



City Council Meeting MINUTES

Tuesday, August 3, 2021

1:30 PM

**Hybrid Meeting - Council Chambers and Virtually -
<https://sanjoseca.zoom.us/j/93052835954>**

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

August 3, 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.

21-1661: CLOSED SESSION. See Page 14 for Closed Session Minutes.

- **Call to Order and Roll Call**

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

1:30 p.m. - Regular Session: All Present.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 7)**

Abe Andrade and Celine, representing the Santa Clara County Fair, introduced young exhibitors and provided an introduction to the Fair, which will be held August 5 – 8, 2021.

- **Orders of the Day**

The Orders of the Day and the Amended Agenda were approved with Item 10.2 deferred to August 17. (11-0.)

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a Proclamation Recognizing August 1, 2021 as World Lung Cancer Day. (Foley)**
Councilmember Pam Foley and Erica Costa, representing the American Lung Association, spoke on the importance of this issue, and a commendation was issued to Ms. Costa.
- 1.2 Presentation of a Proclamation for Breastfeeding Awareness Month. (Arenas)**
Councilmember Sylvia Arenas presented a proclamation and introduced Lori McBride from Nursing Mothers Counsel, an agency that Provides free personal counseling and assistance to breastfeeding mothers.

2. CONSENT CALENDAR

Upon motion by Councilmember Pam Foley, seconded by Councilmember David Cohen and carried unanimously, the balance of the Consent Calendar was approved, with Item 2.2(e) pulled and heard separately, and the following actions were taken as indicated. (11-0.)

2.1 21-1718 Approval of City Council Minutes.

(a) City Council Regular Meeting Minutes of February 9, 2021.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, and Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: The Council Meeting Minutes were approved. (11-0.)

2.2 21-1668 Final Adoption of Ordinances.

(a) Ordinance No. 30633 - An Ordinance of the City of San José Amending Title 3 of the San José Municipal Code to Add Section 3.28.725 to Chapter 3.28 Related to Ceasing the Normal Contributions for Tier 1 Members at Thirty Years of Service.

[Passed for Publication on 6/29/2021- Item 2.8 (21-1525)]

(b) Ordinance No. 30642 - An Ordinance of the City of San José Adding Section 10.50.025 to Chapter 10.50 of Title 10 of the San José Municipal Code to Prohibit Encouraging Spectators to Gather at Street Races and Reckless Driving Exhibitions.

[Passed for Publication on 6/29/2021- Item 4.2 (21-1642)]

(c) Ordinance No. 30644 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 27 Gross Acres Situated on the South Side of Mitty Way Bounded by Doyle Road to the West and Moorpark Avenue to the East (5000 Mitty Way) (APN: 381-21-016, -018, -021, -022 and -023) from the R-1-8 Single-Family Residence Zoning District to the PQP Public/Quasi-Public Zoning District. [Passed for Publication on 6/29/2021- Item 10.1(a) (21-1556)]

(Item Continued on the Next Page)

2.2 (Cont'd.)

(d) Ordinance No. 30645 - An Ordinance of the City of San José rezoning certain real property of approximately 28.86 gross acres generally bounded by Berryessa Road to the north, Coyote Creek, Salamoni Court and Berryessa Station Way to the east, Mabury Road to the south, and Valley Transportation Authority right-of-way to the west from the A(PD) Planned Development Zoning District and IP Industrial Park Zoning District to the PQP Public/Quasi-Public Zoning District (APNs: 254-17-008; 254-17-110); from the A(PD) Planned Development Zoning District to the CP Commercial Pedestrian Zoning District (APN: 254-17-111); from the IP Industrial park Zoning District to the PQP Public/Quasi-Public Zoning District (APN 254-17-083); and from the IP Industrial Park Zoning District to the CP Commercial Pedestrian Zoning District (APNs: 254-17-112; 254-17-113).

[Passed for Publication on 6/29/2021- Item 10.4(c) - (21-1626)]

(e) Ordinance No. 30646 - An Ordinance of the City of San José rezoning, subject to conditions, certain real property of approximately 61.5 gross acres situated on the south side of Berryessa Road, east of Coyote Creek, west of the BART tracks corridor and north of Mabury Road (The San José Flea Market; APNs: 254-17-052; 254-17-053; 254-17-007; 254-17-084; 254-17-095), from the A(PD) Planned Development Zoning District to the CP(PD) Planned Development Zoning District.

[Passed for Publication on 6/29/2021- Item 10.5(b) - (21-1627)]

(f) Ordinance No. 30647 - An Ordinance of the City Council of the City of San José Repealing Section 14.30.035 of Chapter 14.30 of Title 14 of the San José Municipal Code to Acknowledge the Application of the US-101/Oakland/Mabury Traffic Impact Fee to the Flea Market South Development.

[Passed for Publication on 6/29/2021 - Item 10.5(c) - (21-1627)]

(g) Ordinance No. 30648 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 2,029- Gross Acres Situated in Various Locations of the City, Including the East Foothills of San José on Sierra Road, on Miracel Mountain Drive North of the Boulder Ridge Golf Club, and in South San José on Casa Loma Road from the R-1-1 Residential Zoning District and A(PD) Planned Development Zoning District to the OS Open Space Zoning District (APNS 595-07-023; 694-01-027; 694-01-030; 742-18-007; 742-12-008; 742-19-001).

[Passed for Publication on 6/29/2021 -Item 10.6 - (21-1631)]

Motion: Councilmember Raul Peralez pulled Item 2.2(e) regarding **Ordinance No. 30646**, requesting that the Berryessa Flea Market Vendor's Association be reconsidered for participation in the Flea Market Advisory Group. Councilmember Sylvia Arenas seconded the motion.

Action: The remainder of the Ordinances under Item 2.2 were **Ordinances 30633, 30642, 30644, 30645, 30647, and 30648** were adopted. (11-0.)

(Item Continued on the Next Page)

2.2 (e) (Cont'd.)

Public Comments: Offering public comment on the issue were Alma (Bay Area Flea Market Renters Association), Jeffrey Buchanan (Working Partnerships), Mario Davila; Roberto Gonzalez, Amada Gonzales, Mariana Meja, Cecilia Ortiz and José W (Berryessa Flea Market Vendors Association Flea Market Advisory Group); Caller “5140”, Paul Soto and Judith.

As a representative of the Flea Market, Erik Schoennauer, the Schoennauer Company, was asked for comment. He indicated his opposition to any further revisions, as it would cause further delay of the project.

City Attorney, Nora Frimann provided clarification, indicating that the motion presented would involve substantive changes regarding the supermajority of participants. Council discussion followed regarding representation of vendors.

Substitute Motion: Councilmember David Cohen moved approval of the Ordinance as initially drafted. Vice Mayor Chappie Jones seconded the motion.

Action: On a call for the question, the substitute motion carried unanimously, and **Ordinance No. 30646** was adopted. (11-0.)

2.3 21-1719

Approval of Council Committee Minutes.

- (a) Regular Neighborhood Services and Education Committee Meeting Minutes of May 20, 2021.
- (b) Regular Neighborhood Services and Education Committee Meeting Minutes of June 10, 2021.
- (c) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of June 17, 2021.
- (d) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of June 2, 2021.
- (e) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of June 16, 2021.
- (f) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of June 23, 2021.
- (g) Regular Smart Cities and Service Improvements Committee Meeting Minutes of June 3, 2021
- (h) Regular Transportation and Environment Committee Meeting Minutes of June 7, 2021.

Action: The Council Committee Minutes were approved. (11-0.)

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 21-1663 Actions Related to Amendments to Agreements for Legal Services Relating to Implementation of the Alternative Pension Reform Settlement Framework.

Adopt a resolution authorizing the City Attorney to negotiate and execute amendments to agreements for legal services relating to implementation of Measure F, the Alternative Pension Reform Settlement Framework approved by the voters at election in November 2016, as follows:

- (a) A Ninth Amendment and Continuation Agreement with Renne Public Law Group, LLP (formerly Renne Sloan Holtzman & Sakai LLP) (RPLG) for legal services in connection with labor relations matters, retroactively extending the term from July 1, 2021 through June 30, 2022 with no increase in the amount of compensation;
- (b) A Twelfth Amendment and Continuation Agreement with Hanson Bridgett LLP (Hanson Bridgett) for legal services in connection with the City's retirement plans and other benefit plans and programs, retroactively extending the term from July 1, 2021 through June 30, 2022 and increasing the amount of compensation by \$164,000, for a total amount not to exceed \$719,000; and
- (c) A Twelfth Amendment and Continuation Agreement with Ice Miller LLP (Ice Miller) for legal services in connection with retiree health and dental benefits and related tax issues, retroactively extending the term from July 1, 2021 through June 30, 2022 with no increase in the amount of compensation.

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. 80117** regarding Amendments to Agreements for Legal Services Relating to Implementation of the Alternative Pension Reform Settlement Framework was adopted. (11-0.)

2.8 21-1662 Appointment to the Board of Administration for the Police and Fire Department Retirement Plan.

- (a) Appoint Franco Vado as the Police Department Retiree Representative to the Board of Administration for the Police and Fire Department Retirement Plan to a term ending November 30, 2024.
- (b) Appoint Dave Wilson as the Police Department Employee Representative to the Board of Administration for the Police and Fire Department Retirement Plan to a term ending November 30, 2021.

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

[Deferred from 6/29/2021 - Item 2.7 (21-1564)]

Action: The Appointments of Franco Vado and Dave Wilson were approved. (11-0.)

2.9 21-1664 Award of Contract for the Citywide Outfall Rehabilitation (Six Outfalls) Project.

Award a construction contract for the 7699 - Citywide Outfall Rehabilitation (Six Outfalls) Project to the low bidder, JMB Construction, Inc., in the amount of \$1,775,739 and approve a contingency in the amount of \$266,361.

CEQA: Categorically Exempt, File No. ER20-266, CEQA Guidelines Sections 15301 Existing Facilities and 15302 Replacement Reconstruction. (Public Works)

Action: The Award of Contract for the Citywide Outfall Rehabilitation Project was Approved. (11-0.)

