City Council Meeting
MINUTES

Tuesday, March 1, 2022

1:30 PM

Hybrid Meeting – Council Chambers and Virtually –
https://sanjoseca.zoom.us/j/99346843938

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

*** COVID-19 NOTICE ***

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

The Council Meeting was teleconferenced from remote locations.

22-211 CLOSED SESSION: See Page 16 for Closed Session Minutes

All present.

The Council of the City of San José reconvened to Open Session at 1:34PM

Present: Councilmembers	-	Carrasco (In-Person and via Zoom), Davis, Mahan, Jimenez (In-Person and via Zoom), Jones, Cohen, Esparza, Peralez (via Zoom), Foley; Liccardo.
Absent: Councilmembers	-	Arenas

6:45 p.m. – Evening Session –

Present: Councilmembers	-	Carrasco (In-Person and via Zoom), Davis, Mahan, Jimenez (In-Person and via Zoom), Jones, Cohen, Esparza, Peralez (via Zoom), Foley; Liccardo.
Absent: Councilmembers	-	Arenas

- Pledge of Allegiance

Mayor Sam Liccardo led the Pledge of Allegiance.

- Invocation (District 3)

Trinity Tomsic, Board Chairperson of Garden to Table in Silicon Valley provided the Invocation.

- Orders of the Day

Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Carrasco and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with an addition of Item 3.4 Booster Mandate Repeal and deferral of Item 2.7 Actions Related to the Naming Rights of the Competition Arena at the Ice Centre of San José, deferred to March 8, 2022. (9-1-1. Noes: Cohen. Absent: Arenas.)

- Closed Session Report

None Provided.

1. CEREMONIAL ITEMS

1.1 Councilmember Magdalena Carrasco presented a Proclamation declaring Women's History Month and presented a commendation to Angélica Flores, who spoke on their work with the Latino Business Foundation of Silicon Valley, “Mujeres Exitosas” (Successful Woman), and with DACA recipients. (Carrasco)

2. CONSENT CALENDAR

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated, including the motion listed in Item 2.13. (10-0-1. Absent: Arenas.)

2.1 **22-254** **Approval of City Council Minutes.**
(a) City Council Regular Meeting Minutes of March 30, 2021. (b) City Council Regular Meeting Minutes of March 16, 2021. (c) City Council Regular Meeting Minutes of October 20, 2020. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, and Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: Council Minutes were accepted. (10-0-1. Absent: Arenas.)

2.2 **22-204** **Final Adoption of Ordinances.**
(a) Ordinance No. 30718 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.68 Gross Acre, Located on the East Side of Berger Drive, Approximately 400 Feet North of Gish Road, from the HI Heavy Industrial Zoning District to LI Light Industrial Zoning District. [Passed for Publication on 2/8/2022 - Item 10.1(a)(b) (22-121)]
(b) Ordinance No. 30719 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 1.09-Gross Acres, Located at the Southwest Corner of Senter Road and Lewis Road (2905 and 2911 Senter Road) (Assessor Parcel Numbers: 497-22-110, 497-27-111) from the CN

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2.2 (Cont'd.)

Commercial Neighborhood and CP Commercial Pedestrian Zoning District to the MUC Mixed Use Commercial Zoning District. [Passed for Publication on 2/8/2022 - Item 10.2(b)(3) (22-122)]

(c) Ordinance No. 30720 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.97 Gross Acre, Located on the North Side of East Julian Street, Approximately 150 Feet Westerly of Wooster Avenue (1271 East Julian Street) (Assessor Parcel Numbers: 249-66-010, 249-66-009) from the R-1-8 Single Family Residence Zoning District to the UR Urban Residential Zoning District. [Passed for Publication on 2/8/2022 - Item 10.3(c) (22-123)]

(d) Ordinance No. 30721 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.6 Gross Acre, Located at the South Side of Sharon Drive Approximately 220 Feet East of South De Anza Boulevard (7246 Sharon Drive) from the CP Commercial Pedestrian Zoning District to the Mun Mixed Use Neighborhood Zoning District. [Passed for Publication on 2/8/2022 - Item 10.4(b)(3) (22-124)]

(e) Ordinance No. 30722 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.66 Gross Acre, Located at the Southeast Corner of Keaton Loop and San Felipe Road (3354 Keaton Loop) from the A Agriculture Zoning District to the CP Commercial Pedestrian Zoning District. [Passed for Publication on 2/8/2022 - Item 10.5(c) (22-125)]

(f) Ordinance No. 30723 - An Ordinance of the City of San José Amending Sections 2.08.180, 2.08.630, 2.08.1040, 2.08.1060, 2.08.1070, 2.08.1220, 2.08.1230, 2.08.1235, 2.08.1240, and 2.08.1245, and Repealing Part 30 of Chapter 2.08 of Title 2 of the San José Municipal Code to Make Administrative Amendments, Eliminate Term Limits for Appeal Hearing Board Members, Eliminate the Election Process for Scheduled Employee Seat Vacancies and Scheduled Police and Fire Retiree Seat Vacancies with Only One Applicant, Allow Appointment of Retirement Board Applicants to a Less than 12-Month Term Plus Subsequent Full Four Year Term, and Eliminate the Human Services Commission. [Passed for Publication on 2/15/2022 - Item 2.7 (22-139)]

(g) Ordinance No. 30724 - An Ordinance of the City of San José Amending Section 3.36.020 of Chapter 3.36 of Title 3 of the San José Municipal Code to Clarify the Definition of Compensation in the 1961 Police and Fire Department Retirement Plan. [Passed for Publication on 2/15/2022 - Item 2.8 (22-153)]

(h) Ordinance No. 30726 - An Ordinance of the City of San José Amending Chapter 6.88 of Title 6 of the San José Municipal Code to Add Delivery-Only Cannabis Businesses; Allow Up to Ten New Cannabis Businesses with Equity Business Owners; Allow Current Cannabis Businesses to Dispense from Two Locations; Amend the Cannabis Equity Assistance Program; and Make Other Technical, Non-Substantive, or Formatting Changes. [Passed for Publication on 2/15/2022 - Items 8.1(c) (22-149) and 10.2(c) (22-152)]

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2.2 (Cont'd.)

(i) Ordinance No. 30727 - An Ordinance of the City of San José Amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to Amend Section 20.40.100 Table 20-90 of Chapter 20.40, Amend Section 20.50.100 Table 20-110 of Chapter 20.50, Amend Section 20.55.203 Table 20-138 of Chapter 20.55, Amend Section 20.70.100 Table 20-140 of Chapter 20.70, Amend Section 20.75.200 Table 20-156 of Chapter 20.75, Amend Part 9.75 of Chapter 20.80, Amend Part 9.76 of Chapter 20.80, Amend Part 13 of Chapter 20.100, and to Make Other Technical, Non-Substantive, or Formatting Changes within those Sections of Title 20 of the San José Municipal Code. [Passed for Publication on 2/15/2022 - Item 10.2(b) (22-152)]

Action: (a) **Ordinance No. 30718**; (b) **Ordinance No. 30719;** (c) **Ordinance No. 30720;** (d) **Ordinance No. 30721;** (e) **Ordinance No. 30722;** (f) **Ordinance No. 30723;** (g) **Ordinance No. 30724;** (h) **Ordinance No. 30726;** and (i) **Ordinance No. 30727** were adopted. (10-0-1. Absent: Arenas.)

2.3 22-209 Approval of Council Committee Minutes.

(a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of February 9, 2022. (b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of February 2, 2022. (c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of January 26, 2022. (d) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of January 19, 2022. (e) Regular Neighborhood Services and Education Committee Meeting Minutes of February 10, 2022. (f) Regular Transportation and Environment Committee Meeting Minutes of February 7, 2022. (g) Regular Smart Cities and Service Improvements Committee Meeting Minutes of February 3, 2022. (h) Regular Community and Economic Development Committee Meeting Minutes of January 24, 2022. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: Council Committee Minutes were accepted. (10-0-1. Absent: Arenas.)

2.4 Mayor and Council Excused Absence Requests

None Provided

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 22-212 Actions Related to the Naming Rights of the Competition Arena at the Ice Centre of San José. - DEFERRED

Adopt a resolution: (a) Approving the sale by Sharks Ice, LLC of the naming rights to the Competition Arena at the Ice Centre of San José, and consenting to the official naming of the Competition Arena as "Tech CU Arena at Sharks Ice at San José" for the term of the sponsorship agreement ending June 30, 2032. (b) Delegating to the City Manager, or her designee, the authority to approve the location, design, size, and appearance of new exterior signage at the Competition Arena at the Ice Centre of San José to portray the new name and logo. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. Council District 7. (Economic Development and Cultural Affairs)

Action: **DEFERRED PER ORDERS OF THE DAY**

2.8 22-213 Amendment to the Agreement with Stearns, Conrad and Schmidt Consulting Engineers, Inc. for Residential Solid Waste Characterization Services.

Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Consultant Agreement for waste characterization services with Stearns, Conrad and Schmidt Consulting Engineers, Inc., doing business as SCS Engineers, to extend the term of the Agreement through December 31, 2022 and increase the compensation to an amount not to exceed $975,000. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Environmental Services)

Action: **Resolution No. 80390** was adopted. (10-0-1. Absent: Arenas.)

2.9 22-214 457 Deferred Compensation Plan Investment Fund Agreement.

Adopt a resolution authorizing the City Manager to execute an agreement and corresponding documents necessary to add the T. Rowe Price Large Cap Growth Trust Class C Fund, a Collective Investment Trust, to the investment options in San José's Voluntary 457 Deferred Compensation Plan. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources)

Action: **Resolution No. 80391** was adopted. (10-0-1. Absent: Arenas.)

2.10 22-215 Approval of the Proposed 2021 Edward Byrne Memorial Justice Assistance Grant (JAG) Spending Plan; and Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund in 2021-2022.

(a) Approve the proposed Spending Plan for the 2021 Edward Byrne Memorial Justice Assistance Grant in the amount of $356,965. (b) Adopt a resolution accepting the 2021 Edward Byrne Memorial Justice Assistance Grant in the amount of $356,965 and authorizing the City Manager to negotiate and execute the Grant

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2.10 (Cont'd.)

Agreement and all related documents for the grant award received from the U.S. Department of Justice without further City Council action. (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund: (1) Increase the estimate for Revenue from Federal Government by $356,965; and (2) Establish an appropriation to the Police Department for the 2021 Justice Assistance Grant (JAG) in the amount of $356,965. 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. (Police/City Manager)

Action: (a) Proposed Spending Plan for the 2021 Edward Byrne Memorial Justice Assistance Grant was approved; (b) **Resolution No. 80392;** and (c) Appropriation **Ordinance No. 30728** and **Resolution No. 80393** were adopted. (10-0-1. Absent: Arenas.)

2.11 22-216 Acceptance of the Office of Juvenile Justice and Delinquency Prevention Program Fiscal Year 2021 Internet Crimes Against Children Task Force Invited Awards in the Amount of $534,427 and Funding Sources Resolution Amendments in the General Fund.

(a) Adopt a resolution accepting the 2021 Internet Crimes Against Children Task Force Invited Awards in the amount of $534,427 and authorizing the City Manager to execute the Grant Agreement and to execute additional amendments and all related documents, including online certifications at time of reimbursement request, without further City Council action. (b) Adopt the following 2021-2022 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund: (1) Increase the appropriation to the Police Department for the Internet Crimes Against Children (ICAC) Task Force Invited Awards by $534,427; and (2) Increase the estimate for Revenue from Federal Government by $534,427. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Police/City Manager)

Action: (a) **Resolution No. 80394;** (b) Appropriation **Ordinance No. 30729**, and Funding Sources **Resolution No. 80395** were adopted. (10-0-1. Absent: Arenas.)

