



City Council Meeting MINUTES

**Tuesday, May 25, 2021
1:30 PM**

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

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



MINUTES OF THE CITY COUNCIL

May 25, 2021

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

The Council meeting was teleconferenced from remote locations.

- **Call to Order and Roll Call**

9:30 a.m. - Closed Session – All Present

21-1175 Closed Session Agenda – See Page 27 for Closed Session Minutes

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

6:00 p.m. - Evening Session – Cancelled

- **Call to Order and Roll Call**

Present: Councilmembers - Carrasco, Arenas, Davis, Mahan, Jimenez, Jones, Cohen, Esparza (2:10 p.m.), Perez, Foley; Liccardo.

Absent: Councilmembers - All present.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 5)**

Councilmember Magdalena Carrasco spoke of George Floyd whose murder sparked community, national and global conversations about race and the inequities and injustices for Black Americans and people of color, adding George Floyd's words 'I can't breathe' will be forever etched into our collective consciousness. Professor William Armaline, San José State University, spoke to police violence, public safety, extreme and unyielding inequality and the desperate need for social change.

Pastor Jason Reynolds, Emmanuel Baptist Church, spoke on the pain these occurrences inflict upon our society and urged long overdue change.

- **Orders of the Day**

Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Pam Foley and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 4.1, Ordinance Amending Title 16 (Gaming Control), deferred to June 2021. (10-0-1. Absent: Esparza.)

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Magdalena Carrasco and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Esparza.)

2.1 Approval of City Council Minutes.

None provided.

2.2 21-1200

Final Adoption of Ordinances.

(a) **Ordinance No. 30568** - An Ordinance of the City of San José amending the San José Municipal Code to Add a New Chapter 14.11 to Title 14 that Adds Family Care Hardship and Private Right of Action Requirements to Supplement Senate Bill 93.

[Passed for Publication on 5/11/2021- Item 3.6 (21-1046)]

(b) **Ordinance No. 30569** - An Ordinance of the City of San José Amending Chapter 10.17 of Title 10 of the San José Municipal Code to Add Sections 10.17.060 and 10.17.070 to Define “Social Host” and “Strictly Liable”; Amend Section 10.17.030 to Define Private and Public Property; Amend Section 10.17.100 to Impose Strict Liability on Social Hosts for Fireworks Violations at Their Gatherings; and Add Sections 10.17.130 and 10.17.140 to Include an Administrative Procedure for Billing and Appealing Emergency Response Charges Associated with Fireworks Violations.

[Passed for Publication on 5/11/2021- Item 4.2(a) (21-1020)]

(Item Continued on the Next Page)

2.2 (Cont'd.)

(c) **Ordinance No. 30572** - An Ordinance of the City of San José Amending Section 8.04.010 of Chapter 8.04 of Title 8 of The San José Municipal Code to Expand the Duties and Responsibilities of the Independent Police Auditor (IPA) and Allow the IPA and Designated IPA Staff to Ask Direct Questions of a Subject or Witness During Police Department Administrative Interviews Through June 30, 2022.
[Passed for Publication on 5/18/2021- Item 3.5 (21-1089)]

(d) **Ordinance No. 30574** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to \$99 Debris Box.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(e) **Ordinance No. 30575** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to 7 Days Box.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(f) **Ordinance No. 30576** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Accurate Cleaning Systems.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(g) **Ordinance No. 30577** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to All Points Roll Off, Inc.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(h) **Ordinance No. 30578** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to American Debris Box Service, Inc.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(i) **Ordinance No. 30579** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Bernardini Enterprises, Inc.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(j) **Ordinance No. 30580** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Citywide Fibers, Inc.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(k) **Ordinance No. 30581** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to D&L Hauling and Demolition Services.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(l) **Ordinance No. 30582** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Del Toro Haul.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(m) **Ordinance No. 30583** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Eco Box Recycling, Inc.
[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

2.2 (Cont'd.)

(n) **Ordinance No. 30584** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Evergreen Waste Services.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(o) **Ordinance No. 30585** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Ferma Greenbox, Inc.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(p) **Ordinance No. 30586** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Waste Connections of California.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(q) **Ordinance No. 30587** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Guadalupe Recycling & Disposal Facility.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(r) **Ordinance No. 30588** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to GW Debris Services, LLC.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(s) **Ordinance No. 30589** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to M&G Hauling, Inc.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(t) **Ordinance No. 30590** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Pacific Coast Recycling, Inc.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(u) **Ordinance No. 30591** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Peninsula Debris Box Service, LLC.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(v) **Ordinance No. 30592** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Premier Recycle Company.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(w) **Ordinance No. 30593** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Recology South Bay dba Recology Silicon Valley.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(x) **Ordinance No. 30594** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Republic Services of Santa Clara County.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

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2.2 (Cont'd.)

(y) **Ordinance No. 30595** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Recycling & Waste Services, Inc.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(z) **Ordinance No. 30596** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to TA Trucking.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(aa) **Ordinance No. 30597** - An Ordinance of the city of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Toca Debris Box Services.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(ab) **Ordinance No. 30598** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to United Recycle Services.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(ac) **Ordinance No. 30599** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Valley Recycling.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(ad) **Ordinance No. 30600** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Ground Force Enterprises.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(ae) **Ordinance No. 30601** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Yellowsack Inc.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(af) **Ordinance No. 30602** - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Superior Demolition Services, Inc.

[Passed for Publication on 5/18/2021- Item 6.2(b) (21-1095)]

(ag) **Ordinance No. 30603** - An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code (Zoning Ordinance) to Add Chapter 20.55 Urban Village and Mixed Use Zoning Districts; Revise Text for Specific Use Regulations in Chapter 20.80 to Add or Clarify References to Urban Village and Mixed Use Zoning Districts to Various Sections; Revise Text to Incorporate New Zoning Districts into Existing Permit Requirements in Chapter 20.100; Revise Table 20-10 in Section 20.10.060, Zoning Districts Established, and Table 20-270 in Section 20.120.110, Conformance with the General Plan, to Add Urban Village and Mixed Use Zoning Districts to the Tables; Revising and Adding Definitions in Chapter 20.200; and Make Other Technical, Non-Substantive, or Formatting Changes; All to Effectuate Zoning Code and General Plan Conformance.

