting Tentative Map on Certain Real Located at 4146 Mitzi Drive.**
- (a) Adopt a resolution adopting the Addendum to the Mitzi Place Apartments Initial Study/Mitigated Negative Declaration and the related mitigation, monitoring, and reporting program, in accordance with the California Environmental Quality Act, as amended. (b) Approve an ordinance rezoning certain real property of an approximately 0.63-gross-acre site situated at the northeast corner of Mitzi Drive and Rancho Way (4146 Mitzi Drive) (APN 299-16-001) from the R-M Multiple Residence Zoning District to the UR Urban Residential (PD) Planned Development Zoning District. (c) Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to subdivide one lot into two lots and allow up to 14 residential condominium units on an approximately 0.63-gross-acre site. (d) Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow the removal of 33 trees (13 ordinance-size, 20 non-ordinance-size, 7 replacement trees) for the construction of up to 14 multifamily residential units, including the reconstruction and conversion of an existing single-family house (Graves House) into a duplex and the construction of 12 townhouses configured in four three-story buildings on an approximately 0.63-gross-acre site. CEQA: Addendum to the Mitzi Place Apartments Initial Study/Mitigated Negative Declaration. Planning Commission recommends approval (10-0-1, Bickford absent) (Item 5.h. on the 8/9/2023 Planning Commission agenda). Council District 1. (Planning, Building and Code Enforcement)

Planning, Building, and Code Enforcement's Chris Burton provided the presentation and responded to questions.

Erik Schoennauer representing the applicant spoke to the merits of the project.

Public Comments: Mike Sodergren and Blair Beekman offered public comment.

Action: Upon motion by Vice Mayor Rosemary Kamei, seconded by Councilmember Arjun Batra, and carried unanimously, (a) **Resolution No. RES2023-313**, (c) **Resolution No. RES2023-314**, and (d) **Resolution No. RES2023-315** were adopted, and (b) **Ordinance No. 30948** was *passed for publication*. (11-0-0)

• Open Forum

1. Paul Soto described his experiences with SJPD at a County building and County event.
2. Blair Beekman spoke on human rights of indigenous populations and working towards community ideals.
3. Mila Bekele (Silicon Valley Youth Climate Action) requested the City not cut funding to Climate Smart funding due to potential short-term and long-term impacts.
4. Mani Bekele (Silicon Valley Youth Climate Action) requested the Council to reject cuts to the Climate Smart funding.

• Adjournment

The Council of the City of San José adjourned at 3:58 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,



Grace Turner, Deputy City Clerk
City of San José

Approved at Council on: 01/14/2025

of Actions: 5

Attest By:



Toni Taber, CMC City Clerk,
City of San José

SAN JOSÉ CITY COUNCIL CLOSED SESSION

AUGUST 29, 2023

The Council of the City of San José convened into Closed Session at 9:31 a.m.

This meeting was held in City Hall Conference room W-133

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

Absent: Councilmembers - All Present.

Closed Session Item(s) discussed:

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:

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: 1

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

1. Case Name: In re: Claim of Aquino
Name(s) of Partie(s)
Involved:
Court: Worker's Compensation Appeals Court
Case No: ADJ13490484
Amount of Money or Other Benefits
Relief Sought:
2. Case Name: Andrew Lee Johnson v. County of Santa Clara, et al
Name(s) of Partie(s) ANDREW LEE JOHNSON; CITY OF SAN JOSE, OFFICER
Involved: MARCO MONZON, OFFICER JAMIE HALL
Court: U.S. District Court, Northern District of California
Case No: 5:18-cv-06264-EJD
Amount of Money or Other Damages according to proof
Relief Sought:
3. Case Name: NAACP of San José Silicon Valley et al., v. City, et al.,
Name(s) of Partie(s) NAACP OF SAN JOSÉ/ SILICON VALLEY; SAN JOSÉ
Involved: PEACE AND JUSTICE CENTER; M. MICHAEL ACOSTA, AS
AN INDIVIDUAL; AND JOSEPH CAÑAS; LESLIE VASQUEZ;
PETER ALLEN; SHAUNN CARTWRIGHT; YESSICA RILES;
JOSÉ GUSTAVO FLORES RODRIGUEZ; ALEX LEE; JOSÉPH
MALDONADO; CINDY CUELLAR; MAHMOUDREZA
NAEMEH; AND MEGAN SWIFT, ON BEHALF OF

THEMSELVES AND ALL OTHERS SIMILARLY SITUATED,
CITY OF SAN JOSÉ; SAM LICCARDO; EDGARDO GARCIA;
DAVID SYKES; JASON DWYER; RONNIE LOPEZ, LEE
TASSIO, JARED YUEN; SEAN MICHAEL CURRY, OFFICER
FNU DELGADO, and DOES 1-100

Court: U.S. District Court; District of Northern California

Case No: 4:21-cv-01705-PJH

Amount of Money or Other Damages according to proof

Relief Sought: