



City Council Meeting MINUTES

DRAFT

Tuesday, February 28, 2023

1:30 PM

**Hybrid Meeting – Council Chambers and Virtually –
<https://sanjoseca.zoom.us/j/88957084529>**

MATT MAHAN, MAYOR
ROSEMARY KAMEI, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
OMAR TORRES, DISTRICT 3
DAVID COHEN, DISTRICT 4
PETER ORTIZ, DISTRICT 5
DEV DAVIS, DISTRICT 6
BIEN DOAN, DISTRICT 7
DOMINGO CANDELAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
ARJUN BATRA, DISTRICT 10



*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution Nos. 80628, 80659, 80685, 80724, 80758, 80809, RES2023-1, and RES2023-22 Councilmembers may be teleconferencing from remote locations.

• Call to Order and Roll Call

9:30 a.m. - Closed Session

23-304 Closed Session: [See Page 28 for Closed Session Minutes](#)

Absent: All Present.

2:26 p.m. - Afternoon Session

Present: Councilmembers - Jimenez (via Zoom), Torres, Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra, Kamei; Mahan.

Absent: Councilmembers - All Present.

• Pledge of Allegiance

Mayor Matt Mahan led the Pledge of Allegiance.

• Invocation (District 2)

Saida Mulder-Singer, songwriter and SJSU alumni, provided the Invocation through a performance of her rendition of the Black National Anthem.

• Orders of the Day

Upon motion by Councilmember David Cohen, seconded by Councilmember Pam Foley and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with the addition of Item 8.2. “City Initiatives Roadmap – Emergency Housing System Expansion: Actions Related to the Homekey Program Round 2 Funds from the California Department of Housing and Community Development for Interim Housing Located at Branham Lane and Monterey Road”. (11-0.)

REQUIRES A DETERMINATION BY A TWO-THIRDS (2/3) VOTE OF THE MEMBERS OF THE COUNCIL PRESENT AT THE MEETING, OR, IF LESS THAN TWO-THIRDS (2/3) OF THE MEMBERS OF THE COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION. Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.1.E.3; Council’s Rules of Conduct, Resolution No. 2023-22, Rule 3(d); Council Agenda Items’ Placement After Rules During Social Distancing Period Resolution No. 79485; Council AB 361 Implementation Resolution No. 80809, Section 8.

- Closed Session Report

None provided.

1. CEREMONIAL ITEMS

- 1.1 Councilmember Peter Ortiz presented a commendation to Celina Rodriguez, recognizing her groundbreaking journalism career. (Ortiz)

2. CONSENT CALENDAR

Upon motion by Councilmember Cohen seconded by Councilmember Torres and carried unanimously, all the below listed actions were taken as indicated with Item 2.23 pulled for separate consideration. (11-0.)

- 2.1 23-253 Approval of City Council Minutes.**
(a) City Council Meeting Minutes of February 7, 2023. (b) City Council Meeting Minutes of February 14, 2023. 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: The City Council Minutes were approved. (11-0.)

- 2.2 23-302 Final Adoption of Ordinances.**
(a) Ordinance No. 30884 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.51 Gross Acres, Situated on the East Side of South Bascom Avenue Between Basile Avenue and Parkmoor Avenue and on the Southwest Corner of Laswell Avenue and Parkmoor Avenue (APNs: 277-29-045 & 277-29-044) from Unincorporated Territory within the County of Santa Clara County to the CP Commercial Pedestrian Zoning District and The R-1-8 Single-Family Residence Zoning District. [Passed for Publication on 2/14/2023 - Item 10.1(a)(1) (23-195)]

Action: **Ordinance No. 30884** was adopted. (11-0.)

- 2.3 23-254 Approval of Council Committee Minutes.**
(a) Regular Community and Economic Development Committee Minutes of January 23, 2023. (b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Minutes of January 25, 2023. (c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Minutes of February 1, 2023. (d) Regular Transportation and Environment Committee Minutes of February 6, 2023. (e) Regular Neighborhood Services and Education Committee Minutes of December 8, 2022. (f) Regular Neighborhood Services and Education Committee Minutes of November 10, 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: The Council Committee Minutes were approved. (11-0.)

- 2.4 23-256 Mayor and Council Excused Absence Requests**
(a) Request for an excused absence for Councilmember Jimenez from the Regular City Council Meeting on February 7, 2023 due to illness. (b) Request for an excused absence for Councilmember Davis from the Regular Meeting of Rules and Open Government Committee on February 8, 2023 due to illness. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Jimenez/Davis)

Action: The Excused Absences for Councilmember Jimenez and Councilmember Davis were approved. (11-0.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

- 2.7 23-297 Amicus Curiae Brief in Support of the Legality of the Deferred Action for Childhood Arrivals (DACA) Program in Texas v. United States (S.D. Tex).**
Authorize the City Attorney to join in Amicus Curiae brief being drafted by the County of Los Angeles and City of Los Angeles on behalf of cities and counties opposing plaintiffs' challenge to the legality of the Biden administration's new administrative DACA rule, which took effect on October 31, 2022, in Texas v. United States, Case No. 1:18-cv-00068 (S.D. Tex). CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Attorney)

Councilmember Torres expressed support on this Item and acknowledged San Jose's immigrant community and involvement in the process. Councilmember Ortiz thanked the City of LA for putting together this Brief and expressed support.

Action: Council authorized the City Attorney to join in Amicus Curiae brief being drafted by the County of Los Angeles and City of Los Angeles. (11-0.)

- 2.8 23-258 Prevention, Awareness, and Wellness Support Program for Communications Division in San José Police Department.**
Adopt a resolution approving the terms of a Side Letter Agreement between the City of San José and the San José Police Dispatchers' Association for the implementation of the Prevention, Awareness, and Wellness Support Program in the San José Police Department's Communications Division effective as soon as practicable. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Manager)

Action: **Resolution No. RES2023-36** was adopted, approving the terms of a Side Letter Agreement between the City of San José and the San José Police Dispatchers' Association. (11-0.)

- 2.9 23-259 **Amendments to Pay Plan and Terms of a Side Letter Agreement Between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101 Relating to Base Pay Increases and Non-Pensionable Lump Sum Payments for Dispatcher Series.**
- Adopt a resolution: (a) Approving the terms of a Side Letter Agreement between the City and Municipal Employees' Federation, AFSCME, Local 101 to: (1) Provide a 0.46% base pay increase to the following Dispatcher classifications, effective March 5, 2023: (i) Public Safety Radio Dispatcher Trainee (8532); (ii) Public Safety Radio Dispatcher (FT/PT) (8514/8534); (iii) Senior Public Safety Dispatcher (FT/PT) (8513/8533); and (iv) Supervising Public Safety Dispatcher (8512). (2) Provide a one-time non-pensionable lump sum payment to eligible incumbents in the Dispatcher classifications, consistent with the terms of the Side Letter Agreement between the City and Municipal Employees' Federation, AFSCME, Local 101. (b) Amending the City of San José Pay Plan to increase the annual pensionable salary ranges of the following Dispatcher classifications effective March 5, 2023: (1) Public Safety Radio Dispatcher Trainee (8532) increased to \$81,452.80 - \$81,452.80; (2) Public Safety Radio Dispatcher (FT/PT) (8514/8534) increased to \$90,459.20 - \$109,969.60; (3) Senior Public Safety Dispatcher (FT/PT) (8513/8533) increased to \$104,644.80 - \$127,316.80; and (4) Supervising Public Safety Dispatcher (8512) increased to \$121,284.80 - \$147,326.40. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: **Resolution No. RES2023-37** was adopted, approving the terms of a Side Letter Agreement between the City and Municipal Employees' Federation, AFSCME, Local 101 and amending the City of San José Pay Plan. (11-0.)