2.12 22-217 Actions Related to the Construction Contract for the ESUHSD Oak Grove Community Wi-Fi Infrastructure and Digital Inclusion Program.

Adopt a resolution authorizing the Director of Public Works to: (a) Award and execute a contract for the construction of the ESUHSD Oak Grove Community Wi-Fi Infrastructure Project, to the lowest responsive, responsible bidder in an amount not to exceed $2,000,000; and (b) Decide any timely bid protest(s) and make the City's final determination as to the lowest responsive bidder that is responsible as needed to

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2.12 (Cont'd.)

award the contract; and (c) Establish a construction contingency of up to 10% percent of the amount of the construction contract for the Project. CEQA: Statutorily Exempt, File No. PP17-001, CEQA Guidelines Section 15262, Feasibility and Planning Studies with no commitment to future actions. Council District 2. (Public Works/Library)

Action: **Resolution No. 80396** was adopted. (10-0-1. Absent: Arenas.)

2.13 22-218 Memorandum of Understanding with California High-Speed Rail Authority
Adopt a resolution authorizing the City Manager to execute the Memorandum of Understanding with the California High-Speed Rail Authority. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council Districts 2, 3, 6 and 7. (Transportation)

This Item was pulled by Councilmember Raul Peralez.

Public Comment: Ben Leech offered public comment.

Motion: Councilmember Raul Peralez moved approval of staff's recommendations including his February 28, 2022 memorandum as noted below in "Action". Councilmember Dev Davis seconded this motion.

Action: **Resolution No. 80397** was adopted, including recommendations outlined in his February 28, 2022 memorandum: 1. Approve Staff's Recommendation; 2. Explore adding the following language in the MOU or the next iteration of the DISC Cooperative Agreement, where appropriate: "Diridon Station is recognized as a historic and cultural resource listed in the National Register of Historic Places, a designated San José City Landmark, and subject to a preservation covenant held by the South Bay Historical Railroad Society." ; 3. Direct city staff to continue to proactively plan, to the furthest extent possible, the future of the historic Diridon Station building as part of the next phase of Diridon Integrated Station Concept (DISC) work. . (10-0-1. Absent: Arenas.)

2.14 22-219 One Bay Area Grant Cycle 2 Resolution of Local Support.
Adopt a "Resolution of Local Support" to receive One Bay Area Grant Funds Cycle 2 from the Metropolitan Transportation Commission (MTC) that indicates the City will: (a) Follow all grant program requirements; (b) Provide required local match; and (c) Authorize the City Manager or designee to negotiate and execute grant agreements and all documents necessary to effectuate the grant agreements with MTC, including the authority to negotiate and execute any documents that increase the amount of the grant award or require an increase of local matching funds, subject to the appropriation of such funds, in an amount not to exceed $2,067,572 for reimbursement for the Julian and St. James Couplet Conversion project with a local

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2.14 (Cont'd.)

match of $565,271. 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. Council District 3. (Transportation)

Action: **Resolution No. 80398** was adopted. (10-0-1. Absent: Arenas.)

2.15 22-243 Approval of District 10 SAP Grant for Almaden Valley Women's Club.

As recommended by the Rules and Open Government Committee on February 16, 2022, approve a $5,000 SAP grant from Council District 10 to support the efforts of the Almaden Valley Women's Club to provide recreational and cultural opportunities to the community. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative activities resulting in no changes to the physical environment. (Mahan) [Rules Committee referral 2/16/2022 - Item B.2]

Action: The Grant from Council District 10 to support the efforts of the Almaden Valley Women's Club was approved. (10-0-1 Absent: Arenas.)

2.16 22-247 Retroactive Approval of Ruskin Dumpster Day Sponsored by Council District 4 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 March 9, 2022: (a) Approve the Majestic Way Dumpster Day scheduled on March 19, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Cohen) [Rules Committee referral 3/9/2022 - Item B.3]

Action: The City Council Sponsored Special Event was approved. (10-0-1 Absent: Arenas.)

