



City Council Meeting Minutes

Tuesday, February 15, 2022

1:30 p.m.

Virtual Meeting - <https://sanjoseca.zoom.us/j/99346843938>

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
DAVID COHEN, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
MATT MAHAN, DISTRICT 10



*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution Nos. 79485, 80237, 80266, 80290, 80323, 80343, and 80363, Councilmembers will be teleconferencing from remote locations.

- **Call to Order and Roll Call**

9:30 a.m.- Closed Session 22-140: *See Pages 18-22 for Closed Session Minutes.*

Councilmembers Absent: All present virtually.

1:30 p.m.- Regular Session:

Councilmembers Present: All present virtually.

- **Pledge of Allegiance**

Vice Mayor Chappie Jones led the Pledge of Allegiance.

- **Invocation (District 2)**

Councilmember Sergio Jimenez introduced Director of Advocacy and Community Engagement, Catholic Charities of Santa Clara County, Father Jon Pedigo who offered the invocation.

- **Orders of the Day**

There were no changes to the Orders of the Day. No vote was required.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

1.1 Presentation of a commendation to Mother's Out Front in recognition of their outstanding efforts to protect our environment and create a more livable climate. (Foley)

Councilmember Pam Foley introduced Mothers Out Front Co-Founder, Linda Hutchins-Knowles and Team Coordinator, Susan Butler-Graham and spoke on the importance of this Proclamation. A commendation was issued to Mothers Out Front of Silicon Valley.

1.2 Presentation of a proclamation recognizing Teen Dating Violence Awareness Month. (Arenas)

Councilmember Sylvia Arenas recognized Teen Dating Violence Awareness Month and spoke on the importance of the “Talk About It” Campaign. This Proclamation was issued to representatives from the “Girl Up” Organization from Evergreen Valley Highschool.

1.3 Presentation of a proclamation recognizing African American History Month. (Jones)

Councilmember Chappie Jones recognized African American History Month and spoke on the importance of this Proclamation. A commendation was issued to President of San Jose/Silicon Valley, NAACP, Bob Nunez.

2. CONSENT CALENDAR

Public Comment: (Zoom speakers) Paul Soto, Tessa Woodmansee, and Brian provided public testimony regarding the Consent Calendar.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Pam Foley, and carried unanimously, the below listed actions were taken as indicated. (11-0.)

2.1 Approval of City Council Minutes.

None provided.

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Minutes.

None provided.

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 22-139

Administrative Amendments to Boards and Commissions.

Approve an ordinance to amend Chapter 2.08 of Title 2 of the San José Municipal Code to make administrative amendments to Boards and Commissions to eliminate term limits for Appeal Hearing Board members, eliminate the election process for scheduled Employee seat vacancies and scheduled Police and Fire retiree seat vacancies with only one applicant, allow appointment of Retirement Board applicants to a less than 12-month term plus subsequent full four-year term, and eliminate the Human Services Commission. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Clerk)

Action: **Ordinance No. 30723** was passed for publication. (11-0.)

2.8 22-153

Ordinance Amending the Police and Fire Department Retirement Plan to Clarify the Definition of Compensation.

Approve an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code to clarify the meaning of “FLSA premium pay” for Firefighters and memorialize when certain pays were incorporated into base pay for both Firefighters and Police Officers. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: **Ordinance No. 30724** was passed for publication. (11-0.)

2.9 22-154

Council Policy for Non-Voting Members of the Retirement Boards.

Adopt a resolution establishing a new City Council Policy entitled, “Non-Voting Retirement Board Member Roles and Expectations.” CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: **Resolution No. 80380** was adopted. (11-0.)

2.10 22-155

Hiring Incentive Referral Program for City Employees.

Adopt a resolution to temporarily increase the Hiring Incentive Referral Program for City employees to \$1,500, effective February 20, 2022, and expiring on June 30, 2022. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: **Resolution No. 80381** was adopted. (11-0.)

2.11 22-141

Actions Related to the Application for CalRecycle SB1383 Local Assistance Grant.

Adopt a resolution authorizing the City Manager or designee to: (a) Submit an application to the California Department of Resources Recycling and Recovery (CalRecycle) for the SB 1383 Local Assistance Grant; and (b) Negotiate and execute any grant and payment agreements and any other

(Item Continued on the Next Page)

2.11 (Cont'd.)

documents necessary with CalRecycle to accept and receive the SB 1383 Local Assistance Grant upon award. CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into agreement at the time of application and File No. PP17-003, Agreements/Contracts (New or Amended resulting in no physical changes to the environment. (Environmental Services)

Action: **Resolution No. 80382** was adopted. (11-0.)

2.12 22-142

Actions Related to the Purchase Order for Towable Diesel Dry Prime Pump Rental Services.

Adopt a resolution authorizing the City Manager to: (a) Execute a purchase order with Pac Machine Company (Sacramento, CA) for Towable Diesel Dry Prime Pump Rentals for a twelve-month period, starting on or about February 16, 2022 and ending on February 15, 2023, for an amount not to exceed \$134,000. (b) Exercise up to four additional one-year options to extend the initial term of the purchase order with the last option year ending on or about February 15, 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. 80383** was adopted. (11-0.)

