



# **City Council Meeting Minutes**

**Tuesday, October 24, 2023**

**1:30 PM**

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

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**

**9:30 a.m. - Closed Session:** [See Pages 18-19 for Closed Session Minutes.](#)

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

Absent: Councilmembers- Jimenez.

**1:34 p.m. - Afternoon Session.**

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

Absent: Councilmembers - All Present.

*Pursuant to AB2449, Councilmember Peter Ortiz provided notice to the City Council that he is participating virtually using the Just Cause exemption of illness. This is his first of two allowed exemptions.*

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 9)**

The Gunderson High School Band provided the invocation.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved.

- **Closed Session Report**

None provided.

# **1. CEREMONIAL ITEMS**

- 1.1 Councilmember Dev Davis presented a proclamation declaring October 26, 2023 as Lights On Afterschool Day to celebrate afterschool programs and their important role in the lives of children, working families, and communities in the City of San José.
- 1.2 Not Heard.
- 1.3 Councilmember Peter Ortiz presented a proclamation declaring October 2023 as Mental Health Awareness Month to raise awareness about mental health, fight stigma, provide support, educate the public, and advocate for policies that help those affected by mental health issues in San José.
- 1.4 Mayor Matt Mahan and Vice Mayor Rosemary Kamei presented a proclamation recognizing October 2023 as Digital Equity Month to recognize City of San José and San José Public Library's commitment to increasing access to technology and boosting awareness of the City of San José's SJ Access digital equity initiative proudly led by the library to provide free resources, programs, and materials to all.

# **2. CONSENT CALENDAR**

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sergio Jimenez, and carried unanimously, the Consent Calendar was approved as a whole, all the below listed actions were taken as indicated. (11-0-0)

Public Comment: Brian Darby and Paul Soto offered public comments.

## **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            23-1461            Mayor and Council Excused Absence Requests.**

Request for an excused absence for Vice Mayor Kamei from the Regular Meeting of Rules and Open Government Committee and Committee of the Whole on October 18, 2023 due to Authorized City Business to attend the Annual California Association of Local Agency Formation Commissions (CALAFCO) Conference in Monterey, California from October 18-20, 2023. 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 10/18/2023 - Item A.1.a]

Action: The excused absence of Vice Mayor Kamei from the Regular Meeting of Rules and Open Government Committee and Committee of the Whole on October 18, 2023 was approved. (11-0-0)

## **2.5 City Council Travel Reports.**

None provided.

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

None provided.

- 2.7            23-1415            Amendment to the Agreement with Center for Sustainable Energy for the California Electric Vehicle Infrastructure Project.**  
Adopt a resolution authorizing the Director of Community Energy to negotiate and execute the Second Amendment to the Services Agreement between the City of San José and the Center for Sustainable Energy for the California Electric Vehicle Infrastructure Project, extending the term through September 30, 2025. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Community Energy)

Action: **Resolution No. RES2023-371** was adopted, authorizing the Director of Community Energy to negotiate and execute the Second Amendment to the Services Agreement between the City of San José and the Center for Sustainable Energy. (11-0-0)

- 2.8            23-1416            Amendment to the Master Consultant Agreement with Cornerstone Earth Group for Environmental Support Services.**  
Approve the First Amendment to the Master Consultant Agreement with Cornerstone Earth Group, Inc. for environmental consulting services, increasing the amount of compensation by \$500,000, from \$1,000,000 for a total agreement not to exceed \$1,500,000. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Environmental Services)

Action: The First Amendment to the Master Consultant Agreement with Cornerstone Earth Group, Inc. was approved. (11-0-0)

- 2.9            23-1418            Stormwater Management Annual Report 2022-2023.**  
Accept the status report on the proposed biosolids public-private partnership facility at the San José-Santa Clara Regional Wastewater Facility. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Environmental Services)

Action: The status report on the proposed biosolids public-private partnership facility at the San José-Santa Clara Regional Wastewater Facility was accepted. (11-0-0)

