



City Council Meeting Draft Minutes

Tuesday, October 17, 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**

9:30 a.m.- Closed Session 23-1373: *See pages 21-22 for Closed Session Minutes.*

Present Councilmembers: Mahan, Kamei, Jimenez, Torres, Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra. (Council Chambers Conference Room, W133)

Absent Councilmembers: All Present.

1:38 p.m.- Regular Session.

Present Councilmembers: Mahan, Kamei, Jimenez, Torres, Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra. (City Hall, Council Chambers.)

Absent Councilmembers: All Present.

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 9)**

Pastor Tyler Cole, of Lincoln Glen Church offered the invocation and opened in prayer.

- **Orders of the Day**

Councilmember Peter Ortiz requested that Item 10.1(d) be deferred for further discussion between school districts and city staff.

Action: Upon motion by Councilmember Peter Ortiz, seconded by Councilmember Dev Davis, and carried unanimously, the Orders of the Day were approved, *with Item 8.2 deferred to the October 24, 2023 City Council Meeting and Item 10.1(d) deferred.* (11-0.)

Mayor Matt Mahan offered that today's meeting would be adjourned in memory of Robert "Bob" Kadlec.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

- 1.1 Councilmember Pam Foley and Vice Mayor Rosemary Kamei presented the proclamation declaring October 2023 as National Disability Employment Awareness Month in the City of San José. The proclamation was presented to AbilityPath representatives. Marco F. spoke to his duties and employment at Safeway.

1.2 Councilmember David Cohen presented the commendation congratulating San José's Energy Department for being awarded the 2023 Beacon Innovation and Leadership Award for the Solar Access Program, which expands access to low-income residents. The commendation was presented to the San José Energy Department. Assistant Director, Community Energy Department, Zach Struyk accepted the commendation and provided comment.

1.3 Councilmember Omar Torres presented the proclamation declaring October 2023 as Arts and Humanities Month in the City of San José to recognize, celebrate, and support the arts and humanities Throughout our City and Nation which have a tremendous impact to the culture and education of our City. The proclamation was presented to Kerry Adam-Hafner and the Office of Cultural Affairs.

2. CONSENT CALENDAR

Vice Mayor Rosemary Kamei pulled Item 2.9 and Councilmember Arjun Batra pulled Item 2.12 for comment.

Public Comment: (Zoom) Blair Beekman provided public testimony on the Consent Calendar items as a whole.

Action: Upon motion by Councilmember Arjun Batra, seconded by Councilmember Omar Torres, and carried unanimously, the consent calendar was approved as a whole. The below actions were taken as indicated. (11-0.)

2.1 Approval of City Council Minutes.

None provided.

2.2 23-1365

Final Adoption of Ordinances.

(a) Ordinance No. 30954 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.44 Gross Acres, Situated on the East Side of North 7th Street, Approximately 200 Feet Northwesterly from the Intersection of North 7th Street and East Empire Street (520 North 7th Street) (APNS: 249-36-011, 012 and 013) from the LI Light Industrial Zoning District to the MUN Mixed-Use Neighborhood Zoning District.

[Passed for Publication on 9/26/2023 - Item 10.1(a) (23-1283)](b) Ordinance No. 30955-

An Ordinance of the City of San José Adding Sections 4.12.018 and 4.12.028 to Chapter 4.12, and Amending Sections 4.04.080 and 4.04.085 of Chapter 4.04 and Sections 4.12.210, 4.12.225, 4.12.350, 4.12.415 and 4.12.420 of Chapter 4.12 of Title 4 of the San José Municipal Code to Modify the City's Procurement Process for Goods and Services.

[Passed for Publication on 10/3/2023 - Item 3.3 (23-1321)]

(c) Ordinance No. 30956 - An Ordinance of the City of San José Amending Titles 2, 4, and 26 and Adding Title 28 to the San José Municipal Code to Establish a Municipal Utility for Electric Service.

[Passed for Publication on 10/3/2023 - Item 6.1 (23-1326)]

Action: (a) **Ordinance No. 30954**, (b) **Ordinance No. 30955**, (c) **Ordinance No. 30956** were adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

None provided.

2.4 23-1436 Mayor and Council Excused Absence Requests.

Request for excused absences for:

(a) Councilmember Jimenez from the Regular Meeting of Rules and Open Government Committee and Committee of the Whole on October 4, 2023 due to personal travel.

(b) Councilmember Davis from the Regular Meeting of Rules and Open Government Committee and Committee of the Whole on October 4, 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. (Jimenez & Davis)

[Rules Committee referral 10/11/2023 - Item A.1.a]

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

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 23-1374 Adoption of an Ordinance Ratifying Final Expenditures in Various Appropriations for 2022-2023 and Adoption of the Associated Appropriation Ordinance and Funding Sources Resolution Amendments in 2022-2023.

(a) Adopt an ordinance ratifying final 2022-2023 expenditures in various appropriations as detailed in the report to Council.

(b) Adopt the following 2022-2023 Appropriation Ordinance and Funding Sources Resolution amendments in the American Rescue Plan Fund:

(1) Increase the estimate for Revenue from the Federal Government by \$12,124,964; and

(2) Increase the Transfer to the General Fund appropriation by \$12,124,964.

