



# Memorandum

**TO:** Honorable Mayor &  
City Council

**FROM:** Toni J. Taber, CMC  
City Clerk

**SUBJECT:** The Public Record  
January 5 – January 12, 2023

**DATE:** January 18, 2023

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## **ITEMS FILED FOR THE PUBLIC RECORD**

### **Letters from Boards, Commissions, and Committees**

#### **Letters from the Public**

1. Letter from Cheryl Weiden, dated January 5, 2023, regarding: Invitation to San Jose, Code Red for Humanity: Pathways to Healthy Electric Cities.
2. Letter from Sangeeta Sarkar (Save The Bay/Green Foothills), dated January 9, 2023, regarding: Comment Letter on Tree Removal and Replacement Policies.
3. Letter from Angela Bymaster, dated January 9, 2023, regarding: Washington United Youth Center: Local Access.
4. Letter from Ruth Callahan, dated January 10, 2023, regarding: San Jose City Siting map for development of high rise low income housing.
5. Letter from Sanjay Garla (SEIU-USWW), dated January 10, 2023, regarding: Security Officers at San Jose Airport.
6. Letter from Ted Smith, dated January 11, 2023, regarding: PUBLIC COMMENT BY TED SMITH - Public Records Act and transparency.

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Toni J. Taber, CMC  
City Clerk

**Fw: Invitation to San Jose, Code Red for Humanity: Pathways to Healthy Electric Cities**

City Clerk &lt;city.clerk@sanjoseca.gov&gt;

Wed 1/11/2023 10:50 AM

To: Rules and Open Government Committee Agendas &lt;rulescommitteeagenda@sanjoseca.gov&gt;

**From:** Cheryl Weiden <[REDACTED]>**Sent:** Thursday, January 5, 2023 3:06 PM**To:** City Clerk <city.clerk@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <District3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District10@sanjoseca.gov <District10@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; Webmaster Manager <webmaster.manager@sanjoseca.gov>**Subject:** Invitation to San Jose, Code Red for Humanity: Pathways to Healthy Electric Cities

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[External Email]



Dear San Jose Mayor, City Councilmembers, City Manager and Staff:

You and your staff members are invited to attend the webinar: [Code Red for Humanity: Pathways to Healthy, Electric Cities](#) on January 12, 2023. Last year over 550 attended the precursor event, "Code Red for Humanity: What Municipalities Can Do"

which focused on the "What and Why" of municipal action. The Jan 12 event will focus on the "How."

Attend this webinar and learn how cities are pioneering policies and programs to reduce building emissions and improve health, and about new funding from regional, state and federal sources including the Inflation Reduction Act.

Find more information and registration [here](#). Register even if you cannot make the date - you will receive a recording to watch at your convenience.

Best regards and Happy New Year!

Cheryl Weiden  
350 Silicon Valley

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**Fw: Comment Letter on Tree Removal and Replacement Policies**

Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

Mon 1/9/2023 1:01 PM

To: Rules and Open Government Committee Agendas &lt;rulescommitteeagenda@sanjoseca.gov&gt;

 1 attachments (652 KB)

San José Tree Removals and Replacements Comment Letter.pdf;

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**From:** City Clerk <city.clerk@sanjoseca.gov>**Sent:** Monday, January 9, 2023 12:58 PM**To:** Agendadesk <Agendadesk@sanjoseca.gov>**Subject:** FW: Comment Letter on Tree Removal and Replacement Policies

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**From:** Sangeeta Sarkar <[REDACTED]>**Sent:** Monday, January 09, 2023 12:34 PM**To:** The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>**Cc:** Juan Estrada <[REDACTED]> Hayley Currier <[REDACTED]>**Subject:** Comment Letter on Tree Removal and Replacement Policies

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[External Email]

Dear Mayor Mahan, San José City Councilmembers, and Clerk Taber,

Attached please find a comment letter from Save The Bay and Green Foothills regarding the integration of climate resilience and adaptation into San José's Tree Removal and Replacement policies. Thank you for your attention to these comments, and please don't hesitate to reach out if you have any questions or would like to discuss this further.