2.17 22-275 Request for Travel Authorization for Mayor Sam Liccardo.

As recommended by the Rules and Open Government Committee on February 23, 2022, authorize travel for Mayor Liccardo to Miami Beach, FL from March 2-5, 2022, to attend the United States Conference of Mayors (USCM) 2022 Winter Leadership Meeting. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Liccardo) [Rules Committee referral 2/23/2022 - Item B.2]

Action: The request for Travel Authorization for Mayor Liccardo was approved. (10-0-1 Absent: Arenas.)

2.18 **22-279** **Approval of Cambrian Dumpster Day Event Sponsored by Council District 9 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on February 23, 2022: (a) Approve the Cambrian Dumpster Day Event scheduled on March 5, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical Environment. (Foley) [Rules Committee referral 2/23/2022 - Item B.3]

Action: The City Council Sponsored Special Event was approved. (10-0-1 Absent: Arenas.)

2.19 **22-283** **Approval of Safe Neighbor Training and Ice Cream Social Sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on February 23, 2022: (a) Approve the Safe Neighbor Training and Ice Cream Social scheduled on March 12, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical Environment. (Cohen) [Rules Committee referral 2/23/2022 - Item B.4]

Action: The City Council Sponsored Special Event was approved. (10-0-1 Absent: Arenas.)

3. STRATEGIC SUPPORT

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

City Manager Jennifer Maguire thanked the City Manager's Office of Racial Equity, Community Energy Department, the Department of Parks, Recreation and Neighborhood Services, Environmental Department, Housing Department, Police Department, and the Department of Transportation for their work on the Healthy Cities Dashboard. This work was rewarded with four gold medals in the policy categories of "Safe Places for People of all Ages and Abilities, Climate Change Mitigation, Advancing Racial Equity in Government, Housing and Built Environment and one Silver Medal in "Violence Prevention and Resource", awarded annually by the Santa Clara County Healthy Cities Program which promotes cities and towns to pass policies that promote health and support the health of their residents.

3.2 Labor Negotiations Update.

None provided.

3.3 **22-223** **A New Official Logo of San José. - DROPPED PER MAYOR**

3.4 **22-293** **Booster Mandate Repeal.**

(a) Adopt an Urgency Ordinance repealing Ordinance No. 30711 adopted by Council on January 11, 2022, requiring full COVID-19 vaccination and up-to-date boosters or proof of negative test for public entry to large indoor events at City-owned facilities. PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES. City Charter Section 605(d). (b) Discuss and direct staff to return to Council with a new ordinance that is more restrictive than the State's requirements for large indoor events at City-owned facilities. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Liccardo)

Motion: Vice Mayor Jones moved approval of the Mayor's March 1, 2022 Memo. The motion was seconded by Councilmember Matt Mahan.

Substitute Motion: Councilmember David Cohen moved to keep the vaccination requirements without booster at the same venue sizes as previous policy, which was all city owned venues size 50 and above. Councilmember Sergio Jimenez seconded the motion. The motion failed.
(3-7-1. Noes: Peralez; Carrasco; Davis; Esparza; Foley; Mahan; Jones. Absent: Arenas.)

Action: On a call for the question, the Council adopted the Mayor's March 1, 2022 memorandum, to (1) adopt **Urgency Ordinance No. 30730** repealing Ordinance No. 30711 and (2) align City vaccine and masking requirements with the State standards for events in attendance of 1000 or above.
(9-1-1. Noes: Cohen. Absent: Arenas.)

