



CITY COUNCIL MEETING

Minutes

Tuesday, February 13, 2024

1:30 PM

LOCATION:

Council Chambers - 200 E. Santa Clara Street

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**

9:32 a.m. - Closed Session: *See Pages 17-20 for the Closed Session Minutes.*

Present Councilmembers: Mahan, Kamei, Cohen, Doan, Candelas, Foley.

Absent Councilmembers: Batra, Davis, Ortiz, Torres, Jimenez

1:35 p.m. - Regular Session: City Hall Council Chambers

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

Absent Councilmembers: All present.

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 2)**

Councilmember Sergio Jimenez introduced The El Grito de la Cultura Academy dancers, who opened with a group dance performance.

- **Orders of the Day**

None provided.

- **Closed Session Report**

None provided.

1. **CEREMONIAL ITEMS**

1.1 Mayor Matt Mahan and Councilmember Omar Torres presented a commendation to President Cynthia Teniente-Matson for her Presidential Investiture and serving as the 31st President of San José State University.

1.2 Councilmember Pam Foley presented a proclamation declaring February 15, 2023 as Cholangiocarcinoma Awareness Day in the City of San José to raise much-needed awareness of a devastating cancer that occurs in the bile ducts in or outside the liver.

1.3 Presentation of a Commendation to Mr. Le Dinh Tho recognizing his outstanding contributions to the Vietnamese American community, including organizing the flag-raising ceremony at San José City Hall during Lunar New Year celebrations and serving 18 years as Secretary General of the nonprofit Former Vietnam Armed Forces Alliance - Northern California. - **CANCELLED**

2. **CONSENT CALENDAR**

Public Comment: None provided.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Omar Torres, and carried unanimously, the Consent Calendar was approved *as a whole*. (9-0-2; Absent: Ortiz, Davis)

2.1 **Approval of City Council Minutes.**

None provided.

2.2 Final Adoption of Ordinances.

(a) Ordinance No. 31008 - An Ordinance of the City of San José Amending Parts 1 and 2 of Chapter 24.10 of Title 24 (Technical Codes) of the San José Municipal Code as a Reach Code to Amend Requirements Related to Electric Vehicle Charging Stations in New Multifamily Developments.

[Passed for Publication on 1/30/2024 - Item 6.1 (24-68246-01)]

(b) Ordinance No. 31009 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to R&D Mendes Enterprises, Inc. DBA Accurate Cleaning Systems.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(c) Ordinance No. 31010 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to All Points Roll Off, Inc.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(d) Ordinance No. 31011 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Allied Waste Services of North America, LLC DBA Republic Services of Santa Clara County.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(e) Ordinance No. 31012 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to American Debris Box Service, Inc.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(f) Ordinance No. 31013 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Bernardini Enterprises, Inc. DBA Chip It Recycling/JD Services.

- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (g) Ordinance No. 31014 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to City-Wide Fibers, Inc.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (h) Ordinance No. 31015 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to David Jaimes DBA D&L Hauling and Demolition Services.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (i) Ordinance No. 31016 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Eco Box Recycling, Inc.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (j) Ordinance No. 31017 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Environmental Resource Recovery, Inc. DBA Valley Recycling.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (k) Ordinance No. 31018 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Evergreen Waste Services.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (l) Ordinance No. 31019 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Ferma Greenbox, Inc.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (m) Ordinance No. 31020 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Toca Debris Box, LLC.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (n) Ordinance No. 31021 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to G W Debris Services, LLC.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (o) Ordinance No. 31022 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Garden of Eden Landscapes, Inc. DBA Ground Force Enterprises.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (p) Ordinance No. 31023 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Guadalupe Rubbish Disposal Co., Inc. DBA Guadalupe Recycling & Disposal facility.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (q) Ordinance No. 31024 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to United Recycle Services, LLC.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (r) Ordinance No. 31025 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Jonna Corporation, Inc. DBA Premier Recycle Company.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (s) Ordinance No. 31026 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Lam Hauling, Inc. DBA 7 Days box.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (t) Ordinance No. 31027 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Pacific Coast Recycling, Inc.
- [Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]
- (u) Ordinance No. 31028 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Peninsula Debris Box Service, LLC.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(v) Ordinance No. 31029 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Phi Ta DBA Ta Trucking.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(w) Ordinance No. 31030 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Recology South Bay DBA Recology Silicon Valley.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(x) Ordinance No. 31031 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Redwood Services, Inc. DBA Redwood Debris Box Service Trucking, Inc.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(y) Ordinance No. 31032 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Superior Demolition Services, Inc.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(z) Ordinance No. 31033 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Uriel Del Toro DBA Del Toro Haul.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(aa) Ordinance No. 31034 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Waste Connections of California, Inc. DBA Greenteam of San José.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(ab) Ordinance No. 31035 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Yellowsack, Inc.

