



# **CITY COUNCIL MEETING**

## **Minutes Draft**

**Tuesday, August 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 26 - 28 for Closed Session Minutes.*

Present: Councilmembers: Mahan, Torres, Ortiz, Doan, Candelas, Batra.

Absent Councilmembers: Foley, Davis, Cohen, Jimenez, Kamei

**1:35 p.m.- Regular Session.**

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

Absent Councilmembers: None

**6:06 p.m.- Evening Session.**

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

Absent Councilmembers: Davis.

## • Pledge of Allegiance

Mayor Mahan led the Pledge of Allegiance.

## • Invocation (District 7)

Frank Araujo, San José Business Owner, offered the invocation with encouraging words regarding the City of San José, and his personal story of dedication and entrepreneurship.

## • Orders of the Day

None provided.

## • Adjournment

Mayor Matt Mahan announced the meeting was adjourned in memory of Dr. David Ebersole, master educator, photographer, actor, and musician, who passed away Sunday, May 19, 2024. He was an amazing teacher at LeyVa Middle School in the East Side of San José, sharing his knowledge and love of the arts with his students for decades.

## • Closed Session Report

None provided.

### 1. **CEREMONIAL ITEMS**

1.1 Councilmember Peter Ortiz presented the commendation to the San José Earthquakes to honor their 50<sup>th</sup> anniversary and celebrate their commitment to bringing the joy of soccer to the youth of San José.

1.2 Councilmember Omar Torres presented the commendation to Aimee Ramos for her selection to the Mexican Rugby Team and representing both San José State University and the City of San José in the Olympics.

1.3 Councilmember Arjun Batra presented the proclamation declaring August 15, 2024 as the 77<sup>th</sup> year of Indian Independence Day to celebrate and recognize the contributions of Indian Americans to the cultural, social, and economic fabric of the City of San José.

### 2. **CONSENT CALENDAR**

Public Comment: None provided.

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

#### 2.1 **Approval of City Council Minutes.**

None provided.

#### 2.2 **Final Adoption of Ordinances.**

(a) Ordinance No. 31099 - An Ordinance of the City of San José Amending Chapter 6.88 of Title 6 of the San José Municipal Code to Remove the Delivery Zone Restriction; Increase the Registration Allowance from Five Retail Storefronts to Ten for Equity Business Owners; Revise Definitions and Make Other Changes to Better Align with State Regulations; and Make Other Technical, Non-Substantive, or Formatting Changes. [Passed for Publication on 6/18/2024 - Item 2.29(a) (24-153382)]

(b) Ordinance No. 31100 - An Ordinance of the City of San José Amending Title 24 of the San José Municipal Code to Add a New Part 8 to Chapter 24.02 to Regulate Certain Private Development Projects of More than 10,000 Square Feet by Withholding the Certificate of Occupancy when an Owner or Contractor has Unpaid Final Wage Theft Judgments. [Passed for Publication on 6/18/2024 - Item 2.39 (24-147353)]

(c) Ordinance No. 31106 - An Ordinance of the City of San José Amending Chapters 4.46 and 4.47 of Title 4 of the San José Municipal Code to Suspend the Collection of the Building and Structure Construction Tax and the Commercial Residential Mobilehome Park Building Tax for up to 2,000 Units in Qualified Residential Highrise Projects Located within the Downtown Planned Growth Area as Designated in the San José 2040 General Plan, that are 10 or More Floors or Stories in Height (Not Including Any Nonresidential

Uses) where the Highest Occupied Floor has a Floor Level Elevation that is at Least 150 Feet Above Street Level, that Obtain a Building Permit by June 30, 2029, and Pass First Inspection within 12 Months of Obtaining a Building Permit, Provide a Fifty Percent (50%) Reduction of the Building and Structure Construction Tax and the Commercial-Residential-Mobilehome Park Building Tax for up to 2,000 Additional Units in Qualified Residential High-Rise Projects that Obtain a Building Permit between July 1, 2029, and June 30, 2031 and Pass First Inspection within 12 Months of Obtaining a Building Permit, and Provide a Fifty Percent (50%) Reduction of the Building and Structure Construction Tax and the Commercial-Residential-Mobilehome Park Building Tax For up to 6,000 Additional Units in Qualified Residential High-Rise Projects that Obtain a Building Permit thereafter and Pass First Inspection within 12 Months of Obtaining a Building Permit. [Passed for Publication on 6/18/2024 - Item 8.2(b) (24-120632-01)]

(d) Ordinance No. 31107 - An Uncodified ordinance of the City of San José to Revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High Rise Rental Developments, Pursuant to Resolution No. 80766 as Amended, Effective July 1, 2024, Specified in the Schedule of Fees and Charges Resolution. [Passed for Publication on 6/18/2024 - Item 8.2(f) (24-120632-01)]

(e) Ordinance No. 31109 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.13-Gross Acre Situated on the Easterly Side of Wabash Street, Approximately 350 Feet Southwesterly of Archer Street (0 Wabash Street) (APN 015-05-079) from the CN Commercial Neighborhood Zoning District to the R-1-8 Single Family Residence Zoning District. [Passed for Publication on 6/18/2024 - Item 10.1(a) (24-147360)]

Action: (a) **Ordinance No. 31099** was adopted, Amending Chapter 6.88 of Title 6 of the San José Municipal Code; (b) **Ordinance No. 31100** was adopted, Amending Title 24 of the San José Municipal Code; (c) **Ordinance No. 31106** was adopted, Amending Chapters 4.46 and 4.47 of Title 4 of the San José Municipal Code; (d) **Ordinance No. 31107** was adopted, to Revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High Rise Rental Developments; and (e) **Ordinance No. 31109** was adopted, Rezoning Certain Real Property. (11-0-0)

### 2.3 Approval of Council Committee Minutes.

None provided.