- 2.10      23-1419      Actions Related to Purchase Orders with Carahsoft Technology Corporation and MSAB, Inc. for Police Department Digital Forensic Tools.**  
Adopt a resolution authorizing the City Manager or designee to: (a) Negotiate and execute purchase orders with Carahsoft Technology Corporation (Reston, VA) for various Police Department digital forensic tools and related professional services for a combined maximum compensation not to exceed \$500,000 for one-year terms beginning in alignment with each tool’s respective next renewal period, subject to the appropriation of funds; (b) Negotiate and execute a purchase order with MSAB, Inc. (Arlington, VA) for XRY Mobile Device Extraction Software and related professional services for a maximum compensation not to exceed \$50,000 for the initial term beginning April 1, 2024 and ending March 31, 2025, subject to the appropriation of funds; (c) Amend the purchase orders with Carahsoft Technology Corporation and MSAB, Inc. as required, including increasing funds or moving funds between them, to address unanticipated changes during the initial terms for a total combined contingency not to exceed \$250,000, subject to the appropriation of funds; and (d) Exercise up to six one-year options to extend the terms of the purchase orders in alignment with each tool’s respective software renewal period, 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. RES2023-372** was adopted, authorizing the City Manager or designee to (a) Negotiate and execute purchase orders with Carahsoft Technology Corporation (Reston, VA); (b) Negotiate and execute a purchase order with MSAB, Inc. (Arlington, VA); (c) Amend the purchase orders with Carahsoft Technology Corporation and MSAB, Inc. as required; and (d) Exercise up to six one-year options to extend the terms of the purchase orders in alignment with each tool’s respective software renewal period. (11-0-0)

- 2.11      23-1421      Request for Purchase Additional Quantities of Pre-Approved Military Equipment.**  
Approve the purchase of additional quantities of pre-approved military equipment for use by the San José Police Department. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Police)

**Deferred to the October 31, 2023 City Council meeting per administration.**

- 2.12      23-1422      Terminating Solar Power Purchase Agreement and Decommissioning the Solar Panels at the San José Municipal Water System Office.**  
Adopt a resolution authorizing the City Manager or designee to negotiate and execute an agreement terminating the solar power purchase agreement with Tesla (formerly SolarCity) that enables the removal of the solar photovoltaic system at the San José Municipal Water System Office and provides for the termination fee payment from the City in the amount of \$113,823. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. Council District 7. (Public Works)

Action: **Resolution No. RES2023-373** was adopted, authorizing the City Manager or designee to negotiate and execute an agreement terminating the solar power purchase agreement with Tesla (formerly SolarCity). (11-0-0)

- 2.13      23-1423      Amendment to the Master Consultant Agreements with Quality Assurance Engineering, Inc. DBA Consolidated Engineering Laboratories, Construction Testing Services, Inc., and Signet Testing Labs, Inc. for Special Inspection and Materials Testing Services for the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program.**  
Approve the Second Amendment to the Master Consultant Agreements with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories, Construction Testing Services, Inc., and Signet Testing Labs, Inc. for special inspection and materials testing services for the San José-Santa Clara Regional Wastewater Facility Capital Improvement Program, extending the term from December 31, 2023, to December 31, 2026 at no additional cost to the City. 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/Environmental Services)

Action: The Second Amendment to the Master Consultant Agreements with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories, Construction Testing Services, Inc., and Signet Testing Labs, Inc. was approved. (11-0-0)

- 2.14      23-1464      Request to Travel and Excused Absence. - DROP.**  
As recommended by the Rules and Open Government Committee on October 18, 2023: (a) Authorize travel, accept travel payments to the City of San José, and designate Councilmember Torres as the City representative to attend the Reimagining the Civic Commons event in Lexington, Kentucky from October 24-26, 2023. (Source of Fund: District 3 Funds and the Guadalupe River Park Conservancy and the Knight Foundation, 501c3 nonprofits - airfare, lodging, meals, ground transportation.) (b) Request for an excuse absence from the Regular meeting of City Council on October 24, 2023. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Torres) [Rules Committee referral 10/18/2023 - Item B.5]

**Dropped per the October 18, 2023 Rules Committee meeting.**

- 2.15      23-1468      Agreement with Arup, Inc. for the North San José Multimodal Transportation Improvement Plan.**  
Adopt a resolution authorizing the City Manager or designee to negotiate and execute a consulting services agreement with Arup, Inc. for the North San José Multimodal Transportation Improvement Plan from the date of execution through February 28, 2025, for an amount not to exceed \$1,080,000. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. Council Districts 3, 4, and 6. (Transportation)

Action: **Resolution No. RES2023-331** was adopted, authorizing the City Manager or designee to negotiate and execute a consulting services agreement with Arup, Inc. for the North San José Multimodal Transportation Improvement Plan. (11-0-0)

### **3. STRATEGIC SUPPORT**

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

City Manager Jennifer Maguire shared that Governor Newsom signed AB 645 into law, allowing six California cities including the City of San José to pilot automated speed enforcement, the primary factor behind traffic accidents. This legislation, a crucial component of the City's advocacy strategy and was made possible through collaborative efforts across City departments and received significant backing from those who provided letters of support.