[Passed for Publication on 1/30/2024 - Item 6.2 (24-68288)]

(ac) Ordinance No. 31036 - An Ordinance of the City of San José Rezoning Five Properties from the A(PD) Planned Development Zoning District to MUC Mixed Use Commercial Zoning District, One Property from LI Light Industrial Zoning District to MUC Mixed Use Commercial Zoning District, One Property from R-1-8 Single-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, and One Property from R-1-5 Single-Family Residential Zoning District to UR Urban Residential Zoning District, All Located on those Certain Real Properties Situated within the City of San José.

[Passed for Publication on 1/30/2024 - Item 10.1(a) (24-68292)]

(ad) Ordinance No. 31037 - An Ordinance of the City of San José Repealing the Application of the Affordable Housing Overlay on Six Sites in North San José, Amending the Zoning District Map to Apply the Housing Element Residential Overlay on Twelve Sites Citywide, and Amending Chapter 20.65.200 Requiring the Six North San José Sites to Allow Residential Use by Right for Housing Developments in Which at Least 20 Percent of the Units are Affordable to Lower Income Households.

[Passed for Publication on 1/30/2024 - Item 10.1(b) (24-68293)]

Action: (a) **Ordinance No. 31008**, (b) **Ordinance No. 31009**, (c) **Ordinance No. 31010**, (d) **Ordinance No. 31011**, (e) **Ordinance No. 31012**, (f) **Ordinance No. 31013**, (g) **Ordinance No. 31014**, (h) **Ordinance No. 31015**, (i) **Ordinance No. 31016**, (j) **Ordinance No. 31017**, (k) **Ordinance No. 31018**, (l) **Ordinance No. 31019**, (m) **Ordinance No. 31020**, (n) **Ordinance No. 31021**, (o) **Ordinance No. 31022**, (p) **Ordinance No. 31023**, (q) **Ordinance No. 31024**, (r) **Ordinance No. 31025**, (s) **Ordinance No. 31026**, (t) **Ordinance No. 31027**, (u) **Ordinance No. 31028**, (v) **Ordinance No. 31029**, (w) **Ordinance No. 31030**, (x) **Ordinance No. 31031**,

(y) **Ordinance No. 31032**, (z) **Ordinance No. 31033**, (ab) **Ordinance No. 31035**, (ac) **Ordinance No. 31036**, and (ad) **Ordinance No. 31037** were adopted. (9-0-2; Absent: Ortiz, Davis)

2.3 Approval of Council Committee Minutes.

None provided.

2.4 Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Batra from the Regular Meeting of City Council on February 6, 2024 due to illness.

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

Action: The request for an excused absence was accepted. (9-0-2; Absent: Ortiz, Davis)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 City Manager's Travel to Kansas City, Missouri.

Authorize travel for City Manager, Jennifer Maguire to Kansas City, Missouri from April 11-13, 2024 to participate in the Large Cities Executive Forum.

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

Action: The request for travel was authorized. (9-0-2; Absent: Ortiz, Davis)

2.8 Lease Agreement with BSREP II SJ TOWERS, LLC for Property Located at 4 North Second Street, Seventh Floor.

Adopt a resolution authorizing the City Manager or her designee, to negotiate and execute a lease agreement, and all documents necessary to effectuate the lease, between BSREP II SJ TOWERS, LLC, a Delaware limited liability company, as Landlord, and the City of San José, a municipal corporation of the State of California as Tenant, for the use of approximately 17,845 square feet of office space located at 4 North Second Street, Seventh Floor for 70 months at a rental rate of \$414,394.56 for the first 12 months, \$569,311.60 for months 13-24, \$879,145.80 for months 25-36, \$906,422.40 for months 37-48, \$933,699 for months 49-60, and \$800,813 for months 61-70, totaling \$4,503,786.36 for the term in addition to other costs associated with the lease agreement.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3. (Economic Development and Cultural Affairs)

Action: **Resolution No. RES2024-28** was adopted, authorizing the City Manager to negotiate and execute a lease agreement between BSREP II SJ TOWERS, LLC. (9-0-2; Absent: Ortiz, Davis)

2.9 Actions Related to the Purchase Order with Security Alert Systems of California, Inc. for Burglar and Fire Alarm Monitoring, Installation, Inspection, Testing, Maintenance, and Repair Services.

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

(a) Execute a purchase order with Security Alert Systems of California, Inc. (Gilroy, CA) for burglar and fire alarm monitoring, installation, inspection, testing, maintenance, and repair services, for a one-year term beginning on or about February 14, 2024, and ending on or about February 13, 2025, for a not-to-exceed amount of \$1,500,000; and

(b) Exercise up to six one-year options to extend the term of the purchase order, with the last option ending on or about February 13, 2031, 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. RES2024-29** was adopted, (a) to execute a purchase order with Security Alert Systems of California, Inc., and (b) to exercise up to six one-year options to extend the term of the purchase order, with the last option ending on or about February 13, 2031. (9-0-2; Absent: Ortiz, Davis)

- 2.10 Award of Contract for 10177 – 2022 Bridge Deck Treatment Project (BIC 3) (2018 Measure T).**
(a) Report on bids and award of a construction contract for 10177 - 2022 Bridge Deck Treatment Project to the lowest responsive, responsible bidder, American Civil Constructors West Coast LLC, in the amount of \$1,467,000; and
(b) Approve a 10% contingency in the amount of \$146,700.
CEQA: Categorically Exempt, File No. ER23-009, Exempt pursuant to CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 2, 3, 4, 6 and 10. (Public Works/Transportation)
- Action: (a) The report on bids and award of a construction contract and (b) a 10% contingency in the amount of \$146,700 were approved. (9-0-2; Absent: Ortiz, Davis)
- 2.11 Acceptance of the Retirement Plans' Annual Comprehensive Financial Reports for Fiscal Years Ending June 30, 2023 and June 30, 2022.**
(a) Accept the Police and Fire Department Retirement Plan Annual Comprehensive Financial Report for the Fiscal Years ended June 30, 2023 and June 30, 2022; and
(b) Accept the Federated City Employees' Retirement System Annual Comprehensive Financial Report for the Fiscal Years ended June 30, 2023 and June 30, 2022.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Retirement Services)
- Action (a) The Police and Fire Department Retirement Plan Annual Comprehensive Financial Report and (b) Federated City Employees' Retirement System Annual Comprehensive Financial Report were accepted. (9-0-2; Absent: Ortiz, Davis)
- 2.12 2023 Climate Grant Program for the San Fernando Mobility Hubs Project.**
(a) Accept and receive 2023 Climate Grant Program funds awarded for the San Fernando Mobility Hubs project.
(b) Adopt a Resolution of Local Support that indicates the City will:
(1) Follow all grant program requirements and delivery timelines; and
(2) Authorize the City Manager or her designee to negotiate and execute all documents necessary to effectuate the Climate Grant Program funds in an amount not to exceed \$1,139,000 for the San Fernando Mobility Hubs project.
CEQA: Categorically Exempt, File No. ER23-009, CEQA Guideline Section 15301(c) Existing Facilities. Council District 3. (Transportation)
- Action: (a) The 2023 Climate Grant Program funds were accepted, and (b) **Resolution No. RES2024-30** was adopted, regarding the 2023 Climate Grant Program for the San Fernando Mobility Hubs Project . (9-0-2; Absent: Ortiz, Davis)