### 2.4 Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Jimenez from the regular meetings of the City Council on June 18, 2024 and the Public Safety, Finance and Strategic Support Committee (PSFSS) on June 20, 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. (Jimenez)

Action: The request for an excused absence for Councilmember Jimenez 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 Minimum Annual Guarantee Adjustment for Bayport and Elevate Concessionaries.**

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a one-time retroactive adjustment to the Minimum Annual Guarantee for the Food and Beverage concession agreements with Elevate Gourmet Brands-SFO Group and Bayport Concessions, LLC.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates, and Fares without changes to or expansion of services. (Airport)

Action: **Resolution No. RES2024-281** was adopted, authorizing the City Manager or her designee to negotiate and execute a one-time retroactive adjustment to the Minimum Annual Guarantee. (11-0-0)

**2.8 City Manager's Travel to Dublin, Ireland.**

Authorize travel for City Manager Jennifer Maguire to Dublin, Ireland on September 7-13, 2024 to participate in the Sister City Trip to Dublin, Ireland.

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

Action: Travel for City Manager Jennifer Maguire to Dublin, Ireland was authorized. (11-0-0)

**2.9 Lease Agreement Between the City of San José and Habitat for Humanity Silicon Valley for Its Continued Use of City-Owned Property Located at 1608 Las Plumas Avenue as a Restore Resale Outlet.**

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a retroactive lease agreement and all documents necessary to effectuate the lease, between the City of San José, a municipal corporation of the State of California, as Landlord, and Habitat for Humanity Silicon Valley, a California nonprofit corporation, as Tenant, for its continued use of approximately 14,606 square feet of space at the City-owned property located at 1608 Las Plumas Avenue for an initial term of three years commencing July 1, 2024, and expiring June 30, 2027, at a rental rate of \$124,443.12 for the first year, \$128,176.44 for the second year, and \$132,021.72 for the third year, totaling \$384,641.28 for the initial term, with three mutual options to extend for an additional three years each at a rental rate that shall be determined and agreed upon by both parties.

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/Environmental Services)

Action: **Resolution No. RES2024-282** was adopted, authorizing the City Manager or her designee to negotiate and execute a retroactive lease agreement and all documents necessary to effectuate the lease. (11-0-0)

## 2.10 Federal Highway Administration Grant Application for Public Charging Infrastructure.

Adopt a resolution authorizing the City Manager or her designee to file an application with the Federal Highway Administration for its Charging and Fueling Infrastructure Community Program grant; and if awarded, negotiate and execute a project agreement, and any related documents, for up to \$6 million in reimbursements from the Federal Highway Administration and up to \$1.5 million in City matching funds for a total project cost of up to \$7.5 million to install approximately 100 electric vehicle charging ports at City facilities for use by the public and City of San José fleet, commencing upon the date of the Federal Highway Administration's approval of award and the City's execution of an approved project agreement, with work to be scheduled to commence by no later than September 30, 2027.

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. (Energy)

Action: **Resolution No. RES2024-283** was adopted, authorizing the City Manager or her designee to file an application with the Federal Highway Administration for its Charging and Fueling Infrastructure Community Program grant. (11-0-0)

## 2.11 Moratorium on Natural Gas Infrastructure Prohibition Ordinance.

Approve an ordinance amending Chapter 17.845 of Title 17 (*Prohibition of Natural Gas Infrastructure in Newly Constructed Buildings*), Section 17.845.010, of the San José Municipal Code to implement a moratorium on further City enforcement of Chapter 17.845 until local control over natural gas infrastructure is clarified or authorized.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Environmental Services/Planning, Building, and Code Enforcement)

Action: **Ordinance No. 31111** was passed for publication, amending Chapter 17.845 of Title 17 (*Prohibition of Natural Gas Infrastructure in Newly Constructed Buildings*), Section 17.845.010, of the San José Municipal Code. (11-0-0)

## 2.12 Renewal of the Online Computer Library Center Services for Online Cataloging Services, Library-to-Library Borrowing Fees, and Transaction Fees.

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

- (a) Negotiate and execute a purchase order with Online Computer Library Center (Dublin, OH) for online cataloging subscription and services for a maximum compensation of \$106,000 for the one-year option term beginning August 16, 2024 and ending August 15, 2025, or as may be adjusted to align with the software renewal term;
- (b) Negotiate and execute amendments as-required for any unanticipated changes during the one-year term beginning August 16, 2024 and ending August 15, 2025, or as may be adjusted to align with the software renewal term, subject to the appropriation of funds; and
- (c) Exercise up to six additional one-year options to extend the term of the purchase order through August 15, 2031, or as may be adjusted to align with the software renewal term, 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. RES2024-284** was adopted, authorizing the City Manager or her designee to: (a) Negotiate and execute a purchase order with Online Computer Library Center, (b) negotiate and execute amendments as-required for any unanticipated changes during the one-year term beginning August 16, 2024 and ending August 15, 2025, and (c) exercise up to six additional one-year options to extend the term of the purchase order through August 15, 2031. (11-0-0)

**2.13 CARES Act and SECURE Act Amendments to Deferred Compensation, PTC, and 401(a) Plans.**

- (a) Approve an ordinance amending Chapter 3.48 of Title 3 of the Deferred Compensation Plan to comply with the CARES Act and SECURE Act.
- (b) Adopt a resolution approving an amendment to the Basic Plan Document for the Deferred Compensation Plan to comply with the CARES Act and SECURE Act and authorize the City Manager or her designee to execute the amended Basic Plan Document and other documents as necessary to administer the Deferred Compensation Plan set forth in Chapter 3.48 of the San José Municipal Code. This amendment will become effective on the same date as the ordinance to amend Chapter 3.48 of Title 3 of the Deferred Compensation Plan to comply with the CARES Act and SECURE Act.
- (c) Approve an ordinance amending Chapter 3.49 of Title 3 of the Defined Contribution Plan for Unit 99 Employees to comply with the CARES Act and SECURE Act.
- (d) Adopt a resolution approving an amendment to the Basic Plan Document for the Defined Contribution Plan for Unit 99 Employees to comply with the CARES Act and SECURE Act and authorize the City Manager or her designee to execute the amended Basic Plan Document and other documents as necessary to administer the Defined Contribution Plan for Unit 99 Employees set forth in Chapter 3.49 of the San José Municipal Code. This amendment will become effective on the same date as the ordinance to amend Chapter 3.49 of Title 3 of the Defined Contribution Plan for Unit 99 Employees to comply with the CARES Act and SECURE Act.
- (e) Approve an ordinance amending Chapter 3.50 of Title 3 of the Part-time Temporary Contract (PTC) Plan to comply with the CARES Act and SECURE Act.
- (f) Adopt a resolution approving an amendment to the Basic Plan Document for the PTC Plan to comply with the CARES Act and SECURE Act and authorize the City Manager or her designee to execute the amended Basic Plan Document and other documents as necessary to administer the PTC Plan set forth in Chapter 3.50 of the San José Municipal Code. This amendment will become effective on the same date as the ordinance to amend Chapter 3.50 of Title 3 of the PTC Plan to comply with the CARES Act and SECURE Act. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources)

Action: (a) **Ordinance No. 31112** was *passed for publication*, amending Chapter 3.48 of Title 3 of the Deferred Compensation Plan; (b) **Resolution No. RES2024-285** was adopted, approving an amendment to the Basic Plan Document for the Deferred Compensation Plan; (c) **Ordinance No. 31113** was *passed for publication*, amending Chapter 3.49 of Title 3 of the Defined Contribution Plan for Unit 99 Employees; (d) **Resolution No. RES2024-286** was adopted, approving an amendment to the Basic Plan Document for the Defined Contribution Plan for Unit 99 Employees; (e) **Ordinance No. 31114** was *passed for publication*, amending Chapter 3.50 of Title 3 of the Part-time Temporary Contract (PTC) Plan; and (f) **Resolution No. RES2024-287** was adopted, approving an amendment to the Basic Plan Document for the PTC Plan. (11-0-0)



**2.14 Approval of Free Use for Various San José Public Library Events in the City Hall Rotunda and City Council Chambers.**

Adopt a resolution authorizing “Free Use” for one private event and one Saturday event for the Library Department for fiscal year 2024-2025, in the City Hall Rotunda and City Council Chambers.

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

Action: **Resolution No. RES2024-288** was adopted, authorizing “Free Use” for one private event and one Saturday event for the Library Department for fiscal year 2024-2025. (11-0-0)

**2.15 Report on Bids and Award of Contract for the 10346-San José Museum of Art Cooling Tower Replacement Project.**

(a) Report on bids and award of a contract for the construction of the 10346-San José Museum of Art Cooling Tower Replacement Project to the lowest responsive, responsible bidder, ACCO Engineered Systems Inc., for the base bid and Bid Alternate No.1 and No. 2 in the amount of \$1,442,305; and

(b) Approve a 15% contingency in the amount of \$216,346.

CEQA: Exempt, File No. ER24-103, CEQA Guidelines Section 15302(c) Replacement or reconstruction of existing utility systems and/or facilities. Council District 3. (Public Works)

Action: (a) The report on bids and award of a contract for the construction of the 10346-San José Museum of Art Cooling Tower Replacement Project was accepted; and (b) the 15% contingency was approved. (11-0-0)

**2.16 Actions Related to the 10331: On-Call Landscape Construction Contract 23-24 Re-Bid Project.**

Award of a contract for the on-call construction of capital improvement projects (10331 – On-Call Landscape Construction Contract 23-24 Re-Bid Project) to Suarez & Munoz Construction, Inc. pursuant to City of San José Charter, Section 1217 (h), for a maximum not to exceed amount of \$1,000,000 and a term of three years.

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

Action: The award of a contract for the on-call construction of capital improvement projects were approved. (11-0-0)

**2.17 Authorization to Apply for the United States Department of Housing and Urban Development's Eviction Protection Grant Program.**

Adopt a resolution authorizing the Housing Director or his designee to apply for the United States Department of Housing and Urban Development's Eviction Protection Grant Program Notice of Funding Opportunity to request \$2.5 million to support initiatives that enhance City investments in eviction services for both tenants and housing providers. CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Housing)

Action: **Resolution No. RES2024-289** was adopted, authorizing the Housing Director or his designee to apply for the United States Department of Housing and Urban Development's Eviction Protection Grant Program Notice of Funding Opportunity. (11-0-0)

**2.18 City Clerk's Travel to Dublin, Ireland.**

Authorize travel for City Clerk Toni Taber to Dublin, Ireland on September 7-13, 2024 to participate in the Sister City Trip to Dublin, Ireland.

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

Action: Travel for City Clerk Toni Taber to Dublin, Ireland was authorized. (11-0-0)

**2.19 Deferred Compensation Advisory Committee Appointment.**

As recommended by the Rules and Open Government Committee on August 7, 2024, approve the appointment of Aric Johnson, nominated by the group of employees designated as “Management Employees” consisting of employees in Unit 99 and the Association of Engineers and Architects, IFPTE Local 21 (AEA); Association of Maintenance Supervisory Personnel, IFPTE, Local 21 (AMSP); City Association of Management Personnel, IFPTE, Local 21 (CAMP); and the Association of Legal Professionals of San José (ALP), as the active employee member to the Deferred Compensation Advisory Committee to fill a vacant seat for the remainder of the term, beginning September 1, 2024 and ending on March 1, 2026.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)  
[Rules Committee referral 8/7/2024 - Item B.3]

Action: The appointment of Aric Johnson to fill the vacant seat for the remainder of the term, beginning September 1, 2024 and ending on March 1, 2026, was approved. (11-0-0)

**2.20 Retroactive Approval of Flag Raising Recognizing Juneteenth Sponsored by Council District 3 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials for the Event.**

As recommended by the Rules and Open Government Committee on August 7, 2024:

- (a) Retroactively approve the Juneteenth Flag Raising scheduled for June 17-21, 2024 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. (Torres)  
[Rules Committee referral 8/7/2024 - Item B.5]

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

**2.21      Retroactive Approval of Multiple 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 Events.**

As recommended by the Rules and Open Government Committee on August 7, 2024:

- (a) Retroactively approve the District 4 Leadership Forum scheduled on June 15, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Retroactively approve the District 4 Community Office Hours scheduled on June 26, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (c) Retroactively approve the District 4 Dog Park Grand Opening scheduled on June 29, 2024 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (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 8/7/2024 - Item B.6]

Action: The City Council Sponsored Special Events were retroactively approved. (11-0-0)

**2.22 Retroactive Approval and Approval of Multiple Special Events Sponsored by Council District 5 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 August 7, 2024:

- (a) Retroactively approve the Mothers Day Celebration at Gramercy Event scheduled on May 10, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Retroactively approve the Alum Rock Village Dumpster Day scheduled on May 18, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (c) Retroactively approve the Poco Way Beautification Event scheduled on May 25, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (d) Retroactively approve the Cafe Para Todos Event scheduled on May 30, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (e) Retroactively approve the Alum Rock Park Road Reopening Event scheduled on June 14, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (f) Retroactively approve the Snack with Matt Event scheduled on June 25, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (g) Retroactively approve the Capitol Park Dumpster Day scheduled on June 29, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (h) Approve the San José Lowrider Day Event scheduled on September 1, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (i) Approve the Grito de Independencia Event scheduled on September 14, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (j) Approve the Culture Fest Event scheduled on October 12, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (k) Approve the District 5 Christmas Tree Giveaway and Holiday Celebration Event scheduled on December 4, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;
- (l) Approve the Cinco de Mayo Parade and Festival Event scheduled on May 4, 2025 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (m) 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. (Ortiz)

[Rules Committee referral 8/7/2024 - Item B.7]

Action: The City Council Sponsored Special Events were retroactively approved. (11-0-0)

**2.23 Approval of Free Use for the USPS San José Postmaster’s Installation Event Co-Hosted by Council District 9 and USPS Postmaster’s Office 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 August 7, 2024:  
(a) Adopt a resolution authorizing “Free Use” for the private, invitation-only USPS San José Postmaster’s Installation event held at City Hall Rotunda on August 21, 2024;  
(b) Approve the USPS San José Postmaster’s Installation Event scheduled on August 21, 2024 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. (Foley)

[Rules Committee referral 8/7/2024 - Item B.8]

Action: (a) **Resolution No. RES2024-290** was adopted, authorizing “Free Use” for the private, invitation-only USPS San José Postmaster’s Installation event; (b) the USPS San José Postmaster’s Installation Event was approved ; and (c) the acceptance of donations from various individuals, businesses or community groups to support the event was approved. (11-0-0)

**2.24 Retroactive Approval and Approval of Multiple Special Events Sponsored by Council District 10 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 August 7, 2024:  
(a) Retroactively approve the Dumpster Day at Greystone Park scheduled on August 3, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;  
(b) Approve the Indian Independence Day Cultural Event scheduled on August 15, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;  
(c) Approve the Housing Town Hall with Housing Director Erik Solivan scheduled on August 17, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;  
(d) Approve the Shredding and eWaste Day scheduled on August 24, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;  
(e) Approve the Blossom Valley Dumpster Day scheduled on September 14, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;  
(f) Approve the In-Person Talk with Batra scheduled on September 21, 2024 as a City Council sponsored Special Event and approve the expenditure of funds; and  
(g) 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 8/7/2024 - Item B.9]

Action: The City Council Sponsored Special Events were retroactively approved. (11-0-0)

### **3. STRATEGIC SUPPORT**

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

City Manager Jennifer Maguire provided the verbal report stating that on August 6<sup>th</sup>, San José hosted National Night Out. It's an annual event aimed at strengthening police-community partnerships and enhancing public safety, with 161 neighborhoods participating and nearly 200 police officers engaging with residents. The event was supported by both the Mayor and City Council, as a part of the San José Police Department's strategic goal to improve community collaboration and crime prevention.

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

None provided.

#### **3.3 Actions Related to Vice Mayor and Councilmembers' Travel to Dublin, Ireland for the Sister City Delegation.**

~~(a) Approval to consider the recommendation to waive a provision of Policy 9-5 limiting approval of travel to five Councilmembers pursuant to Policy 0-1, Council Policy Manual.~~

~~(b) Approve waiver of Council Policy 9-5 to allow more than five Councilmembers to attend the Dublin Sister City Trip and the cancellation of Council and Committee meetings due to lack of quorum.~~

(c) Approve travel to Dublin, Ireland, and requests for excused absences for the following Councilmembers from meetings due to Authorized City Business: City of San José Dublin Sister City Delegation:

(1) Councilmember Foley for travel on September 9 through 13 to be paid for from District 9 Council Office Budget, and excused from meetings for September 9, 2024 Special Transportation & Environment Committee, September 10, 2024 Regular City Council and September 11, 2024 Regular Rules & Open Government Committee.

(2) Vice Mayor Kamei for travel on September 9 through 12 to be paid for from District 1 Council Office Budget, and excused from meetings for September 10, 2024 Regular City Council, September 11, 2024 Regular Rules & Open Government Committee and September 12, 2024 the Cities Association of Santa Clara County Joint Powers Authority Board of Directors.

(3) Councilmember Jimenez for travel on September 9 through 12 to be paid for from District 2 Council Office Budget, and excused from meetings for September 10, 2024 Regular City Council and September 11, 2024 Regular Rules & Open Government Committee.

(4) Councilmember Davis for travel from September 9 through 12 to be paid for from District 6 Council Office Budget, and excused from meetings for September 9, 2024 Special Transportation & Environment Committee, September 10, 2024 Regular City Council, September 11, 2024 Regular Rules & Open Government Committee, September 12, 2024 Regular Neighborhood Services & Education Committee and September 12, 2024 Treatment Plant Advisory Committee.

~~(5) Councilmember Ortiz for travel on September 7 through 13 to be paid for from District 5 Council Office Budget, and excused from meetings for September 9, 2024 Special Transportation & Environment Committee, September 10, 2024 Regular City Council, September 11, 2024 Association of Bay Area Government Housing Committee, September 12, 2024 Regular Neighborhood Services & Education Committee, September 12, 2024 VTA Policy Advisory Committee, September 12, 2024 Cities Association of Santa Clara County Legislative Committee and September 13, 2024 County of Santa Clara Child~~

Abuse Prevention Council.

~~(6) Councilmember Torres for travel from September 7 through 13 to be paid for from District 3 Council Office Budget, and excused from meetings for September 10, 2024 Regular City Council and September 12, 2024 Regular Neighborhood Services & Education Committee.~~

(d) Approve Pam Foley as a Delegation Leader and for related travel costs to be paid for from the Mayor/Council Travel Budget; and

(e) Approve the receipt of gifts received by the Sister City Delegation in an official capacity as a representative of the City in accordance with San José Municipal Code Section 12.08.120.B.

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

[Rules Committee referral 8/7/2024 - Item A.1.a]

Public Comment: Azazel Holmkuist provided public comment.