2.13 22-143

Actions Related to the City Hall Council Chambers and Committee Rooms Audio Visual System Upgrade Project.

Adopt a resolution authorizing the Director of Public Works to: (a) Award and execute a contract for the 9979-City Hall Council Chambers and Committee Rooms Audio Visual System Upgrade Project to the lowest responsive, responsible bidder in an amount not to exceed \$1,500,000; (b) Decide any timely bid protest(s) and make the City's final determination as to the lowest responsive bidder that is responsible as needed to award the contract; and (c) Establish a construction contingency of up to fifteen percent of the amount of the construction contract for the project. CEQA: Categorically Exempt, File No. ER22-005, CEQA Section 15301, Existing Facilities. Council District 3. (Public Works)

Action: **Resolution No. 80384** was adopted. (11-0.)

2.14 22-144

Highway Safety Improvement Program Cycle 10 Grant Acceptance and Appropriation of Funds.

(a) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Program Supplement for State funded Highway Safety Improvement Program grant with Caltrans in an amount not to exceed \$324,200 for reimbursement of traffic signal safety improvement work at the intersection of I-280 and Moorpark Avenue. (b) Adopt the following 2021-2022 Funding Source Resolution and Appropriation Ordinance amendments in

(Item Continued on the Next Page)

2.14 (Cont'd.)

the Building and Structure Construction Tax Fund: (1) Increase the estimate for Revenue from State of California by \$324,200; and (2) Establish the I-280 & Moorpark Signal Modification appropriation to the Department of Transportation in the amount of \$324,200. CEQA: Categorically Exempt, File No. PP18-029, CEQA Guideline Section 15301(c) Existing Facilities. Council District 1. (Transportation/City Manager)

Action: (a) **Resolution No. 80385**, (b) Funding Source **Resolution No. 80386**, and (b) Appropriation **Ordinance No. 30725** were adopted. (11-0.)

2.15 22-185

Digital Inclusion Fund Grants Update. - RENUMBERED FROM ITEM 3.5

Accept the status report on the Digital Inclusion Fund grant program, including:

- (a) Round 1 grantee final outcomes;
- (b) Round 2 grantee performance;
- (c) Digital Inclusion Fund revenue projections; and
- (d) Round 3 and future grants financial analysis and approach.

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

Action: The status report on the Digital Inclusion Fund grant program was accepted. (11-0.)

2.16 22-195

Boards and Commissions Appointment.

(a) Senior Citizens Commission: (1) District 7 Seat: Fane Williams to a term ending June 30, 2025. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk) [Rules Committee referral 2/9/2022 - Item A.1.a]

Action: The Boards and Commissions Appointments were approved. (11-0.)

2.17 22-189

Approval of Two Special 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 Event.

As recommended by the Rules and Open Government Committee on February 9, 2022:

- (a) Approve the Santos Car Show scheduled on September 3, 2022 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Approve the Berryessa Arts Festival at the Berryessa Community Center scheduled on May 7, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (c) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Cohen) [Rules Committee referral 2/9/2022 - Item G.1.a]

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

2.18 22-194

Approval of City Hall Lighting Display Sponsored by Council District 1 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 February 9, 2022: (a) Approve the City Hall Lighting Display Event for African American History Month scheduled on February 21, 2022 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. (Jones) [Rules Committee referral 2/9/2022 - Item G.1.b]

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

2.19 22-200

VEBA Advisory Committee Appointment.

As recommended by the Rules and Open Government Committee on February 9, 2022: (a) Approve the following appointment to the VEBA Advisory Committee for a four-year term, beginning June 1, 2022 and ending on May 31, 2026: (1) Laura Almaguer as the representative nominated by the Federated unions. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources) [Rules Committee referral 2/9/2022 - Item F.1.a]

Action: The VEBA Advisory Committee Appointment was approved. (11-0.)

2.20 22-203

Deferred Compensation Advisory Committee Appointments.

As recommended by the Rules and Open Government Committee on February 9, 2022: (a) Approve the following appointments to the Deferred Compensation Advisory Committee (DCAC) for an additional four-year term, beginning March 2, 2022 and ending on March 1, 2026: (1) Roberto Peña as the representative nominated by the group of employees designated as “Management Employees”; and (2) Jaime Fonseca as the representative nominated by the group of employees designated as American Federation of State, County, and Municipal Employees, AFSCME Local 101. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources) [Rules Committee referral 2/9/2022 - Item F.1.b]

Action: The Deferred Compensation Advisory Committee Appointments were accepted. (11-0.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 22-145

City Roadmap Second Quarter 2021-2022 Update.

Accept the second quarter status report on the implementation of the Fiscal Year 2021-2022 City Roadmap. CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (City Manager)

DEFERRED TO MARCH 2022 PER RULES AND OPEN GOVERNMENT COMMITTEE.

3.4 22-146

Adoption of Statement of Policy and Questions for the Prospective Director of Information Technology.

Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Director of Information Technology/Chief Information Officer as described in the memorandum to Council, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Public Comment: (Zoom speakers) Tessa Woodmansee, Paul Soto, and Brian offered public testimony regarding the item.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Maya Esparza and carried unanimously, the Statement of Policy and City Council Questions for the prospective Director of Information Technology/Chief Information Officer was adopted. (11-0.)

3.5 22-147

Digital Inclusion Fund Grants Update.

RENUMBERED TO ITEM 2.15

3.6 22-196

Proposed Ballot Measure for the June 7, 2022 Election to Amend the City Charter to Move the Mayoral Election to the Presidential Election Cycle.

Adopt a resolution of the City Council: (a) Calling and giving notice, on its own motion, for a Special Municipal Election to be held on June 7, 2022, to submit to the electors of the City of San Jose, the following measure: Shall the City Charter be amended to: (1) move the election for the Office of Mayor to the same year as presidential elections beginning in 2024 and (2) limit the person elected to the Office of Mayor in 2022 to a two-year term with the option to run for and serve as Mayor for two additional successive four-year terms; (b) Directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San Jose Mercury News, a newspaper of general circulation within the City of San José, instead of printing the full text of the measure in the Sample Ballot; (c) Authorizing the City Council, or any member or members of the City Council, to submit a ballot argument in favor of the measure pursuant to Elections Code Section 9282; (d) Authorizing the submittal of rebuttal arguments or, in the alternative, declining to authorize the submittal of rebuttal arguments pursuant to Elections Code Section 9285; (e) Directing the City Attorney to prepare an Impartial Analysis of the measure pursuant to Elections Code Section 9280;

(Item Continued on the Next Page)

3.6 (Cont'd.)

and (f) Directing the City Clerk to take all other actions necessary to place this measure on the June 7, 2022 ballot. CEQA: Not a Project, File No PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Clerk)

Public Comment: (Zoom speakers) Jeffrey Buchanan, Tessa Woodmansee, Mayra Pelagio (LUNA), Edmundo Escarcega, Jake Tonkel, Brian Pors (UA Local 393), Will Smith, Hector Moreno, Tod W., Frank Austin (UA Local 393), José L Pavon, Ryan Jones (UA Local 393), Sam Gordon, Paul Soto, Victor Vasquez (SOMOS), David Bini, Araceli Rueda, Matthew Rafat, Tim Clauson, Forest Peterson, Niousha Farhangi, Corey Quevedo (UA Local 393), Brian, Scott Reese (UA Local 393), Krista De La Torre, and Erica Valentine offered public testimony regarding the item.

Motion: Councilmember Pam Foley moved approval of her memorandum dated, February 15, 2023, as part of the motion. The motion was seconded by Councilmember Maya Esparza.

City Clerk, Toni Taber stated the motion needs to clarify whether the full text of the measure will be printed, or if a summary of the measure is to be printed for publication; stating who will be authorized to print the ballot argument for the council, and decide if rebuttal arguments will be permitted.

Mayor Sam Liccardo requested the City Clerk to articulate the difference in costs.

Amendment to the motion: Councilmember Pam Foley included the following in her motion: direction for a summary of the measure will be printed for publication and not permitting rebuttal arguments.

Action: On a call for question, the amended motion passed unanimously, *with direction for a summary of the measure will be printed for publication and not permitting rebuttal arguments.* **Resolution No. 80387** was adopted. Including the acceptance of the memorandum from Councilmember Pam Foley dated February 15, 2022, recommending: (1) Accept the resolution dated January 18, 2022, with one amendment to Section 2 (changes in bold): To increase voter participation, shall the City Charter be amended to: (1) move the election for the Office of Mayor to the same year as presidential elections beginning in 2024, and (2) limit the person elected to the Office of Mayor in 2022 to a two-year term with the option to run for and serve as Mayor for two additional successive four-year terms. (10-0-1. Noes: Davis)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 22-148 Addendum to the Amendment to the Norman Y. Mineta San José International Airport Master Plan Environmental Impact Report for the Outdoor Advertising Digital Billboards.

(a) adopt a resolution approving the Addendum to the Amendment to the Norman Y. Mineta San José International Airport Master Plan Environmental Impact Report (EIR) (SCH# 2018102020), certified by the San José City Council on April 18, 2020 (Resolution No. 79497), in accordance with the California Environmental Quality Act.

(Item Continued on the Next Page)

5.1 (Cont'd.)

(b) Conduct a Public Hearing regarding the Project Plan for two Outdoor Advertising Digital Billboards under the “Norman Y. Mineta San José International Airport City of San José Advertising Concession Agreement by and between the City of San José and Clear Channel Outdoors Inc. with estimated annual revenue to the Airport of \$490,000 and reaffirm the project plan. CEQA: US 101 Electronic Signs Addendum, File No. ER21-015. Council District 6. (Airport) [Deferred from 11/30/2021 - Item 5.2 (21-2486), 2/1/2022 - Item 5.1 (22-087)]

Director of Aviation, A.A.E., John Aitken and Regional President, Northern California at Clear Channel Outdoor, Bob Schmitt offered the presentation and responded to questions.