4. PUBLIC SAFETY SERVICES

4.1 **22-224** **"Independent After Action Regarding the Events of May 29 - June 7, 2020" Report and Police Department Response.**

(a) Accept the "Independent After Action Regarding the Events of May 29 - June 7, 2020" report prepared by the OIR Group. (b) Approve the Police Department's response to the "Independent After Action Regarding the Events of May 29 - June 7, 2020" 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. (Independent Police Auditor/Police)

HEARD TOGETHER WITH ITEM 4.2

Independent Police Auditor, Shivaun Nurre; Chief of Police, Anthony Mata; Assistant Chief, Paul Joseph; Deputy Chief, Elle Washburn; Lieutenant, Steve Donohue; OIR Group, Michael Gennaco; OIR Group, Teresa Magula; and OIR Group, Julie Ruhlin provided the presentation and responded to questions.

Action: See Item 4.2 for action taken.

4.2 **22-225** **Use of Force Assessment of the San José Police Department Report and 21st Century Policing Assessment of the San José Police Department Report.**
(a) Accept the "Use of Force Assessment of the San José Police Department" report and the "21st Century Policing Assessment of the San José Police Department" report prepared by CNA Corporation. (b) Approve the Police Department's response to the "Use of Force Assessment of the San José Police Department" report and the "21st Century Policing Assessment of the San José Police Department" 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. (Independent Police Auditor/Police)

ITEMS 4.1 AND 4.2 HEARD TOGETHER.

Senior Research Scientist, CNA, Thomas Christoff, PhD provided the presentation and responded to questions.

Public Comments: Blair Beekman, Caller identified by the name "Shot by SJPD", Jason Wellman, and Kathryn Hedges offered public comments.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Maya Esparza and carried unanimously, "Use of Force Assessment of the San José Police Department" report; "21st Century Policing Assessment of the San José Police Department" report and Police Department's response; "Independent After Action Regarding the Events of May 29 - June 7, 2020" report and Police Department Response Reports were accepted (10-0-1 Absent: Arenas.)

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 **22-227** **Approval of an Amended and Restated Design-Build Contract for the Design and Construction of the Digested Sludge Dewatering Facility Project at the San José-Santa Clara Regional Wastewater Facility.**
(a) Approve the Amended and Restated Design-Build Contract with Walsh Construction Company II, LLC for the final design, construction, commissioning and acceptance testing of the Digested Sludge Dewatering Facility Project at the San José-Santa Clara Regional Wastewater Facility in a lump sum amount not to exceed $131,161,646. (b) Approve a construction contingency in the amount of $12,115,379 for adjustments to the lump sum contract amount, all in accordance with the Amended and Restated Design-Build Contract. (c) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund: (1) Decrease the Yard Piping and Road Improvements appropriation to the Environmental Services Department by $3,100,000; and (2) Increase the Digested Sludge Dewatering Facility appropriation to the Environmental Services Department by $3,100,000.

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6.1 (Cont'd.)

CEQA: San José-Santa Clara Regional Wastewater Facility Digested Sludge Dewatering Facility Project Addendum, File No. PP18-018. (Environmental Services/Public Works/City Manager

San José-Santa Clara Regional Wastewater Facility's Deputy Director Mariana Chavez-Vazquez and Principal Engineer Alicia Alba provided the presentation and answered questions.

Public Comments: Blair Beekman offered public comments.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis and carried unanimously, (a) Actions related to the Design-Build Contract with Walsh Construction Company II, LLC (b) with related contingencies were approved; and (c) **Appropriation Ordinance No. 30731** was adopted. (9-0-2 Absent: Esparza, Arenas.)

7. NEIGHBORHOOD SERVICES

7.1 22-239 City-Wide Sustainable Park Maintenance Report.
As recommended by the Neighborhood Services and Education Committee on February 10, 2022, accept the report on City-wide sustainable park maintenance, including current service levels and areas of improvement. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Parks, Recreation and Neighborhood Services) [Neighborhood Services and Education Committee referral 2/10/2022 - Item (d)4]

Parks, Recreation & Neighborhood Services' Director Jon Cicirelli, Deputy Director Avi Yotam, and Division Manager Torie O'Reilly provided the presentation and responded to questions.