Councilmembers Omar Torres and Councilmember Peter Ortiz requested to be removed from consideration for travel approval to Dublin, Ireland.

Action: Upon motion by Councilmember Omar Torres, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, *only* the following Staff recommendations were approved;

(c) Approve travel to Dublin, Ireland, and requests for excused absences for the following Councilmembers from meetings due to Authorized City Business: City of San José Dublin Sister City Delegation:

(1) Councilmember Foley for travel on September 9 through 13 to be paid for from District 9 Council Office Budget, and excused from meetings for September 9, 2024 Special Transportation & Environment Committee, September 10, 2024 Regular City Council and September 11, 2024 Regular Rules & Open Government Committee.

(2) Vice Mayor Kamei for travel on September 9 through 12 to be paid for from District 1 Council Office Budget, and excused from meetings for September 10, 2024 Regular City Council, September 11, 2024 Regular Rules & Open Government Committee and September 12, 2024 the Cities Association of Santa Clara County Joint Powers Authority Board of Directors.

(3) Councilmember Jimenez for travel on September 9 through 12 to be paid for from District 2 Council Office Budget, and excused from meetings for September 10, 2024 Regular City Council and September 11, 2024 Regular Rules & Open Government Committee.

(4) Councilmember Davis for travel from September 9 through 12 to be paid for from District 6 Council Office Budget, and excused from meetings for September 9, 2024 Special Transportation & Environment Committee, September 10, 2024 Regular City Council, September 11, 2024 Regular Rules & Open Government Committee, September 12, 2024 Regular Neighborhood Services & Education Committee and September 12, 2024 Treatment Plant Advisory Committee.

(d) Approve Pam Foley as a Delegation Leader and for related travel costs to be paid for from the Mayor/Council Travel Budget; and

(e) Approve the receipt of gifts received by the Sister City Delegation in an official capacity as a representative of the City in accordance with San José Municipal Code Section 12.08.120.B. (11-0-0)



### 3.4 Adoption of Statement of Policy and City Council Questions for the Prospective Chief of Police.

Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Chief of Police as described in the staff memorandum, 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: Azazel Holmkuist provided public comment.

Councilmember Sergio Jimenez requested to add the following question related to the selection of a prospective Chief of Police: *How would you collaborate with unhoused focused departments, teams, and organizations to address and manage the challenges associated with homelessness?*

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, a Statement of Policy and City Council Questions related to the selection of a prospective Chief of Police were adopted, including the following question: *How would you collaborate with unhoused focused departments, teams, and organizations to address and manage the challenges associated with homelessness?* (11-0-0)

### 3.5 Fiscal Year 2024-2025 Property Tax Levy for General Obligation Bonds.

Adopt a resolution establishing the Fiscal Year 2024-2025 property tax levy on all taxable property within the City of San José for the purpose of funding the City's general obligation bonded indebtedness and to pay the respective administration fee to the County of Santa Clara.

CEQA: Statutorily Exemption, File No. PP17-005, Adjustment to Fees, Rates and Fares without changes to or expansion of services. (Finance)

Public Comment: None provided.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Pam Foley, and carried unanimously, **Resolution No. RES2024-291** was adopted, establishing the Fiscal Year 2024-2025 property tax levy. (11-0-0)

### 3.6 Public Hearing for the Fiscal Year 2024-2025 Annual Residential Solid Waste Collection Service Charges to be Placed on the 2024-2025 Santa Clara County Secured Property Tax Roll.

(a) Conduct a public hearing on the Fiscal Year 2024-2025 annual report prepared by the Director of Finance detailing the Residential Solid Waste Collection Service Charges filed with the City Clerk's Office.

(b) Adopt a resolution confirming the approval of the report and the placement of charges as set forth therein on the 2024-2025 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates and Fares without changes to or expansion of services. (Finance)

Public Comment: None provided.

Rick Bruneau, Director, Finance Department, offered the presentation and responded to questions

Action: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, (a) the public hearing was conducted, and (b) **Resolution No. RES2024-292** was adopted, confirming the approval of the report and the placement of charges as set forth. (11-0-0)

**3.7 Public Hearing for the Fiscal Year 2024-2025 Sanitary Sewer Service and Use Charge and Storm Sewer Service Charge Assessments to be Placed on the 2024-2025 Santa Clara County Secured Property Tax Roll.**

(a) Conduct a public hearing on the Fiscal Year 2024-2025 annual report prepared by the Director of Finance detailing the Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges filed with the City Clerk's Office.

(b) Adopt a resolution confirming the approval of the report and the placement of the charges as set forth therein on the 2024-2025 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates and Fares without changes to or expansion of services. (Finance)

Public Comment: None provided.

Rick Bruneau, Director, Finance Department, offered the presentation and responded to questions.

Action: Upon motion by Councilmember Bien Doan, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, (a) A public hearing was conducted, and (b) **Resolution No. RES2024-293** was adopted, confirming the approval of the report and the placement of the charges as set forth. (11-0-0)

**4. PUBLIC SAFETY**

**5. TRANSPORTATION & AVIATION SERVICES**

**6. ENVIRONMENTAL & UTILITY SERVICES**

**6.1 San José Clean Energy 2024 Mid-Year Rates.**

Adopt a resolution:

(a) Establishing updated San José Clean Energy rates, inclusive of the Power Charge Indifference Adjustment and Franchise Fee Surcharge, for GreenSource, TotalGreen, and SJ Cares according to the rate schedule set forth in Attachments A, B, and C in the staff memorandum, effective August 15, 2024; and

(b) Establishing a Residential Super Off-Peak Charging Rate Pilot Program that creates a new rate plan called E-ELEC-SJ with a new time-of-use period from 9 a.m. to 2 p.m. for the period of one year.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates and Fares, resulting in no changes to the physical environment. (Energy)

Presentation from Zach Struyk, Assistant Director, Community Energy Department; and Lori Mitchell, Director of Community Energy Department, provided the presentation and answered questions.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. RES2024-294** was adopted, (a) establishing updated San José Clean Energy rates, and (b) establishing a Residential Super Off-Peak Charging Rate Pilot Program. (11-0-0)

## **6.2 Amendment to Council Policy 1-24, San José Clean Energy Financial Reserves Policy.**

Adopt a resolution amending Council Policy 1-24, San José Clean Energy Financial Reserves Policy, to establish a Rate Stabilization Reserve for the San José Clean Energy program and make technical and clarifying changes.