Best,

**Sangeeta Sarkar**

POLITICAL AND COMMUNITY ORGANIZER

[REDACTED] | [REDACTED] | [www.saveSFbay.org](http://www.saveSFbay.org)

Pronouns: they, them

*[Invest in a Resilient Region](#)*

*Give a Year-End Gift*

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January 4, 2023

City of San José  
200 E Santa Clara St  
San José, CA 95113

**Subject: Integrating Climate Resilience and Adaptation into San José's Tree Removal and Replacement Policies**

Dear Mayor Mahan and Councilmembers,

The impacts of climate change have reached a staggering magnitude, as record-setting urban heat, wildfires, extended drought, and compromised air quality have become the new norm. Just this month we've experienced unusually strong storms, which have caused flooding, property damage, and loss of life. Sea level rise will only exacerbate flooding. The impacts of these climate disasters will be widespread, though the disproportionate burden will fall on the most vulnerable, especially lower-income communities of color.

We support the recommendations outlined in San José's Tree Removals and Replacements Audit Report to improve processes and ensure a robust urban canopy. The updates recommended in the Tree Audit Report are an opportunity to not just maintain San José's tree canopy, but also to ensure that the city is ready for these climate impacts. Integrating climate resilience measures such as green stormwater infrastructure (GSI) into tree replacement policies will help keep San José communities safe from climate impacts in the decades to come.

As San José improves its processes to protect and grow the community forest, we strongly recommend that the city integrate GSI and other climate resilience planning into its urban forestry policies. We recommend the city incorporate the following elements:

- **Incorporate green stormwater infrastructure into tree replacements whenever possible.** Especially in areas prone to flooding, the replacement trees specified in Finding 2 of the Audit Report should be planted in specialized stormwater tree wells. This will not only help maintain San José's canopy coverage, but will also mitigate flooding and filter stormwater before it drains into waterways. Incorporating GSI will also ensure tree replacements are aligned with the City of San José's Green Stormwater Infrastructure Plan, which directs the city to integrate GSI with urban forestry and landscaping. Storm wells also allow the growth of larger trees, which more effectively reduce the urban heat island effect. It will also ensure alignment with the San José Community Forest Management Plan, which includes stormwater retention as one of its forest management goals (Goal MS-21.1).
- **Invest some of the outstanding in-lieu fee balance in stormwater tree wells and other green stormwater infrastructure.** Finding 3 of the Audit Report shows that in-lieu fees have not been spent in a timely manner, resulting in a surplus of \$1.45 million in fee balances. In Recommendation #7, the Report recommends that staff "identify locations

or uses for unspent in-lieu fee revenues that have accumulated since 2018." Some of these funds could be used for tree wells, ensuring the City meets its pollution reduction requirements while also expanding the canopy.

- **Prioritize East San José and other frontline communities (low income, communities of color, historically underinvested, impacted by environmental injustice)** for green infrastructure investments and policies that are developed for and by those communities. We support the Community Forestry Management Plan's recommendation to "prioritize tree planting activities in census tracts with low CalEnviroscreen scores and tree canopy cover or designated as areas of need by the San José equity atlas." These census tracts should also be prioritized for any stormwater tree wells or other GSI improvements.

We are also supportive of Recommendations #1 - 4, 6, and 7 from the memorandum submitted by Councilmembers Cohen, Davis, and Jimenez, and have no opinion on Recommendation #5. We support using in-lieu tree fees to increase equity in tree canopy, while overall canopy is increased. We believe these recommendations will enhance the tree removal and replacement process while protecting San José's tree canopy.

There is no doubt about the urgency of responding to the climate crisis. Climate hazards are the norm, and San José residents don't have to look far to see the impacts in their own communities. The updated tree removal and replacement processes provide an opportunity for the city to build climate resilience while maintaining the urban canopy. We urge you to pursue these opportunities immediately to create a safer, more resilient future for San José.

Sincerely,

David Lewis, Executive Director  
Save The Bay

Juan Estrada, Advocacy Associate and Organizer  
Green Foothills

## Specific Actions and Policy Priorities for Updated Tree Removal and Replacement Processes

- **Incorporate green stormwater infrastructure into tree replacements whenever possible.** Especially in areas prone to flooding, the replacement trees specified in Finding 2 of the Audit Report should be planted in specialized stormwater tree wells. This will not only help maintain San José's canopy coverage, but will also mitigate flooding and filter stormwater before it drains into waterways. Incorporating GSI will also ensure tree replacements are aligned with the City of San José's Green Stormwater Infrastructure Plan, which directs the city to integrate GSI with urban forestry and landscaping. Storm wells also allow the growth of larger trees, which more effectively reduce the urban heat island effect. It will also ensure alignment with the San José Community Forest Management Plan, which includes stormwater retention as one of its forest management goals (Goal MS-21.1).
  - "Policy 2.I.3 Green Streets. Provide continuous shade trees along Woodland's key corridors, integrate low-impact development (LID) drainage facilities to manage stormwater runoff within the public right-of-way, and include Class I or Class II bike facilities where possible." ([City of Woodland Urban Forest Master Plan](#))
  - "Policy 3.H.3 Parking Lot Design. Require that parking lots be designed to minimize heat island effects, have significant tree canopies with ample landscape areas designed to pretreat stormwater runoff where feasible, and ensure pedestrian access." ([City of Woodland Urban Forest Master Plan](#))
  - "Continue to develop plans for the urban forest to increase habitat value, incorporate stormwater design, mitigate pollution, and improve air quality." ([Culver City Urban Forest Master Plan](#))
  - "Identify opportunities within development projects for planting trees and for integrating landscape-based stormwater design to achieve City goals." ([Culver City Urban Forest Master Plan](#))
  - "Objective GI- 1: Expand and Enhance the City's Green Infrastructure - Enhance the community's urban forest and other landscapes to maximize carbon sequestration, reduce stormwater runoff, and augment neighborhood aesthetics." ([City of Albany Climate Action Plan](#))
  - An example image of stormwater tree wells is shown on the following page, and more information can be found in the US EPA's [Stormwater to Street Trees](#) report.





**Fw: Washington United Youth Center: Local Access**

Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

Mon 1/9/2023 1:06 PM

To: Rules and Open Government Committee Agendas &lt;rulescommitteeagenda@sanjoseca.gov&gt;

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**From:** City Clerk <city.clerk@sanjoseca.gov>**Sent:** Monday, January 9, 2023 12:58 PM**To:** Agendadesk <Agendadesk@sanjoseca.gov>**Subject:** FW: Washington United Youth Center: Local Access

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**From:** Angela Bymaster <[REDACTED]>**Sent:** Monday, January 09, 2023 12:52 PM**To:** City Clerk <city.clerk@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>**Subject:** Washington United Youth Center: Local Access

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Mayor Mahan, Councilmember Torres, and San Jose City Council,

I am writing to ask for your help in opening up the Washington United Youth Center for local families. Madre-A-Madre, Healing Grove, and a number of community members are prepared to run programs at the youth center. However, WE CANNOT GET ACCESS. This is not a funding request, this is an ACCESS REQUEST.

An entire generation of kids has grown up in the Washington/Guadalupe neighborhood without access to their own youth center. The **Washington United Youth Center has been severely underutilized for more than a decade** (as demonstrated in city audits from 2010 and 2018, see below and attached). Families in our community do not have enough money to join YMCA or AYSO or any sports teams or to participate in summer camps. Access to parks and recreational opportunities are a major Social Determinant of Health. As a result of lack of access to the youth center, I am seeing high rates of childhood obesity in my clinic, which are known to result in adult diseases including type 2 diabetes, hypertension, and metabolic syndrome. The result is that our community will have a lower life expectancy than wealthier parts of San Jose. In fact, [CDC data shows](#) that the **Washington/Guadalupe community already has a 6 year lower life expectancy than** the neighboring Willow Glen census tract just blocks away.

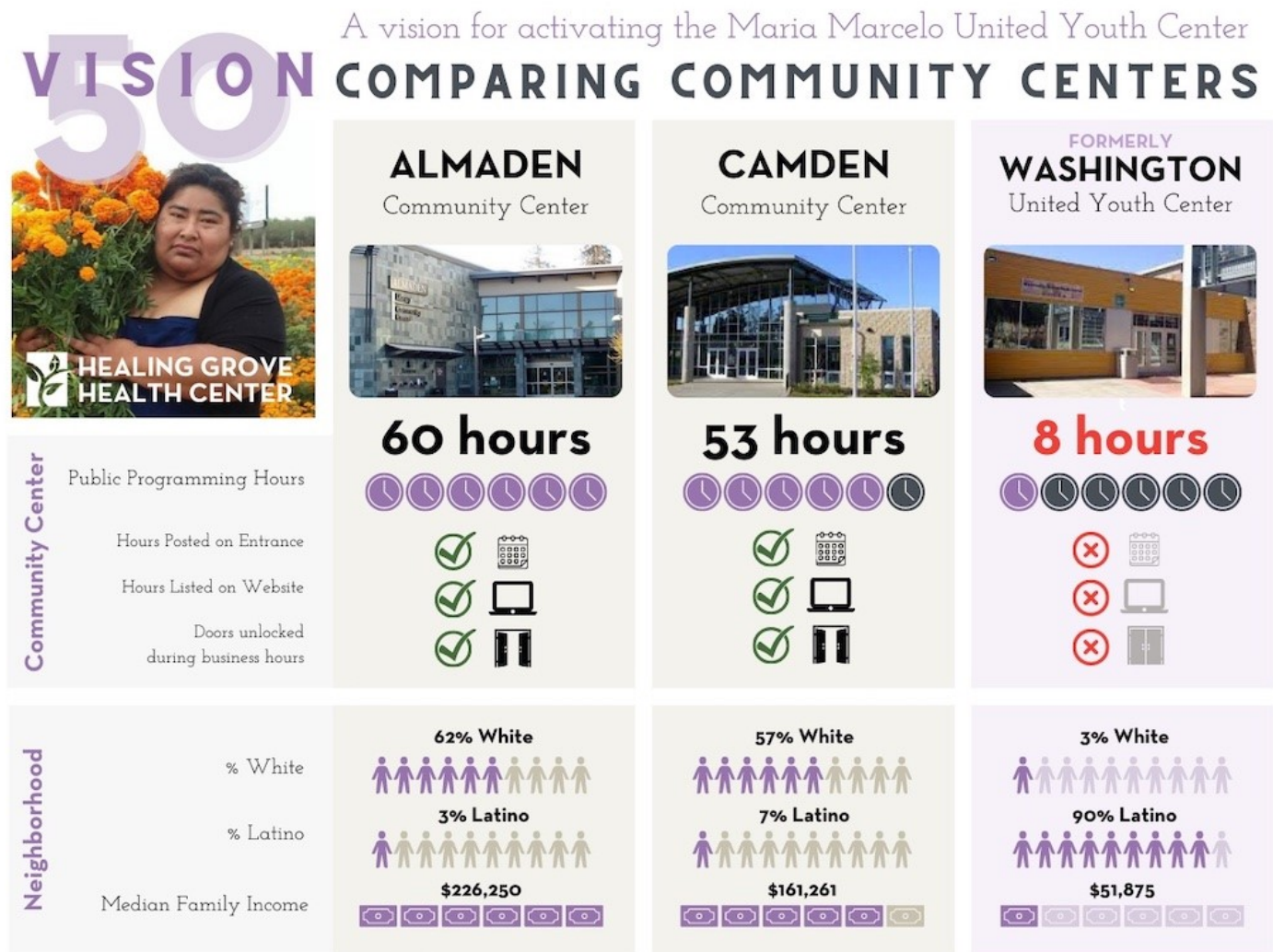
It is time to change things for the next generation. We can, and we must, open the Youth Center for local Washington/Guadalupe families now.