(c) Adopt the following 2022-2023 Appropriation Ordinance and Funding Sources Resolution amendments in the Benefit Fund:

(1) Increase the revenue estimate for Transfers and Reimbursements by \$496,277;

(2) Increase the FICA - Medicare appropriation to the Human Resources Department by \$484,190;

(3) Increase the 401(a) Defined Contribution Retirement Plan appropriation to the Human Resources Department by \$12,579; and

(Item Continued on the Next Page)

2.7 (Cont'd.)

(4) Decrease the Unrestricted Ending Fund Balance by \$492.

(d) Adopt the following 2022-2023 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

(1) Increase the estimate for Revenue from the Federal Government by \$427,280; and

(2) Increase the Clean Creeks, Healthy Watersheds appropriation to the Environmental Services Department by \$427,280.

(e) Adopt the following 2022-2023 Appropriation Ordinance amendments in the Public Works Program Support Fund:

(1) Increase the Compensated Time Off appropriation to the Public Works Department by \$729,043; and

(2) Decrease the Unrestricted Ending Fund Balance by \$729,043.

(f) Adopt the following 2022-2023 Appropriation Ordinance amendments in the Integrated Waste Management Fund:

(1) Increase the Personal Services appropriation to the City Attorney's Office by \$116,582; and

(2) Decrease the Unrestricted Ending Fund Balance by \$116,582.

(g) Adopt the following 2022-2023 Appropriation Ordinance amendments in the Sewer Service and Use Charge Fund:

(1) Increase the Collection Costs appropriation to the Finance Department by \$19,318; and

(2) Decrease the Unrestricted Ending Fund Balance by \$19,318.

(h) Adopt the following 2022-2023 Appropriation Ordinance amendments in the San José-Santa Clara Treatment Plant Operating Fund:

(1) Increase the Personal Services appropriation to the City Attorney's Office by \$16,046; and

(2) Decrease the Unrestricted Ending Fund Balance by \$16,046.

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. (City Manager)

Action: (a) **Ordinance No. 30957**, (b) Appropriation **Ordinance No. 30958**, (b) Funding Sources **Resolution No. RES 2023-354**, (c) Appropriation **Ordinance No. 30959**, (c) Funding Sources **Resolution No. RES2023-355**, (d) Appropriation **Ordinance No. 30960**, (d) Funding Sources **Resolution No. RES2023-356**, (e) Appropriation **Ordinance No. 30961**, (f) Appropriation **Ordinance No. 30962**, (g) Appropriation **Ordinance No. 30963**, and (h) Appropriation **Ordinance No. 30964** were adopted. (11-0.)

2.8 23-1375

Acquisition and Move of the Historic Coyote Depot.

Approve the acquisition and move of the historic Coyote Depot, from Union Pacific property to the City-owned History Park.

CEQA: Categorically Exempt, File No. ER23-223, CEQA Guidelines Section 15331, Historical Resource Restoration/Rehabilitation. Council District 7. (Economic Development and Cultural Affairs)

Action: The acquisition and move of the historic Coyote Depot was approved. (11-0.)

2.9 23-1376

Actions Related to the Potential Transfer of Title of the Property Commonly Referred to as the Signia by Hilton Annex “South Tower Property”, Located at 170 S. Market Street.

(a) Adopt a resolution:

(1) Consenting to the transfer of title to the property currently owned by SC SJ Holdings, LLC, commonly referred to as the Signia by Hilton “South Tower Property” located at 170 S. Market St., to AG170, LLC;

(2) Consenting to the separation of the North Tower Property and the South Tower Property as referenced in the Lot Tie Agreement and Covenant Regarding Transfer and Certain Services dated March 15, 2002 between Light Tower Associates I, LLC and Light Tower Associates II, LLC and subsequent termination of the same Agreement by the Parties; and

(3) Authorizing the City Manager or designee to negotiate and execute any documents as necessary to memorialize the City’s consent.

(b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute an amendment to the Amended and Restated Revocable Encroachment Permit for the Operation and Maintenance of Underground Service Tunnel and Above-Ground Pedestrian Bridge dated March 20, 2002, and entered into by and among Light Tower Associates I, LLC, Light Tower Associates II, LLC, and the City to provide that the obligation to remove the above ground pedestrian bridge pursuant to the terms of the permit will rest solely with the owner of the South Tower Property, and its successors and assigns, and the obligation to remove the underground service tunnel pursuant to the terms of the permit will rest solely with the owner of the property commonly referred to as the Signia by Hilton “North Tower Property” located at 170 S. Market St., and its successors and assigns.

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)

Vice Mayor Rosemary Kamei pulled item 2.9 for comment regarding the potential tax revenue losses.

Action: (a) **Resolution No. RES2023-357** and (b) **Resolution No. RES2023-358** were adopted. (11-0.)

2.10 23-1377

Actions Related to the Purchase Order with Community Fire Protection for Fire-Life Safety System Inspections, Testing, Maintenance, and Repair Services.

