



City Council Meeting MINUTES

Tuesday, February 9, 2021

1:30 PM

Virtual Meeting - <https://sanjoseca.zoom.us/j/91325378626>

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



MINUTES OF THE CITY COUNCIL

FEBRUARY 9, 2021

Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79450 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the City Council meeting was not physically open to the public. Public comments were accepted via eComment, email, by phone and webinar.

The Council meeting was teleconferenced from remote locations.

21-222 **CLOSED SESSION: All Present.**

9:30 a.m. Special Meeting Closed Session

21-293 **Special Meeting Closed Session**

The Council of the City of San José convened into Open Session at 1:32 p.m.

• Call to Order and Roll Call

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

Absent: Councilmembers - All present.

6:00 p.m. - Evening Session –*The previously scheduled Evening Session was cancelled.*

• Pledge of Allegiance

Mayor Sam Liccardo led the Pledge of Allegiance.

• Invocation (District 2)

Youth Empowerment Educator, Activist, and Community Leader LaToya provided the Invocation.

• Orders of the Day

The Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: Carrasco.)

Councilmember Raul Peralez expressed words of remembrance for Wanda Irene Alexander Broadie, former longtime CEO of ACT for Mental Health and community leader, noting this meeting would be adjourned in her honor.

- Closed Session Report

None provided.

1. CEREMONIAL ITEMS

2. CONSENT CALENDAR

Upon motion by Councilmember Matt Mahan, seconded by Councilmember Maya Esparza and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated.

Public Comments: Blair Beekman spoke on community energy, a sustainable democracy and the need for a VTA advertising review committee.

2.2 21-246

Final Adoption of Ordinances.

(a) Ordinance No. 30522 - An Ordinance of the City of San José Enacting a Temporary Moratorium on No-Cause Evictions and Evictions Due to Nonpayment of Rent for Residential Tenants Where the Failure to Pay Rent Results From Income Loss Resulting From the Novel Coronavirus (COVID-19).

[Passed for Publication on 1/26/2021- Item 8.3(c) (21-189)]

(b) Ordinance No. 30524 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.90 Gross Acre Located at the Southwest Corner of West San Carlos Street and Gifford Avenue (470 West San Carlos Street) (APNs: 264-20-082, 264-20-083, 264-20-084, 264-20-085, 264-20-086, 264-30-087) from the Li Light Industrial Zoning District and R-2 Two Family Residence Zoning District to the DC Downtown Primary Commercial Zoning District.

[Passed for Publication on 1/26/2021- Item 10.3(c) (21-137)]

(c) Ordinance No. 30525 - An Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 8.6 Gross Acres on a Portion Generally Bounded by Brooktree Way, Bret Hart Drive, Queenswood Way, and Hampswood Way; a Portion South of Hampswood Way, Approximately 260 Feet Easterly of Hampswood Court; a Portion Northerly of Portswood Drive, Approximately 380 Feet Easterly of Belder Drive; a Portion Generally Bounded by the South of Portswood Drive and Along the North Side of Raich Drive into the North Terminus of Cahen Drive; a Portion Generally Bounded by the South of Raich Drive, West of Cahen Drive and North of McKean Road (790 Portswood Drive and 0 Bret Hart Drive) (APNs: 701-48-057; 701-58-048) from the A Agriculture Zoning District and Unzoned Properties to the R-1-5 Single Family Residence Zoning District. [Passed for Publication on 1/26/2021- Item 10.4(c) (21-131)]

Action: Ordinance No. 30522, Ordinance No. 30524 and Ordinance No. 30525 were adopted. (11-0.)

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 21-238

Settlement of Anderson v. City of San José.

Approve a settlement of Petitioner's claim for attorneys' fees and costs in the amount of \$591,598.42 and authorize the City Attorney to execute a Settlement Agreement to settle Petitioner's claim for attorneys' fees and costs related to the case of Anderson v. City of San José. CEQA: Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Action: The Settlement of Anderson v. City of San José was approved. (11-0.)

2.8 21-224

Terms of Side Letter Agreement Between the City of San José and the City Association of Management Personnel, IFPTE, Local 21 (CAMP) and Amendments to Pay Plan.

Adopt a resolution to:

- (a) Approve the terms of a side letter agreement between the City and CAMP to provide employees in the Chief of Surveys (3783) classification with an approximate 20.20% base pay increase and provide employees in the Land Surveyor (3875) classification with an approximate 0.77% base pay increase effective February 21, 2021;
- (b) Amend the Pay Plan to increase the annual salary range of the classification of Chief of Surveys (3783) to \$102,381.55 - \$124,757.98, effective February 9, 2021; and
- (c) Amend the Pay Plan to increase the annual salary range of the classification of Land Surveyor (3875) to \$116,622.33 - \$142,047.00, effective February 9, 2021.