Please support Healing Grove in its efforts to activate the WUYC and make health possible for the families in one of the lowest-income census blocks in Santa Clara County. **Join our effort to give this neighborhood permission to use its own community center.**

**The Data & Racial Equity:**

**The WUYC is currently open just 8 hours per week to the public, according to PRNS data.** The data below shows that community centers in wealthier, and whiter regions of San Jose are open >50 hours per week. Further, at WUYC, the doors are locked during business hours, programs hours are not listed on the door or online, and the center is inaccessible to community members.

Data showing stark racial inequity in comparing community center hours in wealthier and whiter regions with the Washington United Youth Center.



**Office of the City Auditor reports from 2010 & 2018 on the WUYC:**

**2010 Audit:**

2010 City of San Jose Audit showing that the Washington United Youth Center was significantly more expensive and yet more underutilized than other city run youth centers (see Exhibit 10, page 28):

<https://www.sanjoseca.gov/Home/ShowDocument?id=33702>

**2018 Audit:**

2018 City of San Jose Audit which showed that the Washington United Youth Center lacked posted hours and failed to report on usage statistics (see page

<https://www.sanjoseca.gov/Home/ShowDocument?id=33920>

## Community Center Staffing

|   |
|---|
| <p>2010 OFFICE OF CITY AUDITOR<br/>AUDIT OF COMMUNITY CENTER STAFFING</p> |
|---|

In addition, when we compared the City's cost to subsidize the operations of Washington United to the City's cost to staff a like facility, we found that the City's cost may be cheaper. Specifically, PRNS data show that it spent less than \$332,000 to operate a facility—Alum Rock Youth Center—comparable in size and programs and services to Washington United. Exhibit 10 compares the CBO's subsidized operation of Washington United to the City's operation of Alum Rock Youth Center.

**Exhibit 10: A CBO's Subsidized Operation of Washington United Youth Center Appears to be More Costly Than the City's Operation of the Alum Rock Youth Center (2008-09 data)**

|  | Washington United Youth Center (CBO Operated) <sup>15</sup>          | Alum Rock Youth Center (City Operated) |
|--|--|--|
| Square feet                              | 17,000   | 14,650                                 |
| Amenities (material differences)         | Washington United has a fitness room and a larger multi-purpose room |  |
| Weekly hours of operation                | 52 per 2008-09 contract  | 56 per August 2009 facility guide      |
| Cost to PRNS <sup>16</sup>               | \$453,571  | \$331,522                              |
| Revenue to PRNS (classes and rentals)    | \$0  | \$52,596                               |
| Net cost to PRNS <sup>17</sup>           | \$453,571  | \$278,926                              |
| Average monthly attendance <sup>18</sup> | 5,065  | 4,737                                  |
| Average monthly program hours            | 440  | 411                                    |
| Budgeted staff (in FTEs)                 | 6.91   | 3.70                                   |
| <b>Ratios</b>                            |  |  |
| Budgeted staff per hour of operation     | 5.32   | 2.64                                   |
| Attendance per program hour              | 11.51  | 11.52                                  |
| Attendance per hour of operation         | 23   | 20                                     |
| Cost to PRNS per unit attendance         | \$7.46   | \$5.83                                 |
| Net cost to PRNS per unit attendance     | \$7.46   | \$4.91                                 |

Source: Auditor's analysis of information from the Department of Parks, Recreation and Neighborhood Services.

Moreover, when PRNS generates revenue by operating community centers like Alum Rock Youth Center, the revenue stays with the City. On the other hand, if Washington United generates operating revenue, the City does not receive any portion of those funds per its contract with the CBO operator. Instead, the CBO is allowed to keep those funds and use them to enhance its services.

<sup>15</sup> The CBO was required to provide about \$91,000 in matching funds to supplement the operational grant.

<sup>16</sup> Washington United cost is the 2008-09 contract amount plus PRNS non-personal cost from the City's Financial Management System (FMS). Alum Rock cost is PRNS personal and non-personal cost from FMS. Both exclude departmental oversight costs: Washington United does not include cost of contract management and Alum Rock does not include cost of recreation superintendent or department support staff.