Adopt a resolution authorizing the City Manager or designee to exercise up to four one-year options to extend the term of the purchase order with Community Fire Protection (Seaside, CA) for fire-life safety system inspections, testing, maintenance, and repair services, with the last option ending on or about October 31, 2027, 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. RES2023-359** was adopted. (11-0.)

2.11 23-1378

Amendment to the Agreement Between the County of Santa Clara and City of San José for Access to the County of Santa Clara’s Criminal Justice Information Control System.

Adopt a resolution authorizing the City Manager or designee to execute a first amendment to the agreement between the County of Santa Clara and the City of San José for terminal access and network support related to the Criminal Justice Information Control system, in an amount of \$283,725 for the extension of three years, from July 1, 2023 to June 30, 2026.

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

Action: **Resolution No. RES2023-360** was adopted. (11-0.)

2.12 23-1379

Status Report on the November 2018 Ballot Measure T - The Disaster Preparedness, Public Safety, and Infrastructure General Obligation Bond.

Accept the status report on the work plan and implementation updates for projects included in the approved 2018 Measure T - The Disaster Preparedness, Public Safety, And Infrastructure General Obligation Bond.

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

Councilmember Arjun Batra pulled item 2.12 for comment regarding San José’s Foresight on Measure T.

Action: The status report on the work plan and implementation updates for projects included in the approved 2018 Measure T - The Disaster Preparedness, Public Safety, And Infrastructure General Obligation Bond was accepted. (11-0.)

2.13 23-1380

Report on Bids and Award of Contract for 10131 - San José Mineta International Airport Administration Parking Lot Safety Upgrades Re-Bid Project.

(a) Report on bids and award of a contract for the construction of 10131 - San José Mineta International Airport Administration Parking Lot Safety Upgrades Re-Bid Project to the lowest responsive, responsible bidder, Golden Bay Construction, Inc., for the base bid and Bid Alternate Nos. 1, 2, and 3 in the amount of \$1,314,706.

(b) Approve a 10% contingency in the amount of \$131,471.

(c) Adopt the following 2023-2024 Appropriation Ordinance amendments in the Airport Renewal and Replacement Fund:

(1) Decrease the Terminal A parking garage resurfacing by \$920,000; and (2) Increase the Administration Lot Improvements by \$920,000.

CEQA: Determination of Consistency with the Norman Y. Mineta San José International Airport Master Plan Amendment Environmental Impact Report, File No. ER23-029. Council District 6. (Public Works/City Manager)

Action: (a) The Report on bids and award of a contract for the construction of 10131 – San José Mineta International Airport Administration Parking Lot Safety Upgrades was accepted, (b) the 10% contingency in the amount of \$131,471 was approved, and (c) **Ordinance No. 30965** was adopted. (11-0.)

2.14 23-1398

Retroactive Approval and Approval of Multiple Events Sponsored by Council District 4 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 October 4, 2023:

(a) Retroactively approve the District 4 Groundbreaking Ceremony for Mercado and Bruzzone Parks scheduled on October 1, 2023 as a City Council sponsored Special Event and approve the expenditure of funds;

(b) Retroactively approve the Day on the Bay scheduled on October 14, 2023 as a City Council sponsored Special Event and approve the expenditure of funds;

(c) Approve the District 4 Pumpkin Giveaway scheduled on October 18, 2023 as a City Council sponsored Special Event and approve the expenditure of funds;

(d) Approve the Cherrywood Elementary School Fall Festival scheduled on October 27, 2023 as a City Council sponsored Special Event and approve the expenditure of funds;

(e) Approve the Halloween Spooktacular scheduled on October 27, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; and

(f) 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
(Item Continued on the Next Page)

2.14 (Cont'd.)

resulting in no changes to the physical environment. (Cohen)
[Rules Committee referral 10/4/2023 - Item B.4]

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

2.15 23-1401

Retroactive Approval of District 4 and District 5 Filipino American History Month Flag Raising and Lighting Ceremony 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 October 4, 2023:

(a) Retroactively approve the District 4 and District 5 Filipino American History Month Flag Raising and Lighting Ceremony scheduled on October 13, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; and

(b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Cohen and Ortiz)
[Rules Committee referral 10/4/2023 - Item B.5]

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

2.16 23-1440

Request for Travel Authorization for Mayor's Staff.

As recommended by the Rules and Open Government Committee on October 11, 2023, authorize travel, accept travel payments to the City of San José and designate Mayor's Staff, Stephen Caines, as the City representative to attend the Bloomberg CityLab event in Washington, D.C. from October 18-20, 2023. Source of Fund: the Aspen Institute, 501c3 (airfare, lodging, meals, ground transportation).

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 10/11/2023 - Item B.5]

Action: The request for travel for Mayor's staff was approved. (11-0.)

3. STRATEGIC SUPPORT

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

City Manager, Jennifer Maguire provided the verbal report, indicating the Housing Department released a \$50 Million Dollar Notice of Funding Availability for new multi-family rental housing projects.

3.2 Labor Negotiations Update.

None provided.

3.3 23-1381 2022-2023 City Manager's Annual Report.

(a) Accept the 2022-2023 City Manager's Annual Report in compliance with City Charter Section 701(F).