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

Zach Struyk, Assistant Director, Community Energy Department; Rick Bruneau, Director, Finance Department; and Jennifer Stevenson, Principal Accountant, Community Energy Department, offered the presentation and answered questions.

Public Comment: Victor Niemeyer provided public comment.

Action: Upon motion by Councilmember David Cohen, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, **Resolution No. RES2024-295** was adopted, amending Council Policy 1-24. (11-0-0)

## **7. NEIGHBORHOOD SERVICES**

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

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

### **• Open Forum**

*If the afternoon Regular Session agenda items are completed after 5:00 p.m., this Open Forum will be held at the end of the full meeting. Members of the Public may only speak at Open Forum once.*

### **• Council will recess until 6:00 p.m.**

## **10. LAND USE**

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

#### **No Land Use Items on Consent Calendar**

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**END OF CONSENT CALENDAR****10. Land Use - Regular Agenda****10.2 H22-022 & ER22-113 - Public Hearing on the Environmental Appeal of the 865 Embedded Way Industrial Project Initial Study supporting a Mitigated Negative Declaration as the Environmental Clearance for Approval of a Site Development Permit.**

(a) Conduct a Public Hearing to consider the environmental appeal of the Planning Director's adoption of the 865 Embedded Way Industrial Project Initial Study supporting a Mitigated Negative Declaration (MND) in accordance with the California Environmental Quality Act (CEQA) for a Site Development Permit (File Nos. H22-022, ER22-113) to allow the construction of a one-story 121,400 square foot industrial building and a surface parking lot on a vacant 10.17-acre site.

(b) Adopt a resolution denying the environmental appeal and upholding the Planning Director's adoption of the 865 Embedded Way Industrial Project MND in accordance with CEQA, as amended, and finding that:

(1) The City Council has independently reviewed and analyzed the MND for the 865 Embedded Way Industrial Project, and related administrative records for Site Development Permit No. H22-022;

(2) The MND for the 865 Embedded Way Industrial Project was prepared and completed in full compliance with CEQA, as amended, together with state and local implementing guidelines;

(3) Adoption of the MND for the 865 Embedded Way Industrial Project reflects the independent judgment and analysis of the City of San José, as the lead agency for the Project; and

(4) Preparation of a new, subsequent, or supplemental environmental document is not required because the appeal does not raise any new significant impacts that have not already been analyzed or addressed in the 865 Embedded Way Industrial Project MND in accordance with Public Resources Code (PRC) Section 21083 or CEQA Guidelines Sections 15073 and 15185.

CEQA: Initial Study/Mitigated Negative Declaration for the 865 Embedded Way Industrial Project, Project File No. ER22-113. Council District 2. (Planning, Building, and Code Enforcement)

David Keyon, Principal Planner, Planning, Building, and Code Enforcement offered the presentation and responded to questions.

Jeremy Herwitt, representative of Carpenters Local Union 405 and representative of the appellant provided comment to Council.

Ian Hocker, Oppidan Investment Company, and representative of the applicant, provided comment to Council.

Public Comment: None provided.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, (a) the Public Hearing was conducted, and (b) **Resolution No. RES2024-296** was adopted, denying the environmental appeal and upholding the Planning Director's adoption. (11-0-0)

*Mayor Matt Mahan announced that Council would recess until 6:00 P.M.; Council reconvened at 6:06 P.M.*

**10.3 PDC21-035, PT22-003, PD22-002 & ER21-284 – Planned Development Rezoning, a Vesting Tentative Map, and a Planned Development Permit on Certain Real Property Located at 0 Seely Avenue. – NOT HEARD BEFORE 6:00 P.M.**

(a) Adopt a resolution certifying the 0 Seely Avenue Mixed-Use Project Environmental Impact Report, and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and a related mitigation monitoring and reporting plan, in accordance with the California Environmental Quality Act, as amended.

(b) Approve an ordinance rezoning certain real property of an approximately 22.88-gross-acre site situated at the northeasterly corner of Montague Expressway and Seely Avenue (APNs 097-15-033 & 034 & 097-66-004) from the IP Industrial Park Zoning District to an IP(PD) Planned Development Zoning District.

(c) Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to subdivide three parcels into 48 parcels (32 buildable parcels, and 16 common parcels) and to allow up to 154 residential condominium units and up to six commercial condominium units on an approximately 22.88-gross-acre site.

(d) Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of two residences, a fruit stand, and ancillary structures totaling approximately 19,820 square feet and the removal of 584 trees (261 ordinance size and 323 non-ordinance-size, with 1,085 replacement trees) for the construction of a mixed-use development consisting of 1,472 multifamily residential units, approximately 18,965 square feet of commercial space, a 2.5-acre public park, up to six commercial condominium units, and Saturday construction hours from 8:00 AM to 5:00 PM on an approximately 22.88-gross-acre site.

CEQA: Environmental Impact Report for the Seely Avenue Mixed-Use Project, File No. ER21-284. Planning Commission recommends approval (10-1; Garcia opposed) (Item 5.a. on the 6/26/2024 Planning Commission agenda). Council District 4. (Planning, Building and Code Enforcement).

Chris Burton, Director, Planning, Building and Code Enforcement; David Keyon, Principal Planner, Planning, Building and Code Enforcement; and John Tu, Division Manager, Planning, Building and Code Enforcement offered the presentation and responded to questions.

Eric Schoennauer, representative of the applicant Hanover Company, offered the presentation and responded to questions. The applicant received five minutes to speak.

Public Comment: John, Rod Diridon Sr., Craig S., Ben Leech, Kelilah Federman, Doug Chasshire, Miguel Lopez, Sam Farb, Vanessa Hatakuyama, Nancy Okamoto, Mike Sodergren, Armando, Jordan Moldow, and Mario provided public comment. Raymond Costantino, Deputy Director, Parks, Recreation and Neighborhood Services, responded to questions.

Bill Schroh, Jr., President and CEO at History San Jose, responded to questions.