<sup>17</sup> Net cost to PRNS is the cost to PRNS less revenue to PRNS.

<sup>18</sup> Attendance and program hours based on performance reports from the CBO and Investing in Results reports from PRNS.



Community Center Reuse

|  |
|--|
| 2018 Office of the City Auditor.<br>COMMUNITY CENTER REUSE |
|--|

not all City-run programs are advertised on the City's class registration portal or in community brochures.

The City could improve awareness of City programming at reuse sites by including PRNS-run activities in the City's online registration portal and within its seasonal community brochures.

|  |
|--|
| <b>Recommendation #15: PRNS should advertise City programming at reuse sites, similar to how it advertises City programming at hubs.</b> |
|--|

#### Awareness of Programs, Service, and Hours of Operation

The City could also improve awareness of provider-run activities at reuse facilities. While the standard reuse agreement requires that service providers "provide, at a minimum, program marketing publications detailing programs, services, events, and hours of operation," this requirement has not been monitored or enforced. Four reuse service providers did not appear to have an active online presence. Some facilities had very little or no information posted outside the facility, as shown in Exhibit 10. Based on interviews, providers' primary means of outreach is by word of mouth.

In 2018, WUYC Programs not listed online  
Jan 2022 update: No change

#### Exhibit 10: Signage Was Obscured or Missing at Some Reuse Facilities



Source: Auditor photographs.

Washington United Youth Center Front Door Entrance in 2018  
No hours, no programs posted.  
Doors are locked during business hours  
Jan 2022 update: No change (see photo next page)

The City also requires service providers offer free or reduced-rate programming as a condition of their subsidized rent. While most of the service providers that we interviewed indicated they would not turn away people who are unable to pay, few providers advertised this policy. As a result, some people may not participate in programming at reuse facilities.

## **Recommendation #15 follow up in Jan 2022**

- **Signage, hours, programs missing**
- **Free or reduced free programming not advertised.**

### **Washington United Youth Center Jan 2022**



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Angela Bymaster MD, FAAFP  
Healing Grove Health Center  
[healinggrove.org](http://healinggrove.org)

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## Recommendation #15 follow up in Jan 2022

- Signage, hours, programs missing
- Free or reduced free programming not advertised.

### Washington United Youth Center Jan 2022





In addition, when we compared the City's cost to subsidize the operations of Washington United to the City's cost to staff a like facility, we found that the City's cost may be cheaper. Specifically, PRNS data show that it spent less than \$332,000 to operate a facility—Alum Rock Youth Center—comparable in size and programs and services to Washington United. Exhibit 10 compares the CBO's subsidized operation of Washington United to the City's operation of Alum Rock Youth Center.

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Moreover, when PRNS generates revenue by operating community centers like Alum Rock Youth Center, the revenue stays with the City. On the other hand, if Washington United generates operating revenue, the City does not receive any portion of those funds per its contract with the CBO operator. Instead, the CBO is allowed to keep those funds and use them to enhance its services.

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HEALING GROVE  
HEALTH CENTER

# VISION

ACTIVATING

*The Maria Marcelo  
Youth Center*

FORMERLY WASHINGTON YOUTH CENTER

MARIA MARCELO MEMORIAL COMMUNITY FUND

<https://healinggrove.org/maria>

# VISION



Community Center

Public Programming Hours

Hours Posted on Entrance

Hours Listed on Website

Doors unlocked during business hours

Neighborhood

% White

% Latino

Median Family Income

## A vision for activating the Maria Marcelo United Youth Center

### COMPARING COMMUNITY CENTERS

#### ALMADEN

Community Center



60 hours

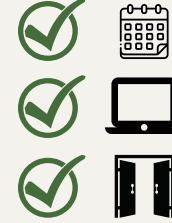


#### CAMDEN

Community Center



53 hours



#### FORMERLY WASHINGTON

United Youth Center



8 hours



62% White



3% Latino



\$226,250



57% White



7% Latino



\$161,261



3% White



90% Latino



\$51,875





## THE VISION

Compared to surrounding neighborhoods like Almaden or Camden, the Washington Youth Center is only open **8 hours** of the week, locking the doors even during opening hours.