Public Comment: (Zoom speakers) Caller “3266”, Salvador Llach, Bob Schmitt, Paul Soto, Dashiell Leeds, Giulianna Pendleton, Tod W., John Miller, Mike Sodergren, Paul D. Lynam, Matthew Rafat, Caller ‘User-1’, Les Levitt, Tim Clauson, Steve Cohen, Rashi, Tessa Woodmansee, and Ryan Globus offered public testimony regarding the item.

Motion: Councilmember Sergio Jimenez moved approval of staff recommendation’s A and B, and also included the following into the motion: the 6:1 billboard take down ratio, the 5:1 tree replacement, in which trees are to be planted in prioritized San José neighborhoods that lack adequate tree canopies, such as in District 5 and District 7, and that the majority of the signs to be taken down are from communities that are below the 80% median income level. The motion was seconded by Vice Mayor Chappie Jones.

Friendly Amendment: Councilmember Maya Esparza requested that communities with crimes rates higher than 20% of the norm be included in the proposed Equity Screen, as part of the motion. The friendly amendment was accepted by the maker of the motion and seconder.

Friendly Amendment: Councilmember David Cohen requested that the motion include the following: to ensure that the billboards are powered by clean energy, that there are a minimum of 12 signs (16 faces) to be taken down, and to use revenue allocated for this item to ensure that the San José Mineta International Airport is powered by 100% clean energy. The friendly amendment was accepted by the maker of the motion and seconder.

Friendly Amendment: Councilmember Magdalena Carrasco requested a 5:1 tree replacement, which is 215 new trees to be planted in prioritized San José neighborhoods that lack adequate tree canopies, such as in District 5 and District 7. The friendly amendment was accepted by the maker of the motion and seconder.

Friendly Amendment: Mayor Liccardo requested that the billboards are not to include personal monitoring and tracking equipment on the signs. The friendly amendment was accepted by the maker of the motion and seconder.

Friendly Amendment: Councilmember Maya Esparza requested a 3 year maintenance requirement for the new trees that are to be planted in prioritized San José neighborhoods that lack adequate tree canopies. The friendly amendment was accepted by the maker of the motion and seconder.

Regional President, Northern California at Clear Channel Outdoor, Bob Schmitt stated he would present an information memorandum to council.

(Item Continued on the Next Page)

5.1 (Cont'd.)

Friendly Amendment: Mayor Liccardo also requested that Council Policy 6-4 be amended, regarding that staff go through the standard mitigation public process. The friendly amendment was accepted by the maker of the motion and seconder.

Action: On a call for question, the motion passed unanimously, (a) **Resolution No. 80388** was adopted, (b) the public hearing regarding the Project Plan for two Outdoor Advertising Digital Billboards under the “Norman Y. Mineta San José International Airport City of San José Advertising Concession was conducted. Including the acceptance of the staff memorandum dated November 15, 2021, recommending: (a) Adopt a resolution approving the Addendum to the Amendment to the Norman Y. Mineta San José International Airport Master Plan Environmental Impact Report (EIR) (SCH# 2018102020), certified by the San Jose City Council on April 18, 2020, in accordance with the California Environmental Quality Act. (b) Conduct a Public Hearing regarding the Project Plan for two (2) Outdoor Advertising Digital Billboards under the “Norman Y. Mineta San Jose International Airport City of San Jose Advertising Concession Agreement by and between the City of San Jose (“City”) and Clear Channel Outdoors Inc. (“Concessionaire”) with estimated annual revenue to the Airport of \$490,000.

Including the acceptance of the joint memorandum from Mayor Sam Liccardo, Vice Mayor Chappie Jones, Councilmember Raul Peralez, Councilmember David Cohen, and Councilmember Pam Foley dated November 24, 2021, recommending: Accepting the staff’s policy alternative recommendation #1 to not approve the EIR addendum and direct the City Manager to conduct a Request for Proposal (RFP) process for two proposed outdoor advertising digital billboards at Norman Y. Mineta San José International Airport (SJC) that includes the following: (1) A requirement for the elimination of four existing billboards citywide for every one digital billboard erected, pursuant to the 4:1 ratio requirement of Council Policy 6-4. (2) Signage located within an Airport Influence Area shall conform to illumination requirements specified in Sections 23.02.905 and 23.04.250 of the San José Municipal Code, and shall otherwise seek to minimize the safety risk of bird strikes resulting from the attraction of birds to illuminated structures.

Also including the following approved requests and directions to Staff: 12 signs (16 faces) to be taken down, the majority of the signs to be taken down are from communities that are below the 80% median income level or communities with crimes rates higher than 20% of the norm. The Billboards are not to include personal monitoring and tracking equipment on the signs. The Billboards are to use 100% renewable San José Clean Energy. A 5:1 tree replacement, which is 215 new trees to be planted in prioritized San José neighborhoods that lack adequate tree canopies, such as in District 5 and District 7; which also includes a 3 year maintenance requirement for those trees. A revamp of Council Policy 6-4 to be consistent, a 6:1 take down, and produce an information memorandum of the terms accepted by the concessionaire. (9-0-2. Noes: Peralez, Mahan)

Council recessed at 5:45 p.m. and returned at 6:30 p.m.