(b) Adopt the Appropriation Ordinance and Funding Sources Resolution amendments in various operating and capital funds to implement the 2022-2023 Annual Report recommendations, as detailed in Section IV (Recommended Budget Adjustments and Clean-Up/Rebudget Actions). CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approval of any City actions, and File No. PP17-004, Government Funding Mechanism of Fiscal Activity with no commitment to a specific project which may result in a potentially physical impact on the environment. (City Manager)

Jim Shannon, Budget Director, City Manager's Office; Bonny Duong, Assistant Budget Director, City Manager's Office; Claudia Chang, Deputy Budget Director, City Manager's Office; and Selena Ubando, Assistant to the City Manager, City Manager's Office, offered the presentation and responded to questions.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Bien Doan, and carried unanimously, (a) the 2022-2023 City Manager's Annual Report in compliance with City Charter Section 701(F) was accepted, (b) Appropriation **Ordinance No. 30966**, and (b) Funding Sources **Resolution No. RES2023-361** were adopted. (11-0.)

3.4 23-1382 Resolution Affirming Support of the Transgender and Broader LGBTQ+ Communities.

As recommended by the Rules and Open Government Committee on September 20, 2023, adopt a resolution affirming the City of San José's support of the transgender and broader LGBTQ+ communities.

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

[Rules Committee referral 9/20/2023 - Item C.1]

[Deferred from 10/3/2023 - Item 3.5 (23-1332)]

DEFERRED TO 10/24/2023.

3.5 23-1385 Housing Department's Performance Measures Audit Report.

As recommended by the Community and Economic Development Committee on September 25, 2023, accept the audit report on the Housing Department's performance measures audit.

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)

(Item Continued on the Next Page)

3.5 (Cont'd.)

[Community and Economic Development Committee 9/25/2023 - Item (d)2]

Public Comment: (In Person) - Emily Ann Ramos SV@Home; (Zoom) Huascar Castro; Caller Events SVH, and caller 2000 provided public testimony regarding the item.

Action: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the audit report on the Housing Department's performance measures audit was accepted. Also including acceptance of the joint memorandum from Mayor Matt Mahan, Vice Mayor Rosemary Kamei, and Councilmember Pam Foley, dated October 13, 2023 recommending: (1) Accept the staff recommendation to accept the audit report. (2) Direct the Housing Department to report on the draft performance metrics at the Community and Economic Development (CED) committee before final recommendations are brought before the full council or implemented administratively through the FY 24-25 budget process. (a) Audit Recommendation #1 – report to CED by March 2024. (b) Audit Recommendation #2 and #3 – report to CED in the second quarter of 2024. (c) Direct the City Manager, as part of the FY 2024-2025 budget process, to revisit and propose possible updates to the Housing Department's mission, core services, programs, performance measures, and activity and workload highlights. (11-0.)

4. PUBLIC SAFETY SERVICES

4.1 23-1386 Community Outreach Regarding Street Closures and Traffic Diversions for Large Crowd Events.

Accept the San José Police Department's plan for community outreach regarding its operational plans for planned large crowd events that include possible street closures and traffic diversions.

CEQA: Not a Project, File No. PP17-009, Staff reports, assessments, annual reports, and informational memos that involve no approvals of any City action. (Police)

[Deferred from 9/19/2023 - Item 4.3 (23-1245) and 10/3/2023 - Item 4.2 (23-1286)]

Anthony Mata, Chief of Police, San José Police Department and Paul Hamblin, Lieutenant, San José Police Department offered the presentation and responded to questions.

Action: Upon motion by Councilmember Domingo Candelas, seconded by Councilmember Omar Torres, and carried unanimously, the San José Police Department's plan for community outreach regarding its operational plans for planned large crowd events that include possible street closures and traffic diversions was accepted. (11-0.)

5. TRANSPORTATION & AVIATION SERVICES

5.1 23-1387 California Department of Transportation Grant for the East San José Corridor Safety Improvement Project.

Adopt a Resolution of Local Support to accept and receive State grant funds appropriated from the Budget Act of 2022, Assembly Bill 178 for the East San José Corridor Safety Improvement Project that indicates the City will:

- (a) Follow all grant program requirements and delivery timelines; and
- (b) Authorize the City Manager or designee to negotiate and execute a grant fund transfer agreement and all documents necessary to effectuate the grant with California Department of Transportation in an amount not to exceed \$10,000,000 for the East San José Corridor Safety Improvement Project.

CEQA: Categorically Exempt, File No. ER23-009, CEQA Guideline Section 15301(c) Existing Facilities. Council Districts 2 and 7. (Transportation)

Public Comment: (Zoom) Brian Darby, Rocio Molina (Catalyze SV), and Blair Beekman provided public testimony regarding the item.

Action: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, **Resolution No. RES2023-362** was adopted. (11-0.)

5.2 23-1388 Actions Related to the Acquisition of Property Located at 32-60 Stockton Avenue.