- 2.10 23-260 **Amendments to the Pay Plan and Terms of Side Letter Agreements Between the City of San José and the Municipal Employees' Federation, AFSCME, Local 101, the City Association of Management Personnel, IFPTE, Local 21, and the Association of Maintenance Supervisory Personnel, IFPTE, Local 21.**
- Adopt a resolution: (a) Approving the terms of a Side Letter Agreement between the City and the Municipal Employees' Federation, AFSCME, Local 101 to provide the following effective March 5, 2023: (1) Providing employees in the Associate Construction Inspector (3771) classification with an approximate 4.33% base pay increase consistent with the Side Letter Agreement that has been signed by all parties; and (2) Providing employees in the Senior Construction Inspector (3772) classification with an approximate 2.29% base pay increase consistent with the Side Letter Agreement that has been signed by all parties. (b) Approving the terms of a Side Letter Agreement between the City and the City Association of Management Personnel, IFPTE, Local 21 to provide the following effective March 5, 2023: (1) Providing employees in the Principal Construction Inspector (3773) classification with an approximate 5.78% base pay increase consistent with the Side Letter Agreement that has been signed by all parties; and (2) Providing employees in the Operations Manager (3776) classification with an approximate 10.75% base pay increase consistent with the Side Letter Agreement that has been signed by all

(Item continued on next page)

2.10 (Cont'd.)

parties. (c) Approving the terms of Side Letter Agreement between the City and the Association of Management Supervisory Personnel, IFPTE, Local 21 to provide a 10.36% base pay increase to the following classifications consistent with the Side Letter Agreement that has been signed by all parties, effective March 5, 2023: (1) Airport Operations Supervisor I (3524); (2) Airport Operations Supervisor II (3527); and (3) Airport Operations Supervisor III (3528). (d) Approving the terms of a Side Letter Agreement between the City and the City Association of Management Personnel, IFPTE, Local 21: (1) Providing a 10.36% base pay increase to the following classifications consistent with the Side Letter Agreement that has been signed by all parties, effective March 5, 2023: (i) Airport Operations Superintendent I (3525); and (ii) Airport Operations Superintendent II (3532). (2) Providing a 15.00% base pay increase to the following classifications consistent with the Side Letter Agreement that has been signed by all parties, effective March 5, 2023: (i) Airport Operations Manager I (3526); and (ii) Airport Operations Manager II (3534). (e) Amending the City of San José Pay Plan to increase the annual pensionable salary ranges for the following classifications effective March 5, 2023: (1) Associate Construction Inspector (3771) increased to \$82,929.60 - \$100,796.80; (2) Senior Construction Inspector (3772) increased to \$91,332.80 - \$111,092.80; (3) Principal Construction Inspector (3773) increased to \$108,222.40 - \$131,851.20; (4) Operations Manager (3776) increased to \$119,184.00 - \$145,100.80; (5) Airport Operations Supervisor I (3524) increased to \$93,059.20 - \$113,380.80; (6) Airport Operations Supervisor II (3527) increased to \$99,985.60 - \$121,825.60; (7) Airport Operations Supervisor III (3528) increased to \$107,681.60 - \$131,164.80; (8) Airport Operations Superintendent I (3525) increased to \$108,056.00 - \$131,643.20; (9) Airport Operations Superintendent II (3532) increased to \$124,966.40 - \$152,256.00; (10) Airport Operations Manager I (3526) increased to \$130,228.80 - \$158,620.80; and (11) Airport Operations Manager II (3534) increased to \$150,592.00 - \$183,435.20. (f) Amending the City of San José Pay Plan, effective March 5, 2023, to create the following classifications: (1) Construction Inspector I FT (3777) with a pensionable salary range of \$64,896.00 - \$79,060.80 annually; (2) Construction Inspector II FT (3778) with a pensionable salary range of \$73,424.00 - \$89,440.00 annually; (3) Wastewater Facility Senior Engineer FT (3839) with a pensionable salary range of \$137,488.00 - \$174,033.60 annually; and (4) Wastewater Facility Principal Engineer FT (3838) with a pensionable salary range of \$153,175.55 - \$192,172.15 annually. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Action: **Resolution No. RES2023-38** was adopted, approving the terms of a Side Letter Agreement between the City and Municipal Employees' Federation, AFSCME, Local 101 and amending the City of San José Pay Plan. (11-0.)

- 2.11 23-268 Extension of the Proclamation of the Existence of a Local Emergency by 60 Days.**
Adopt a resolution extending the Director of Emergency Services' January 3, 2023 Proclamation of the Existence of a Local Emergency that is currently set to expire on March 4, 2023 by 60 days, as the public safety threat for high water flows and flooding remains. CEQA: Statutory Exempt, Section 15269, Emergency Projects Undertake specific actions necessary to prevent or mitigate an emergency. (City Manager)

Action: **Resolution No. RES2023-39** was adopted, extending the Director of Emergency Services' January 3, 2023 Proclamation of the Existence of a Local Emergency. (11-0.)

- 2.12 23-261 Amendment to Agreement with California Community Power for Long Duration Storage and Geothermal Power.**
Adopt a resolution authorizing the Director of the Community Energy Department or designee to execute first amendments to four separate project participation share agreements with California Community Power and other Community Choice Aggregators transferring various responsibilities from project committees to the general manager of California Community Power and removing inefficient procedures and processes. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Community Energy)

Action: **Resolution No. RES2023-40** was adopted, authorizing the Director of the Community Energy Department or designee to execute first amendments to four separate project participation share agreements with California Community Power and other Community Choice Aggregators. (11-0.)

- 2.13 23-262 Actions Related to Purchase Orders with Netsync Network Solutions, Inc. for Cisco SMARTnet Maintenance and Support Services.**
Adopt a resolution authorizing the City Manager or designee to: (a) Amend purchase order PO 82953 with Netsync Network Solutions, Inc. (Houston, TX) for Cisco SMARTnet maintenance and support services for the San José Mineta International Airport to increase compensation by \$343,257 for a revised maximum compensation of \$500,000 for the option term ending on December 15, 2023; and (b) Exercise up to two additional one-year options to extend the term of the purchase order through December 15, 2025, or as may be adjusted to align with the maintenance and support renewal term, subject to the appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Action: **Resolution No. RES2023-41** was adopted, authorizing the City Manager or designee to: (a) Amend purchase order PO 82953 with Netsync Network Solutions, Inc. (Houston, TX) and (b) exercise up to two additional one-year options to extend the term of the purchase order through December 15, 2025. (11-0.)

- 2.14 23-263 **Actions Related to the Purchase Orders with J.S. Cole Company and Harris Blade Rental for as Required Earth-Moving and Construction Equipment Rentals.**
Adopt a resolution authorizing the City Manager or designee to: (a) Amend purchase orders OP 62633 with J.S. Cole Company (Novato, CA) and OP 62634 with Harris Blade Rental (Livermore, CA) for as-required earth-moving and construction equipment rentals to increase the total compensation by \$1,300,000, for a combined not-to-exceed amount of \$2,000,000 for the period ending September 6, 2023; and (b) Exercise up to four one-year options to extend the term of the purchase orders, with the last option ending on or about September 6, 2027, subject to the appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Action: **Resolution No. RES2023-42** was adopted, authorizing the City Manager or designee to: (a) Amend purchase orders OP 62633 with J.S. Cole Company (Novato, CA) and OP 62634 with Harris Blade Rental (Livermore, CA); and (b) exercise up to four one-year options to extend the term of the purchase orders, with the last option ending on or about September 6, 2027. (11-0.)