- 2.13 Clean Mobility Options Voucher Pilot Program for Bikeshare en Mayfair Project.**
(a) Accept and receive Clean Mobility Options Voucher Pilot Program grant funds awarded for the Bikeshare en Mayfair Project.
(b) Adopt a Resolution of Local Support that indicates the City will:
(1) Follow all grant program requirements and delivery timelines; and
(2) Authorize the City Manager or her designee to negotiate and execute all documents necessary to effectuate the Clean Mobility Options Voucher Grant in an amount not to exceed \$1,500,000 for the Bikeshare en Mayfair Project.
CEQA: Categorically Exempt, File No. ER23-009, CEQA Guideline Section 15301(c) Existing Facilities. Council District 5. (Transportation)
Action: (a) The 2023 Climate Grant Program funds were accepted, and (b) **Resolution No. RES2024-31** was adopted, regarding Clean Mobility Options Voucher Pilot Program for Bikeshare en Mayfair Project. (9-0-2; Absent: Ortiz, Davis)
- 2.14 Recertification of the Sewer System Management Plan.**
Approve the Sewer System Management Plan prior to submission to the State Water Resources Control Board.
CEQA: Categorically Exempt, File No. ER23-189, CEQA Guidelines Section 15301(b), Existing Facilities and CEQA Guidelines Section 15302, Replacement or Reconstruction. (Transportation/Environmental Services/Public Works)

Action: The Sewer System Management Plan was approved. (9-0-2; Absent: Ortiz, Davis)
- 2.15 Retroactive Approval and Approval of Hoffman Via Monte Property Owner's Meetings Sponsored by Council District 10 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 January 31, 2024:
(a) Retroactively approve the Hoffman Via Monte Property Owner's meeting scheduled on January 11, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
(b) Approve future Hoffman Via Monte Property Owner's meetings occurring bi-monthly until June 30, 2024 as City Council sponsored Special Events and approve the expenditure of funds; and
(c) Approve and accept donations from various individuals, businesses or community groups to support the events.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Batra)
[Rules Committee referral 1/31/2024 – Item B.3]

Action: The District 10 sponsored special events were approved and retroactively approved. (9-0-2; Absent: Ortiz, Davis)

2.16 Retroactive Approval and Approval of Multiple District 4 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 February 7, 2024:

(a) Retroactively approve the Lunar New Year Celebration scheduled on February 3, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.

(b) Retroactively approve the District 4 Dumpster Day scheduled on February 10, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.

(c) Approve the District 4 Tree Planting scheduled on February 24, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.

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

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Cohen)

[Rules Committee referral 2/7/2024 - Item B.3]

Action: The District 4 sponsored special events were approved and retroactively approved. (9-0-2; Absent: Ortiz, Davis)

3. STRATEGIC SUPPORT

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

No report provided by the City Manager.

3.2 Labor Negotiations Update.

None provided.

3.3 **Approval of the 2023-2024 Mid-Year Budget Review Report.**

- (a) Approve the 2023-2024 Mid-Year Budget Review Report.
- (b) Approve an ordinance amending Chapter 4.80 of Title 4 of the San José Municipal Code to add a new Part 84 to establish the San José Opioid Response Fund.
- (c) Extend 3.0 Fire Captain positions in the Fire Department to June 30, 2024.
- (d) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2023-2024 Mid-Year Budget Review Report.

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. PP17-004, 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)

Jim Shannon, Budget Director, City Manager's Office provided comment.

Public Comment: Tamra Chavez and Mati Tuttle provided public comment.

Matt Loesch, Director, Public Works Department, answered questions from Council.

Action: Upon motion by Councilmember Bien Doan, seconded by Councilmember Arjun Batra, and carried unanimously, (a) the 2023-2024 Mid-Year Budget Review Report was approved; (b) **Ordinance No. 31039** was *passed for publication*, amending Chapter 4.80 of Title 4 of the San José Municipal Code; (c) 3 Fire Captain positions in the Fire Department were extended to June 30, 2024; (d) **Ordinance No. 31040** was *passed for publication*; and (d) **Resolution No. RES2024-32** was adopted. (11-0-0)

3.4 **2023-2024 City Council Focus Areas Second Quarter Status Report.**

Accept the second quarter status report on the implementation of the Fiscal Year 2023-2024 City Council Focus Areas.

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 Manager)

Lee Wilcox, Assistant City Manager, Office of the City Manager; Dolan Beckel, Chief of Staff, City Manager's Office; Omar Passons, Deputy City Manager, City Manager's Office; Angel Rios, Deputy City Manager, City Manager's Office; Rosalynn Hughey, Deputy City Manager, City Manager's Office; Rob Lloyd, Deputy City Manager, City Manager's Office; and Kip Harkness, Deputy City Manager, City Manager's Office, provided a presentation and answered questions from Council.