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

Action: **Resolution No. 79887** approving the terms of a side letter agreement was adopted. (11-0.)

2.9 21-237

Amendment to the Agreements with Team San José for Meals to Unhoused Individuals. - DEFERRED

(a) Adopt a resolution authorizing the City Manager to negotiate and execute Fourth Amendments to the two Agreements to Provide Meals for a Limited Duration between the City of San José and Team San Jose (San José, CA) to compensate Team San Jose for providing meals to unhoused individuals by retroactively adding an additional option to extend the term to January 31, 2021, with no increase to the maximum aggregate compensation amount of \$3,338,469, with \$2,545,133 for service in San José and \$793,336 for service in Santa Clara County and outside of San José.

(b) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution Amendments in the Emergency Reserve Fund:

(1) Increase the appropriation to the City Manager's Office for

COVID-19 Emergency Response in the amount of \$2,250,000; and

(2) Increase the estimate for Revenue from Federal Government in the amount of \$2,250,000.

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

Deferred to 2/23/2021 per Administration

2.10 21-225

Community Energy Department Staffing Additions.

Approve the following additions to the Community Energy Department staffing in Fiscal Year 2020-2021:

(a) Job Classification: Principal Power Resources Specialist (FTE: 1.0)

(b) Job Classification: Power Resources Specialist I/II (FTE: 1.0)

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

Action: Community Energy Department Staffing Additions were approved. (11-0.)

2.11 21-226 Actions Related to the Gallup-Mesa Development for Affordable Housing Project Located at 5647 Gallup and 1171 Mesa Drive.

(a) Approve a grant deed reflecting a lot line adjustment on City-owned property located at 5647 Gallup and 1171 Mesa Drive for the development of the Gallup-Mesa affordable housing project by Eden Housing, Inc. or its affiliate under the terms and conditions of the proposed leasehold restrictions, option and ground lease.

(b) Adopt a resolution authorizing the Director of Housing to negotiate and execute a change in City Loan terms for the Gallup-Mesa development in order to allow an increase in the Development's rents and income up to 60% of the Area Median Income (or low income threshold) for new tenants in the event of the expiration or termination of subsidy contracts, and for all tenants in the event of a foreclosure, to the extent the City has determined such increase is needed for feasibility of the Development.

CEQA: Exempt per Public Resources Code section 21080(b)(1) and CEQA Guidelines section 15369 Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. (Housing)

Councilmember Mahan offered accolades to Eden Housing and everyone involved in this project.

Public Comments: (1) Paul Soto spoke to housing development needs of economically disadvantaged. (2) Blair Beekman offered appreciation for low-income housing ideas.

Action: Upon motion by Councilmember Matt Mahan, seconded by Councilmember Dev Davis and carried unanimously, actions related to the grant deed were approved, and (b) **Resolution No. 79888** negotiating a change in City Loan terms was adopted. (11-0.)

2.12 21-245 Approval of Teen Dating Violence Awareness Month Sponsored by Council District 8 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 January 27, 2021:

(a) Approve February 2021 as Teen Dating Violence Awareness Month scheduled on February 9, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

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

Councilmember Sylvia Arenas spoke to the "Know Your Worth" movement and raising awareness of healthy relationships for our youth. She introduced members of Maitri Bay Area who presented a video bringing awareness to relationship abuse and violence.

Public Comments: (1) Paul Soto thanked Councilmember Arenas for bringing this item forward and addressed his own experience reflecting that the PD responds differently when a victim is male. (2) A Member of Maitri Bay Area spoke to far-reaching repercussions of abuse and need for equitable responses.

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

2.13 21-260 Agreement with Santa Clara Valley Transportation Authority for Bus Shelter Advertising Revenue.

Approve an Agreement between the City of San José and Santa Clara Valley Transportation Authority to share bus shelter advertising revenue generated from bus shelters located in the City of San José retroactive from January 1, 2018 through December 31, 2021.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works) [Deferred from 2/2/2021 - Item 2.8 (21-176)]

Action: The agreement with Santa Clara Valley Transportation Authority was approved. (11-0.)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, David Sykes (Verbal Report)

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 21-227 Approval of the 2020-2021 Mid-Year Budget Review Report.