- 2.15 23-264 **Amendment to the Agreement with Granicus, Inc. for Webstreaming Software and Hosting Services.**
Adopt a resolution authorizing the City Manager or designee to: (a) Negotiate and execute the Fourth Amendment to the Agreement with Granicus, Inc. (Denver, CO) for Webstreaming Software and Hosting Services to add scope to migrate to the PrimeGov agenda and meeting management platform, increase compensation by \$138,660 to retroactively reflect contract changes executed under previous City Council authority for a revised maximum compensation of \$918,122, add four additional two-year options for a total of nine options to extend the agreement through August 8, 2033 under the same material terms and conditions as the original agreement, update insurance requirements and the City's privacy and disclosure policy, and add the City's information technology and security requirements, subject to the appropriation of funds; and (b) Negotiate and execute a second amended and restated Option 4 with Granicus, Inc. (Denver, CO) to add \$87,980 for migration to the PrimeGov platform for a revised maximum compensation of \$231,820 for the two-year option period ending August 8, 2023 and move any costs for incomplete migration work not completed by the end of Option 4 from Option 4 to Option 5. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance/Information Technology)

Action: **Resolution No. RES2023-43** was adopted, authorizing the City Manager or designee to: (a) Negotiate and execute the Fourth Amendment to the Agreement with Granicus, Inc. (Denver, CO) and (b) negotiate and execute a second amended and restated Option 4 with Granicus, Inc. (Denver, CO) to add \$87,980 for migration to the PrimeGov platform for a revised maximum compensation of \$231,820 for the two-year option period ending August 8, 2023. (11-0.)

- 2.16 23-265 **Actions Related to the Purchase Order with Braun Northwest, Inc. for Rescue Medic Ambulances.**
Adopt a resolution authorizing the City Manager or designee to: (a) Execute a purchase order with Braun Northwest, Inc. (Chehalis, WA), for rescue medic ambulances for a one-year term beginning on or about March 1, 2023, and ending on or about February 28, 2024, for a not-to-exceed amount of \$3,300,000; (b) Approve a contingency of \$350,000 for unanticipated modifications to rescue medic ambulance specifications, subject to the appropriation of funds; and (c) Exercise up to four additional one-year options to extend the term of the purchase order, with the last option ending on or about February 28, 2028, subject to the appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Action: **Resolution No. RES2023-44** was adopted, authorizing the City Manager or designee to: (a) Execute a purchase order with Braun Northwest, Inc. (Chehalis, WA); (b) Approve a contingency of \$350,000 for unanticipated modifications; and (c) Exercise up to four additional one-year options to extend the term of the purchase order, with the last option ending on or about February 28, 2028. (11-0.)

- 2.17 23-267 **Approval of 10212- Master Agreements with Callander Associates Landscape Architecture, Inc., RRM Design Group, Moore Iacofano Goltsman, Inc., PGAdesign Inc., and SWA Group for Landscape Architectural Services for Various City Facility Projects.**
Approve the Master Agreements with Callander Associates Landscape Architecture, Inc., RRM Design Group, PGAdesign Inc., Moore Iacofano Goltsman, Inc., and SWA Group for landscape architectural services for various City projects from the date of execution through June 30, 2028, in an amount not to exceed \$1,500,000 for each master agreement. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

Action: The Master Agreements with Callander Associates Landscape Architecture, Inc., RRM Design Group, PGAdesign Inc., Moore Iacofano Goltsman, Inc., and SWA Group for landscape architectural services were approved. (11-0.)

- 2.18 23-283 **Approval of District 2 Career Exploration Seminar Sponsored by Council District 2 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 15, 2023: (a) Approve the District 2 Career Exploration Seminar hosted in collaboration with East Side Union High School District scheduled on March 24, 2023 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. (Jimenez) [Rules Committee referral 2/15/2023 - Item B.3]

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

2.19 23-287 Retroactive Approval of Councilmember Peter Ortiz Community Swearing-In Ceremony Sponsored by Council District 5 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 15, 2023: (a) Retroactively approve the Councilmember Peter Ortiz Community Swearing-In Ceremony scheduled on February 21, 2023 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. (Ortiz) [Rules Committee referral 2/15/2023 - Item B.4]

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

2.20 23-296 Approval of Recognizing March 25, 2023 as Greek Independence Day 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 15, 2023: (a) Approve March 25, 2023 as Greek Independence Day as a City Council sponsored Special Event and approve the expenditure of funds; (b) Approve the Greek Flag Raising Ceremony scheduled on March 22, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; (c) Approve the Greek Independence Day Tower and Rotunda Lighting Ceremony as a City Council sponsored Special Event and approve the expenditure of funds; and (d) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Foley) [Rules Committee referral 2/15/2023 - Item B.5]

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

2.21 23-301 Retroactive Approval of African American History Month Flag Raising Ceremony Sponsored by Council District 1 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 15, 2023: (a) Retroactively approve the African American History Month Flag Raising scheduled on February 10, 2023 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. (Kamei) [Rules Committee referral 2/15/2023 - Item B.6]

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

- 2.22 23-331 **Retroactive Approval of Cafecito and Pancake Breakfast Sponsored by Council District 3 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 22, 2023: (a) Retroactively approve the Cafecito and Pancake Breakfast scheduled on February 3, 2023 and February 11, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Torres) [Rules Committee referral 2/22/2023 - Item B.4

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

- 2.23 23-324 **2024 California Ballot Initiative to Increase Vote Threshold for New or Increased Taxes.**
As recommended by the Rules and Open Government Committee on February 22, 2023, adopt an oppose position on the 2024 California Ballot Initiative 21-0042A1, the Taxpayer Protection and Government Accountability Act, an initiated constitutional amendment limiting the ability of voters, as well as state and local governments, to raise revenues for public services. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager) [Rules Committee referral 2/22/2023 - Item B.2]

Public Comment: Jeffrey Buchanan (Working Partnerships USA) and Elizabeth Brierly (Silicon Valley Taxpayers Association) offered public comment.

Motion: Councilmember Bien Doan made a motion to adopt a position of support for the 2024 California Ballot Initiative 21-0042A1, the Taxpayer Protection and Government Accountability Act. Motion failed for lack of a second.

Motion: Councilmember David Cohen moved to approve the staff recommendation. This motion was seconded by Councilmember Peter Ortiz.

Action: On a call for the question, the Council adopted a position of opposition on the 2024 California Ballot Initiative 21-0042A1, the Taxpayer Protection and Government Accountability Act. (9-1-1. Noes: Doan. Absent: Jimenez.)

- 2.24 23-328 **VEBA Advisory Committee Appointment.**
As recommended by the Rules and Open Government Committee on February 22, 2023, approve the following appointment to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee for a partial term, beginning March 1, 2023 and ending on May 31, 2026: (a) Edgar “David” Parker, nominated by the Federated unions. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources) [Rules Committee referral 2/22/2023 - Item B.3]

Action: Edgar “David” Parker was appointed to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee for a partial term, beginning March 1, 2023 and ending on May 31, 2026. (11-0.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 23-247 Board of Fair Campaign and Political Practices Interview.

(a) Interview applicants for appointments to the Board of Fair Campaign and Political Practices. (b) Appoint up to three (3) applicants to a term ending March 1, 2027. PLEASE NOTE: APPROVAL OF THIS ITEM REQUIRES AFFIRMATIVE VOTES OF EIGHT MEMBERS (2/3) OF THE CITY COUNCIL. San José Municipal Code Section 2.08.1610. (c) If any vacancies remain, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

City Clerk Toni Taber described the process as follows: Councilmembers will each have the opportunity to ask the candidates a question but are not required to ask a question. The Candidates will have two minutes to respond. At the end of the interview, the Council may appoint up to three individuals. Appointments require 2/3 of the Council Vote. If a vacancy remains following the conclusion of the Item, the appointment process will return to the March 28th, 2023 City Council meeting.

The applicants present during the February 28, 2023 Council meeting were:

1. Christopher Lee
2. Baltazar Lopez
3. Ravi Pathak
4. Jennifer Tonnis.

The candidates were all asked the following questions:

City Clerk: Tell us about your background as it relates to this commission and include how you are familiar with campaign laws.

Mayor: We all have political leanings and preferences, but this is a body that requires absolute independence and a focus on fairness and applying the rules in a consistent manner. What will you do to ensure your political leanings don't influence your decision making?

Councilmember Batra: Please describe any experience or any interaction you either had with FPPC or with FEC in connect with the elections?

Councilmember Omar Torres: Which aspect of San José campaign laws and ordinances do you think need more attention and greater commitment from the Commission and the Council.

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3.3 (Cont'd.)

Councilmember Rosemary Kamei: I'd like to hear a little bit about why or why not, is the FPPC or FEC important?

Councilmember Peter Ortiz: If there were one piece of campaign law that you would change, create or delete, what would it be and why?

Councilmember Bien Doan: What is your idea for following up on political complaints, which cost the taxpayer tens of thousands of dollars of research expenses, especially when it is paid to the third party law firms, and end up being baseless?

City Clerk Toni Taber passed out a ballot for Councilmembers to select up to three candidates. Any candidate receiving eight or more votes was approved for appointment.

In the first round of voting, the candidates received the following number of votes:

1. Christopher Lee: 3 (Doan, Batra, Mahan.)
2. Baltazar Lopez: 9 (Jimenez, Torres, Ortiz, Davis, Doan, Candelas, Foley, Kamei, Mahan.)
3. Ravi Pathak: 6 (Torres, Ortiz, Doan, Candelas, Foley, Mahan.)
4. Jennifer Tonnis: 7 (Jimenez, Torres, Cohen, Ortiz, Davis, Candelas, Batra.)

Baltazar Lopez was appointed to the Board of Fair Campaign and Political Practices

Motion: Upon motion by Councilmember David Cohen, seconded by Councilmember Omar Torres, the Council moved to complete an additional round of voting: (8-1-2. Noes: Kamei. Absent: Davis, Foley.)

In the second round of voting, the candidates received the following number of votes:

1. Christopher Lee: 2 (Doan, Mahan.)
2. Ravi Pathak: 6 (Jimenez, Ortiz, Doan, Candelas, Foley, Mahan.)
3. Jennifer Tonnis: 7 (Jimenez, Torres, Cohen, Ortiz, Davis, Candelas, Batra.)

This Item concluded with two vacancies remaining, and with the appointment process to return to the March 28, 2023 City Council Meeting.

- 3.4 23-269 Report on Bids and Award of Contract for the 8512-Tully Road Safety Improvements Project - Federal Project No. CML-5005(155) - Re-Bid.**
(a) Report on bids and award of contract for the 8512 - Tully Road Safety Improvements Project - Federal Project No. CML-5005(155) - Re-Bid to the low bidder, Joséph J. Albanese, Inc., in the amount of \$6,632,725. (b) Approve a 10% contingency in the amount of \$663,273. CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 7 and 8. (Public Works/Transportation)

Director of Transportation John Ristow responded to questions.

Action: Upon motion by Councilmember Domingo Candelas, seconded by Councilmember Rosemary Kamei, and carried unanimously, staff recommendations were approved. (11-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

- 6.1 23-270 Procurement Authority for Community Energy.**
Adopt a resolution increasing the authority of the Director of the Community Energy Department or designee to negotiate and execute short- and medium-term agreements for the procurement of power products from \$352,900,000 to \$412,900,000 in calendar year 2023 and from \$337,300,000 to \$427,300,000 in calendar year 2024 to be paid solely from the San José Clean Energy Operating Fund. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Community Energy)

Director of Community Energy Lori Mitchell and Assistant Director of Community Energy Zachary Struyk provided the presentation and responded to questions.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember David Cohen, and carried unanimously, **Resolution No. RES2023-45** was adopted, increasing the authority of the Director of the Community Energy Department or designee to negotiate and execute short- and medium-term agreements for the procurement of power products from \$352,900,000 to \$412,900,000 in calendar year 2023 and from \$337,300,000 to \$427,300,000 in calendar year 2024. (11-0.)

- 6.2 23-271 Report on Bids and Award of Contract for 10228 - South Bay Water Recycling Metering and Pressure Monitoring Improvements Phase 1 Project.**
Report on bids and award of construction contract for the 10228 - South Bay Water Recycling Metering and Pressure Monitoring Improvements Phase 1 project to the lowest responsive, responsible bidder, JMB Construction, Inc. in the amount of \$2,681,000, and approve a 10 percent contingency in the amount of \$268,100. CEQA: Categorically Exempt, File No. PP17-050, CEQA Guidelines Section 15301, Existing Facilities; Section 15302, Replace or Reconstruction. (Environmental Services)

Deputy Director in Environmental Services, Muni Water, Jeffrey Provenzano responded to questions.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Pam Foley, and carried unanimously, the staff recommendation was approved. (11-0.)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 23-273 **Overruling Objections to the 2023-2024 Weed Abatement Commencement Report and Directing the Removal of Weeds or Refuse.**
Conduct a Public Hearing and adopt a resolution: (a) Overruling any and all objections to the 2023-2024 Weed Abatement Commencement Report (Report); and (b) Directing the Santa Clara County Consumer and Environmental Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara. CEQA: Categorically Exempt, CEQA Guidelines Section 15301(h) Existing Facilities, File No. PP18-094. (Planning, Building and Code Enforcement) [Deferred from 2/7/2023 - Item 8.1 (23-165) and 2/14/2023 - Item 8.2 (23-208)]

Deputy Director of Planning, Building, & Code Enforcement Rachel Roberts and Weed Abatement Manager, County of Santa Clara, Moe Kumre provided the presentation and responded to questions.

The Mayor opened the public hearing:

Public Comments: Joe Alfaro and Heather McAllister offered public comments.

The Mayor closed the public hearing.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. RES2023-46** was adopted, (a) overruling any and all objections to the 2023-2024 Weed Abatement Commencement Report and (b) directing the Santa Clara County Consumer and Environmental Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report. (11-0.)