#### **3.2 Labor Negotiations Update.**

None provided.

#### **3.3        23-1425        Office of Retirement Services Interim Audit Report.**

Accept the interim audit report on 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. (City Auditor)

City Auditor, Joe Rois; Supervising Auditor, Allison Pauly; Program Performance Auditor, Maria Valle; Retirement Services Director, Roberto Pena; Deputy Director, Barbara Hayman; and Fiduciary Counsel to the Boards of Administration Federated Police and Fire retirement plans, Maytak Chin offered the presentation and/or responded to questions.

Public Comments: Maytak Chin and Brian Darby offered public comments.

Councilmember Foley requested that Staff provide a briefing on cyber security as it relates to the Office of Retirement Services during Closed Session.

Action: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the interim audit report on the Office of Retirement Services was accepted.

Including acceptance of Mayor Mahan's October 23, 2023 memorandum recommending the following:

1. Accept the City Auditor's Report and express the City Council's intention for the Retirement Boards to follow all City policies contained in the City Administrative Policy Manual, including but not limited to the Finance and Procurement Policies. The Retirement Boards are directed to return to Council in 45 days with an information memorandum detailing the changes or adoption of these policies.
2. Direct the City Attorney and City Administration to bring forward Municipal Code changes to amend the Plans (SJMC3.28.155 and SJMC 3.36.385, and any other applicable sections) with provisions stating the City's procurement process in Part 4.12 of the Municipal Code and the City's procurement policies apply to the Boards' contracts and amend Section 7 in the Sunshine resolution to add its application to the Boards.

3. Direct the City Attorney and City Administration to review the City Charter and bring forward any proposed changes to ensure appropriate oversight, while maintaining the independence where necessary of the Retirement Boards. (11-0-0)

- 3.4      23-1424      Actions Related to the Purchase Orders with Rosendin Electric, Inc. and Sprig Electric Co. for Electrical Maintenance and Repair Services.**  
Adopt a resolution authorizing the City Manager or designee to: (a) Execute purchase orders with Rosendin Electric, Inc. (San José, CA) and Sprig Electric Co. (San José, CA) for electrical maintenance and repair services for a one-year term beginning on or about October 25, 2023, and ending on or about October 24, 2024, for a combined not-to-exceed amount of \$5,000,000; (b) Approve a contingency of \$1,000,000 for unanticipated demand for electrical maintenance and repair services, subject to the appropriation of funds; and (c) Exercise up to six additional one-year options to extend the term of the purchase orders, with the last option year ending on or about October 24, 2030, subject to the appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no changes to the physical environment. (Finance)

Public Comments: None provided.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, **Resolution No. RES2023-374** was adopted authorizing the City Manager or designee to: (a) execute purchase orders with Rosendin Electric, Inc. (San José, CA) and Sprig Electric Co. (San José, CA); (b) approve a contingency of \$1,000,000 for unanticipated demand for electrical maintenance and repair services, subject to the appropriation of funds; and (c) exercise up to six additional one-year options to extend the term of the purchase orders, with the last option year ending on or about October 24, 2030, subject to the appropriation of funds. (11-0-0)

- 3.5      23-1441      Resolution Affirming Support of the Transgender and Broader LGBTQ+ Communities. - PUBLIC COMMENT LIMITED TO 30 MINUTES TOTAL, 1 MINUTE PER SPEAKER.**  
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), 10/17/2023 - Item 3.4 (23-1382)] [Public comment is limited to 30 minutes total with each speaker limited to 1 minute. Per Rules Committee 10/4/2023 – Item A.2]

Public Comments: Ken Yeager, Frederick Ferrer (Child Advocates of Silicon Valley), Anna Phillips, Roma Dawson, Josh Selo (Bill Wilson Center), Kylie Clerk, Allie Hughes, Lyseria Kursave (Pride at Work), Maripaz Berlin (Oakgrove Educators Association), Shaunn, Misrayn Mendoza (Amigos de Guadalupe), Betsy Hammer Carr, Victor Sin (Santa Clara Valley chapter of the ACLU of Northern California), Joe Thompson (BAYMEC), Rubi Gutierrez (Latinas Contra Cancer), Poncho Guevara (Sacred Heart Community Service), Margaret Wysocki (United Teachers of Santa Clara), Nicholas Hurley (Stone Church of Willow Glen), Cameron Rivera, Todd Davidson (Stone Church of Willow Glen), Angie Davidson, Sandra Rivera (Alum Rock Educators Association), Ha