Mayor Liccardo stated that public comment would be 1-minute at the return of the dinner break.

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 22-149 Actions Related to the Cannabis Equity Assistance Program.

- HEARD CONCURRENTLY WITH ITEM 10.2

(a) Accept the San José Cannabis Equity Assessment.

(b) Accept the staff report on implementing a Cannabis Equity Pilot Program (pending Council action on Item 10.2).

(c) Approve an ordinance amending Chapter 6.88 of Title 6 (Business Licenses and Regulations) of the San José Municipal Code to amend the Cannabis Equity Assistance Program. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Economic Development and Cultural Affairs/City Manager)

Acting Division Manager, Planning, Building and Code Enforcement, Martina Davis and Division Manager, Police Department, Wendy Sollazzi offered the first presentation and responded to questions.

Director, Office of Administration, Policy, & Intergovernmental Relations, Sarah Zarate and Assistant to the City Manager, Michelle McGurk offered the second presentation and responded to questions.

Public Comment: (Zoom speakers) Scott Knies, Krista De La Torre, Ashley Block, Huascar Castro, Fernando E. Alvarez, Hector Moreno, Daniel Montero, and Gabby Mendoza offered public testimony regarding the item.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Magdalena Carrasco, and carried unanimously, (a) The San José Cannabis Equity Assessment and (b) the staff report on implementing a Cannabis Equity Pilot Program were both accepted; and (c) **Ordinance No. 30726** was passed for publication. Including the acceptance of the Staff memorandum dated February 1, 2022, recommending: (a) To accept the San José Cannabis Equity Assessment. (b) Accept the staff report on implementing a Cannabis Equity Pilot Program (pending Council action on Item 10.2). (c) Approve an ordinance amending Chapter 6.88 of Title 6 (Business Licenses and Regulations) of the San José Municipal Code to amend the Cannabis Equity Assistance Program.

Including the acceptance of the joint memorandum from Councilmember Pam Foley, Councilmember Raul Peralez, and Councilmember Magdalena Carrasco dated February 11, 2022, recommending: To accept staff's recommendation with the following clarifications: (1) Direct the City Manager to add a requirement that new applicants or renewing applicants that demonstrate compliance with state law by submitting a copy of a labor peace agreement with a bona fide labor organization as part of their initial registration packet and/or annual renewal. This provision would be added to the City Manager's Regulations for cannabis registration. If a cannabis business failed to provide the documentation, the Division of Cannabis Regulation would be unable to issue a Notice of Completed Registration. (2) Accept staff's recommendations regarding buffer distances between storefront retail cannabis businesses as a primary public store entrance to primary public store entrance measurement. (3) Refer a pilot program for outdoor cannabis sales and consumption to the next priority setting process for the Citywide Roadmap.

Including the acceptance of recommendations 2 and 3 of the amended memorandum from Vice Mayor Chappie Jones dated February 15, 2022, recommending: ~~(1) Allow registration of second locations for the 16 current dispensaries only when the equity retail business owners have completed the Cannabis Business Academy and are eligible to register their businesses; allow the non-equity business owners to relocate their storefronts to newly available commercial zones if desired.~~

(Item Continued on the Next Page)

8.1 (Cont'd.)

(2) Direct staff to prioritize helping equity owners access capital: (a) As a pilot program during the upcoming budget process, evaluate local Cannabis Business Tax revenue collected in Fiscal Year 2021-2022 and consider directing surplus funds on a one-time basis (over the current budget estimate) to fund equity workforce, development, underwriting cost of fees for equity owners, and creating local investment funds. (b) Advocate for expansion of State grant programming and apply for grant funding. (3) Direct staff to re-evaluate criteria for equity program eligibility to expand pool of potential equity owners; should there not be enough equity program applicants, include this evaluation in six-month progress report to Council per recommendation of Council Member Peralez.

Also including the acceptance of the amended memorandum from Councilmember Raul Peralez dated February 11, 2022, recommending: To accept staff's report and recommendation on a Cannabis Equity Program; request a progress report back to Council within six months of program activation; *and review the restrictions at the six month report of where cannabis retail can be located based on income measure instead of crime; and exclude District 7 from this expansion for retail storefronts open to the public.* (10-0-1. Noes: Mahan)

8.2 22-150 **Funding Award with Goodwill of Silicon Valley for the San José Bridge Program.**

Adopt a resolution authorizing the Director of Housing to negotiate and execute an agreement with Goodwill of Silicon Valley in the amount of \$2,850,000 from the American Rescue Plan Act and the Housing Trust Fund to operate the San José Bridge Program retroactive from December 1, 2021 through June 30, 2023. CEQA: Not a Project, File No. PP17-009, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; 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. (Housing)

DEFERRED TO 3/8/2022 PER ADMINISTRATION

8.3 22-151 **Proposed Changes to the Allocation and Category Names of Measure E Real Property Transfer Taxes.**