(a) Approve the 2020-2021 Mid-Year Budget Review Report.

(b) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2020-2021 Mid-Year Budget Review Report.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action; and File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager)

Budget Director Jim Shannon and Finance staff members Selena Ubando, Bonny Duong, Claudia Chang and Bryce Ball provided a presentation and responded to questions.

Public Comments: Paul Soto spoke on need to view budgetary needs through an equity lens.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis and carried unanimously, the 2020-2021 Mid-Year Budget Review Report was approved, and (b) Appropriation **Ordinance No. 30531** and Funding Sources **Resolution No. 79889** were adopted. (11-0.)

3.4 21-228 Actions Related to Agreements for Reimbursement of Food and Necessities Distribution Services. - DEFERRED

(a) Accept the report on the update on the Interagency Food Distribution.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute Agreements for Reimbursement of Food and Necessities Distribution Services with the following cities: Campbell, Cupertino, Gilroy, Los Altos, Los Gatos, Milpitas, Monte Serreno, Morgan Hill, Mountain View, Palo Alto, City of Santa Clara, Saratoga, and Sunnyvale, for various meal preparation, delivery and grocery distribution services from March 18, 2020 through September 30, 2020, for \$1,958,446.70 including the amounts specified in Table 2.0 of the staff memorandum with each jurisdiction and based on the same terms and conditions.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager) [Deferred from 1/26/2021 - Item 3.5 (21-142)]

Deferred to 2/23/2021 per Administration

3.5 21-229 City's COVID-19 Response: Emergency Rental Assistance Program.

Accept the staff report on the City's implementation of the federally funded COVID-19 Emergency Rental Assistance Program.

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

Assistant to City Manager, Michele McGurk and Deputy Director of Housing, Ragan Henninger gave a presentation, and Jennifer Loving – Destination: Home provided additional information.

Public Comments: (1) Blair Beekman urged good state-funding practices. (2) Anil Babbar, California Apartment Association, spoke to their partnership with the City. (3) Mitch Mankin, SV@Home spoke to protecting vulnerable residents of City. (4) Brian Darby advocated for access to online resources and providing resources for emotional help. (5) Julian Castro, Working Partnerships, offered support. (6) Tim Beaubien (Santa Clara County Association of Realtors) expressed support. (7) Paul Soto recommending implementing Option "C", consistent with the County's approach.

Motion: Councilmember Maya Esparza moved approval of the staff report with the hybrid Option "C". Councilmember Sylvia Arenas seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the staff report on the City's implementation of the federally funded COVID 19 Emergency Rental Assistance Program, "Hybrid Program - Option C" was accepted, directing the City to administer a local program with the \$30 million received directly from the federal government. The State would administer the \$32 million allocated for San José landlords and tenants. The local program would not have to follow the 80 percent/25 percent model, with the burden for preventing duplication of benefits on the City. (11-0.)

3.6 21-230 Master Consultant Agreements with GHD Inc., and Brown and Caldwell for the City’s Planning and Implementation of the Green Stormwater Infrastructure Plan.

Approve master agreements with GHD Inc. and Brown and Caldwell to support the City of San José’s planning and implementation of Green Stormwater Infrastructure (GSI) Plan from the date of execution through February 28, 2026, with each agreement not to exceed \$5,000,000. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action, and File No. PP17-003 - Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember David Cohen and carried unanimously, the master agreements with City’s Planning and Implementation of the Green Stormwater Infrastructure Plan were accepted. (11-0.)

4. PUBLIC SAFETY SERVICES

4.1 21-231 Less-Than-Lethal Use of Force Options Report. - NOT TO BE HEARD BEFORE 5:00 P.M.

Accept a report on emerging less-than-lethal use of force options that could potentially reduce the need for the Police Department to rely upon the use of a baton, projectiles, or firearms. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Police)
Not To Be Heard Before 5:00 P.M.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sylvia Arenas and carried unanimously, the less-than-lethal use of force options report was accepted. (11-0.)

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 21-232 Legacy Lagoons Remediation Budget Actions.

Accept the following budget actions for the Legacy Lagoons Remediation Phase 2 project at the San José - Santa Clara Regional Wastewater Facility (RWF):
(a) Adopt the following 2020-2021 Appropriation Ordinance amendments in the Sewer Service and Use Charge Fund:
(1) Decrease the Transfer to the San José - Santa Clara Treatment Plant Operating Fund by \$23,241,040; and

(Item Continued on the Next Page)

6.1 (Cont'd.)