[Passed for Publication on 5/18/2021- Item 10.2 (21-1107)]

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2.2 (Cont'd.)

Action: **Ordinances 30568, 30569, 30572, 30574, 30575, 30576, 30577, 30578, 30579, 30580, 30581, 30582, 30583, 30584, 30585, 30586, 30587, 30588, 30589, 30590, 30591, 30592, 30593, 30594, 30595, 30596, 30597, 30598, 30599, 30600, 30601, 30602 and 30603** were adopted.

(10-0-1. Absent: Esparza.)

2.3 21-1233

Approval of Council Committee Minutes.

(a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of May 12, 2021.

(b) Regular Community and Economic Development Committee Meeting Minutes of January 22, 2018.

(c) Regular Community and Economic Development Committee Meeting Minutes of February 26, 2018.

(d) Regular Community and Economic Development Committee Meeting Minutes of March 26, 2018.

(e) Regular Community and Economic Development Committee Meeting Minutes of April 23, 2018.

(f) Regular Community and Economic Development Committee Meeting Minutes of May 21, 2018.

(g) Regular Community and Economic Development Committee Meeting Minutes of January 28, 2019.

(h) Regular Community and Economic Development Committee Meeting Minutes of February 25, 2019.

(i) Regular Community and Economic Development Committee Meeting Minutes of March 25, 2019.

(j) Regular Community and Economic Development Committee Meeting Minutes of May 20, 2019.

(k) Regular Community and Economic Development Committee Meeting Minutes of June 24, 2019.

(l) Regular Community and Economic Development Committee Meeting Minutes of August 26, 2019.

(m) Regular Community and Economic Development Committee Meeting Minutes of September 23, 2019.

(n) Regular Community and Economic Development Committee Meeting Minutes of October 28, 2019.

(o) Regular Community and Economic Development Committee Meeting Minutes of November 18, 2019.

(p) Regular Community and Economic Development Committee Meeting Minutes of August 24, 2020.

(q) Regular Community and Economic Development Committee Meeting Minutes of September 28, 2020.

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. (10-0-1. Absent: Esparza.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 21-1176 Amendment to Agreement with Richards, Watson & Gershon for Legal Services Related to Complex Real Estate Development and Planning.

Adopt a resolution authorizing the City Attorney to negotiate and execute a Fifth Amendment to the agreement with Richards, Watson & Gershon for legal services related to complex real estate development and planning, increasing the maximum amount of compensation by \$250,000 for a total amount not to exceed \$670,000.

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

Action: **Resolution No. 80009** regarding an Amendment to Agreement with Richards, Watson & Gershon was adopted. (10-0-1. Absent: Esparza.)

2.8 21-1177 Actions Related to the Agreements Between City of San José and Santa Clara County for AB939 Implementation Fee and Participation in the Household Hazardous Waste Collection Program.

Approve the following Agreements with the County of Santa Clara:

(a) Agreement for Household Hazardous Waste Collection Program for Fiscal Year 2021-2022 through 2023-2024, for \$200,000 each year, subject to the appropriation of funds; and

(b) Agreement for Countywide Assembly Bill (AB) 939 Implementation Fee for FY 2021-2022 through 2023-2024.

CEQA: Mitigated Negative Declaration for the San José Environmental Innovation Center, File No. PP09-138, adopted December 1, 2009. (Environmental Services)

Action: Agreements Between City of San José and Santa Clara County for AB939 were approved. (10-0-1. Absent: Esparza.)

2.9 21-1178 Appropriation Actions and Funding Sources Resolution Amendments Related to the Coyote Creek Trail (Singleton Road Interim Crossing) Project.

- (a) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #7:
- (1) Increase the Revenue from Local Agencies estimate by \$1,000,000;
 - (2) Establish the TRAIL: Coyote Creek Fish Passage Remediation and Pedestrian Bridge (Singleton Crossing) appropriation in the amount of \$1,140,000; and
- (a) (3) Decrease the Unrestricted Ending Fund Balance by \$140,000.
- (b) Adopt the following 2020-2021 Appropriation Ordinance in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Citywide:
- (1) Establish the TRAIL: Coyote Creek Fish Passage Remediation and Pedestrian Bridge (Singleton Crossing) appropriation in the amount of \$270,000; and
 - (2) Decrease the Unrestricted Ending Fund Balance by \$270,000.
- CEQA: Categorical Exempt, File No. ER20-105, CEQA Guideline Section 15333 Small Habitat Restoration Project. Council District 7.
(Parks, Recreation and Neighborhood Services/City Manager)

Action: (a) Appropriation **Ordinance No. 306xx** and Funding Sources **Resolution No. 800xx** and (b) Appropriation **Ordinance No. 306xx** and actions related to the Coyote Creek Trail (Singleton Road Interim Crossing) Project were adopted. (11-0.)

2.10 21-1179 Cooperative Agreements for BART Extension to Berryessa.

- (a) Approve the proposed Continuation and Fifth Amendment to Master Agreement with the Santa Clara Valley Transportation Authority to retroactively extend the term of the agreement from January 1, 2021 to December 31, 2021.
- (b) Approve the proposed Cooperative Agreement No. 11 with the Santa Clara Valley Transportation Authority for the resolution of all outstanding issues relating to the Silicon Valley Berryessa Extension Project.
- CEQA: Santa Clara Valley Transportation Authority's Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report, ER21-065. Council District 4. (Public Works)

Action: Cooperative Agreements for BART Extension to Berryessa were approved.
(10-0-1. Absent: Esparza.)

2.11 21-1238 Boards and Commissions Appointments.

Approve the following Boards and Commissions appointment:

(a) Youth Commission:

(1) District 1 Seat: Appoint Gordon Chen for a term of July 1, 2021 to May 31, 2023.

(2) District 3 Seat: Appoint Nicole Hoang for a term of July 1, 2021 to May 31, 2023.

(3) District 4 Seat: Appoint Amelia Uytingco for a term of July 1, 2021 to May 31, 2023.

(a)(4) District 6 Seat: Appoint Anaiy Somalwar for a term of July 1, 2021 to May 31, 2023.

(5) District 10 Seat: Appoint Alexander Lee for a term of July 1, 2021 to May 31, 2023.

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

[Rules Committee referral 5/19/2021 - Item A.1.a]

Action: The Board and Commission appointments were approved. (10-0-1. Absent: Esparza.)

2.12 21-1246 Approval of Stroke Awareness Month 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 May 19, 2021:

(a) Approve May 2021 as Stroke Awareness Month to be recognized by the City Council scheduled on May 25, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

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

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Perez)

[Rules Committee referral 5/19/2021 - Item G.1.a]

Councilmember Raul Perez and Bill Baron, representing the Stroke Awareness Foundation, spoke to the importance of preventative measures that can help reduce the risk of a stroke and emphasized the importance of quick treatment.

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

2.13 21-1253 Approval of Shredding 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 May 19, 2021:

(a) Approve the Shredding Event scheduled on June 12, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

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

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Foley)

[Rules Committee referral 5/19/2021 - Item G.1.c]

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

2.14 21-1258 Retroactive Approval of the Hellyer/Christopher Neighborhood Dumpster Day 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 May 19, 2021:

(a) Retroactively approve the Hellyer/Christopher Neighborhood Dumpster Day scheduled on May 22, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

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

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Jimenez)

[Rules Committee referral 5/19/2021 - Item G.1.d]

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

2.15 21-1265 Retroactive Approval of Pop Up Vaccination Site at Foxdale Village Apartments 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 May 19, 2021:

(a) Retroactively approve the pop up vaccination site at Foxdale Village Apartments which was scheduled on April 18, 2021 and May 9, 2021 as a City Council sponsored Special Event and approve the expenditure of funds and approve the purchase of food and roses.

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

[Rules Committee referral 5/19/2021 - Item G.1.e]

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

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 21-1180 Approval of the Issuance of a Tax-Exempt Multifamily Housing Revenue Note and the Loan of the Proceeds Thereof and Approving Related Documents for the Immanuel-Sobrato Community Project.

(a) Adopt a resolution:

(1) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Immanuel-Sobrato Community), Series 2021D” in a principal amount not to exceed \$34,980,000 (the “2021D Note”);

(2) Approving the loan of 2021D Note proceeds to MP Moorpark Associates, L.P. a California limited partnership created by MidPen Housing Corporation, a California not-for-profit corporation, to finance the construction and development of 108-unit multifamily development known as the Immanuel-Sobrato Community located at the corner of Leigh Avenue and Moorpark Avenue (f.k.a 1710 Moorpark Avenue) in San José (the “Development”);

(3) Approving in substantially final form the Funding Loan Agreement, the Project Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, and related documents (collectively, the “2021D Note Documents”); and

(4) Authorizing and directing the City Manager, Director of Housing, Director of Finance, Assistant Director of Finance, Deputy Director, Debt & Treasury Management or their designees, to execute and deliver the 2021D Note Documents together with any documents ancillary to the 2021D Note Documents.

(b) Adopt a resolution:

(1) Authorizing a change in City Loan terms to allow an increase in the Development’s rents and income up to 60% AMI (low income) for new tenants in subsidized units in the event of expiration or termination of Project Based Vouchers, and for all tenants in the event of foreclosure, to the extent the City has determined such increase is needed for feasibility of the Development and allowed by other funds;

(2) Authorizing the Director of Housing to negotiate and execute loan documents, amendments, and all other documents related to this action; and

(3) Approving the Relocation Plan for the Development, prepared by AutoTemp dated August 2020.

(Item Continued on the Next Page)

3.3 (Cont'd.)

CEQA: Exempt per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. Council District 6. (Finance/Housing)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Pam Foley and carried unanimously, (a) **Resolution No. 80012** and (b) **Resolution No. 80013** authorizing approval of the Issuance of a Tax-Exempt Multifamily Housing Revenue Note and the Loan of the Proceeds Thereof and Approving Related Documents for the Immanuel-Sobrato Community Project were adopted. (10-0-1. Absent: Esparza.)

3.4 21-1181

Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Notes and the Loan of the Proceeds Thereof and Approving Related Documents for the Blossom Hill Senior Apartments Project.

(a) Adopt a resolution:

- (1) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Blossom Hill Senior Apartments), Series 2021B” (the “2021B Note”) in a principal amount not to exceed \$39,362,559;
- (2) Approving the loan of 2021B Note proceeds to Blossom Hill, L.P. a California limited partnership created by Charities Housing Development Corporation of Santa Clara County, a California nonprofit public benefit corporation, to finance the construction and development of a 147-unit multifamily development known as Blossom Hill Senior Apartments located at 397 Blossom Hill Road in San José (the “Development”);
- (3) Approving in substantially final form the Funding Loan Agreement, the Project Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, and related documents (collectively, the “2021B Note Documents”);
- (4) Authorizing a reduction in the City’s issuance and annual monitoring fees in the approximate amount of \$213,629 during the term of the 2021B Note notwithstanding the City’s Policy for Issuance of Multifamily Housing Revenue Bonds, as provided below; and
- (5) Authorizing and directing the City Manager, Director of Housing, Director of Finance, Assistant Director of Finance, Deputy Director, Debt & Treasury Management, or their designees, to execute and deliver the 2021B Note Documents together with any documents ancillary to the 2021 Note Documents.