Adopt a resolution authorizing the City Manager or designee to:

- (a) Negotiate and execute a purchase and sale agreement with Chunhong Liu, Trustee of the Thang Do and Chunhong Liu Revocable Trust dated January 29, 2008, for approximately 1.12 acres (48,830 square feet) of land commonly known as 32-60 Stockton Avenue and located at the northeast corner of Stockton Avenue and Santa Clara Street, identified as Assessor's Parcel Numbers 259-28-001 and 259-28-002 (Property), for a price of \$23,800,000;
- (b) Deliver an I.R.S. §1033 letter to seller;
- (c) Execute all other documents necessary to effectuate the transfer to the City;
- (d) Negotiate and execute all documents and contracts necessary for the relocation of tenants currently occupying 32-60 Stockton Avenue, including approval of the Final Relocation Plan and disbursement of necessary payments as required by relocation statute, not to exceed \$350,000; and
- (e) Negotiate and execute an amendment to the Cooperative Agreement for San José Diridon Integrated Station to address property acquisitions required for future project needs and maintenance of the property by the City in the interim before it is needed for construction.

(Item Continued on the Next Page)

5.2 (Cont'd.)

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 6. (Transportation/Economic Development and Cultural Affairs)

Nanci Klein, Director Economic Development, Office of Economic Development; John Ristow, Director of Transportation, Department of Transportation; Jessica Zenk, Deputy Director, Department of Transportation; and Kevin Ice, Assistant to the City Manager, Office of Economic Development, offered a presentation and responded to questions.

Public Comment: (Zoom) Brian Darby and Blair Beekman provided public testimony regarding the item.

City Attorney, Nora Frimann announced that Councilmember Omar Torres was recusing himself under State law.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Domingo Candelas, and carried unanimously, **Resolution No. RES2023-363** was adopted. (10-1-0 Recused: Torres)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 23-1389 Authorization to Apply for the U.S. Department of Housing and Urban Development's Notice of Funding Opportunity for Pathways to Removing Obstacles to Housing.

Adopt a resolution authorizing the City Manager or designee to apply for a grant up to \$10,000,000 and submit all required documentation for the U.S. Department of Housing and Urban Development's Pathways to Removing Obstacles to Housing to address the barriers to preserving affordable housing in San José through acquisition, rehabilitation, and operations of existing housing.

CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Housing)

Rosalynn Hughey, Deputy City Manager, Acting Housing Director, City Manager's Office and Rachel VanderVeen, Assistant Director, Housing Department offered the presentation and responded to questions.

Public Comment: (Zoom) Brian Darby and Blair Beekman provided public comment.

Action: Upon motion by Councilmember Peter Ortiz, seconded by Councilmember Bien Doan, and carried unanimously, **Resolution No. RES2023-364** was adopted. (11-0.)

8.2 23-1390

**Actions Related to Emergency Interim Housing Programs.
- RECOMMENDED DEFERRAL**

- (a) Adopt a resolution adopting the Initial Study/Mitigated Negative Declaration for the Emergency Interim Housing Programs project and adopting a related Mitigation Monitoring and Reporting Program in accordance with the California Environmental Quality Act.
 - (b) Accept the staff report and implement the recommendations of the Emergency Interim Housing Report.
 - (c) Approve staff work plan for implementing the recommendations.
 - (d) Direct staff to return to City Council with an update within one year of the start of implementation.
 - (e) Adopt a resolution authorizing the Director of Housing, Acting Director of Housing or designee to negotiate and execute amendments to the following existing Emergency Interim Housing grant agreements:
 - (1) HomeFirst Services of Santa Clara County (Monterey/Bernal and Rue Ferrari) in an amount not to exceed \$4,078,815 from January 1, 2024 to June 30, 2024;
 - (2) LifeMoves (Guadalupe) in an amount not to exceed \$1,829,882 from January 1, 2024 to June 30, 2024;
 - (3) People Assisting the Homeless (Evans Lane) in an amount not to exceed \$1,900,000 from January 1, 2024 to June 30, 2024; and
 - (4) HomeFirst Services of Santa Clara County (Bridge Housing Community sites Mabury and Felipe) in an amount not to exceed \$2,206,415 from January 1, 2024 to June 30, 2024.
- CEQA: Not a Project, File No. PP17-009 Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; Mitigated Negative Declaration for the Emergency Interim Housing Programs project, File No. ER22-198. (Housing)

DEFERRED TO 10/24/2023 PER ADMINISTRATION

8.3 23-1391

Actions Related to the Via del Oro Mobile Quick Build Shelter and Housing Cost Benefit Analysis.

- (a) Accept the staff report on the Mobile Quick Build Shelter and Housing Cost Benefit Analysis.
- (b) Direct the City Manager or designee to negotiate and execute a lease/use agreement at \$1 per year with John Sobrato to build and operate a Mobile Quick Build Shelter and Housing project at the Via del Oro site consistent with the approach contained in the staff memorandum.
- (c) Direct staff to negotiate a Project Delivery Agreement at a maximum guaranteed amount for Via del Oro Mobile Quick Build Shelter and Housing project with Dignity Moves and Swinerton Construction, consistent with the approach, plans, scope, and cost estimates contained in the staff memorandum, and to return to the City Council for
(Item Continued on the Next Page)

8.3 (Cont'd.)

consideration and approval. CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. Council District 10. (Public Works/Housing/City Manager)

Omar Passons, Deputy City Manager, City Manager's Office; Matthew Loesch, Director Public Works, Public Works; Ragan Henninger, Deputy Director, Housing Department; and Jim Ortbal, Deputy City Manager, City Manager's Office offered the presentation and responded to questions.