(a) (2) Increase the Unrestricted Ending Fund Balance in the amount of \$23,241,040.

(b) Adopt the following 2020-2021 Funding Sources Resolution and Appropriation Ordinance amendments in the San José - Santa Clara Treatment Plant Operating Fund:

(1) Decrease the Legacy Lagoons Remediation appropriation by \$36,800,000;

(2) Decrease the estimate for revenue from Transfers and Reimbursements by \$23,241,040; and

(3) Decrease the estimate for Revenue from Local Agencies by \$13,558,960.

CEQA: Addendum to the Environmental Impact Report for the San José/Santa Clara Water Pollution Control Plant Master Plan (Resolution No. 76858), Legacy Biosolids Lagoons Site Cleanup, File No. ER20-007. (Environmental Services/City Manager)

Action: Legacy Lagoons Remediation Budget Actions were accepted, with (a) Appropriation **Ordinance No. 30532** and (b) Appropriation **Ordinance No. 30533** and Funding Sources **Resolution No. 79890** were adopted. (11-0.)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-280 **Hazard Pay for Retail Food Workers.**

As recommended by the Rules and Open Government Committee on February 3, 2021 and directed by the City Council on February 2, 2021:

(a) Adopt an uncodified urgency ordinance requiring hazard pay for retail food workers that includes but is not limited to the following provisions:

(1) Guarantees hazard pay of an additional three dollars an hour for retail food workers;

(2) Applies to retail establishments that sell meats, poultry, dairy products, fresh fruits and vegetables and have at least 300 employees nationwide;

(3) Allows for a private right of action;

(4) Includes a credit for retail establishments that currently provide pay increases related to the COVID-19 pandemic;

(5) Includes an exemption for small business franchisees/publicly owned; and

(6) Commences immediately upon Council approval and continues for 120 days, at which point the Council will evaluate the impacts of the ordinance and decide whether to extend hazard pay for additional time.

PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)

(Item Continued on the Next Page)

8.1 (Cont'd.)

(b) Approve an uncodified ordinance requiring hazard pay for retail food workers that includes but is not limited to the following provisions:

- (1) Guarantees hazard pay of an additional three dollars an hour for retail food workers;
 - (2) Applies to retail establishments that sell meats, poultry, dairy products, fresh fruits and vegetables and have at least 300 employees nationwide;
 - (3) Allows for a private right of action;
 - (4) Includes a credit for retail establishments that currently provide pay increases related to the COVID 19 pandemic;
 - (5) Includes an exemption for small business franchisees/publicly owned; and
 - (6) Commences on the effective date of the ordinance and continues for 120 days, at which point the Council will evaluate the impacts of the ordinance and decide whether to extend hazard pay for additional time.
- CEQA: Not a Project, File No. PP17 010, City Organization & Administrative Activities resulting in no changes to the physical environment. (Jimenez) [City Council referral 2/2/2021 - Item 3.4 (21-256)] [Rules Committee referral 1/27/2021 - Item G.3 and 2/3/2021 - Item A.1.a]

Vice Mayor Chappie Jones indicated that Councilmember Pam Foley would be recusing herself from this item due to a conflict of interest. He also indicated that he had divested himself of the stock that may have caused a conflict and would therefore be able to vote on this item.

Public Comments: Paul Soto and Katherine Hedges expressed concerns regarding hazard pay being cut and the effects caused on marginalized communities. Allison spoke the devastating effects of COVID and need for hazard pay, and Elizabeth, Chairperson for the Board of Labor and Economic Development, spoke of inequality of how persons of color are particularly affected. Blair Beekman, John Gomez, Peter Ward, Dianna Zamora (South Bay Labor Council), Matt Mason (IFPTE Local 21), Brenda, Mirian, Maria Noel Fernandez and (Working Partnerships), Tawna Vargo (Unite Here Local 19) and Cindy also spoke to the need for hazard pay for grocery workers and other in the food service industries. Ashley Hoffman (California Chamber of Commerce) respectfully opposed the proposal noting unreasonable costs to businesses.

Motion for Item (a): Councilmember Matt Mahan moved approval of his memorandum dated February 9, 2021. The motion was seconded by Councilmember Dev Davis.

Action: The motion for Item (a) to adopt the uncodified urgency ordinance, failed on a 7-3-0-1 vote. (Noes: Cohen, Carrasco, Esparza, Arenas, Jones, Peralez, Jimenez. Recusal: Foley.)