(a) Hold the first of two public hearings regarding proposed changes to the spending allocation of real property transfer tax revenues as described under Section 22 of City Council Policy 1-18. (b) Consider changes to the spending allocation of real property transfer tax revenue set forth under Section 22 of City Council Policy 1-18 to modify the category names and allocation amounts to: (1) 40% for creation of new affordable housing for extremely low-income households; (2) 30% for creation of new affordable housing for low-income households; (3) 5% for creation of new for-sale and rental affordable housing for Moderate-Income households; and (4) 25% for homeless support programs including prevention and rental assistance, shelter construction and operations. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Housing/City Manager)

Director, Housing Department, Jacky Morales-Ferrand and Assistant Director, Housing Department, Rachel VanderVeen offered the presentation and responded to questions.

(Item Continued on the Next Page)

8.3 (Cont'd.)

Public Comment: (Zoom speakers) Zeke Sandoval, Paul Soto, Ray Bramson, Caller 'User-2', Tessa Woodmansee, Huascar Castro, Andrea Portillo, and Jill Borders offered public testimony regarding the item.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Maya Esparza, and carried unanimously, the Proposed Changes to the Allocation and Category Names of Measure E Real Property Transfer Taxes were approved. Including the acceptance of the memorandum from Councilmember Maya Esparza, Councilmember David Cohen, and Councilmember Sergio Jimenez dated February 11, 2022, recommending: To approve the staff recommendations regarding the spending allocations of the Real Property Transfer Tax with the modification that no less than 10% of overall funding be allocated specifically for Homeless prevention and rental assistance for the spending priority category covering Homeless Support Programs.

Including the acceptance of the memorandum from Mayor Sam Liccardo dated February 14, 2022, recommending: (1) To accept staff recommendation for the changes in percentage allocations and category definitions for Measure E revenue. (2) Accept the recommendation of Councilmembers Esparza, Cohen, and Jimenez for a substantially enhanced spending level for rental assistance, but return to Council and the public for the second hearing in April with a proposed Measure E plan that also includes fuller explanation and more precise estimates of the following, prior to voting on the final allocations: (a) Estimated Homelessness Prevention System capacity for the effective distribution of rental assistance by June 30, 2022, in both monetary amount and the number of households served; (b) Estimated Homelessness Prevention System capacity for effective distribution of rental assistance between July 1, 2022 and June 30, 2023, in both monetary amount and the number of households served; (c) An estimated source and use funding plan for the construction and operations of 1,000 quick-build apartment units (EIHC's), including a more comprehensive collection of revenue sources, including such potential sources as HHAP Rounds 3 and 4, Homekey, Federal sources such as ESG, the County, and Housing Authority voucher revenues.

Including the acceptance of the memorandum from Councilmember Dev Davis dated February 14, 2022, recommending: (1) To accept the staff recommendations and the recommendation from Councilmembers Esparza, Cohen, and Jimenez with the following modifications: a. Consider changes to the spending allocation of real property transfer tax revenue set forth under Section 22 of City Council Policy 1-18 to modify the category names and allocation amounts to: i. 40% for creation of new affordable housing for extremely low-income households; ii. 30% for creation of new affordable housing for low-income households; iii. 5% for creation of new for-sale and rental affordable housing for Moderate-Income households; and iv. 10% for homeless prevention and rental assistance. v. 15% for other homeless support programs including safe parking for both RVs and other vehicles, shelter construction and operations, and other support services.

Also including the direction for City Staff to begin a formal conversation with the County regarding their responsibility to provide a social safety net to the Cities unhoused residents such as drug, alcohol, and behavioral mental health services; and provide a status report in April. Also including the County's (IGR) Intergovernmental Relations Team and Mayor's Office to lobby for funding of support services and work with County lobbyists to receive ongoing funding for support services. (11-0.)

8.4 22-164

Approval of a Downtown High-Rise Residential Tax and Fee Waiver for the Carlyle at 51 Notre Dame Street.

Conduct a public hearing to approve an economic development tax and fee waiver in connection with a reduction in construction taxes and the Affordable Housing Impact Fee for a downtown residential high-rise at 51 Notre Dame Street in the amount of \$4,390,599 pursuant to California Government Code Section 53083 and Open Government Resolution No. 77135 Section 2.3.2.6.C.

CEQA: Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and addenda thereto, Planning File No. SP20-020. Council District 3. (Economic Development and Cultural Affairs/Housing)

[Deferred from 1/25/2022 - Item 8.1 (22-042), 2/1/2022 - Item 8.1 (22-132), 2/8/2022 - Item 8.3 (22-156)]

Director of Economic Development, Director of Real Estate, Nanci Klein and Housing Catalyst, Jerad Ferguson offered the presentation and responded to questions.