(b) Adopt a resolution:

- (1) Authorizing a change in City Loan terms to allow an increase in the Development’s rents and income up to 60% AMI (low income) for new tenants in subsidized units in the event of expiration or termination of Project Based Vouchers, and for all tenants in the event of foreclosure, to the extent the City has determined such increase is needed for feasibility of the Development and is allowed by other funds; and

(Item Continued on the Next Page)

3.4 (Cont'd.)

(2) Authorizing the Director of Housing to negotiate and execute loan documents, amendments, and all other documents related to this action in (b)(1) above.

CEQA: Mitigated Negative Declaration for the Blossom Hill Mixed-Use Project, File Nos. CP18-022 and T18-034. Council District 2.
(Finance/Housing)

Motion: Councilmember Sergio Jimenez moved approval of staffs' recommendations, including the supplemental memorandum. Councilmember Pam Foley seconded the motion.

Action: On a call for the question, the motion carried unanimously, and (a) **Resolution No. 80014** and (b) **Resolution No. 80015** authorizing approval of the Issuance of a Tax-Exempt Multifamily Housing Revenue Note and the Loan of the Proceeds Thereof and Approving Related Documents for the Blossom Hill Senior Apartments Project were adopted, with the inclusion of staff's supplemental memorandum dated May 25, 2021. (10-0-1. Absent: Esparza.)

Councilmember Maya Esparza arrived at approximately 2:10 p.m.

3.5 21-1211 Imperfect Foods Resolution.

As recommended by the Rules and Open Government Committee on May 12, 2021, adopt a resolution supporting the rights of workers at Imperfect Foods to negotiate a fair contract.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Jimenez and Peralez)

[Rules Committee referral 5/12/2021- Item G.5]

Mayor Sam Liccardo noted that this company is based in San Francisco and expressed his concern that we have no direct influence in the outcome in this matter, and voting on this would set a precedent. He added he would be voting 'no' since we need to adhere to Council Policy 0-11.

Public Comments: Offering support to the proposal in representation of USC Local 5 were Claire Cortney and John Gomez. Katherine Hedges expressed support.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Sylvia Arenas and carried unanimously, **Resolution No. 80016** supporting the rights of workers at Imperfect Foods to negotiate a fair contract was adopted. (10-1. Noes: Liccardo.)

3.6 21-1266 Strategies to Combat Hate Crimes and Violence Against Asian-American / Pacific Islanders.

Accept the report on strategies proposed by community members on methods to combat hate crimes and violence against Asian American Pacific Islander communities in San José.

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

[Rules Committee referral 5/19/2021 - Item A.1.a]

Public Comments: Blair Beekman, Quin Von and Gabriella offered comments.

Motion: Councilmember Raul Perez moved approval of the report, the joint memorandum dated May 21, 2021 and Councilmember Maya Esparza's memorandum dated May 24, 2021 and asked that, pursuant to Council Policy Manual 0-11, the City Attorney's Office return with a resolution apologizing for the past destruction of Chinatown and to also publish the County's behavioral health hotline. Councilmember Maya Esparza seconded the motion.

Action: On a call for the question, the report on Strategies to Combat Hate Crimes and Violence Against Asian-American / Pacific Islanders was accepted, including the joint memorandum from Councilmembers Perez, Esparza and Arenas, dated May 21, 2021, to:

Accept the staff report and direct the City Manager to:

1. Return to the Public Safety, Finance, and Strategic Services (PSFSS) committee in six months with a report on the status and outcomes of the recommended strategies. Subsequently, report back to PSFSS annually.
2. Conduct a solidarity, art-based campaign either led by the City or by a third-party that promotes the concept of "Stop AAPI Hate", similar to the Black Lives Matter Banner Project.
3. Annually do focused outreach to AAPI concentrated Business Districts such as Lion Plaza and Japantown and offer SJPD's Crime Prevention education and services to any interested business owners.
4. Evaluate the City's communications to ensure that all multilingual communications targeting AAPI communities are culturally competent and assess what hurdles city departments may encounter in regards to translation services including for written material.
5. Prioritize implementation of the local government provisions within the COVID19 Hate Crimes Act as part of the 2021 Legislative Priorities and prioritize efforts to compete for federal and state grants that result from the legislation.

Also including the memorandum from Councilmember Maya Esparza, dated May 24, 2021 to accept the 5/21/2021 memo she coauthored with Councilmembers Perez, Arenas, to:

1. Coordinate closely with the work of the County and the County Hate Crimes Task Force. This should include adoption by Council of the resolution referred by the County Hate Crimes Task Force to the Board to Supervisors, which will be considered next month, and recommends the following:

(Item Continued on the Next Page)

3.6 (Cont'd.)

- a. That each law enforcement agency in Santa Clara County, including county, city, state, and campus police agencies, take these immediate steps:
 - i. Require all officers to take the POST learning-portal course “Hate Crimes: Identification and Investigation” as updated in August 2020, beginning with officers who have not taken any version of the course and proceeding to those who have taken prior versions.
 - ii. Reach out to affected communities in their jurisdictions to consult fully on changes and additions to their hate crime policies, including the requirements of Penal Code Sections 422.87 and 13519.6(c) and then adopt those changes and additions that the communities and law enforcement agencies agree upon or that are required by law.
 - iii. Publicly announce the above two steps.
 - iv. Work with the California Police Chiefs Association and California State Sheriffs’ Association to encourage them to support AB 57.

Additionally, pursuant to Council Policy Manual 0-11, return with a resolution apologizing for the past destruction of Chinatown and to also publish the County’s behavioral health hotline. (11-0.)

4. PUBLIC SAFETY SERVICES

4.1 21-1182 Ordinance Amending Title 16 (Gaming Control) – deferred.