Tran, Gabrielle Antolovich (Billy DeFrank Center) Ian Jackson, (United Teachers of Santa Clara), and Alice Kao offered public comments.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Arjun Batra, and carried unanimously, **Resolution No. RES2023-375** was adopted, affirming the City of San José's support of the transgender and broader LGBTQ+ communities. (11-0-0)

## **4. PUBLIC SAFETY SERVICES**

- 4.1            23-1420            Actions Related to the Board of State and Community Corrections Organized Retail Theft Prevention Grant Program.**
- (a) Adopt a resolution accepting the Board of State and Community Corrections Organized Retail Theft Prevention Grant Program in the amount of \$8,489,349; and authorizing the City Manager or designee to negotiate and execute any Grant Agreement, amendments, and all related documents, including online certifications at time of award acceptance and reimbursement requests, without further City Council action. (b) Adopt the following 2023-2024 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund: (1) Establish the 2023-2024 Board of State and Community Corrections Organized Retail Theft Grant Program City-Wide Expenses appropriation to the Police Department in the amount of \$2,790,679; and (2) Increase the estimate for revenue from State of California by \$2,790,679. 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/City Manager)

San José Police Department, Lieutenant, Brent McKim; and Deputy Chief, Jaime Jimenez provided the presentation and responded to questions

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

Councilmember Batra requested to know when the Council would hear a report on the success of the program. City Manager Jennifer Maguire responded that the updates can be brought back to the Public Safety, Finance, and Strategic Support Committee by the Police Department.

Action: Upon motion by Councilmember Bien Doan, seconded by Councilmember Arjun Batra, and carried unanimously, (a) **Resolution No. RES2023-376**; (b) **Resolution No. RES2023-377**, and (b) **Ordinance No. 30968** were adopted. (10-0-1; Absent: Cohen)

## **5. TRANSPORTATION & AVIATION SERVICES**

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

- 6.1            23-1426            Long Term Renewable Energy Agreement with Sun Pond.**
- Adopt a resolution authorizing the Director of the Community Energy Department or designee to negotiate and execute a long-term agreement with Sun Pond, LLC, a subsidiary of Longroad Development Company, LLC, to buy renewable energy,

renewable energy credits, resource adequacy, battery tolling rights, and attributes associated with a solar photovoltaic and battery storage facility for a term of 20 years beginning 2026 through 2046, in an estimated annual amount of \$11,566,000 and a not-to-exceed amount of \$231,320,000 in aggregate, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds; the terms of this resolution superseding Section (c) of Resolution No. RES2023-9. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Community Energy)

**Deferred to the November 7, 2023 City Council meeting per administration.**

**6.2            23-1431            Climate Smart San José Plan Semi-Annual Report.**

As recommended by the Transportation and Environment Committee on October 2, 2023, accept the annual report on Climate Smart San José activities. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Environmental Services) [Transportation and Environment Committee on 10/2/2023 - Item (d)1]

Environmental Services Department, Director, Kerrie Romanow; Deputy Director, Julie Benabente; Community Energy Department, Senior Environmental Program Manager, Kate Ziemba; and Department of Transportation, Division Manager, Ramses Madou provided the presentation and responded to questions.

Public Comments: Linda Hutchins-Knowles (Mothers Out Front Silicon Valley), Ruth Merino (San Jose Community Energy Advocates), Mani Bekele (Silicon Valley Youth Climate Action), Jenny Green (Mothers Out Front Silicon Valley), Dashiell Leeds (Sierra Club Loma Prieta Chapter), Hoai-An Truong Mothers Out Front Silicon Valley, and Blair Beekman offered public comments.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Domingo Candelas, and carried unanimously, the Council accepted the annual report on Climate Smart San José activities. (10-0-1; Absent: Cohen)