Maria Marcelo's dream was to have the Washington Youth center open for more than **50 hours a week** to support the growth of the youth in her community.

Our vision is to rename this center the  
Maria Marcelo Youth Center



CONTRIBUTE TO THE MARIA MARCELO MEMORIAL COMMUNITY FUND

<https://healinggrove.org/maria>

**Fw: San Jose City Siting map for development of high rise low income housing**

Agendadesk <Agendadesk@sanjoseca.gov>

Thu 1/12/2023 11:54 AM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

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**From:** City Clerk <city.clerk@sanjoseca.gov>

**Sent:** Thursday, January 12, 2023 11:39 AM

**To:** Agendadesk <Agendadesk@sanjoseca.gov>

**Subject:** FW: San Jose City Siting map for development of high rise low income housing

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**From:** The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>

**Sent:** Thursday, January 12, 2023 11:31 AM

**To:** City Clerk <city.clerk@sanjoseca.gov>

**Subject:** Fw: San Jose City Siting map for development of high rise low income housing

FYI

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**From:** Ruth Callahan <[REDACTED]>

**Sent:** Tuesday, January 10, 2023 4:05 PM

**To:** St Laurent, Elisha <[Elisha.StLaurent@sanjoseca.gov](mailto:Elisha.StLaurent@sanjoseca.gov)>

**Cc:** District9 <[district9@sanjoseca.gov](mailto:district9@sanjoseca.gov)>; The Office of Mayor Matt Mahan <[mayor@sanjoseca.gov](mailto:mayor@sanjoseca.gov)>; Morales-Ferrand, Jacky <[Jacky.Morales-Ferrand@sanjoseca.gov](mailto:Jacky.Morales-Ferrand@sanjoseca.gov)>

**Subject:** San Jose City Siting map for development of high rise low income housing

[External Email]

Elisha: Please forward the san jose siting policy map for low income housing in the suburbs. You promised this in early December, 22. The map that is published is unreadable and not helpful to the neighborhoods and the street names - please- that are being targeted for high rise development. This is a cry for true transparency in our city government which is acting like they are trying to obfuscate the plans for the future high rise development in our neighborhoods.

--

Ruth A Callahan, President

Kooser Woods Coalition Representing 1873 Neighbors



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**Fw: Security Officers at San Jose Airport**

Agendadesk &lt;Agendadesk@sanjoseca.gov&gt;

Wed 1/11/2023 8:00 AM

To: Rules and Open Government Committee Agendas &lt;rulescommitteeagenda@sanjoseca.gov&gt;

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**From:** City Clerk <city.clerk@sanjoseca.gov>**Sent:** Tuesday, January 10, 2023 4:57 PM**To:** Agendadesk <Agendadesk@sanjoseca.gov>**Subject:** FW: Security Officers at San Jose Airport

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**From:** Sanjay Garla <[REDACTED]>**Sent:** Tuesday, January 10, 2023 4:46 PM**To:** Sanjay Garla <[REDACTED]>**Subject:** Security Officers at San Jose Airport

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Dear Mayor, Members of City Council, and Staff Leadership,

I am writing to you on behalf of the nearly 50,000 members of SEIU-United Service Workers West (SEIU-USWW). We represent over 200 subcontracted Security officers and Janitors at the City of San Jose.

It has come to our attention that the City of San Jose is considering switching to a non-union security contractor to service the San Jose Airport. This action would strip nearly 50 employees of their union rights and benefits. Furthermore, City staff have flagged that the remaining 150 Security Officers and Janitors who service various City of San Jose facilities will likely also be stripped of their union unless action is taken by City electeds and staff.

The impacted workforce is predominantly comprised of Black and Latinx workers from low-income communities in San Jose and Santa Clara County. Stripping these workers of their rights and benefits would fly in the face of the values of equity that our City strives to live up to.