- 8.2 23-345 **City Initiatives Roadmap - Emergency Housing System Expansion: Actions Related to the Homekey Program Round 2 Funds from the California Department of Housing and Community Development for Interim Housing Located at Branham Lane and Monterey Road.**
(a) Adopt a resolution: (1) Authorizing the Director of Housing to renegotiate the terms of an agreement with LifeMoves to accept and receive an award of \$51,552,800 in Homekey Program Round 2 funds from the California Department of Housing and Community Development to address the housing needs of individuals and families experiencing homelessness or at risk of experiencing homelessness through the construction and operations at an interim housing community on City-owned property located at Branham Lane and Monterey Road; (2) Approving an increase to the existing City Council-approved grant commitment to LifeMoves by \$2,000,000; and (3) Authorizing the existing City Council-approved grant of \$10,000,000 for the installation of kitchenettes to be allocated towards general

(Item continued on next page)

8.2 (Cont'd.)

construction costs of the Project including, but not limited to, the construction of kitchenettes in each unit. (b) Adopt the following 2022-2023 Appropriation Ordinance Amendments in the General Fund: (1) Decrease the Measure E - 40% Extremely Low-Income Households Reserve by \$2,000,000; and (2) Increase the Measure E - Project HomeKey 2.0 (40% ELI) appropriation to the Housing Department by \$2,000,000. (c) Adopt the following 2022-2023 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund: (1) Decrease the Estimate for Revenue from the State of California by \$29,847,200; and (2) Decrease the Project HomeKey 2.0 appropriation to the Housing Department by \$29,847,200. CEQA: Statutorily Exempt, File No. ER21-261, CEQA Guidelines Section 15268, Ministerial Projects. Council District 2. (Housing/City Manager)

Public Comments: Sean Paul, Caller Number ending in 7911, and Blair Beekman offered public comments.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Omar Torres, and carried unanimously, (a) **Resolution No. RES2023-47**, (b) **Appropriation Ordinance No. 30885**, (c) **Appropriation Ordinance No. 30886**, and **Funding Sources Resolution No. RES2023-48** were adopted. (11-0.)

• Afternoon Session Open Forum

1. Sean Paul spoke to potential for strategic partnerships and expressed concern on staffing needs. They also spoke on the work of Develop for Good and their partnerships with university students.
2. Blair Beekman, expressed frustration with the public display of agenda resources on the City website and spoke on the value of learning to speak with the community in regards to tech.
3. Jill Borders, asked for clarification on the process of the meeting's evening agenda.
4. Caller ending in 7911 spoke to the difficulty of navigating tech, and expressed concern on the health risks of electronic billboards, as well as the continuation of towing provisions made during the COVID-19 pandemic.

By unanimous consent, the Council recessed from the Afternoon Session at 4:35 p.m. to reconvene in the Evening Session at 6:00 p.m. in the Council Chamber.

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

The Council reconvened at 6:00 p.m.

6:00 p.m. - Evening Session

Present: Councilmembers - Jimenez (via Zoom), Torres, Cohen, Ortiz, Davis (via Zoom), Doan, Candelas, Foley (via Zoom), Batra, Kamei; Mahan.

Absent: Councilmembers - All Present.

10.1 Land Use on Consent Calendar

LAND USE CONSENT ITEMS WERE HEARD TOGETHER. MOTION AND ACTION LISTED UNDER 10.1(a).

10.1(a) 23-274 C22-042, C22-044, C22-045, C22-046, C22-047, C22-048, C22-049, C22-050, C22-051, C22-052, C22-054, C22-055, C22-056, C22-057 - City-Initiated Rezoning of 834 Parcels to Align a Property's Zoning Designation to Its General Plan Land Use Designation in Response to Senate Bill 1333 (San José Mineta Airport Influence Area).

Approve an ordinance of the City of San José rezoning two properties from the A Agriculture Zoning District to the CIC Combined Industrial/Commercial Zoning District, seven properties from the HI Heavy Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District, six properties from the IP Industrial Park Zoning District to the CIC Combined Industrial/Commercial Zoning District, ten properties from the LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District, 17 properties from the R-1-8 Single-Family Residential Zoning District to the CP Commercial Pedestrian Zoning District, 14 properties from the R-2 Two-Family Residential Zoning District to the CP Commercial Pedestrian Zoning District, two properties from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District, eight properties from the HI Heavy Industrial Zoning District to the DC Downtown Primary Commercial Zoning District, one property from the IP Industrial Park Zoning District to the DC Downtown Primary Commercial Zoning District, 10 properties from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District, three properties from the PQP Public/Quasi-Public Zoning District to the DC Downtown Primary Commercial Zoning District, two properties from the R-1-8 Single-Family Residential Zoning District to the DC-NT1 Downtown Commercial - Neighborhood Transition 1 Zoning District, one property from the R-2 Two-Family Residential Zoning District to the DC Downtown Primary Commercial Zoning District, 39 properties from the LI Light Industrial Zoning District to the HI Heavy Industrial Zoning District, three properties from the CO Commercial Office Zoning District to the LI Light Industrial Zoning District, one property from the CP Commercial Pedestrian Zoning District to the LI Light

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10.1(a) (Cont'd.)

Industrial Zoning District, 23 properties from the HI Heavy Industrial Zoning District to the LI Light Industrial Zoning District, four properties from the IP Industrial Park Zoning District to the LI Light Industrial Zoning District, two properties from the R-1-8 Single-Family Residential Zoning District to the LI Light Industrial Zoning District, 17 properties from the R-2 Two-Family Residential Zoning District to the LI Light Industrial Zoning District, two properties from the R-M Multiple Residence Zoning District to the LI Light Industrial Zoning District, 30 properties from the CN Commercial Neighborhood Zoning District to the MUC Mixed Use Commercial Zoning District, 18 properties from the CP Commercial Pedestrian Zoning District to the MUC Mixed Use Commercial Zoning District, four properties from the LI Light Industrial Zoning District to the MUC Mixed Use Commercial Zoning District, one property from the R-1-8 Single-Family Residential Zoning District to the MUC Mixed Use Commercial Zoning District, six properties from the R-2 Two-Family Residential Zoning District to the MUC Mixed Use Commercial Zoning District, one property from the R-M Multiple Residence Zoning District to the MUC Mixed Use Commercial Zoning District, 25 properties from the CN Commercial Neighborhood Zoning District to the MUN Mixed Use Neighborhood Zoning District, two properties from the CO Commercial Office Zoning District to the MUN Mixed Use Neighborhood Zoning District, four properties from the CP Commercial Pedestrian Zoning District to the MUN Mixed Use Neighborhood Zoning District, two properties from the LI Light Industrial Zoning District to the MUN Mixed Use Neighborhood Zoning District, one property from the R-1-8 Single Family Residential Zoning District to the MUN Mixed Use Neighborhood Zoning District, 35 properties from the R-2 Two-Family Residential Zoning District to the MUN Mixed Use Neighborhood Zoning District, 66 properties from the R-M Multiple Residence Zoning District to the MUN Mixed Use Neighborhood Zoning District, six properties from the A Agriculture Zoning District to the OS Open Space Zoning District, one property from the CIC Combined Industrial/Commercial Zoning District to the OS Open Space Zoning District, seven properties from the CO Commercial Office Zoning District to the OS Open Space Zoning District, two properties from the CO (PD) Planned Development Zoning District to the OS Open Space Zoning District, one property from the CP Commercial Pedestrian Zoning District to the OS Open Space Zoning District, 20 properties from the DC Downtown Primary Commercial Zoning District to the OS Open Space Zoning District, six properties from the HI Heavy Industrial Zoning District to the OS Open Space Zoning District, 14 properties from the IP Industrial Park Zoning District to the OS Open Space Zoning District, 26 properties from the LI Light Industrial Zoning District to the OS Open Space Zoning District, 12 properties from the R-1-8 Single-Family Residential Zoning District to the OS Open Space Zoning District, 50 properties from the R-2 Two-Family Residential Zoning District to the OS Open Space Zoning District, seven properties from the R-M Multiple Residence Zoning District to the OS Open Space Zoning District, two properties from the CN Commercial Neighborhood

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10.1(a) (Cont'd.)