## **7. NEIGHBORHOOD SERVICES**

## **8. COMMUNITY & ECONOMIC DEVELOPMENT**

**8.1            23-1432            Approval of the Issuance of Multifamily Housing Revenue Notes and the Loan of the Proceeds Thereof for the Financing of the Dry Creek Crossing Project and Approving Other Related Documents. - TO BE HEARD AFTER ITEM 10.1.**

Adopt a resolution: (a) Authorizing the issuance of a (1) tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Dry Creek Crossing), Series 2023E-1 (Tax-Exempt)” in a principal amount not to exceed \$31,194,905 (2023E-1 Note), and (2) a taxable multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Dry Creek Crossing), Series 2023E-2” (Taxable)” in a principal amount not to exceed \$8,805,095; (b) Approving the loan of 2023E Notes proceeds to CRP Dry

Creek Crossing LP, a California limited partnership created by CRP Affordable Housing & Community Development LLC, a Delaware limited liability company, to finance the construction and development of a 64-unit multifamily development known as Dry Creek Crossing located at 2388 South Bascom Avenue in San José. Approving in substantially final form the Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement and Declaration of Restrictive Covenants, the Contingency Draw Down Agreement, and related documents (collectively, the 2023E Note Documents); and (c) Authorizing and directing the City Manager, Director of Housing, Acting Director of Housing, Director of Finance, Assistant Director of Housing, Assistant Director of Finance, Deputy Director of Finance - Debt & Treasury Management, or their designees, to execute and deliver the 2023E Note Documents together with any documents ancillary to the 2023E Notes Documents. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; Exempt per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. Council District 9. (Housing/Finance) TO BE HEARD AFTER ITEM 10.1

Housing Department, Division Manager, Kemit Mawakana; Housing Policy Planning Administrator, Banu San; Finance Department, Deputy Director, Deputy Director Finance Department, Qianyu Sun; and Developer, CRP Affordable Housing and Community Development, Jack Burlison provided the presentation and responded to questions.

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

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Bien Doan, and carried unanimously, the staff recommendations were approved and **Resolution No. RES2023-378** was adopted. (11-0-0)

- 8.2            23-1433            Adoption of an Ordinance Amending Title 5 of the San José Municipal Code to add Chapter 5.12 Adopting Reasonable Local Standards for Homeless Shelters and Declaration of a Shelter Crisis and Proclamation of a Local Emergency. HEARD AFTER ITEM 8.3.**
- (a) Adopt a resolution declaring the continued existence of a shelter crisis in the City of San José pursuant to, an in accordance with, the provisions of the California Government Code section 8698 et seq. and proclaiming a local emergency pursuant to, and accordance with, the provisions of California Government Code sections 8558 and 8630, the San José City Charter, and San José Municipal Code caused by conditions and threatened conditions of homeless in the City of San José. (b) Approve an ordinance amending Title 5 of the San José Municipal code to add a new Chapter 5.12 adopting reasonable local standards for the design, site development and operation of homeless shelters and their structures and facilities in lieu of existing state and local standards and standards for emergency housing. CEQA: Initial Study/Mitigated Negative Declaration for the Emergency Interim Housing (EIH) Programs Project (Planning File No. ER22-198). (Housing) TO BE HEARD AFTER ITEM 8.3

Housing Department, Deputy Director, Ragan Henninger; Public Works Division Manager, Sal Kumar; Finance Director, Rick Bruneau; Senior Deputy City Attorney, Shasta Greene; Deputy City

Manager, Omar Passons; and Deputy City Manager and Acting Housing Director, Rosalynn Hughey provided the presentation and responded to questions.

Public Comments: Shaunn, Debra, Blair Beekman, Kathryn Hedges (SURJ), and Brian Darby offered public comments.

Action: Upon motion by Councilmember Omar Torres, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, (a) **Resolution No. RES2023-379** was adopted, declaring the continued existence of a shelter crisis in the City of San José pursuant to, and in accordance with, the provisions of the California Government Code section 8698 et seq. and proclaiming a local emergency pursuant to, and in accordance with, the provisions of California Government Code sections 8558 and 8630, the San José City Charter, and San José Municipal Code caused by conditions and threatened conditions of homeless in the City of San José and (b) **Ordinance No. 30969** was *passed for publication*, amending Title 5 of the San José Municipal code to add a new Chapter 5.12 adopting reasonable local standards for the design, site development and operation of homeless shelters and their structures and facilities in lieu of existing state and local standards and standards for emergency housing. (10-0-1; Absent: Davis)

### 8.3      23-1460      **Actions Related to Emergency Interim Housing Programs. HEARD BEFORE ITEM 8.2.**

(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 from 10/17/2023 - Item 8.2 (23-1390)] TO BE HEARD BEFORE ITEM 8.2

Deputy Housing Director, Ragan Henninger; Homelessness Response Division Manager, Kelly Hemphill; Deputy City Manager and Acting Housing Director, Rosalynn Hughey; and Deputy City Manager, Omar Passons provided the presentation and responded to questions.