The existing union Security contractor was disqualified because of the City's current zero tolerance wage theft policy. SEIU USWW wholeheartedly agrees that wage theft is endemic in the Security and Janitorial industries. However, we believe a Collective Bargaining Agreement is the gold standard of protection workers have from this crime. Private action or government enforcement is a very slow and cumbersome process. A typical CBA has third party monitoring, a grievance procedure with clear timelines, and ends in third party arbitration. It was never the intention of the wage theft policy to strip protections from workers serving the City of San Jose. We support updating the policy to ensure this does not happen.

We are gravely concerned about the impact a potential transition of Security Contractor will have on the Security Officers servicing the San Jose Airport. Their CBA has guaranteed wage increases, enhanced health benefits, paid time off, and much more. Furthermore, the CBA has enhanced job security protections for workers if the contract



changes from one union security company to another union security company. These CBA protections would not apply if a non union company were to take over the account.

Finally, we believe it is in the interest of the City to ensure it is recruiting and retaining staff. The San Jose Airport security requires unique and ongoing training. Taking away rights and benefits from staff who perform this critical work does not serve the City's interest in retaining a qualified workforce.

We ask that the City choose a union security contractor for the San Jose Airport.

Sanjay Garla  
First Vice President  
(he/him/his)  
SEIU-USWW  
c: [REDACTED]

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**PUBLIC COMMENT BY TED SMITH - Public Records Act and transparency**

Naidu, Neelam <Neelam.Naidu@sanjoseca.gov>

Wed 1/11/2023 4:32 PM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

For Rules Public Record.

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**From:** Ted Smith <[REDACTED]>

**Sent:** Wednesday, January 11, 2023 4:05 PM

**To:** The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>

**Cc:** District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; CAO Main <cao.main@sanjoseca.gov>

**Subject:** PUBLIC COMMENT BY TED SMITH - Public Records Act and transparency

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Dear Mayor Mahan and members of the San Jose City Council:

Please find my public comment that I intended to present to you yesterday at the council meeting, but after 3 hours of waiting, I had to leave to attend my granddaughter's soccer game at Pioneer H.S.

I would appreciate your response to this comment and further encourage you to re-think your policy of putting the public comments section of the agenda at the very end, which often prevents people from participation (I know, it's happened to me before).

Thanks!

1/10/23

**PUBLIC COMMENT BY TED SMITH**

Good afternoon Mayor and council! Happy New Year and welcome to the newly elected officials!

My name is Ted Smith. I've lived in San Jose since 1972 - over 50 years! Some of you may know me as the founder of the Silicon Valley Toxics Coalition in 1983, and others of you may know me as the plaintiff in the Public Records Act lawsuit against the city of San Jose which resulted in a landmark unanimous California Supreme Court decision in my favor in 2017. The Court ruled that when public employees and officials such as yourselves conduct public business using your private email accounts or phones, the records are subject to disclosure.

The city fought me for more than six years in that case and ended up paying my lawyers at McManis Faulkner over a million dollars in legal fees.

You may be aware that there's a new lawsuit going on now against the city arising from withholding records, most of which originated from former Mayor Sam Liccardo. I'm not the plaintiff in this case; San José Spotlight and the First Amendment Coalition are plaintiffs, but I am here to support their efforts to enforce the decision in my case.

I understand that San José Spotlight surveyed candidates for Mayor and City Council in last year's election about whether they'd commit to either using or copying their government account when they communicate about public business, and whether they'd agree to retain records for at least two years as



required by law. I'm glad that everyone who responded, including now Mayor Mahan, agreed to those commitments.

Using or copying a government account was encouraged by the Supreme Court in my case, and it's good government. Perhaps if Hillary Clinton had used a government server for her communications, we would have been spared the nightmare of Donald Trump. The public has a right to know what public officials do. As the Supreme Court has said, "Openness in government is essential to the functioning of a democracy." Please do the right thing, for the public and for the City and for yourself. Agree to use or copy a government server, and not to delete your texts and emails for at least two years.

I support Mayor Mahan's priorities to address homelessness, public safety, blight and economic development. I urge you to settle this case so that you can focus on these important priorities. Thank you.

Ted Smith



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