Paul Joseph, Assistant Police Chief, San José Police Department; John Ristow, Director, Department of Transportation; and Nanci Klein, Director, Office of Economic Development, answered questions from Council.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Domingo Candelas, and carried unanimously, the second quarter status report on the implementation of the Fiscal Year 2023-2024 City Council Focus Areas was accepted. (10-0-1; Absent: Kamei)

4. **PUBLIC SAFETY**

No items provided.

5. **TRANSPORTATION & AVIATION SERVICES**

No items provided.

6. **ENVIRONMENTAL & UTILITY SERVICES**

6.1 **Long Term Power Purchase Agreement with Zeta Solar, LLC.**

Adopt a resolution authorizing the Director of the Energy Department or her designee to negotiate and execute a long-term power purchase agreement with Zeta Solar, 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 2027 through 2047, in an estimated annual amount of \$11,227,000 and a not-to-exceed amount of \$224,540,000 in aggregate, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds.

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

HEARD IMMEDIATELY AFTER CONSENT

Lori Mitchell, Director, Community Energy Department; Paul Innamorato, Director, Community Energy Department; and Kip Harkness, Deputy City Manager, City Manager's Office, provided the presentation and responded to questions from Council.

Public Comment: Will Smith offered public comment.

Motion: Councilmember Peter Ortiz motioned to accept the Long Term Power Purchase Agreement with Zeta Solar, LLC, including direction to approach the agreement with the suggested language provided by labor partners in order to ensure labor standards. The motion was seconded by Councilmember Omar Torres.

Friendly Amendment: Councilmember Pam Foley requested a friendly amendment to limit the suggested language provided by the labor partners to only the Zeta Solar project. The maker of the motion and the seconder accepted the friendly amendment.

Friendly Amendment: Councilmember Dev Davis requested a friendly amendment to direct staff to return to Council with an assessment of this project and other clean energy projects. The maker of the motion and the seconder accepted the friendly amendment.

Action: Upon motion by Councilmember Peter Ortiz, seconded by Councilmember Omar Torres, and carried unanimously, **Resolution No. RES2024-33** was adopted, authorizing the

Director of the Energy Department or her designee to negotiate and execute a long-term power purchase agreement with Zeta Solar, 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 2027 through 2047, in an estimated annual amount of \$11,227,000 and a not-to-exceed amount of \$224,540,000 in aggregate, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds; including direction to approach the agreement with the suggested terms provided by labor partners in order to ensure labor standards; and also including direction to staff to return to Council with an assessment of this project and other clean energy projects.

The suggested language from labor partners is: (1) The Project shall comply with California prevailing wage provisions applicable to public works projects, including but not limited to the Labor Code sections pertaining to employment of apprentices on public works projects. (2) All construction work that falls within an apprenticeable occupation in the building and construction trades shall be performed by a skilled and trained workforce in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. (3) Work done under a multi-craft project labor agreement shall be deemed to meet the requirements of payment of prevailing wages and use of apprentices, and shall supersede the skilled and trained workforce requirement. (4) For projects that do not implement a multi-craft project labor agreement, developer shall submit monthly reports to the agency showing compliance with payment of prevailing wages, compliance with skilled and trained workforce requirements and to document employment of apprentices. (11-0-0)

7. NEIGHBORHOOD SERVICES

No items provided.

8. COMMUNITY & ECONOMIC DEVELOPMENT

Due to Public Hearing Notice SJ# 3778519, public comment for Item 8.1 was also available by phone: (888) 475 4499, Webinar ID is 94558095100; alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (toll free) or online at: <https://sanjoseca.zoom.us/j/94558095100>

8.1 Approval of an Exception to the City Multifamily Housing Revenue Bond Policy Allowing View at Julian Affordable Housing Development to Use an Alternate Bond Issuer and Hold the Tax Equity and Fiscal Responsibility Act Hearing for California Municipal Finance Authority's Issuance of Tax-Exempt Multifamily Revenue Bonds to Finance View at Julian Affordable Housing Development.

(a) Adopt a resolution authorizing an exception to the City Council's Multifamily Housing Revenue Bond Policy, Council Policy 1-16, for the issuance of Multifamily Housing

Revenue Bonds for View at Julian due to special circumstances, thereby allowing the California Municipal Finance Authority to issue the bonds.