Public Comments: Alex Shoor, Gail Anne Osmer, Shaunn, Kathryn Hedges (Affordable Housing Network), Deborah Townly, Kelly Vazquez (HomeFirst), Brian Darby, and Serge Lilavois (PATH) offered public comments.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Bien Doan, and carried unanimously, (a) **Resolution No. RES2023-380** and (e) **Resolution No. RES2023-381** were adopted.

Including acceptance of the October 20, 2023 joint memorandum co-authored by Mayor Mahan and Councilmembers Jimenez, Cohen, and Foley, recommending the following:

Accept staff's recommendations with the following additions:

1. In collaboration with service providers, develop and include key performance indicators when returning to Council with an update within one year of the start of implementation, such as:
  - a. Number of residents served and exits to temporary or permanent housing;
  - b. Average length of stay and daily utilization rates; and
  - c. Cost per participant served at each site.
2. Produce an information memorandum by February 2024, with an analysis of the SJ Bridge program at Guadalupe EIH, including any potential recommendations to scale the model to other communities and key performance indicators:
  - a. Number of residents from Guadalupe enrolled in the program;
  - b. Number of participants connected to permanent or living wage jobs; and
  - c. Number of participants transitioned to permanent housing.
3. Return to Council within one year with further analysis of opportunities to restructure program design to fund operations, including but not limited to:
  - a. Leveraging the State's CalAIM initiative;
  - b. Charging nominal rent on a case-by-case basis; and c. Expanding partnership opportunities with the Housing Authority to leverage federal dollars at additional sites.
4. Renegotiate the City's lease agreement with Caltrans to remove the requirement to limit a participant's stay to six months at the Felipe Bridge Housing Community.
5. Ensure the level of security agreed upon by the VTA Board, staff and union representation is provided at the Cerone EIH.
6. Evaluate the need for 24/7 security at each future site with the option to reduce security on a case-by-case basis if deemed appropriate by onsite EIH staff and residents.
7. Provide flexibility to ensure serving specific subpopulations does not conflict with local preference or lead to underutilization of beds across sites.
8. Prioritize the staff recommendation to develop standardized CAC roles and responsibilities for each interim housing site, with a composition that includes a seat for a person with lived experience

Acceptance of the October 23, 2023 memorandum authored by Councilmember Candelas, recommending the following:

Direct staff to engage health care providers to come up with preventive care solutions at our Emergency Interim Housing (EIH) sites to reduce emergency service calls such as Santa Clara County Health and Hospital System, Kaiser Permanente, Stanford Health Care, or other public and private partners.

Also including acceptance of the October 24, 2023 memorandum authored by Councilmember T Torres, recommending the following:

1. Accept Mayor, Councilmembers Jimenez, Cohen & Foley memo.
  2. Direct staff to closely monitor HomeFirst's performance in all City contracts, including any issues with their staff, and ensure contract performance metrics are met.
- (11-0-0)

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

### **10. LAND USE**

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

Councilmember Domingo Candelas pulled item 10.1(a) for comment.

Councilmember Peter Ortiz pulled item 10.1(b) for separate consideration.