Motion: Councilmember David Cohen moved approval of the following:

- His *amended* memorandum dated August 13, 2024, with the following change to recommendation 3: “3. Encourage continued robust discussion regarding design of the park and how to make sure the park is designed in such a way as to pay tribute to the history of the Eiichi Sakauye family farm, his internment during WWII and his leadership in the San Jose community, *including the potential preservation of all or part of the house on site.*”
- The amended joint memorandum co-authored by Mayor Mahan, Councilmember Candelas, Councilmember Cohen, and Councilmember Ortiz, dated August 13, 2024 with the following change to Recommendation 2(a): “a. Work with NorCal Carpenters *and other building trades*, to make sure union contractors are informed of the availability of bid documents.
- Including the following amendment to Resolution No. RES2024-297, section 5 on page 26: “c. Finding: Alternative 5 would reduce the severity of Impact CR-1 and would eliminate the impact to the Sakauye house specifically. However, Impact CR-1 would remain significant and unavoidable because the other 6 structures that contribute to the eligibility of the potential historic district would still be removed. Although Alternative 5 would provide 4 fewer dwelling units than the Project, it would still have a density of approximately 81 du/acre and would therefore satisfy Project objective 2 by meeting the minimum density requirements for the North San José TERO. Because all other aspects of the Project would remain the same under Alternative 5, all other Project objectives would be met and all other impacts would remain the same. ~~Additionally, Alternative 5 would present severe financing challenges to the Project, such that no reasonably prudent person would proceed with Alternative 5.~~ The economic value of for-sale townhomes is a critical subsidy for the high infrastructure and land costs that cannot be absorbed by other Project elements, including high density multifamily units in the current economic environment. Eliminating a number of townhomes, as Alternative 5 requires, thus presents an insurmountable financing obstacle for the infrastructure needed for both the affordable and market rate rental units. Therefore, because Alternative 5 would not reduce any significant impacts to less than significant levels, would provide a Project with fewer housing units, and would render the Project economically infeasible, this alternative is rejected.”

-Councilmember Bien Doan seconded the motion.

Friendly Amendment: Councilmember Omar Torres made a friendly amendment to modify Recommendation 2(c) of the joint memorandum co-authored by Mayor Mahan, Councilmember Candelas, Councilmember Cohen, and Councilmember Ortiz memorandum, dated August 13, 2024 to state as follows: c. Continue to cooperate with *Japanese American Museum of San José*, PAC\**SJ*’s and History San Jose’s efforts to relocate the historic Sakauye Farmstead to History Park and contribute \$100,000 toward the cost of relocation. The friendly amendment was accepted by the maker of the motion and the seconder.

Scott Youdall, Hanover Company, responded to questions.

Friendly Amendment: Vice Mayor Rosemary Kamei made a friendly amendment to further modify Recommendation 3 of Councilmember Cohen’s memorandum, dated August 13, 2024, to include the following: 3. Encourage continued robust discussion regarding design of the park and how to make sure the park is designed in such a way as to pay tribute to the history of the Eiichi Sakauye family farm, his internment during

WWII and his leadership in the San Jose community, *including the preference to keep potential preservation of all or part of the house on site*. The friendly amendment was accepted by the maker of the motion and the seconder.

Action: On a call to question, the motion carried unanimously, (a) **Resolution No. RES2024-297** (with the amendment noted above regarding section 5 on page 26 of Resolution No. RES2024-297), (b) **Ordinance No. 31115**, (c) **Resolution No. RES2024-298**, and (d) **Resolution No. RES2024-299**, were adopted regarding the Planned Development Rezoning, a Vesting Tentative Map, and a Planned Development Permit on Certain Real Property Located at 0 Seely Avenue. The below actions were taken as indicated:

Including the *amended* memorandum authored by Councilmember David Cohen, dated August 13, 2024, recommending the following:

1. Accept the recommendations in our joint memo co-authored by Mayor Mahan, Councilmember Candelas and Councilmember Ortiz.
2. Amend recommendation 1b in the previous group memo to “Align the nesting bird study area to the guidelines set forth in the EIR. The zone of influence will be determined by the qualified ornithologist/biologist in the field at the time of the survey based on assessment of aerial imagery and current conditions surrounding the Project site, and potential for proposed Project activities to result in impacts to nesting birds.
3. Encourage continued robust discussion regarding design of the park and how to make sure the park is designed in such a way as to pay tribute to the history of the Eiichi Sakauye family farm, his internment during WWII and his leadership in the San Jose community, *including the preference to keep potential preservation of all or part of the house on site*.

Also including the amended joint memorandum co-authored by Mayor Mahan, Councilmember Candelas, Councilmember Cohen, and Councilmember Ortiz, dated August 13, 2024, including the following changes:

Accept the staff recommendation with the following amendments and additions:

1. Amend the mitigations for potential impacts to nesting birds to reflect:
  - a. Surveys for migratory nesting birds shall be conducted by a qualified ornithologist or biologist no more than 14 days prior to any site disturbance or construction that starts during the entire nesting season between February 1 and August 31.
  - b. The survey radii for migratory nesting birds surrounding the work area shall encompass 250 feet for passerines, 500 feet for small raptors, and 1,000 feet for larger raptors.
  - c. If active nests are documented within the project area or in nearby surrounding areas, an appropriate buffer between the nest and construction activities should be established, marked, and maintained until the young have fledged and are foraging independently.
2. Require the developer to:
  - a. Work with NorCal Carpenters *and other building trades*, to make sure union contractors are informed of the availability of bid documents
  - b. Conduct traffic impact studies on the River Oaks area and provide up to \$450,000 in funding for traffic mitigation.
  - c. Continue to cooperate with *Japanese American Museum of San José*, PAC\*SJ's and History San Jose's efforts to relocate the historic Sakauye Farmstead to History Park and contribute \$100,000 toward the cost of relocation. (10-0-1; Absent: Davis)

## • Open Forum - continued from the afternoon

*Mayor Matt Mahan announced that Open Forum would also be open to comments relating to Item 10.2 due to confusion over when the item would be heard.*

1. Kelilah Federman, Silicon Valley Residents for Responsible Development, provided comments on behalf of the appellant in Item 10.2.
2. Mike Sodergren provided public comment regarding unoccupied properties in San Jose.