Approve an ordinance amending Title 16 of the San José Municipal Code, the Gaming Control Ordinance, to:

- (a) Repeal obsolete sections addressing pre-1999 stock ownership, licensing for pre-1999 landowners, provisional key employee licenses, and public telephone access for 911 and 311 calls;
 - (b) Modify the process for the promulgation of gaming regulations;
 - (c) Require that the Gaming Administrator issue a monthly notice, to the Chief of Police, with the expected date of completion of any investigations that are not concluded within 180 days;
 - (d) Eliminate the requirement that the Chief of Police prepare two annual reports, one evaluating the impact of Cardroom Gambling on crime in the San José metropolitan area, and the other a compliance report addressing regulatory issues pertaining to cardroom gambling in San José;
 - (e) Require the cardrooms to implement and comply with a system of internal controls for key employee licenses and work permits and require that the cardrooms comply with their approved internal controls document;
 - (f) Update and add definitions for various terms; and
 - (g) Make other technical, non-substantive, or formatting changes.
- CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Police)

Deferred to June 2021 per Orders of the Day.

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 21-1183 Diridon Affordable Housing Implementation Plan.**
Approve the Diridon Affordable Housing Implementation Plan.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments,
Annual Reports, and Informational Memos that involve no approvals of
any City action. Council Districts 3 and 6. (Housing)
Heard Concurrently with Item 10.3

Director of Housing Jacky Morales-Ferrand responded to questions from Council, indicating that staff will return with information on the rent stabilization program and outcome.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Raul Peralez and carried unanimously, the Diridon Affordable Housing Implementation Plan was approved. (11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

- (a) **21-1184 C20-014 & CP20-012 - Conforming Rezoning and Conditional Use Permit Located on the East Side of Senter Road Approximately 415 Feet Southerly of East Capital Expressway (3195 Senter Road).**
- (1) Approve an ordinance of the City of San José rezoning certain real property of approximately 3.49 acres on the east side of Senter Road approximately 415 feet southerly of East Capital Expressway (3195 Senter Road) from the A Agriculture Zoning District (A) to the PQP Public/Quasi-Public Zoning District (PQP).
- (2) Adopt a resolution approving, subject to conditions, a Conditional Use Permit to allow the re-permitting of an expired permit for an existing 63-foot high monopole with nine panel antennas, radios, an equipment enclosure, and associated equipment and the continuation of the assembly (church) use on an approximately 3.49-gross acre site. CEQA: Exempt per CEQA Guidelines 15301 for Existing Facilities. Planning Commission recommends approval (5-1-1) (Bonilla absent; Garcia abstained). Council District 7. (Planning, Building and Code Enforcement)

Public Comments: Blair Beekman provided comments.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sylvia Arenas and carried unanimously, (1) **Ordinance No. 30607** rezoning certain real property of approximately 3.49 acres on the east side of Senter Road was passed for publication; and (2) **Resolution No. 80017** approving a Conditional Use Permit was adopted. (11-0.)

END OF CONSENT CALENDAR

OPEN FORUM

Blair spoke to rate increases and need for subsidies.

Council adjourned for a break at 3:10 p.m. and returned at 6:01 p.m. with all Councilmembers present.

10 Land Use - Regular Agenda

OPEN GENERAL PLAN HEARING (2021 FIRST CYCLE)

10.2 21-1186 GP19-009, PDC19-039, PD19-029, PT20-027, HL20-004, HL20-005 & HP20-002 - Downtown West Mixed-Use Plan.

- (a) Adopt a resolution certifying the Downtown West Mixed-Use Plan Environmental Impact Report and make certain findings concerning significant impacts, mitigation measures and alternatives, and adopting a statement of overriding considerations and a mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act, as amended (CEQA).
- (b) Adopt a resolution by two-thirds majority making certain findings required by California Public Utilities Code Section 21676 that Proposed General Plan Amendment File No. GP19-009 and Planned Development Rezoning File No. PDC19-039 are consistent with the purposes set forth in California Public Utilities Code Section 21670 and overruling the Santa Clara County Airport Land Use Commission's (ALUC) determination that the proposed project is inconsistent with the ALUC noise and height policies as defined by the Comprehensive Land Use Plan for the San José International Airport (CLUP).

PLEASE NOTE: APPROVAL OF THIS RESOLUTION REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3 VOTE OF ALL MEMBERS OF THE COUNCIL). California Public Utilities Code Section 21676.

- (c) Adopt a resolution amending the Envision San José 2040 General Plan to revise the land use designation of the project site, amend General Plan policies LU-6.1 and LU-1.9, and implement other text amendments and amendments to General Plan diagrams related to the Downtown West Mixed-Use Plan.
- (d) Adopt a resolution amending the 2014 Diridon Station Area Plan, a component of the General Plan, to revise the land use designation for the project site, expand the Diridon Station Area Plan boundary, and implement other text amendments and amendments to diagrams related to the Downtown West Mixed-Use Plan.
- (e) Approve an ordinance amending Title 20 to add Section 20.70.700 to clarify that project specific ordinances for the Downtown West Mixed-Use Plan shall govern development within the Downtown West Planned Development Zoning District and supersede any conflicting provisions in Title 20.
- (f) Approve an ordinance rezoning an approximately 80-gross acre site on certain real properties extending approximately one mile from north to south, and generally bounded by: Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, State Route 87, Barack Obama Boulevard, and Royal Avenue to the east; Auzerais Avenue to the south; and the Caltrain rail corridor and Cahill Street

(Item Continued on the Next Page)

10.2 (Cont'd.)

to the west from the HI Heavy Industrial, LI Light Industrial, A(PD) Planned Development, PQP Public/Quasi-Public, Commercial Neighborhood, DC Downtown Primarily Commercial, CG Commercial General, CIC Combined Industrial/Commercial to the DC(PD) Planned Development Zoning District, to allow developing up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, civic etc.; up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling File Nos. GP19-009, PDC19-039, PD19-029, HP20-002, and PT20-027 Page 3 of 59 approximately 130,000 GSF; logistic/warehouse(s) totaling approximately 100,000 GSF and approximately 15 acres of open space.