Zoning District to the PQP Public/Quasi-Public Zoning District, 24 properties from the DC Downtown Primary Commercial Zoning District to the PQP Public/Quasi-Public Zoning District, 30 properties from the HI Heavy Industrial Zoning District to the PQP Public/Quasi-Public Zoning District, one property from the LI Light Industrial Zoning District to the PQP Public/Quasi-Public Zoning District, 20 properties from the R-1-8 Single-Family Residential Zoning District to the PQP Public/Quasi-Public Zoning District, seven properties from the R-2 Two-Family Residential Zoning District to the PQP Public/Quasi-Public Zoning District, two properties from the R-M Multiple Residence Zoning District to the PQP Public/Quasi-Public Zoning District, ten properties from the CG Commercial General Zoning District to the R-1-8 Single-Family Residential Zoning District, 44 properties from the CN Commercial Neighborhood Zoning District to the R-1-8 Single-Family Residential Zoning District, 20 properties from the CO Commercial Office Zoning District to the R-1-8 Single-Family Residential Zoning District, 11 properties from the CP Commercial Pedestrian Zoning District to the R-1-8 Single-Family Residential Zoning District, seven properties from the DC-NT1 Downtown Commercial Neighborhood Transition 1 Zoning District to the R-1-8 Single-Family Residential Zoning District, 19 properties from the LI Light Industrial Zoning District to the R-1-8 Single-Family Residential Zoning District, one property from the CG Commercial General Zoning District to the TEC Transit Employment Center Zoning District, one property from the CN Commercial Neighborhood Zoning District to the TEC Transit Employment Center Zoning District, 28 properties from the HI Heavy Industrial Zoning District to the TEC Transit Employment Center Zoning District, seven properties from the IP Industrial Park Zoning District to the TEC Transit Employment Center Zoning District, four properties from the LI Light Industrial Zoning District to the TEC Transit Employment Center Zoning District, five properties from the CP Commercial Pedestrian Zoning District to the TR Transit Residential Zoning District, one property from the CG Commercial General Zoning District to the UR Urban Village Zoning District, three properties from the CG Commercial General Zoning District to the UV Urban Village Zoning District, four properties from the CN Commercial Neighborhood Zoning District to the UV Urban Village Zoning District, two properties from the CO Commercial Office Zoning District to the UV Urban Village Zoning District, one property from the CP Commercial Pedestrian Zoning District to the UV Urban Village Zoning District, two properties from the IP Industrial Park Zoning District to the UV Urban Village Zoning District, four properties from the R-M Multiple Residence Zoning District to the UV Urban Village Zoning District, one property from the split zoned HI Heavy Industrial and IP Industrial Park Zoning Districts to the OS Open Space Zoning District, two properties from the HI Heavy Industrial Zoning District to the split zoned OS Open Space and PQP Public/Quasi-Public Zoning Districts, three properties from the split zoned R-1-8 Single-Family Residential and R-M Multiple Residence Zoning Districts to the MUN Mixed Use Neighborhood Zoning District,

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10.1(a) (Cont'd.)

one property from the split zoned IP Industrial Park and CP Commercial Pedestrian Zoning Districts to the UV Urban Village Zoning District, one property from the split zoned R-1-8 Single-Family Residential and CN Commercial Neighborhood Zoning Districts to the PQP Public/Quasi-Public Zoning District, two properties from the split zoned R-1-8 Single-Family Residential and R-M Multiple Residence Zoning Districts to the PQP Public/Quasi-Public Zoning District, one property from the split zoned R-1-8 Single-Family Residential and IP Industrial Park Zoning Districts to the split zoned LI Light Industrial and OS Open Space Zoning Districts, one property from the split zoned R-1-8 Single-Family Residential and CO Commercial Office Zoning Districts to the OS Open Space Zoning District, two properties from the CO Commercial Office Zoning District to the split zoned LI Light Industrial and OS Open Space Zoning Districts, one property from the split zoned R-1-8 Single-Family Residential and LI Light Industrial Zoning Districts to the OS Open Space Zoning District, two properties from the split zoned R-2 Two-Family Residential, CO Commercial Office, and CP Commercial Pedestrian Zoning Districts to the OS Open Space Zoning District, five properties from the split zoned R-2 Two-Family Residential and LI Light Industrial Zoning District to the OS Open Space Zoning District, two properties from the split zoned R-1-8 Single-Family Residential and CP Commercial Pedestrian Zoning Districts to the MUN Mixed Use Neighborhood Zoning District, one property from the split zoned R-2 Two-Family Residential and CO Commercial Office Zoning District to the OS Open Space Zoning District, two properties from the split zoned R-2 Two Family Residential and R-1-8 Single-Family Residential Zoning Districts to the OS Open Space Zoning District, one property from the split zoned CO Commercial Office, CP Commercial Pedestrian, R-2 Two-Family-Residential, and R-1-8 Single-Family Residential Zoning Districts to the split zoned LI Light Industrial and OS Open Space Zoning Districts, one property from split zoned CO Commercial Office and R-1-8 Single-Family Residential to the PQP Public/Quasi-Public Zoning Districts, one property from the split zoned R-1-8 Single Family Residential, R-2 Two-Family Residential, CP Commercial Pedestrian, and A Agriculture Zoning Districts to the OS Open Space Zoning District, one property from the split zoned R-2 Two-Family Residential and CP Commercial Pedestrian Zoning Districts to the OS Open Space Zoning District, one property from the split zoned R-2 Two-Family Residential, R-M Multiple Residence, and LI Light Industrial Zoning District to the OS Open Space Zoning District, two properties from the IP Industrial Park Zoning District to the DC Downtown Primary Commercial Zoning District, one property from the HI Heavy Industrial Zoning District to the split zoned OS Open Space and TEC Transit Employment Center Zoning Districts, two properties from the split zoned HI Heavy Industrial and LI Light Industrial Zoning Districts to the PQP Public/Quasi-Public Zoning District, one property from the split zoned HI Heavy Industrial and LI Light Industrial Zoning Districts to the DC Downtown Primary Commercial Zoning District, two properties from the split zoned LI Light Industrial and HI Heavy Industrial Zoning Districts to the OS Open Space

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10.1(a) (Cont'd.)

Zoning District, one property from the split zoned CO (PD) Planned Development and LI Light Industrial Zoning Districts to the OS Open Space Zoning District, one property from the split zoned LI Light Industrial and IP Industrial Park Zoning Districts to the OS Open Space Zoning District, two properties from the DC Downtown Primary Commercial to the split zoned OS Open Space and PQP Public/Quasi-Public Zoning Districts, one property from the split zoned R-2 Two-Family Residential and R-M Multiple Residence Zoning Districts to the PQP Public/Quasi-Public Zoning District, one property from the split zoned R-2 Two-Family Residential and R-M Multiple Residence Zoning Districts to the OS Open Space Zoning District, one property from the split zoned R-M Multiple Residence and CN Commercial Neighborhood Zoning Districts to the PQP Public/Quasi-Public Zoning District, one property from the split zoned R-2 Two-Family Residential and CN Commercial Neighborhood Zoning Districts to the PQP Public/Quasi-Public Zoning District, two properties from the split zoned A Agriculture and IP Industrial Park Zoning Districts to the OS Open Space Zoning District, and one property from the DC Downtown Primary Commercial Zoning District to the OS Open Space Zoning District, all on those certain real properties located throughout the San José Mineta Airport Influence Area. CEQA: Determination of Consistency with the Final Environmental Impact Report for the Envision San José 2040 General Plan (FEIR), for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011 and Supplemental Environmental Impact Report (SEIR) adopted by City Council Resolution No. 77617 on December 15, 2015 and addenda thereto. (Planning, Building and Code Enforcement)

Planning, Building, Code Enforcement Director Chris Burton responded to questions.

