



# Memorandum

**TO:** CITY COUNCIL

**FROM:** Councilmember Raul Peralez  
Councilmember Magdalena Carrasco  
Councilmember Dev Davis  
Councilmember Sylvia Arenas

**SUBJECT:** SEE BELOW

**DATE:** June 10, 2022

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**Approved:**

**Date:** 06/10/22

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**SUBJECT: MAYOR'S JUNE BUDGET MESSAGE**

## RECOMMENDATION

1. Accept the Mayor's Budget Message and June 10<sup>th</sup> Supplemental Memo regarding San Pedro Street and Post Street and include the following:
  - a. Amend the Mayor's June 10<sup>th</sup> Supplemental memo that the proposed Post Street pilot be extended to a full year rather than six months.
  - b. BD #10 Hedding and N. Bayshore Improvement
  - c. MBA #29 Repeal of San José Municipal Code Chapter 11.34 - Regulation of Cruising
  
2. Direct the City Manager to invest in re-vitalizing our arts, hospitality, and visitor sectors to spur business recovery, job growth and economic fiscal health by identifying long-term budget policy strategies that can guide to the continued long-term investment of our Transient Occupancy Tax (TOT) program that serves the art, culture, and hospitality industries and return back the next fiscal year to Council with these strategies.

## DISCUSSION

We appreciate our City Administration and Mayor's hard work of balancing the budget. It is no secret that COVID has taken its toll on our city and has exacerbated many quality of life issues that residents and businesses alike have been experiencing. That is why we feel it is important that we include the Manager's Budget Addenda (MBA) and the Budget Documents (BD), as well as looking into a future strategy of our TOT.

### The Future of San Pedro and Post Streets

At the height of the COVID-19 pandemic, our city quickly restructured our public right of ways to support our local businesses for the community to safely activate our business corridors and partake in supporting our local fare. Creating these temporary Pedestrian Malls have been a lifeline to our small businesses, enlivening our public spaces, and showed that Downtown San José can be a leader in focusing our streets on people first.

On May 17, the City Council unanimously approved my proposal<sup>1</sup> to initiate the future permanent closing of San Pedro and Post Streets, starting with an MBA to fully understand the fiscal needs. There was overwhelming public support, as public opinion has always been that San Pedro Street and Post Street are the ideal streets to permanently close. While we appreciate both staff's MBA #26 and the Mayor's supplemental memorandum, it is important that we ensure there is fairness between both San Pedro Street and Post Street. A six month reduction of the pilot on Post Street is a disservice to the businesses, community groups and general public at large as it will require significant investment from the stakeholders to ensure a vibrant, aesthetically pleasing public activation. A six month funding allocation does not instill much faith for the stakeholders to make it worth their while. Therefore, we recommend that the budget is amended so that Post Street may conduct a full year pilot. If in the event that by the six month mark the pilot proves to be unsuccessful, the City has the discretion to cease the closure and roll over the remaining funds to other relevant uses or the following fiscal year's budget.

### BD #10 Hedding and N. Bayshore Improvement

In the area of Hedding Street and N. Bayshore Road, we have an opportunity to partner with CalTrans on beautifying an area that is consistently impacted by large RV's and encampments. This often overlooked area has for years experienced non-stop incidents of vandalism, blight and crime. Recently, this neighborhood has been terrorized by brazen acts of violence. An RV resident, who cause disturbance by all night partying, retaliated against the neighbors who complained by planting a pipe bomb in their yard. Since then, the RV resident has left the area, but it is apparent that both the City and CalTrans need to take immediate action soon to preserve public safety for this area. Residents have long requested relief from the ongoing issues they daily experience. prompting this request to include BD #10, if not from the Essential Services budget then from the Construction Excise Tax for District 3.