(g) Adopt a resolution approving, subject to conditions, a Planned Development Permit, including the Downtown West Design Standards and Guidelines (DWDSG), the Downtown West Improvement Standards, the Conceptual Infrastructure Plan Sheets, and Conformance Review Implementation Guide, to allow up to 5,900 residential units; up to 7,300,000 gross square feet (gsf) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, civic etc.; up to 300 hotel rooms; up to 800 limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling approximately 130,000 GSF; logistic/warehouse(s) totaling approximately 100,000 GSF and approximately 15 acres of open space on an approximately 78-gross acre site extending approximately one mile from north to south, and generally bounded by Lenzen Avenue and the union pacific railroad tracks to the north; North Montgomery street, Los Gatos Creek, the Guadalupe River, State Route 87, Barack Obama Boulevard, and Royal Avenue to the east; Auzerais Avenue to the south; and the Caltrain rail corridor and Cahill street to the west.

(h) Adopt a resolution approving, subject to conditions, the Vesting Tentative Map to subdivide 136 lots into no more than 178 lots and allow up to 5,900 residential condominiums and up to 20 commercial condominiums on an approximately 84-gross acre site.

(i) Approve an ordinance approving a Development Agreement between the City of San José and Google LLC for the Downtown West Mixed-Use Plan and delegating authority to the City Manager, or designee, to negotiate and execute (i) a Reimbursement Agreement and amendments thereto consistent with the term sheet attached to the Development Agreement; and (ii) Transfer Agreements related to the affordable sites to be transferred to the City or designated assignee under the Development Agreement.

(Item Continued on the Next Page)

10.2 (Cont'd.)

(j) Adopt a resolution authorizing Major Encroachment Permits for District Systems at various locations within the Downtown West development area.

(k) Adopt a resolution authorizing Major Encroachment Permits for Streetscape improvements at various locations within the Downtown West development area.

(l) Adopt a resolution approving the Construction Impact Mitigation Plan.

(m) Adopt a resolution amending the Historic Preservation Permit HP16-002 (File No. HP20-002) to revise the terms of the Permit to be consistent with the Downtown West Mixed-Use Project, which includes the San José Water Works City Landmark at 374 West Santa Clara Street.

(n) Adopt a resolution approving a Landmark Designation Boundary Amendment for the Southern Pacific Depot (Diridon Station) (HL20-004) located at 65 Cahill Street, pursuant to the provisions of Chapter 13.48 of the San Jose Municipal Code.

(o) Adopt a resolution approving a Landmark Designation Boundary Amendment for the San Jose Water Works (HL20-005) located at 374 West Santa Clara Street, pursuant to the provisions of Chapter 13.48 of the San Jose Municipal Code.

(p) Adopt resolutions conditionally vacating portions of South Montgomery Street, Otterson Street, Park Avenue, Cinnabar Street with the reservation of public easements over the vacated area.

(q) Approve the staff-recommended allocation of Google's early payment of \$7.5 million and the allocation of up to \$22.3 million in Community Benefits funding that will be paid by Google as office buildings are built over time.

CEQA: Downtown West Mixed-Use Plan Environmental Impact Report. Planning Commission recommends approval (5-1-1) (Bonilla absent; Lardinois abstained). Council Districts 3 and 6. (Planning, Building and Code Enforcement)

Heard prior to Items 8.1 and 10.3

Rosalynn Hughey, Director, Planning, Building and Code Enforcement advised hearing item 10.2 first, then proceeding to Item 8.1 followed by Item 10.3. She began the presentation and was followed by Lori Severino, Diridon Program Manager; Supervising Planner John Tu; Economic Development Director, Nanci Klein; Deputy Director of Housing Rachel VanderVeen; Deputy Director of Parks, Recreation and Neighborhood Services, Nicolle Burnham; Director of Public Works, Matt Cano; Director, Community Energy Department, Lori Mitchell; Jessica Zenk, Deputy Director, Department of Transportation, and Economic Development Director, Nanci Klein. Representatives from Google continued with 'A Decade of Engagement and Co-Creation'.

(Item Continued on the Next Page)

10.2 (Cont'd.)

Public Comments: Seventy members of the public offered comments, including: Jeffrey Buchanan (Working Partnerships), Mary Helen Doherty, Scott Kneiss (San José Downtown Association), Kathryn Hedges, Linda Reuthra (California Native Plant Society), Dave (Sierra Club), Marci Gerston (PACT), Caroline Knight (Audubon Society), Robert Aguirre, and Saundra Weber. Representing DANG (Diridon Area Neighborhood Group): Burt Weaver, Kathy Southerland, Mark Pizzo and residents of Shasta Hanchett Park. Additional comments were provided by Perry, Mikao, Ron Golam (VTA representative), Sandy Perry (Affordable Housing Network, Vincent Rocha (SVLG); Enrique (LUNA), Eric Snyder, Alice Kaufman (Green Foothills), Edina Levin (CalTrain), Brian Prescott, a member of Carpenters Local 405, Victor Vasquez (SOMOS Mayfair) and Ryan Globis. Sara McDermott, Cecilia, Graciela, José Barba representing Unite Here Local 19. Roland LeBrun, Kiyomi (Law Foundation of Silicon Valley), Kelli Fallon (Ebay), Tim Beaubien (Santa Clara County Association of Realtors), Ms. Price (homeless shelter services), David Meyer (SV@home), Gavin, Lopez, 'User 1', James Rodriguez (Carpenters Union 405), Maria Lomeni (LUNA), Jeremiah and Roberto (Carpenter's Union), Daniel Phillip, Ana Rodriguez, AJ, Reverend Scully, Justin White, Christine Davis, Ron Robinson, Corey Smith (Housing Action Coalition), Jewell Buchanan, Jacob (Carpenter's Union 405), Alex Shoor (Catalyze SV), Rocindo Lopez, Chava Nicholas medulla (Carpenter's Union 405), Justin Wang, Maria Palagia (LUNA), Umberto, Blair Beekman, and Dee Daily.