Public Comment: (Zoom speakers) Paul Soto, Nathan Ulsh, Tessa Woodmansee, and Call in ‘User-2’ offered public testimony regarding the item.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Matt Mahan, and carried unanimously, the Downtown High-Rise Residential Tax and Fee Waiver for the Carlyle at 51 Notre Dame Street was approved. (10-0-1. Absent: Esparza.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10. Land Use - Regular Agenda

10.2 22-152 PP21-002 - Amendment to Title 20 and Title 6 of the San José Municipal Code (Cannabis Business Zoning Ordinance and Business Licenses and Regulations). - HEARD CONCURRENTLY WITH ITEM 8.1

(a) Adopt a resolution adopting the San José Cannabis Business Ordinance Update Negative Declaration, for which an Initial Study was prepared, in accordance with the California Environmental Quality Act (CEQA). (b) Approve an ordinance amending Title 20 of the San José Municipal Code (the Zoning Ordinance) amending the following sections: Part 9.75 and 9.76 of Chapter 20.80; Table 20-90 of Chapter 20.40, Table 20-110 of Chapter 20.50, Table 20-138 of Chapter 20.55, Table 20-140 of Chapter 20.70, and Table 20-156 of Chapter 20.75; Part 13 of Chapter 20.100 to allow

(Item Continued on the Next Page)

10.2 (Cont'd.)

Cannabis retail storefront (dispensary) in the Commercial Zoning districts, disallow new Cannabis dispensaries in Industrial Zoning districts, change distance requirements from Cannabis businesses to sensitive uses with special consideration for the Downtown and Urban Village areas, allow a Zoning Code Verification Certificate to expire, and make other technical, non-substantive, or formatting changes within those sections of title 20 of the San José Municipal Code. (c) Approve an ordinance amending Chapter 6.88 of Title 6 (Business Licenses and Regulations) of the San José Municipal Code to: (1) Add delivery only to the categories of regulated cannabis businesses; (2) Allow up to ten new cannabis dispensary businesses with equity business owners to register (only 5 of which may be storefront dispensaries); (3) Allow currently registered cannabis dispensary businesses to dispense cannabis from a total of two locations; (4) Approve other changes to update the San José Municipal Code to align with State regulations; and (5) Make other technical, non-substantive, or formatting changes. CEQA: Negative Declaration for the San José Cannabis Business Ordinance Update; File No. PP21-002. Planning Commission recommends approval 8-3 (Garcia, Ornelas-Wise and Torrens opposed). (Planning, Building and Code Enforcement/Police)

Acting Division Manager, Planning, Building and Code Enforcement, Martina Davis and Division Manager, Police Department, Wendy Sollazzi offered the first presentation and responded to questions.

Director, Office of Administration, Policy, & Intergovernmental Relations, Sarah Zarate and Assistant to the City Manager, Michelle McGurk offered the second presentation and responded to questions.

Public Comment: (Zoom speakers) Scott Knies, Krista De La Torre, Ashley Block, Huascar Castro, Fernando E. Alvarez, Hector Moreno, Daniel Montero, and Gabby Mendoza offered public testimony regarding the item.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Magdalena Carrasco, and carried unanimously, (a) **Resolution No. 80389** was adopted; (b) **Ordinance No. 30727** and (c) **Ordinance No. 30726** were passed for publication. Including the acceptance of the joint memorandum from Councilmember Pam Foley, Councilmember Raul Peralez, and Councilmember Magdalena Carrasco dated February 11, 2022, recommending: To accept staff's recommendation with the following clarifications: (1) Direct the City Manager to add a requirement that new applicants or renewing applicants that demonstrate compliance with state law by submitting a copy of a labor peace agreement with a bona fide labor organization as part of their initial registration packet and/or annual renewal. This provision would be added to the City Manager's Regulations for cannabis registration. If a cannabis business failed to provide the documentation, the Division of Cannabis Regulation would be unable to issue a Notice of Completed Registration. (2) Accept staff's recommendations regarding buffer distances between storefront retail cannabis businesses as a primary public store entrance to primary public store entrance measurement. (3) Refer a pilot program for outdoor cannabis sales and consumption to the next priority setting process for the Citywide Roadmap.

Including the acceptance of the joint memorandum from Councilmember Sylvia Arenas and Councilmember David Cohen dated February 11, 2022, recommending: To include in Council Direction staff's Policy Alternative 1 in the staff Supplemental Memo dated February 11th, 2022.

(Item Continued on the Next Page)

10.2 (Cont'd.)

Including the acceptance of recommendations 2 and 3 of the amended memorandum from Vice Mayor Chappie Jones dated February 15, 2022, recommending: ~~(1) Allow registration of second locations for the 16 current dispensaries only when the equity retail business owners have completed the Cannabis Business Academy and are eligible to register their businesses; allow the non-equity business owners to relocate their storefronts to newly available commercial zones if desired.~~ (2) Direct staff to prioritize helping equity owners access capital: (a) As a pilot program during the upcoming budget process, evaluate local Cannabis Business Tax revenue collected in Fiscal Year 2021-2022 and consider directing surplus funds on a one-time basis (over the current budget estimate) to fund equity workforce, development, underwriting cost of fees for equity owners, and creating local investment funds. (b) Advocate for expansion of State grant programming and apply for grant funding. (3) Direct staff to re-evaluate criteria for equity program eligibility to expand pool of potential equity owners; should there not be enough equity program applicants, include this evaluation in six-month progress report to Council per recommendation of Council Member Peralez.