### MBA #29 Repeal of San José Municipal Code Chapter 11.34 - Regulation of Cruising

As we start to exit out of COVID-19 and more families opt to enjoy the outdoors, we have an antiquated law that criminalizes the cultural ceremony of cruising. On May 11, the Rules Committee unanimously approved my May 5th memorandum directing the City Administration to conduct a City Manager's Budget Addendum (MBA) outlining the cost to eliminate municipal code chapter 11.34 that regulates cruising. SJPD Chief Anthony Mata released MBA #29<sup>2</sup> in response to the May 11 Rules Committee direction. The memo indicated that the only cost to eliminating the ordinance is the "approximately

<sup>1</sup> <https://sanjose.legistar.com/View.ashx?M=F&ID=10763925&GUID=236776AE-6FA9-455E-B724-4F553F3556C2>

<sup>2</sup> <https://www.sanjoseca.gov/home/showpublisheddocument/86661/637897111768300000>

six hours for one Maintenance Worker position at approximately \$60 per hour, for a total cost of approximately \$360.” While the SJPD and memo also made their case opposing the repeal, both the memo and the SJPD representative at the May 11 Rules meeting explicitly stated that 11.34.010 has not been enforced for some time.

Concurrently, I fully agree with MBA #29 that sideshows truly pose a danger to our public. However, I would be remiss if I did not make it abundantly clear that cruising and sideshows are two completely different activities. As the Chief stated in his memo: *“The act that establishes cruising, driving repeatedly past a traffic control point, is not a violation of state law”* whereas *“the acts that define a sideshow, such as reckless driving and speed contest, were apparently considered to be sufficiently dangerous by the Legislature to warrant direct regulation as misdemeanors in the Vehicle Code while the question of whether to regulate cruising was left to the discretion of local authorities.”*

It would be prudent that we define “sideshows” in our Municipal Code to align it with California Vehicle Code 23109<sup>3</sup>, and to ensure clear distinction from the act of cruising.

In fact, I appreciate that SJPD creatively suggests exploring a permitting process for cruising events. I do not believe it is necessary to require permitting for every event as it would be an additional administrative burden to our thinly staffed administration. I do however think it is a good idea to consider permitting for large scale events such as during Cinco de Mayo. Additionally, the cruising community has expressed their enthusiastic willingness to collaborate with law enforcement on how to ensure that cruising in San José is family friendly and continues to not pose a danger to the community. It would be beneficial for our police department to reach out and create dialogue with the many community groups that already facilitate safe and family friendly cruising to explore further ideas on promoting and increasing public safety.

#### Long Term Recovery of Arts & Cultural Affairs

Lastly, the funds from the City’s languishing Transient Occupancy Tax (TOT) are the key source of revenue for the maintenance and operation of the Convention Center, the Civic Auditorium and other cultural facilities, for Convention and Visitors Bureau marketing and sales support of business and leisure travel to the City, and for the Office of Cultural Affairs and its arts grants programs. These functions are essential to sustained urban vibrancy, to support diverse local jobs in the hospitality industry, and to improve the quality of life of San José residents.

The City’s published *Five-Year Forecast and Revenue Projection, 2023-2027* projects that TOT generated funds will not return to pre-pandemic level anytime over the next five years.

Although we have been able to offset losses through one-time American Recovery funds, it is critical that we look to a long-term funding strategy to create a fiscally strong and sustainable model that will support the vibrancy of our city in the years ahead.

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<sup>3</sup>See Subsection (i)(2) [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=VEH&sectionNum=23109](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH&sectionNum=23109)

The City already has the structure in place to facilitate this work. We ask that our City Manager, beginning with Fiscal Year 2023-2024, reapportion its current General Fund TOT allocation equally across the remainder recipient fund accounts of Fund 461: the Office of Cultural Affairs Arts Grants Program, the Convention & Visitors Bureau, and the Convention and Cultural Facilities Fund (536). In addition, we ask that our City Manager work with our Economic Recovery Task Force to identify long-term budget policy strategies that can guide long-term investment of TOT that serve the art, culture and hospitality industries and come back during the next fiscal year to the Council with these strategies.

Helping to restore local budgets for tourism and the arts in San José will help build our city back from the pandemic and ensure that we do not decimate these important programs if we ever experience these same fiscal impacts in the future.