Deputy Director of Parks, Recreation and Neighborhood Services, Nicolle Burnham; Director of Housing Jacky Morales-Ferrand; Economic Development Director, Nanci Klein and Alexa responded to questions.

Motion: Councilmember Dev Davis moved the memo she coauthored with Mayor Sam Liccardo, and Councilmember Raul Peralez dated May 21, 2021, including staff's supplemental memoranda dated May 17 and May 25, 2021. Councilmember Raul Peralez seconded the motion.

Action: Actions taken regarding the Downtown West Mixed-Use Plan were approved, (a) **Resolution No. 80018**; (b) **Resolution No. 80019**; (c) **Resolution No. 80020**; (d) **Resolution No. 80021**; (g) **Resolution No. 80022**; (h) **Resolution No. 80023**; (j) **Resolution No. 80024**; (k) **Resolution No. 80025**; (l) **Resolution No. 80026**; (m) **Resolution No. 80027**; (n) **Resolution No. 80028**; (o) **Resolution No. 80029**; (p1) **Resolution No. 80030 (Cinnabar)**; (p2) **Resolution No. 80031 (Otterson Gill)**; (p3) **Resolution No. 80032 (Otterson Schwall)**; (p4) **Resolution No. 80033 (Otterson UPRR)** were adopted; and (e) **Ordinance No. 30608**, amending Title 20; (f) **Ordinance No. 30609**, rezoning an 80-gross acre site; and (i) **Ordinance No. 30610** (approving a Development Agreement between the City of San José and Google LLC) were passed for publication, including the joint memorandum from Mayor Sam Liccardo, Councilmember Dev Davis and Councilmember Raul Peralez dated May 21, 2021 to accept staff recommendations with the following modifications:

- 1) Allocate \$1M from the Early Payment for Job Readiness and Community Stabilization fund for programming at the Gardner Community Center that will be sensitive to the needs of the community, including workforce development and children's programs.
- 2) Allocate 55% (about \$2M) of the long-term corporate accommodations (LTCA) parks contribution (in section 4.42 of the development agreement) for parks within ¾ mile from the boundaries of the Downtown West development site regardless of district boundaries and/or freeway infrastructure.

(Item Continued on the Next Page)

10.2 (Cont'd.)

3) Allocate 10% (about \$2M) of the \$22.3M unallocated Community Benefit Commitment to be spent within the $\frac{3}{4}$ mile from the boundaries of the Downtown West development site regardless of district boundaries and/or freeway infrastructure with input from that community and the District 3 and District 6 Councilmembers' offices.

Additionally including staff's supplemental memoranda dated May 17 and May 25, 2021.
(11-0.)

10.3 21-1185

GP20-007 & C20-002 - City-initiated General Plan Amendment amending the Diridon Station Area Plan and a Conforming Rezoning in response to Senate Bill (SB) 1333 to bring existing Zoning Districts into conformance with the existing and amended Diridon Station Area Plan and to support the amended Diridon Station Area Plan's vision

(a) Adopt a resolution adopting an Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942) and Addenda thereto, in accordance with CEQA.
(b) Adopt a resolution by two-thirds majority making certain findings required by California Public Utilities Code Section 21676 that the proposed City-initiated General Plan Amendment (File No. GP20-007) and Conforming Rezoning (File No. C20-002) are consistent with the purposes set forth in California Public Utilities Code Section 21670 and overruling the Santa Clara County Airport Land Use Commission's (ALUC) determination that the proposed City-initiated General Plan Amendment and Conforming Rezoning are inconsistent with the ALUC noise and height policies as defined by the Comprehensive Land Use Plan for the San José International Airport (CLUP).

PLEASE NOTE: APPROVAL OF THIS RESOLUTION REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3 VOTE OF ALL MEMBERS OF THE COUNCIL). California Public Utilities Code Section 21676.

(c) Adopt a resolution approving the General Plan Amendment (File No. GP20-007) amending the Envision San José 2040 General Plan pursuant to Title 18 of the San José Municipal Code to amend the "Planned Job Capacity and Housing Growth Areas by Horizon" Table 5 in Appendix 5, and amending the Diridon Station Area Plan, a component of the Envision San José 2040 General Plan, to modify the Envision San José 2040 General Plan Land Use/Transportation Diagram for properties within the boundaries of Diridon Station Area Plan and transportation street typology designations, expand the Diridon Station Area Plan boundary, and implement other text amendments and amendments to diagrams for the Diridon Station Area Plan.

(Item Continued on the Next Page)

10.3 (Cont'd.)

(d) Approve an ordinance rezoning certain real property totaling 97 acres within approximately 262 gross acres located within the boundaries of the Diridon Station Area Plan generally bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north; the Guadalupe River and State Route 87 to the east; Interstate 280 to the south; and Sunol Street and the Diridon Station Commuter Rail to the west from Zoning Districts that include Combined Industrial/Commercial, Commercial General, Commercial Neighborhood, Commercial Pedestrian, Heavy Industrial, Industrial Park, Light industrial, Two-Family Residential, and Transit Employment Center to Zoning Districts that include Downtown Primary Commercial, Open Space, and R-M Residence District (Multiple Unit/Lot).

CEQA: Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942), and Addenda thereto, in accordance with CEQA. Planning Commission recommends approval (5-1-1) (Bonilla absent; Lardinois abstained). Council Districts 3 and 6. (Planning, Building and Code Enforcement)

Heard Concurrently with Item 8.1

Rosalynn Hughey, Director, Planning, Building and Code Enforcement and Timothy Rood, Manager, Planning Division offered a presentation for Items 8.1 and 10.3.

Director of Housing Jacky Morales-Ferrand and Division Manager, Housing, Kristen Clements continued with a presentation for Item 10.3.