Public Comments: Call-in User_3 offered public comment.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Magdalena Carrasco and carried unanimously, the report on City-wide sustainable park maintenance, including current service levels and areas of improvement was accepted. (10-0-1 Absent: Arenas.)

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 22-235 Actions Related to the Allocation of Community Benefit Payment from Google.
(a) Approve staff's recommended funding allocation of $4.5 million community benefit payment from Google as follows: (1) San José Aspires program in the amount of $1,500,000; (2) Paid work experience and occupational skills training program in the amount of $625,000; (3) Childcare subsidies for training program participants in the amount of $600,000; (4) College and career pathways coordinator

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8.1 (Cont'd.)

(three-year project position) in the amount of $525,000; (5) Gardner neighborhood programs (specifics still to be determined) in the amount of $1,000,000; and (6) Community Stabilization and Opportunity Pathways Fund set-up work in the amount of $250,000. (b) Adopt the following 2021-2022 Funding Sources Resolution and Appropriation Ordinance Amendments in the General Fund: (1) Increase the estimate for Other Revenue by $4,500,000 and (2) Establish the Google Community Benefits - Economic Development City-wide appropriation to the Office of Economic Development and Cultural Affairs in the amount of $4,500,000. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Economic Development and Cultural Affairs/Library/City Manager)

Director of Economic Development and Cultural Affairs, Nanci Klein and Assistant to the City Manager, Lori Severino provided the presentation and responded to questions.

Public Comments: Silicon Valley Rising, Jeffrey Buchanan; PACT Housing Team members: Kathryn Hedges, Mary Helen Doherty, and Marci Gerston; SJ Aspires Members: Noelia Rodriguez, Sophia Ruiz, Leslie Gomez and Jorge Ramirez; Catalyze SV, Rocio Molina and Alex Shoor; Overfelt High School, Vito Chiala; Fight for Fifteen Union Campaign, Niousha Farhangi; SOMOS Mayfair, Andrea Portillo; Blair Beekman; Gabby Mendoza; Southbay Labor Council, Krista De La Torre; LUNA, Yolanda Chavez; Brian Darby; Call-In User_3 offered public comments.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley and carried unanimously, the staff recommendation for funding allocation of $4.5 million was approved; and (b**) Resolution No. 80399** and **Appropriation Ordinance No. 30732** were adopted. (10-0-1 Absent: Arenas.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

10.1(a) 21-228 **PDC18-032 & PD18-042 - Planned Development Rezoning and Planned Development Permit on Certain Real Property Located Northeast Corner of Oakland Road and Faulstich Court (Ngo Nghi, Owner). - DEFERRED.**
(1) Adopt a resolution adopting the Oakland Road Comfort Suites Project Mitigated Negative Declaration, for which an Initial Study was prepared, and associated Mitigation Monitoring and Reporting Program, in accordance with the California Environmental Quality Act, as amended. (2) Approve an ordinance of the City of San José rezoning certain real property of approximately 0.25 acre on the northeast corner of Oakland Road and Faulstich Court from the CIC Combined Industrial/Commercial Zoning District to the CIC(PD) Planned Development Zoning District. (3) Adopt a resolution, approving subject to conditions, a Planned Development Permit to allow the construction of a five-story hotel with up to 48 rooms, an alternative parking arrangement (mechanical lifts), valet parking, an 8-foot masonry wall, and the removal of one non-ordinance sized tree on an approximately 0.25-gross acre site. CEQA: Oakland Road Comfort Suites Project Mitigated Negative Declaration. Planning Commission recommends approval (10-0-1; Bonilla absent). Council District 3. (Planning, Building and Code Enforcement) [Deferred from 1/11/2022 Item 10.1 (a) (21-2648)]

DEFERRED TO 3/29/2022 PER RULES AND OPEN GOVERNMENT COMMITTEE

• Open Forum

1. Brian Darby thanked the council for their discussions and spoke to the current situation in Ukraine and the engagement of violence to solve political problems.
2. Dan Meyer asked that the city approve funding with inflation adjustments to improve City Hall Maintenance and to address safety concerns in District 8 for elementary school students.
3. Call-In User_3 spoke to the current situation in Ukraine and gun laws.
4. Blair Beekman spoke to the current situation in Ukraine and expressed concern on fast tracking urban villages.