(b) Hold a Tax Equity and Fiscal Responsibility Act of 1982 public hearing for the issuance of \$90,000,000, not to exceed \$125,000,000, of tax-exempt multifamily housing revenue bonds by the California Municipal Finance Authority, to finance the construction of a 300-unit multifamily rental housing development to be located at 950-970 West Julian Street in San José by JEMCOR Development Partners, LLC; and to pay certain expenses incurred in connection with the issuance of the bonds.

(c) Adopt a resolution approving the issuance of tax-exempt multifamily housing revenue bonds by the California Municipal Finance Authority in an aggregate principal amount of \$90,000,000, not to exceed \$125,000,000, to finance the construction of a new 300-unit multifamily affordable rental housing development to be located at 950-970 West Julian Street in San José, and to pay certain expenses incurred in connection with the issuance of the bonds.

CEQA: Categorically Exempt, File No. H21-044, CEQA Guidelines Section 15332 Infill Development Projects. Council District 6. (Housing/Finance)

– **HEARD AFTER ITEM 6.1**

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Sergio Jimenez, and carried unanimously, (a) **Resolution No. RES2024-34** was adopted, authorizing an exception to the City Council’s Multifamily Housing Revenue Bond Policy; (b) the Tax Equity and Fiscal Responsibility Act of 1982 public hearing was held; and (c) **Resolution No. RES2024-35** was adopted, approving the issuance of tax-exempt multifamily housing revenue bonds. (11-0-0)

9. REDEVELOPMENT – SUCCESSOR AGENCY

No items provided.

10. LAND USE

No Land Use Items on Consent Calendar

10. Land Use - Regular Agenda

END OF CONSENT CALENDAR

• Open Forum

1. Wanda Hendriz gave insight into an audit for Black History Items at 7 Trees Community Center.
2. Queen Anne gave insight into an audit for Black History Items at 7 Trees Community Center.
3. Joan Holt gave insight into an audit for Black History Items at 7 Trees Community Center.
4. Amy Cody gave insight into the proposed Costco expected in San José.
5. Margaret gave insight into an audit for Black History Items at 7 Trees Community Center.
6. Forest Williams gave insight into an audit for Black History Items at 7 Trees Community Center.

7. Ha Trieu offered suggestions on how to plan future City events, regarding the specifics of a flag raising ceremony.
8. Sandra Asher spoke to the future of virtual public comments.
9. Roberta Witte spoke to her concerns regarding a West San José proposed Costco.

• Adjournment

The Council of the City of San José adjourned the meeting at 4:56 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,

Daniel Aguilar

Daniel Aguilar,
Deputy City Clerk City of San José

Approved at Council on:

of Actions: 5

Attest By:

Toni Taber, CMC
City Clerk, City of San José



NORA FRIMANN, CITY ATTORNEY

Office of the City Attorney

SAN JOSÉ CITY COUNCIL CLOSED SESSION AGENDA

February 13, 2024

Place: City Hall Conference Room W-133

Time: **9:30 a.m.**

Item(s) discussed:

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

1. Case Name: In re: Claim of Del Bando

Name(s) of Party(ies)

Court: Worker's Compensation Appeals Court

Case No: ADJ7536540, ADJ16694930

Amount of Money or Other Relief Benefits
Sought:

2. Case Name: In re: Claim of Connolly

Name(s) of Party(ies)

Court: Worker's Compensation Appeals Court

Case No: ADJ15107962

Amount of Money or Other Relief Benefits
Sought:

3. Case Name: Ricky Espinoza, et al. v. City of San Jose

Name(s) of Party(ies) RICKY M. ESPINOZA, SONIA ESPINOZA,
CITY OF SAN JOSE and DOES 1-100

Court: Superior Court of California, County of Santa Clara

Case No: 19CV346112

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

4. Case Name: International Federation of Professional & Technical Engineers, Local 21 v. City of San Jose

Name(s) of Party(ies) INTERNATIONAL FEDERAL OF PROFESSIONAL & TECHNICAL ENGINEERS, LOCAL 21; CITY OF SAN JOSE

Court: Public Employment Relations Board

Case No: SF-CE-2072-M

Amount of Money or Other Relief Sought: Unfair labor practice charge

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: 1

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

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

- Organization or Name and Title of Unrepresented Employees: **Association of Engineers & Architects (AEA)**
Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Association of Engineers & Architects (AEA)

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/aea>

Telephone – Employee Relations: (408) 535-8150

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

[contract-info/oe-3](#)

Telephone – Employee Relations: (408)
535-8150