Motion for Item (b): Councilmember Sergio Jimenez moved approval of his memorandum as noted below in "Action". Councilmember Sylvia Arenas seconded the motion.

Action: (b) **Ordinance No. 30534** an uncodified ordinance which commences on the effective date of the ordinance, passing for publication. In his motion, Councilmember Sergio Jimenez removed the inclusion of options in Section 5 M which would have allowed the Council to further define Grocery Store by the square footage dedicated by the business to the food as described in the ordinance, and rather go by number of employees. (7-3-0-1. Noes: Davis, Mahan, Liccardo. Recused: Foley.)

8.1 (Cont'd.)

Motion: Councilmember Matt Mahan moved approval of the urgency ordinance with the inclusion of Items 1 and 2 from his February 9, 2021 memo. Councilmember Dev Davis seconded the motion.

Action: The motion failed on a 7-3-0-1 vote. (Noes: Cohen, Carrasco, Esparza, Arenas, Jones, Peralez, Jimenez. Recusal: Foley.)

Motion: Councilmember Raul Peralez moved approval of the urgency ordinance with recommendations as indicated by Councilmember Sergio Jimenez. The motion was seconded by Councilmember Maya Esparza.

Action: The urgency ordinance as moved by Councilmember Raul Peralez and seconded by Councilmember Maya Esparza failed, due to the requirement of 8 or more affirmative votes. (7-3-0-1. Noes: Davis, Mahan, Liccardo. Recused: Foley.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

CONTINUE GENERAL PLAN HEARING (2020 THIRD CYCLE) FROM 1/26/2021

- (a) 21-233 **GPT19-006 - City-initiated General Plan Text Amendment to the Envision San José 2040 General Plan to Reference Climate Smart San José and Make Updates to Tracking of Measures Associated with the former Green Vision During the General Plan Annual Review Process.**

Adopt a resolution approving the General Plan Text Amendment to make modifications to the Envision San José 2040 General Plan to reference Climate Smart San José and make updates to tracking of measures associated with the former Green Vision during the General Plan annual review process.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (6-0-1; Bonilla absent). (Planning, Building and Code Enforcement)

Public Comments: Blair Beekman addressed hydrogen fuel cell use and asked to consider preparedness for natural disasters. (2) Paul Soto spoke to a history of gentrification, indicating the building infrastructure as suggested will only stratify the economy.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Maya Esparza and carried unanimously, **Resolution No. 79891** approving the General Plan Text Amendment to make modifications to the Envision San José 2040 General Plan was adopted. (11-0.)

10 Land Use - Regular Agenda

10.2 21-234 **GPT20-005 - City-initiated General Plan Text Amendment to Update Policy H-2.9 with Objective Standards and Make Clarifying Revisions to the Neighborhood/Community Commercial Land Use Designation.**

Adopt a resolution approving the General Plan Text Amendment to revise Policy H-2.9 in Chapter 4 and the Neighborhood/Community Commercial land use designation in Chapter 5 of the Envision San José 2040 General Plan.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617) and Addenda thereto. Planning Commission recommends approval (6-0-1; Bonilla absent) (Planning, Building and Code Enforcement)

Rosalynn Hughey, Director, Planning, Building and Code Enforcement provided a presentation, with members of the Economic Development staff and Fire Department offering additional information.

Public Comments: (1) Blair Beekman spoke on mixed-use housing. (2) Matthew Reed, SV@Home noted ideas as presented by his organization in their letter regarding expanding the number and location of affordable housing opportunity sites. (3) Speaker “5140” offered criticism of the plans. (4) Kathryn Hedges addressed environmental hazards. (5) Paul Soto spoke to racially restricted covenants and generational pain that such policies perpetuate. (6) Tim Beaubien (Santa Clara County Association of Realtors) expressed overall agreement but noted some industrial/environmental concerns. (7) Roland LeBrun offered appreciation to staff.

Motion: Councilmember Raul Peralez moved approval of the staff recommendation, including Item #1 of the February 5, 2021 memorandum he coauthored with Councilmember Sergio Jimenez directing staff to make changes to a portion of Policy H-2.9. Councilmember Maya Esparza seconded the motion.

Mayor Sam Liccardo recommended eliminating the reference to 2/3 over five years and shortening to a three-year vacancy. Councilmember Raul Peralez respectfully declined the amendment.