## • Adjournment

The Council of the City of San José adjourned at 7:59 p.m. This meeting is adjourned in memory of Dr. David Ebersole, master educator, photographer, actor, and musician, who passed away Sunday, May 19, 2024. He was an amazing teacher at LeyVa Middle School in the East Side of San José, sharing his knowledge and love of the arts with his students for decades.

Minutes Recorded, Prepared and Respectfully Submitted by,

*Daniel Aguilar*

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Daniel Aguilar  
Deputy City Clerk, City of San José

Approved at Council on: 8/12/2025

# of Actions: 10

Attest By:



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



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## • Notice of City Engineer's Pending Decision on Final Maps

### **FOR RECEIPT**

Tract: 10607

Location: East of Camden Avenue (from Canna Lane to Malpas Drive)

District: 10

Lots/Units: 7/7

Type: SFD

Developer: NewWorld Investment Group Inc.

Tract: 10625

Location: Approximately 120 ft South of Kettmann Road and Dashwood Avenue intersection

District: 8

Lots/Units: 6/6

Type: SFD

Developer: Viam Kettmann Partners LLC

### **FOR APPROVAL**

Tract: 10607

Location: East of Camden Avenue (from Canna Lane to Malpas Drive)

District: 10

Lots/Units: 7/7

Type: SFD

Proposed Decision: Approved

Developer: NewWorld Investment Group Inc.



NORA FRIMANN, CITY ATTORNEY

*Office of the City Attorney***SAN JOSÉ CITY COUNCIL CLOSED SESSION AGENDA****August 13, 2024**

Present: Councilmembers: Mahan, Torres, Ortiz, Doan, Candelas, Batra.

Absent Councilmembers: Foley, Davis, Cohen, Jimenez, Kamei

Place: City Hall Conference Room W-133

Time: 9:32 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 Woeste

Name(s) of Party(ies)

Court: Worker's Compensation Appeals Court

Case No:

Amount of Money or Other Relief Benefits  
Sought:**2.** Case Name: In re: Claim of Gutierrez

Name(s) of Party(ies)

Court: Worker's Compensation Appeals Court

Case No: ADJ13828937.

Amount of Money or Other Relief Benefits  
Sought:**3.** Case Name: Medina, Juan Claudio v. City of San Jose, et al.Name(s) of Party(ies) JUAN MEDINA, CITY OF SAN JOSE,  
MIRABAUD re DISTRICT 237 LLC

Court: Santa Clara County Superior Court

Case No: :24-cv-431005

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

4. Case Name: Paredes, Anthony v. City of San Jose, et al.  
Name(s) of Party(ies) ANTHONY PAREDES, CITY OF SAN JOSE, OFFICERS MICHAEL JEFFREY, KYLE ALLEMAN, BRET HATZENBUHLER, AND SHAYNA NAIL  
Court: Northern District of CA – San Jose Division  
Case No: 5:22-cv-00758-PCP  
Amount of Money or Other Relief Sought: Damages according to proof
5. Case Name: Baca, David v. City of San Jose; et al.  
Name(s) of Party(ies) DAVID BACA, SERGEANT JONATHAN ANDERSON, BRETT MICHAEL WEIDNER  
Court: U.S District Court Northern District -San Francisco  
Case No: 3:22-cv-02461-WHO  
Amount of Money or Other Relief Sought: Undetermined
6. Case Name: Sainte Claire Historic Preservation Foundation v. City of San Jose, et al.  
Name(s) of Party(ies) SAINTE CLAIRE HISTORIC PRESERVATION FOUNDATION, A CALIFORNIA CON-PROFIT CORPORATION; CITY OF SAN JOSE, CITY COUNCIL OF THE CITY OF SAN JOSE, AND CITY OF SAN JOSE DEPARTMENT OF PARKS, RECREATION, AND NEIGHBORHOOD SERVICES, FRIENDS OF LEVITT PAVILION SAN JOSE (erroneously sued as LEVITT PAVILION SAN JOSE)  
Court: Santa Clara County Superior Court and Sixth District Court of Appeal  
Case No: 20CV374459 and H050106  
Amount of Money or Other Relief Sought: Damages according to proof
7. Case Name: City of San Jose v. Amerisourcebergen Drug Corporation; Cardinal Health, Inc.; Mckesson Corporation; et al.

Name(s) of Party(ies) THE PEOPLE OF THE STATE OF CALIFORNIA,  
EX REL., CITY OF SAN JOSE,  
AMERISOURCEBERGEN DRUG  
CORPORATION; CARDINAL HEALTH, INC.;  
MCKESSON CORPORATION; PURDUE  
PHARMA L.P.; PURDUE PHARMA, INC.; THE  
PURDUE FREDERICK COMPANY, INC.; TEVA  
PHARMACEUTICAL INDUSTRIES, LTD.; TEVA  
PHARMACEUTICALS USA, INC.; CEPHALON,  
INC.; JOHNSON & JOHNSON; JANSSEN  
PHARMACEUTICALS, INC.; ORTHO-MCNEIL-  
JANSSEN PHARMACEUTICALS, INC. N/K/A  
JANSSEN PHARMACEUTICALS, INC.; JANSSEN  
PHARMACEUTICA INC. N/K/A JANSSEN  
PHARMACEUTICALS, INC.; NORAMCO, INC.;  
ENDO HEALTH SOLUTIONS INC.; ENDO  
PHARMACEUTICALS, INC.; ALLERGAN PLC  
F/K/A ACTAVIS PLS; WATSON  
PHARMACEUTICALS, INC. N/K/A ACTAVIS,  
INC.; WATSON LABORATORIES, INC.;  
ACTAVIS LLC; ACTAVIS PHARMA, INC. F/K/A  
WATSON PHARMA, INC.; MALLINCKRODT  
PIC; MALLINCKRODT LLC; INSYS  
THERAPEUTICS, INC; CVS HEALTH CORP.;  
THE KROGER CO.; RITE AID OF MARYLAND,  
INC.; THRIFTY PAYLESS, INC.; WALGREENS  
BOOTS ALLIANCE, INC.; WAL-MART, INC

Court: United States District Court, Northern District of  
California

Case No: 5:19-cv-04529-NC

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

**B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:**

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

1. Claimants(s): In re Claim of Lawrence Liang  
City Department: PRNS

**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