Public Comments: Nineteen members of the public offered comments, including: Amil Babar (California Apartment Association), Gavin Lorre, Jeffrey Buchanan (Working Partnerships), Roland LeBrun and Brian Darby. Edward Sang, Burt Weaver, Kathy, Mary Pizzo, representing DANG (Diridon Area Neighborhood Group). Mike Sodegran (PACT), Alice Kaufman (Green Foothills), Robert Aguirre, Blair Beekman; Matthew Reed and David Meyer (Silicon Valley@home); Alex Shoor, Caller User #1, and Dave (Sierra Club).

Motion: Councilmember Raul Peralez moved approval of the staff recommendations, including the joint memorandum that he coauthored with the Mayor and Councilmember Dev Davis. Councilmember Dev Davis seconded the motion.

Action: On a call for the question, the staff recommendations were accepted, including the joint memorandum from Mayor Sam Liccardo, Councilmember Dev Davis and Councilmember Raul Peralez dated May 25, 2021 to “Return in the fall with neighborhood interface measures in specific areas where

(Item Continued on the Next Page)

10.3 (Cont'd.)

single-family homes abut new development over 90 feet in height, if development incorporates a single-family residential parcel along an interior lot-line (this includes portions of Gifford, Rhodes Court, and Park Avenue.) Such measures may include larger buffers, or design modifications” and with the acceptance of

(a) **Resolution No. 80035** adopting an Addendum to the Downtown Strategy 2040 Final EIR; (b) **Resolution No. 80036**, assuring consistencies with the purposes set forth in California Public Utilities Code and overruling the ALUC determination; and (c) **Resolution No. 80037**, amending the Envision San José 2040 General Plan were adopted; and **Ordinance No. 30611** rezoning certain real property totaling 97 acres within approximately 262 gross acres located within the boundaries of the Diridon Station Area Plan was passed for publication. (11-0.)

CONTINUE THE GENERAL PLAN HEARING (2021 FIRST CYCLE) TO 6/8/2021

OPEN FORUM

1. Mike Sodergren noted that the local landmark restaurant Casa Vicky received a funding grant from the National Trust for Historic Preservation program.
2. Roland LeBrun recommended reduced garbage collection fees for seniors who under-utilize these services.
3. Robert Aguirre spoke to the need for more input from the unhoused community with a special commission to address their needs. Mayor Sam Liccardo offered that Director of Housing Jacky Morales-Ferrand is looking at adding one additional seat to the Housing Commission for that purpose.
4. Caller “User 1” asserted it is ‘administrative tyranny’ to increase code enforcement.
5. Alex Shoor (Catalyze SV) addressed the need to work with flea market vendors that are being misplaced.
6. Katherine Mathewson suggested open space ideas in housing for caretakers of parklands.
7. Blair Beekman spoke to reimagining and addressing the military-prison-industrial complex.

ADJOURNMENT

The City Council meeting was adjourned at 11:06 p.m. in honor and memory of George Floyd. May 25, 2021 marks one year of the murder of George Floyd in Minneapolis. His tragic death sparked community, national and global conversations about race and the inequities and injustices for Black Americans and people of color. While our community continues to heal from pain and anger, we must also continue to take action to dismantle structural and institutional racism.

George Floyd grew up in Houston, Texas, and was proud of his roots in the city’s Third Ward. He played basketball and football and was a star athlete in high school and college, with dreams of playing professionally. He was also a hip hop artist and mentored youth in his neighborhood, acknowledging his shortcomings to encourage others. Today, in memory of George Floyd and all victims of injustice, the City of San José stands committed to build toward a just, equitable and resilient future.

ADJOURNMENT

The Council of the City of San José adjourned at 11:06 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

rmk/05-25-2021MIN



SAN JOSÉ CITY COUNCIL CLOSED SESSION

MAY 25, 2021

The Council of the City of San José convened into Closed Session at 9:31 a.m.
This meeting was teleconferenced from remote locations.

Present: Councilmembers - Arenas, Carrasco, Davis, Esparza, Mahan, Jimenez, Jones, 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: Caballero, Hilarion Ojeda v. Jordan Epperson; et al.,
Name(s) of Parties(s) Hilarion Ojeda Caballero, Jordan Epperson; City of San Jose; and DOES 1 TO 25
Court: Superior Court of California, County of Santa Clara
Case No: 20CV366856
Amount of Money or Other Relief Sought: Damages according to proof
2. Case Name: Calonge, Francisco v. City of San Jose, et al.,
Name(s) of Parties(s) FRANCISCO CALONGE, individually and as the Successor-in-Interest to FRANCIS CALONGE, deceased, CITY OF SAN JOSE, a Municipal Corporation organized under the laws of the State of California, EDWARD CABRONI, an individual, and DOES 1-20, Inclusive
Court: U.S. District Court; District of Northern California
Case No: 5:21-cv-00090-NC

Amount of Damages according to proof.
Money or
Other Relief
Sought:

**B CONFERENCE WITH REAL PROPERTY DESIGNATED
REPRESENTATIVES PURSUANT TO GOVERNMENT CODE SECTION
54956.8:**

1. Property Street Address, Parcel Number, or Other Unique Reference of Property: 1138 Olinder Court, APN 472-10-108
Negotiating Parties: Nanci Klein for the City of San José
Sellers: Roderick F. Miller and Donna R. Miller and they are represented by Clark Freitg with CF Commercial and Steve Zamudio with Colliers International.
Under Negotiation: The direction will concern price and terms of payment.
Likely Range of Value of Property: Negotiated price based on appraised value, statutory requirements, and comparable property values.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

**C. Initiation of litigation pursuant to Section 54956.9(d)(4) of the
Government Code:**

Number of Matter(s) to be discussed: 1

**D. 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 Engineers & Architects (AEA)**

- | | | |
|--|---|--|
| | 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 Engineers & Architects (AEA) |
| | 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 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 |
3. 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

4. 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

5. 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

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

E.

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(1) of the Government Code:

Number of matter(s) to be discussed: 1

By unanimous consent, Council recessed from the Closed Session at 11:31 a.m. to reconvene in Regular Open Session at 1:30 p.m. in Council Chambers.