- 10.1(a)     23-1434     GPT23-006 - Evergreen East Hills Area Development Policy General Plan Text Amendment, Including an Ordinance Update to Title 14, Evergreen East Hills Development Policy Traffic Impact Fee Requirement.  
HEARD IMMEDIATELY AFTER CONSENT**
- (1) Adopt a resolution adopting the Addendum to the Envision San José 2040 General Plan Final Environmental Impact Report and Supplemental Environmental Impact Report (Resolution No. 76041) and the Final Supplemental Environmental Impact Report for the Updated Evergreen-East Hills Area Development Policy (Resolution No. 74742) in conformance with the California Environmental Quality Act (CEQA). (2) Accept the September 2023 Evergreen-East Hills Development Policy Nexus Study Update. (3) Adopt a resolution amending the Envision San José 2040 General Plan to amend the Evergreen-East Hills Development Policy (EEHDP) (GPT23-006) to limit the application of the EEHDP to projects that received an approved entitlement (general plan amendment and/or zoning amendment) and/or a land use permit from the effective date of the EEHDP to the effective date of this resolution, making the Evergreen-East Hills Traffic Impact Fee inapplicable to Evergreen-East Hills development projects after the effective date of this resolution. (4) Approve an ordinance amending San José Municipal Code Title 14, Chapter 14.33, entitled “Evergreen-East Hills Development Policy Traffic Impact Fee Requirements,” to limit the application of Chapter 14.33 to projects that received an approved entitlement (general plan amendment and/or zoning amendment) and/or a land use permit from the effective date of the EEHDP to the effective date of the related resolution amending the EEHDP, making the Evergreen-East Hills Traffic Impact Fee inapplicable to future Evergreen-East Hills development projects. CEQA: Addendum to the Envision San José 2040 General Plan Final Environmental Impact Report and Supplemental Environmental Impact Report (Resolution No. 76041) and the Final Supplemental Environmental Impact Report for the Updated Evergreen-East Hills Area Development Policy (Resolution No. 74742). Planning Commission recommends approval 10/11/2023 - Item 7.a. (9-1-1, Garcia opposed; Rosario absent). (Planning, Building and Code Enforcement)

Department of Transportation, Division Manager of Planning, Policy, and Sustainability, Ramses Madou; and Planning, Building and Code Enforcement, Deputy Director, Michael Brilliot responded to questions.

Public Comments: Rigo Gallardo, Paul Soto, and Kathryn Hedges (SURJ) offered public comments.

Action: Upon motion by Councilmember Domingo Candelas, seconded by Councilmember Pam Foley, and carried unanimously, (1) **Resolution No. RES2023-382** was adopted, adopting the Addendum to the Envision San José 2040 General Plan Final Environmental Impact Report and Supplemental Environmental Impact Report (Resolution No. 76041) and the Final Supplemental Environmental Impact Report for the Updated Evergreen-East Hills Area Development Policy (Resolution No. 74742). (2) The September 2023 Evergreen-East Hills Development Policy Nexus Study Update was accepted. (3) **Resolution No. RES2023-383** was adopted, amending the Envision San José 2040 General Plan. (4) **Ordinance No. 30970** was *passed for publication*, amending San José Municipal Code Title 14. The hearing on the third cycle of the General Plan was closed. (11-0-0)

- 10.1(b) 23-1469 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, 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) [Deferred from 10/17/2023 - Item 10.1(d) (23-1395)]

**HEARD IMMEDIATELY AFTER CONSENT**

Planning, Building and Code Enforcement, Director, Chris Burton; and Deputy Director, Michael Brilliot responded to questions.

Councilmember Cohen and Vice Mayor Kamei expressed that they wish to proceed with the staff recommendations. Councilmember Cohen noted that the recommendations bring this work in alignment with the General Plan that was passed by the City Council in 2011.

Public Comments: Brian Darby offered public comment.

Motion: Councilmember Peter Ortiz moved approval of his October 24, 2023 memorandum, with an *amendment to Item 2*, requesting instead of an ad-hoc committee meeting, to hold formal stakeholder meetings with schools or district leadership. The direction approved was to (1) defer the item until the January 30th, 2024, Council Meeting and (2) direct staff to convene formal stakeholder meetings with schools or district leadership, which brings together public entities who own or manage land within the City (School Districts, Community Colleges, County/State Buildings, etc.), to better explain the implications of the re-zoning, and give space for questions or concerns. The motion was seconded by Councilmember Domingo Candelas.

Substitute Motion: Councilmember David Cohen requested to move approval of the staff recommendations of Item 10.1(b) and item 2 of Councilmember Ortiz's memorandum, dated, October 24, 2023, changing the term "ad-hoc committee" to instead direct staff to convene a meeting that brings together public entities who own or manage land within the City (School Districts, Community Colleges, County/State Buildings, etc.), to better explain the implications of the re-zoning, and give space for questions or concerns. The substitute motion was seconded by Councilmember Pam Foley.

Action: On a call to question, the Substitute Motion passed, **Ordinance No. 30971** was *passed for publication*



Including acceptance of item 2 of Councilmember Ortiz' memorandum, dated, October 24, 2023, with the *amendments* noted below.