Upon a request for clarification from Planning, Building and Code Enforcement Division Manager, Michael Brilliot, Councilmember Raul Peralez clarified the definition of the 2/3 vacancy, indicating it referenced 2/3 of the rentable square footage. Deputy Director, Office of Economic Development, Chris Burton and Economic Development Director, Nanci Klein provided further clarification.

Councilmember Raul Peralez asked that Staff develop language around relocation assistance.

Mayor Sam Liccardo and Councilmember David Cohen expressed concerns regarding business displacement, noting they could not support the motion as presented.

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10.2 (Cont'd.)

Substitute Motion: Councilmember David Cohen moved approval of the staff recommendation as presented by staff. Councilmember Dev Davis seconded the motion.

Action: **Resolution No. 79892** approving the General Plan Text Amendment to revise Policy H 2.9 in Chapter 4 and the Neighborhood/Community Commercial land use designation in Chapter 5 of the Envision San José 2040 General Plan was adopted. (11-0.)

10.3 21-235 **GP20-004, GPT18-009 and PDC17-022 - General Plan Amendment, General Plan Text Amendment for the Martha Gardens Specific Plan, and a Planned Development Rezoning for Real Property Located at 802 S. 1st Street. - DEFERRED**

- (a) Adopt a resolution adopting the South First Street/East Virginia Street Mixed-Use Development Project Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act, as amended.
 - (b) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Mixed Use Neighborhood and Mixed Use Commercial to Transit Residential for 802 S. 1st Street on a 1.2-gross acre site (File No. GP20-004).
 - (c) Adopt a resolution amending the Martha Gardens Specific Plan to increase the allowable height on the subject site to 80 feet with an addition 10 feet for architectural projections and reduction to zero setback to accommodate the proposed project (File No. GPT18-009).
 - (d) Approve an ordinance rezoning certain real property located on the south east corner of S. First Street and E. Virginia Street (802 S. 1st Street) from CP Commercial Pedestrian and CN Commercial Neighborhood Zoning District to the A(PD) Planned Development Zoning District for up to 246 residential units on approximately 1.2 gross acres. CEQA: Initial Study/Mitigated Negative Declaration for the South First Street/East Virginia Street Mixed-Use Development Project. Planning Commission recommends approval (7-0). Council District 3. (Planning, Building and Code Enforcement)
- Deferred to 2/23/2021 per Administration*

10.4 21-236 **GP20-003 - General Plan Amendment for Certain Property Located at 1975 Cambrianna Drive. - DEFERRED**

- (a) Adopt a resolution adopting the Cambrian School District General Plan Amendment Initial Study/Negative Declaration, in accordance with the California Environmental Quality Act, as amended.
- (b) Adopt a resolution:
 - (1) Denying the Envision San José 2040 General Plan Land Use/Transportation Diagram Amendment to allow changing the land use designation from Public/Quasi-Public to Residential Neighborhood on an approximately 2.7-gross-acre site, located at 1975 Cambrianna Drive; or

(Item Continued on the Next Page)

10.4 (Cont'd.)

(2) Approving the Envision San José 2040 General Plan Land Use/Transportation Diagram Amendment to allow changing the land use designation from Public/Quasi-Public to Residential Neighborhood on an approximately 2.7-gross-acre site, located at 1975 Cambrianna Drive.

(c) Add an item to the Housing Crisis Workplan to explore policy changes for public school land conversions that could provide more opportunities for housing and revenue for public school districts.

CEQA: Cambrianna Drive General Plan Amendment Initial Study and Negative Declaration. Planning Commission recommends denial (6-0-1, Bonilla absent). Council District 9. (Planning, Building and Code Enforcement)

[Deferred from 1/26/2021 - Item 10.2 (21-136)]

Deferred to 2/23/2021 per Rules And Open Government Committee

GENERAL PLAN HEARING (2020 THIRD CYCLE) CONTINUED TO 2/23/2021

OPEN FORUM

1. Paul Soto expressed appreciation for the Mayor's actions regarding removal of the Fallon statue and suggested creating a commission to offer healing around this topic.
2. Blair Beekman spoke on the concept of accountability, community action and sustainability.
3. Jestine spoke to the protests in India and the human rights violations caused by privatization of the farming industry and violence against the Sikh community.
4. Speaker "5140" spoke on the need to focus on local, rather than national issues.
5. Katherine Hedges offered support to comments made by speaker Paul Soto regarding historical inequity.

ADJOURNMENT

The Council of the City of San José adjourned at 10:30 p.m. in memory of Wanda Irene Alexander Broadie, former longtime CEO of ACT for Mental Health and community leader.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/20210209/ MIN