Motion: Upon motion by Councilmember David Cohen, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, Item 10.1(a) and 10.1(b) were heard together with 10.1(a) **Ordinance No. 30887** and 10.1(b) **Ordinance No. 30888** passed for publication. (11-0.)

Public Comments: Jill Borders offered public comment.

- 10.1(b) 23-275 C22-053, C22-058, C22-059, C22-060, C22-061, C22-062, C22-063, C22-064 – City-Initiated Rezoning of 255 Parcels to Align a Property’s Zoning Designation to Its General Plan Land Use Designation in Response to Senate Bill 1333 (Reid-Hillview Airport Influence Area).**
- Approve an ordinance of the City of San José rezoning two properties from the A Agriculture Zoning District to the IP Industrial Park Zoning District, two properties from the LI Light Industrial Zoning District to the IP Industrial Park Zoning District, one property from the R-1-2(PD) Planned Development Zoning District to the IP Industrial Park Zoning District, five properties from the A Agriculture Zoning District to the CG Commercial General Zoning District, seven properties from the CP

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10.1(b) (Cont'd.)

Commercial Pedestrian Zoning District to the CG Commercial General Zoning District, two properties from the R-1-8 Single-Family Residential Zoning District to the UR Urban Residential Zoning District, 16 properties from the R-M Multiple Residence Zoning District to the UR Urban Residential Zoning District, three properties from the A Agriculture Zoning District to the R-1-8 Single-Family Residential Zoning District, two properties from the CN Commercial Neighborhood Zoning District to the R-1-8 Single-Family Residential Zoning District, nine properties from the CO Commercial Office Zoning District to the R-1-8 Single-Family Residential Zoning District, seven properties from the CP Commercial Pedestrian Zoning District to the R-1-8 Single-Family Residential Zoning District, two properties from the A Agriculture Zoning District to the PQP Public/Quasi-Public Zoning District, four properties from the CG Commercial General Zoning District to the PQP Public/Quasi-Public Zoning District, one property from the CO Commercial Office Zoning District to the PQP Public/Quasi-Public Zoning District, 35 properties from the IP Industrial Park Zoning District to the PQP Public/Quasi-Public Zoning District, 42 properties from the R-1-8 Single-Family Residential Zoning District to the PQP Public/Quasi-Public Zoning District, 15 properties from the A Agriculture Zoning District to the OS Open Space Zoning District, three properties from the CN Commercial Neighborhood Zoning District to the OS Open Space Zoning District, two properties from the R-1-5 Single-Family Residential Zoning District to the OS Open Space Zoning District, 34 properties from the R-1-8 Single-Family Residential Zoning District to the OS Open Space Zoning District, one property from the R-2 Two-Family Residential Zoning District to the OS Open Space Zoning District, two properties from the R-M Multiple Residence Zoning District to the OS Open Space Zoning District, 10 properties from the R-1-8 Single-Family Residential Zoning District to the MUN Mixed Use Neighborhood Zoning District, five properties from the R-M Multiple Residence Zoning District to the MUN Mixed Use Neighborhood Zoning District, one property from the A(PD) Planned Development Zoning District to the CP Commercial Pedestrian Zoning District, four properties from the LI Light Industrial Zoning District to the CP Commercial Pedestrian Zoning District, 11 properties from the R-1-8 Single-Family Residential Zoning District to the CP Commercial Pedestrian Zoning District, one property from the R-2 Two-Family Residential Zoning District to the CP Commercial Pedestrian Zoning District, 16 properties from the R-M Multiple Residence Zoning District to the CP Commercial Pedestrian Zoning District, one property from the split zoned CO Commercial Office, CP Commercial Pedestrian, R-1-8 Single-Family Residential, R-2 Two-Family Residential, and R-M Multiple Residence Zoning Districts to the OS Open Space Zoning District, two properties from the split zoned A Agriculture and R-1-8 Single-Family Residential Zoning Districts to the OS Open Space Zoning District, two properties from the split zoned CP Commercial Pedestrian and R-1-8 Single-Family Residential Zoning Districts to the OS Open Space Zoning District, two properties from the A Agriculture Zoning District to the split zoned CG

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10.1(b) (Cont'd.)

Commercial General and IP Industrial Park Zoning Districts, one property from the split zoned A Agriculture and R-1-8 Single-Family Residential Zoning Districts to the PQP Public/Quasi-Public Zoning District, one property from the R-1-8 Single-Family Residential Zoning District to the split zoned OS Open Space and PQP Public/Quasi-Public Zoning Districts, and one property from the A Agriculture Zoning District to the split zoned OS Open Space and PQP Public/Quasi-Public Zoning Districts, all on those certain real properties located throughout the Reid-Hillview Airport Influence Area, City of San José. CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. (Planning, Building and Code Enforcement)

LAND USE CONSENT ITEMS WERE HEARD TOGETHER. MOTION AND ACTION LISTED UNDER 10.1(a).

END OF CONSENT CALENDAR.

10 Land Use – Regular Agenda

- 10.2 23-276 Burbank 44 Annexation C20-011 & ER20-146 - Annexation and Pre-Zoning of Five Unincorporated Parcels from the County of Santa Clara to the City of San José (APNs: 274-16-050, 052, 053, 069 & 070.**
- (a) Adopt a resolution certifying the Environmental Impact Report for the 1881 West San Carlos Project, make certain findings concerning significant impacts, mitigation measures, and alternatives, and adopt a Statement of Overriding Considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act. (b) Approve an ordinance pre-zoning an approximately 0.895-gross-acre site in Santa Clara County unincorporated territory designated as Burbank No. 44 into the Mixed-Use Commercial Zoning District. (c) Adopt a resolution initiating proceedings and scheduling March 28, 2023, for City Council consideration of the reorganization of territory designated as Burbank No. 44, which involves the annexation to the City of San José of approximately 0.895 gross acres of land from Santa Clara County unincorporated territory and the detachment of the same from the appropriate special districts, excepting the Burbank Sanitary District. CEQA: Environmental Impact Report for the 1881 West San Carlos Project (File Nos. Burbank 44/C20-011/ CP20- 020/T20-016). Planning Commission recommends approval [Planning Commission Agenda 12/14/2022, Item 5.a] (10-0). Council District 6. (Planning, Building and Code Enforcement) [Renoticed from 2/14/2023 - Item 10.2 (23-196)]

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10.2 (Cont'd.)

Planning, Building, & Code Enforcement Director Chris Burton provided the presentation and responded to questions along with the following members of Planning, Building, & Code Enforcement staff: Deputy Director Robert Manford and Principal Planner David Keyon.

Public Comments: Sal Caruso (Architect) and Mike Sodergren (Preservation Action Counsel) offered public comments.

Action: Upon motion by Councilmember Arjun Batra, seconded by Councilmember Dev Davis, and carried unanimously, (a) **Resolution No. RES2023-49** and (c) **Resolution No. RES2023-50** were adopted, certifying the Environmental Impact Report for the 1881 West San Carlos Project and initiating proceedings and scheduling March 28, 2023, for City Council consideration of the reorganization of territory designated as Burbank No. 44. (b) **Ordinance No. 30889** was passed for publication, pre-zoning an approximately 0.895-gross-acre site in Santa Clara County unincorporated territory designated as Burbank No. 44 into the Mixed-Use Commercial Zoning District. (11-0.)