Public Comment: (In-Person) Francesca Paiste, Gelia Archibald, Gail Osmer, Joanne Price, Guru Surinder, Elizabeth Funk (Co-Founder and CEO of Dignity Moves); (Zoom) Issa, Sobrato Fangirl, Brian Darby, and Gina Whitney provided public comment.

Motion: Councilmember Arjun Batra moved approval of both the joint council memorandums. Councilmember Sergio Jimenez seconded the motion.

Staff requested that recommendation 2(b), 2(c), and 2(d) of the joint memorandum by Mayor Mahan, Councilmember Sergio Jimenez, Councilmember David Cohen, and Councilmember Pam Foley, dated October 13, 2023 be contingently approved upon the City Attorneys legal analysis to determine 2(b), 2(c), and 2(d), are legally feasible.

Action: On a call for question, the motion passed unanimously, (a) the staff report on the Mobile Quick Build Shelter and Housing Cost Benefit Analysis was accepted, (b) the direction to the City Manager or designee to negotiate and execute a lease/use agreement at \$1 per year with John Sobrato to build and operate a Mobile Quick Build Shelter and Housing project at the Via del Oro site consistent with the approach contained in the staff memorandum was accepted, (c) staff direction to negotiate a Project Delivery Agreement at a maximum guaranteed amount for Via del Oro Mobile Quick Build Shelter and Housing project with Dignity Moves and Swinerton Construction, consistent with the approach, plans, scope, and cost estimates contained in the staff memorandum, and to return to the City Council for consideration and approval was accepted.

Including acceptance of the joint memorandum by Mayor Mahan, Councilmember Sergio Jimenez, Councilmember David Cohen, and Councilmember Pam Foley, dated October 13, 2023 *with staff's direction to contingently approve recommendations 2(b), 2(c), and 2(d), if they are legally feasible upon the City Attorneys legal analysis*, the joint memorandum recommended the following: Approve the staff recommendations with the following additional direction: 1. At least ninety (90) days prior to issuance of a certificate of occupancy (or equivalent), prioritize outreach to unhoused residents within 1.5 miles of the proposed Via del Oro Mobile Quick Build Shelter and Housing project, including encampments and inhabited vehicles along Great Oaks Boulevard and Las Colinas Lane. 2. Develop a preference list for shelter placements in the Via del Oro Mobile Quick Build Shelter and Housing project, as follows: a. First preference: unhoused residents within 1.5 miles (as the crow flies) of the proposed Via del Oro Mobile Quick Build Shelter and Housing project, including encampments and inhabited vehicles along Great Oaks Boulevard and Las Colinas Lane. b. Second preference: unhoused seniors, veterans, individuals with a disability under the Americans with Disabilities Act, or transition-aged foster youth who had, within the past five (5) years from execution of the lease/use agreement with John Sobrato, a legal address or resident address for purposes of voter registration in the City of San Jose. c. Third preference: unhoused residents who had, within the past five (5) years from execution of the lease/use agreement, a legal address or resident address for purposes of voter registration in the City of San Jose AND
(Item Continued on the Next Page)

8.3 (Cont'd.)

possess a voucher through the Housing Authority. d. Fourth preference: unhoused residents who had, within the past five (5) years from execution of the lease/use agreement, a legal address or resident address for purposes of voter registration in the City of San Jose.

Including acceptance of the joint memorandum by Mayor Matt Mahan and Councilmember Arjun Batra, dated October 13, 2023, recommending the following: Accept the staff recommendations for the Via Del Oro site and direct the City Manager to: 1. Collect and share before and after data on the condition of the neighborhood surrounding the Via Del Oro EIH site, in line with previous staff analysis and work plans. 2. Prioritize outreach to unhoused residents within 1.5 miles of the proposed Via Del Oro EIH site. 3. Explore using existing resources or programs to prevent re-encampment of cleared areas in this zone. 4. Evaluate conditions and develop a plan for relocating residents, moving units, and responding to other resident and programmatic needs resulting from the end of the lease period. 5. Enforce the Good Neighbor Policy and provide enhanced blight services for areas surrounding EIH sites, as adopted in the Mayor's June Budget Message (BD #23), within the EIH zone. (11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar - HEARD IMMEDIATELY AFTER CONSENT

Action: Upon motion by Councilmember Peter Ortiz, seconded by Councilmember Dev Davis, the Land Use Consent Calendar was approved as a whole. (11-0.)

10.1(a) 23-1392 PDA16-027-03 & ER23-124 - Planned Development Permit for Certain Real Property Located at 657 Horning Street.

Adopt a resolution approving, subject to conditions, a Planned Development Permit Amendment and Determination of Public Convenience or Necessity to allow the off-sale of alcohol (Type 20 - Beer & Wine Only) at an existing approximately 3,814-square-foot tenant space (ExtraMile) on an approximately 0.69-gross-acre site. CEQA: Exempt pursuant to CEQA Guidelines Section 15301(a) for Existing Facilities. Planning Commission recommends approval (11-0-0). (Item 4c, 9/13/2023 Planning Commission agenda). Council District 3. (Planning, Building and Code Enforcement)
HEARD IMMEDIATELY AFTER CONSENT

Action: Upon motion by Councilmember Peter Ortiz, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. RES2023-367** was adopted. (11-0.)