~~1. Defer the item until the January 30th, 2024, Council Meeting.~~

2. Direct staff to convene ~~an ad hoc committee meeting~~, *with schools or district leadership*, which brings together public entities who own or manage land within the city (School Districts, Community Colleges, County/State Buildings, etc.), to better explain the implications of the re-zoning, and give space for questions or concerns. (7-4-0; Noes: Jimenez, Torres, Ortiz, Candelas)

## 10 Land Use – Regular Agenda

None provided.

### • Open Forum

1. Shaunn encouraged the Council to speak with HomeFirst employees.
2. Brian Darby asked where he can drop-off or donate electronics.
3. Blair Beekman spoke to technology accountability and public oversight on policing.

### • Adjournment

The Council of the City of San José adjourned at 8:28 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,

*DRAFT-Grace Turner*

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Grace Turner  
Deputy City Clerk, City of San José

# of actions: 11

Approved at Council on:

Attest By:

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

## **SAN JOSÉ CITY COUNCIL CLOSED SESSION MINUTES**

**October 24, 2023**

The Council of the City of San José convened into Closed Session at 9:30 a.m.

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

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

Absent: Councilmembers - Jimenez.

### **Closed Session Item(s) discussed:**

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

1. Case Name: 32 and 60 Stockton Ave, San José, CA 95126 APNs: 259-28-001  
and 259-28-002  
Name(s) of Parties(s): ERNESTO MONTELLANO, CITY OF SAN JOSÉ, DANE  
RUDD  
Court: Superior Court of California, County of Santa Clara.  
Case No: 20CV367890.  
Amount of Money or Other Damages according to proof  
Relief Sought:

#### **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. CONFERENCE WITH REAL PROPERTY DESIGNATED REPRESENTATIVES PURSUANT TO GOVERNMENT CODE SECTION 54956.8:**

1. Property Street Address, 88 S. 4<sup>th</sup> Street, Suite 150, San José, California  
Parcel Number, or Other  
unique Reference of  
Property:  
Negotiating Parties: Nanci Klein for the City of San José, Marcus Yang for Home Eat,  
LLC  
Under Negotiation: The direction will concern price and terms of payment.  
Likely Range of Value of Negotiated price based intended use and comparable rental values.  
Property:

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

1. Organization or Name and Title of Unrepresented Employees: **International Association of Firefighters (IAFF), Local 230 (IAFF #230)**  
Nature of Negotiations: wages/salaries, hours, working conditions, etc.  
Name of Existing Contract or MOA: Memorandum of Agreement Between City of San José and International Association of Firefighters (IAFF), Local 230  
How to Obtain a copy of Existing Contract or MOA: Web: <https://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/employee-relations/labor-relations-information/bargaining-units-labor-contract-info/iaff>  
Telephone – Employee Relations: (408) 535-8150
2. Organization or Name and Title of Unrepresented Employees: **International Brotherhood of Electrical Workers, Local 332 (IBEW)**  
Nature of Negotiations: wages/salaries, hours, working conditions, etc.  
Name of Existing Contract or MOA: Memorandum of Agreement Between City of San José and International Brotherhood of Electrical Workers, Local 332 (IBEW)  
How to Obtain a copy of Existing Contract or MOA: Web: <https://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/employee-relations/labor-relations-information/bargaining-units-labor-contract-info/ibew>  
Telephone – Employee Relations: (408) 535-8150
3. Organization or Name and Title of Unrepresented Employees: **International Union of Operating Engineers, Local No. 3 (OE #3)**  
Nature of Negotiations: wages/salaries, hours, working conditions, etc.  
Name of Existing Contract or MOA: Memorandum of Agreement Between City of San José and International Union of Operating Engineers, Local No.3 (OE#3)  
How to Obtain a copy of Existing Contract or MOA: Web: <https://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/employee-relations/labor-relations-information/bargaining-units-labor-contract-info/oe-3>  
Telephone – Employee Relations: (408) 535-8150
4. Organization or Name and Title of Unrepresented Employees: **San José Police Officers' Association (SJPOA)**  
Nature of Negotiations: wages/salaries, hours, working conditions, etc.  
Name of Existing Contract or MOA: Memorandum of Agreement – City of San José and San José Polices' Association  
How to Obtain a copy of Existing Contract or MOA: Web: <https://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/employee-relations/labor-relations-information/bargaining-units-labor-contract-info/poa>  
Telephone – Employee Relations: (408) 535-8150