10.3 23-277 **H21-005/ER21-018 & T21-005 - Site Development Permit and Vesting Tentative Map on Certain Real Property Located at 550 East Brokaw Road.**

(a) Adopt a resolution certifying the 550 E. Brokaw Project Environmental Impact Report, and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA). (b) Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to subdivide one lot into four lots on an approximately 19.70-gross acre site. (c) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the demolition of an existing approximately 213,626-square-foot commercial building and the removal of 274 trees (210 ordinance-size and, 64 non-ordinance-size with 508 replacement trees) for the construction of seven office buildings totaling approximately 1,924,110 square feet and two parking structures totaling approximately 1,647,920 square feet on an approximately 19.70-gross acre site. CEQA: 550 E. Brokaw Project Environmental Impact Report (File No. ER21-018). Planning Commission recommends approval [Planning Commission Agenda 1/11/2023, Item No. 5a] (8-0-2; Ahluwalia and Young absent). Council District 3. (Planning, Building and Code Enforcement) [Renoticed from 2/14/2023 - Item 10.3 (23-197)]

Planning, Building, & Code Enforcement Director Chris Burton provided the presentation and responded to questions along with the following members of Planning, Building, & Code Enforcement staff: Deputy Director Robert Manford and Principal Planner David Keyon.

The applicant, Bryon Wolf (Bay West Development), spoke to the merits of the project and Ross Guntert (Gensler) provided a brief presentation.

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10.3 (Cont'd.)

Public Comments: Mike Sodergren offered public comment.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Omar Torres, and carried unanimously, (a) **Resolution No. RES2023-51**, (b) **Resolution No. RES2023-52**, and (c) **Resolution No. RES2023-53** were adopted. These resolutions (a) certified the 550 E. Brokaw Project Environmental Impact Report, (b) approved a Vesting Tentative Map, and (c) approved, subject to conditions, a Site Development Permit. (10-0-1. Absent: Davis.)

- 10.4 23-278 H21-048/ER21-276 & T21-043 - Administrative Hearing on the Environmental Appeal on the Apollo Residential Project. - DROP.**
- (a) Conduct an Administrative Hearing to consider the environmental appeal of the Planning Director's reliance on the Apollo Residential Project Addendum to the Downtown Strategy 2040 Final Environmental Impact Report in accordance with the California Environmental Quality Act (CEQA) for a Site Development Permit and Vesting Tentative Map (File Nos. H21-048 and T21-043), to allow the demolition of the existing buildings on-site (totaling approximately 15,908 square feet) and construct a 20-story residential tower with up to 471 units and 7,661 square feet of ground floor retail, on an approximately 1.1-acre site. (b) Adopt a resolution denying the environmental appeal and upholding the Planning Director's reliance on the Apollo Residential Project Addendum to the Downtown Strategy 2040 Final Environmental Impact Report in accordance with the California Environmental Quality Act, as amended, and finding that: (1) The City Council has independently reviewed and analyzed the Addendum for the Apollo Residential Project, and related administrative records related to Site Development Permit (File No. H21-048) and Vesting Tentative Map (File No. T21-043); and (2) The Addendum for the Apollo Residential Project was prepared and completed in full compliance with the CEQA of 1970, as amended, together with State and local implementation guidelines; and (3) Reliance on the Addendum for the Apollo Residential Project reflects the independent judgment and analysis of the City of San José, as the lead agency for the Project; and (4) Preparation of a new, subsequent, or supplemental environmental document is not required because the appeal does not raise any new significant impacts that have not already been analyzed or addressed in the Apollo Residential Project Addendum and none of the following events occurred as outlined in Section 21166 of Public Resources Code (PRC): (i) substantial changes are proposed in the project which will require major revisions of the environmental report; (ii) substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report; or (iii) new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available. Further, a new, subsequent, or supplemental environmental impact report is not required because no impacts outside the scope of the Downtown

(Item continued on next page)

10.4 (Cont'd.)

Strategy 2040 EIR identified in Section 15168 of the CEQA Guidelines. CEQA: Apollo Residential Project Addendum to the Downtown Strategy 2040 Final Environmental Impact Report. Council District 6. (Planning, Building and Code Enforcement) [Renoticed from 2/14/2023 - Item 10.4 (23-198)]

DROPPED PER REQUEST OF THE APPELLANT.

- 10.5 23-279 SP21-044 & HP21-001 - Special Use Permit and Historic Preservation Permit for Certain Real Property Located at 19 North Second Street. - DEFERRED**
- (a) Adopt a resolution certifying the 19 North Second Street Mixed-Use Project Supplemental Environmental Impact Report, and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA). (b) Adopt a resolution approving, subject to conditions, a Special Use Permit to allow the removal of the majority of the roof and interior (except for stairway core) of an existing 15,000-square foot, two-story building, the retention and integration of the building walls, street-facing façade and a portion of the existing roof and the construction of a 22-story, 240-foot-high mixed use 100% affordable senior housing project with 220 multifamily residential units and approximately 18,643 square feet of commercial space with up to four commercial condominiums on an approximately 0.22-gross acre site. (c) Adopt a resolution approving, subject to conditions, a Historic Preservation Permit to allow the removal of the majority of the roof and interior (except for stairway core) of a City Landmark and the construction of a 22-story, 240-foot-high building within the walls of the City Landmark that would integrate and restore the street-facing façade and a portion of the existing roof on an approximately 0.22-gross acre site. CEQA: 19 North Second Street Mixed-Use Project Supplemental Environmental Impact Report. Council District 3. (Planning, Building and Code Enforcement)

DEFERRED TO 3/28/2023 PER ADMINISTRATION

• **Open Forum**

1. Alex Shoor (Catalyze Silicon Valley) spoke on keeping community assets a continued part of new development so that they are not displaced from the community.
2. Mike Sodergren spoke on Los Angeles' use of Adaptive Reuse Ordinances and the benefits of retaining and integrating existing buildings.

- **Adjournment**

The Council of the City of San José adjourned at 7:05 p.m. in the memory of Charles "Chuck" Delano Alexander who passed away on January 2, 2023. Chuck lived through the Civil Rights movement and saw great change in San Jose and Silicon Valley. He was a trailblazer for African American student athletes at San Jose State University, and was a founder of the Good Brothers House, a rooming house for African American athletes at a time when the United States was still segregated.

Minutes Recorded, Prepared, and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

SAN JOSÉ CITY COUNCIL CLOSED SESSION

FEBRUARY 28, 2023

The Council of the City of San José convened into Closed Session at 9:30 a.m.

This meeting was held in City Hall Conference room W-133

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

Absent: Councilmembers - All Present.

Closed Session Item(s) discussed:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Initiation of litigation pursuant to Section 54956.9(d)(4) of the Government code:

Number of matter(s) to be discussed: 1

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

1. Case Name: In re: Wilfredo Banuelos
Name(s) of Partie(s)
Court: Workers Compensation Appeals Court
Case No: ADJ15972117
Amount of Money or Benefits
Other Relief Sought:

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

1. Case Name: Joseph Best v City of San Jose, et al.
Name(s) of Partie(s) Joseph Best, City of San Jose, Kevin Valadez in his
individual and official capacity, and DOES 1-10, Inclusive
Court: United States District Court Northern District of California
Case No: 5:22-cv-03064-VKD
Amount of Money or Damages according to proof.
Other Relief Sought:

By unanimous consent, Council recessed from the Closed Session to reconvene in Regular Open Session at 2:26 p.m. in the Council Chamber.