10.1(b) 23-1393

PDC22-099, PD22-030 & ER22-166 - Rezoning and Planned Development Permit for Certain Real Property Located at 960 W. Hedding Street.

(1) Adopt a resolution adopting the Bellarmine College Preparatory Master Plan Update Project Initial Study/Mitigated Negative Declaration and adopting the related mitigation monitoring and reporting plan, in accordance with the California Environmental Quality Act (CEQA), as amended.

(2) Approve an ordinance rezoning certain real properties of an approximately 17.64-gross-acre Site, situated on the east side of Elm Street between West Hedding Street and Emory Street, at the southwest corner of West Hedding Street and Elm Street, and northerly of West Hedding Street approximately 300 feet easterly of Elm Street (960 West Hedding Street) (APNs: 261-10-095, 096, 104, 105, 106; 261-11-005; 261-12-001, 002, 074, 087; 230-41-029, 030, 031, 032 & 043) from the PQP(PD) Planned Development Zoning District to a new PQP(PD) Planned Development Zoning District.

(3) Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow the on-site relocation of an existing approximately 4,377-square-foot historic building (Berchman's Hall), the demolition of an approximately 22,287-square foot academic building (Wade Hall) and the removal of 91 trees (21 ordinance-size, 70 non-ordinance-size) for the construction of a new approximately 44,698-square foot two-story academic building and the reconfiguration of an existing parking area on an approximately 17.64-gross acre site. CEQA: Bellarmine College Preparatory Master Plan Update Project Initial Study/Mitigated Negative Declaration. Planning Commission recommends approval (9-0-2; Rosario and Casey abstain). (Item 4d, 9/13/23 Planning Commission agenda). Council District 6. (Planning, Building and Code Enforcement)

HEARD IMMEDIATELY AFTER CONSENT

Action: Upon motion by Councilmember Peter Ortiz, seconded by Councilmember Dev Davis, and carried unanimously, (b)(1) **Resolution No. RES2023-368**, (b)(3) **Resolution No. RES2023-369** were adopted, and (b)(2) Rezoning **Ordinance No. 30967** was passed for publication. (11-0.)

10.1(c) 23-1394

CP23-003 & ER23-014 - Conditional Use Permit for Certain Real Property Located at 2 W. Santa Clara Street.

Adopt a resolution approving, subject to conditions, a Conditional Use Permit to allow the operation of a drinking establishment (occupancy greater than 250) with late night use until 2:00 AM in the basement of an existing commercial building, including extended construction hours (Monday through Saturday 5:00 AM to 7:00 PM) on an approximately 0.28-gross-acre site.

CEQA: Exemption per CEQA Guidelines Section 15301(a) for Existing Facilities. Council District 3. (Planning, Building and Code Enforcement)

HEARD IMMEDIATELY AFTER CONSENT

(Item Continued on the Next Page)

10.1(c) (Cont'd.)

Action: Upon motion by Councilmember Peter Ortiz, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. RES2023-370** was adopted. (11-0.)

10.1(d) 23-1395 **C22-126, C22-127, C22-128, C22-129, C22-130, C22-131, C22-132, C22-133, C22-134, C22-135, C23-096 - City-Initiated Rezoning of 555 Parcels to Align a Property's Zoning Designation to its General Plan Land Use Designation in Response to Senate Bill 1333.**

Approve an ordinance of the City of San José rezoning 132 properties from R-M Zoning District to MUN Mixed Use Neighborhood Zoning District, 94 from R-1-1 Single-Family Residential Zoning District to OS Open Space Zoning District, 48 from A Agriculture Zoning District to OS Open Space Zoning District, 40 from R-1-5 Single-Family Residential Zoning District to OS Open Space Zoning District, 37 from R-1-8 Single-Family Residential Zoning District to OS Open Space Zoning District, 36 from A Agriculture Zoning District to R-1-8 Single-Family Residential Zoning District, 33 from R-1-8 Single-Family Residential Zoning District to PQP Public/Quasi-Public Zoning District, 27 from R-2 Two-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, 21 from A Agriculture Zoning District to PQP Public/Quasi-Public Zoning District, 11 from A Agriculture Zoning District to R-1-2 Single-Family Residential Zoning District, nine from R-1-5 Single-Family Residential Zoning District to PQP Public/Quasi-Public Zoning District, eight from A Agriculture Zoning District to CP Commercial Pedestrian Zoning District, eight from R-1-1 Single-Family Residential Zoning District to PQP Public/Quasi-Public Zoning District, five from R-1-5 Single-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, five from R-1-5 Single-Family Residential Zoning District to R-1-2 Single-Family Residential Zoning District, four from R-1-8 Single-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, four from R-1-RR Rural Residential Zoning District to R-1-2 Single-Family Residential Zoning District, four from R-1-5 Single-Family Residential Zoning District to R-1-RR Rural Residential Zoning District, four from A Agriculture Zoning District to R-1-RR Rural Residential Zoning District, two from LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District, three from CN Commercial Neighborhood Zoning District to OS Open Space Zoning District, two from R-1-2 Single-Family Residential Zoning District to CIC Combined Industrial/Commercial Zoning District, two from IP Industrial Park Zoning District to OS Open Space Zoning District, two from CP Commercial Pedestrian Zoning District to R-1-8 Single-Family Residential Zoning District, two from R-1-2 Single-Family Residential Zoning District to R-1-RR Rural Residential Zoning District, (Item Continued on the Next Page)