• Adjournment

The Council of the City of San José adjourned at 9:39 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

get/03-01-22 MIN

SAN JOSÉ CITY COUNCIL CLOSED SESSION

MARCH 1, 2022

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

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

Absent: Councilmembers - All Present

Closed Session Item(s) discussed:

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

1. Case Name: In re: Margaret Sandez
Name(s) of Partie(s) Involved:
Court: Workers Compensation Appeals Court
Case No.: ADJ12616774
ADJ10842990, ADJ12396658
Amount of Money or Other Relief Sought: Benefits

2. Case Name: In re: Jason Herr
Name(s) of Partie(s) Involved:
Court: Workers Compensation Appeals Court
Case No.: ADJ10793739; ADJ14833718; ADJ14833740
Amount of Money or Other Relief Sought: Benefits

B. CONFERENCE REGARDING POTENTIAL THREAT TO PUBLIC SERVICES OR FACILITIES PURSUANT TO GOVERNMENT CODE SECTION 54957(a):

Consultation with: San Jose Police Department
Representative(s): Chief Mata

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

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1.	Organization or Name and Title of Unrepresented Employees:	**Association of Building, Mechanical and electrical Inspectors** (ABMEI)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	Memorandum of Agreement – City of San José and Association of Building, Mechanical and Electrical Inspectors (ABMEI)
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
2.	Organization or Name and Title of Unrepresented Employees:	**Association of Engineers & Architects** (AEA)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	City of San José - Association of Engineers & Architects (AEA) Benefit & Compensation Summary
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
3.	Organization or Name and Title of Unrepresented Employees:	**Association of Maintenance Supervisory Personnel** (AMSP)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	City of San José - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
4.	Organization or Name and Title of Unrepresented Employees:	**City Association of Management Personnel Agreement** (CAMP)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.

	Name of Existing Contract or MOA:	Benefit & Compensation Summary — City of San José and City Association of Management Personnel Agreement
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
5.	Organization or Name and Title of Unrepresented Employees:	**International Association of Firefighters (IAFF), Local 230** (IAFF#230)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	Memorandum of Agreement Between City of San José and International Association of Firefighters (IAFF), Local 230
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
6.	Organization or Name and Title of Unrepresented Employees:	**International Brotherhood of Electrical Workers, Local 332** (IBEW)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	Memorandum of Agreement Between City of San José and International Brotherhood of Electrical Workers, Local 332 (IBEW)
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
7.	Organization or Name and Title of Unrepresented Employees:	**Municipal Employees' Federation, AFSCME Local 101, AFL-CIO** (MEF)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	Memorandum of Agreement — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
8.	Organization or Name and Title of Unrepresented Employees:	**International Union of Operating Engineers, Local No. 3** (OE#3**)**
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.

	Name of Existing Contract or MOA:	Memorandum of Agreement Between City of San José and International Union of Operating Engineers, Local No. 3 (OE#3)
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
9.	Organization or Name and Title of Unrepresented Employees:	**Peace Officer Park Ranger Association** (POPRA)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	Memorandum of Agreement — City of San José and Peace Officer Park Ranger Association
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
10.	Organization or Name and Title of Unrepresented Employees:	**San José Police Officers' Association** (SJPOA)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	Memorandum of Agreement — City of San José and San José Polices' Association
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
11.	Organization or Name and Title of Unrepresented Employees:	**Association of Legal Professionals of San José** (ALP)
	Nature of negotiations:	wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	Memorandum of Agreement – City of San José and Association of Legal Professionals of San José
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150

By unanimous consent, Council recessed from the Closed Session to reconvene in Regular Open Session at 1:30 p.m. in the Council Chamber.