Also including the acceptance of the memorandum from Councilmember Raul Peralez dated February 11, 2022, recommending: To accept staff's report and recommendation on a Cannabis Equity Program; And request a progress report back to Council within six months of program activation. (10-0-1. Noes: Mahan)

• Open Forum

1. Matthew addressed his concerns with the renewal and tax exemptions regarding his small business.
2. Call in 'User-2' spoke to graffiti and pothole concerns.
3. Paul Soto addressed his views and frustrations with wealthy people's tax breaks.
4. Tessa Woodmansee addressed fossil fuel concerns.

• Adjournment

The Council of the City of San José adjourned at 10:03 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,



Deputy City Clerk, City of San José

Attest By:



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

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 15, 2022

The Council of the City of San José convened into Closed Session at 9:30 a.m.
The meeting was held virtually, Councilmembers teleconferenced from remote locations.

Present: Councilmembers - Liccardo, Jones, Jimenez, Peralez, Cohen,
Carrasco, Davis, Esparza, Arenas, Foley, Mahan.

Absent: Councilmembers - All present.

CLOSED SESSION ITEM(S) DISCUSSED:

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

1. Case Name: In re: Joseph Abasolo
Name(s) of Parties(s)
Court: Workers Compensation Appeals Court
Case No: ADJ3885974
Amount of Money or Other Relief Sought: Benefits

2. Case Name: In re: Glenn Bishop
Name(s) of Parties(s)
Court: Workers Compensation Appeals Court
Case No: ADJ10678258; ADJ10678860; ADJ10681052;
ADJ10681051; ADJ8637792
Amount of Money or Other Relief Sought: Benefits

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(3) of the Government Code:

Number of matter(s) to be discussed: 1
Facts: Claims alleged by Andrea Jordan

**C. 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

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

City Negotiator: Jennifer Schembri, Director of Employee Relations
Employee Organizations:

- | | | |
|----|--|--|
| 1. | <p>Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:
Name of Existing Contract or MOA:

How to Obtain a copy of Existing Contract or MOA:</p> | <p>Association of Building, Mechanical and Electrical Inspectors (ABMEI)

wages/salaries, hours, working conditions, etc.

Memorandum of Agreement – City of San José and Association of Building, Mechanical and Electrical Inspectors (ABMEI)

Web:
http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150</p> |
| 2. | <p>Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:
Name of Existing Contract or MOA:

How to Obtain a copy of Existing Contract or MOA:</p> | <p>Association of Engineers & Architects (AEA)

wages/salaries, hours, working conditions, etc.

Memorandum of Agreement — City of San José and Association of Engineers & Architects (AEA)

Web:
http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150</p> |
| 3. | <p>Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:
Name of Existing Contract or MOA:</p> | <p>Association of Maintenance Supervisory Personnel (AMSP)

wages/salaries, hours, working conditions, etc.

City of San José - Association of Maintenance Supervisory Personnel (AMSP) Benefit &</p> |

Compensation Summary

- | | | |
|----|---|---|
| | How to Obtain a copy of Existing Contract or MOA: | Web:
http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 4. | Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:
Name of Existing Contract or MOA:

How to Obtain a copy of Existing Contract or MOA: | City Association of Management Personnel Agreement (CAMP)

wages/salaries, hours, working conditions, etc.

Benefit & Compensation Summary — City of San José and City Association of Management Personnel Agreement
Web:
http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 5. | Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:
Name of Existing Contract or MOA:

How to Obtain a copy of Existing Contract or MOA: | International Association of Firefighters (IAFF), Local 230 (IAFF#230)

wages/salaries, hours, working conditions, etc.

Memorandum of Agreement Between City of San José and International Association of Firefighters (IAFF), Local 230
Web:
http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 6. | Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:
Name of Existing Contract or MOA:

How to Obtain a copy of Existing Contract or MOA: | International Brotherhood of Electrical Workers, Local 332 (IBEW)

wages/salaries, hours, working conditions, etc.

Memorandum of Agreement Between City of San José and International Brotherhood of Electrical Workers, Local 332 (IBEW)
Web:
http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |

7. Organization or Name and Title of Unrepresented Employees: Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF)
- Nature of negotiations: wages/salaries, hours, working conditions, etc.
- Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO
- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
8. 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: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
9. Organization or Name and Title of Unrepresented Employees: Peace Officer Park Ranger Association (POPRA)
- Nature of negotiations: wages/salaries, hours, working conditions, etc.
- Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Peace Officer Park Ranger Association
- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
10. 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

Contract or MOA: José and San José Polices' Association
How to Obtain a Web:
copy of Existing <http://www.sanjoseca.gov/index.aspx?NID=508>
Contract or MOA: Telephone – Employee Relations: (408) 535-8150

11. Organization or Name and Title of Unrepresented Employees:
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 Legal Professionals of San José
How to Obtain a Web:
copy of Existing <http://www.sanjoseca.gov/index.aspx?NID=508>
Contract or MOA: Telephone – Employee Relations: (408) 535-8150