10.1(d) (Cont'd.)

one from R-1-5 Single-Family Residential Zoning District to A Agriculture Zoning District, one from IP Industrial Park Zoning District to CP Commercial Pedestrian Zoning District, one from R-1-1 Single-Family Residential Zoning District to LI Light Industrial Zoning District, one from R-1-1 Single-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, one from CO Commercial Office Zoning District to OS Open Space Zoning District, one from CP Commercial Pedestrian Zoning District to OS Open Space Zoning District, one from R-1-2 Single-Family Residential Zoning District to OS Open Space Zoning District, one from R-M Multifamily Zoning District to OS Open Space Zoning District, one from CN Commercial Neighborhood Zoning District to PQP Public/Quasi-Public Zoning District, and one from Water to PQP Public/Quasi-Public Zoning District, located in various locations on those certain real properties within the City of San José.

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). (Planning, Building and Code Enforcement)

HEARD IMMEDIATELY AFTER CONSENT

DEFERRED DURING ORDERS OF THE DAY.

END OF CONSENT CALENDAR

10. Land Use - Regular Agenda

• Open Forum

(In person)

1. Jordan Maldo addressed bike parking within the City.
2. Guru Surinder provided comment regarding the status of Downtown San José's businesses.

(Zoom)

1. Blair B. provided comment regarding San Diego's street lights and the events in Israel.
2. Sobrato Fangirl spoke to the importance of providing accountability regarding homelessness.
3. Anam Soomro gave public comment regarding the Gaza Strip.
4. Mary Phagan cautioned Council regarding the muting of public comment speakers.

- **Adjournment**

The Council of the City of San José adjourned at 4:43 p.m. in memory of Robert "Bob" Kadlec who passed away on September 30, 2023. A decorated veteran with the Air Force, Robert was involved with numerous Veterans organizations in San José over the years and played a major contribution in putting on the annual Memorial Day event and the Veterans Day Parade.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Daniel Aguilar,
Deputy City Clerk, City of San José

Approved at Council on:

of Actions: 10

Attest By:

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

SAN JOSÉ CITY COUNCIL CLOSED SESSION AGENDA

October 17, 2023

Place: City Hall Conference Room W-133

Time: 9:30 a.m.

Item(s) to be discussed:

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

1. Case Name: In re: Claim of Doan
Name(s) of Party(ies) Involved:
Court: Worker's Compensation Appeals Court
Case No. ADJ17738310, ADJ17738296, ADJ12718862
Amount of Money or Other Relief Sought Benefits

2. Case Name: In re: Claim of Marshall
Name(s) of Party(ies) Involved:
Court: Worker's Compensation Appeals Court
Case No. ADJ15737626, ADJ15780131, ADJ15737624
Amount of Money or Other Relief Sought Benefits

3. Case Name: Andrea Ortega v. City of San Jose, et al.
Name(s) of Party(ies) ANDREA ORTEGA; CITY OF SAN JOSE; SANTA CLARA VALLEY TRANSPORTATION AUTHORITY; NICHOLAS BERGMAN
Involved:
Court: Superior Court of California; County of Santa Clara
Case No. 21CV375939
Amount of Money or Other Relief Sought Damages according to proof

4. Case Name: Juan Pablo Garcia Torres v. City of San Jose, et al
Name(s) of Parties(s) JUAN PABLO GARCIA TORRES, CITY OF SAN JOSE, RICARDO SALVADOR MURILLO,

an individual; and DOES 1-25

Court: Superior Court of California; County of Santa Clara

Case No: 22CV403190

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

5. Case Name: San Jose Spotlight, et al., v. City of San Jose, et al.,

Name(s) of Parties(s) SAN JOSÉ SPOTLIGHT, FIRST AMENDMENT COALITION, CITY OF SAN JOSÉ, MAYOR SAMUEL THEODORE LICCARDO, individually and as an official for the City of San José

Court: Superior Court of California; County of Santa Clara

Case No: 22CV394443

Amount of Money or Other Relief Sought: Declaratory And Injunctive Relief

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: 2

C. CONFERENCE REGARDING POTENTIAL THREAT TO PUBLIC SERVICES OR FACILITIES PURSUANT TO GOVERNMENT CODE SECTION 54957(a):

Consultation with: San Jose Police Department
Representatives: Chief Anthony Mata

D. 1. PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957:

Title: Independent Police Auditor

Name: Karyn Sinunu-Towery, Acting Independent Police Auditor

2. PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957:

Department or Agency: Housing

Title: Housing Director