2.10 21-1720 Board and Commissions Appointment.

Approve the following Boards and Commissions appointments:

(a) Charter Review Commission:

(1) District 10 Seat: Appoint Tobin Gilman.

(b) Library and Education Commission:

(1) Early Childcare Seat: Appoint Janice Allen to a term expiring June 30, 2025; and

(2) Early Childcare Seat: Appoint Angelica Ramos to a term expiring June 30, 2025.

(c) Neighborhoods Commission:

(1) District 10 Seat: Appoint John Mogannam to a term expiring June 30, 2024.

(d) Parks and Recreation Commission:

(1) District 9 Seat: Appoint Janny Choy to a term expiring June 30, 2025; and

(2) District 10 Seat: Appoint Rich Giammona to a term expiring June 30, 2023.

(e) Senior Citizens Commission:

(1) District 6 Seat: Appoint Sandra Runyan to a term expiring June 30, 2023.

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

[Rules Committee referral 7/28/2021 - Item A.1.a]

Action: The Board and Commissions Appointments were approved. (11-0.)

2.11 21-1727 Approval of Breastfeeding Awareness Month Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. - DROP

As recommended by the Rules and Open Government Committee on July 28, 2021:

(a) Approve Breastfeeding Awareness Month scheduled on August 3, 2021 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.

Item dropped.

2.12 21-1734 Retroactive Approval of Brigadoon Public Safety Community Meeting Community Event Sponsored by Council District 8 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 July 28, 2021:

- (a) Retroactively approve the Brigadoon Public Safety Community Meeting scheduled on July 21, 2021 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.

[Rules Committee referral 7/28/2021 - Item G.1.b]

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

2.13 21-1744 Retroactive Approval of Arcadia Ballpark Open House Community Event Sponsored by Council District 8 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 July 28, 2021:

- (a) Retroactively approve the Arcadia Ballpark Open House scheduled on July 17, 2021 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.

[Rules Committee referral 7/28/2021 - Item G.1.c]

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

2.14 21-1751 Retroactive Approval of Two Dumpster Days Sponsored by Council District 5 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.

As recommended by the Rules and Open Government Committee on July 28, 2021:

- (a) Retroactively approve the Dumpster Day Event scheduled on May 8, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Retroactively approve the Dumpster Day Event scheduled on May 22, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (c) 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. (Carrasco)

[Rules Committee referral 7/28/2021- Item G.1.d]

Action: The City Council Sponsored Special Events were retroactively approved. (11-0.)

2.15 21-1758 Retroactive Approval of Three Special Events Sponsored by Council District 4 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.

As recommended by the Rules and Open Government Committee on July 28, 2021:

- (a) Retroactively approve the Alviso Community Ice Cream Social scheduled on July 17, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Retroactively approve the e-Waste Collection Event scheduled on July 17, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (c) Approve the 2021 Berryessa Arts Festival scheduled on September 18, 2021 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. (Cohen)
[Rules Committee referral 7/28/2021 - Item G.1.e]

Action: The City Council Sponsored Special Events were retroactively approved. (11-0.)

2.16 21-1765 Approval of the Blue Zones Project Presentation and Reception Sponsored by Council District 6 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 July 28, 2021:

- (a) Approve the Blue Zones Project Presentation and Reception scheduled on August 18, 2021 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. (Davis)
[Rules Committee referral 7/28/2021 - Item G.1.f]

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

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 21-1677 Appeals Hearing Board Interviews.

Interview applicants for appointment to the Appeals Hearing Board:

- (a) Appoint applicant to the Public Member Seat on the Appeals Hearing Board for a term ending December 31, 2021;
- (b) Appoint above applicant to the Public Member Seat on the Appeals Hearing Board for a full term from January 1, 2022 to December 31, 2025;
- (c) Appoint Brett Williamson to the Public Member Seat on the Appeals Hearing Board for a full term from January 1, 2022 to December 31, 2025;
- (d) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.

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

Public Comments: Paul Soto provided comments.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Maya Esparza and carried unanimously, Manish Bajpai was interviewed and appointed to the Public Member Seat on the Appeals Hearing Board for a full term from January 1, 2022 to December 31, 2025. (11-0.)

3.4 21-1665 Fiscal Year 2021-2022 Property Tax Levy for General Obligation Bonds.

Adopt a resolution establishing the Fiscal Year 2021-2022 property tax levy on all taxable property within the City of San José for the purpose of funding the City's general obligation bonded indebtedness and to pay the related administration fee to the County of Santa Clara.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Finance)

Director of Finance Julia H. Cooper provided a presentation; she and Nikolai J. Sklaroff, Deputy Director of Finance, Debt & Treasury Management responded to questions.

Public Comments: Paul Soto, Blair Beekman and Caller "5140" provided comments.

Action: Upon motion by Councilmember Magdalena Carrasco, seconded by Councilmember Sylvia Arenas and carried unanimously, **Resolution No. 80118** regarding Fiscal Year 2021-2022 Property Tax Levy for General Obligation Bonds was adopted. (11-0.)

3.5 21-1666 Public Hearing for the Fiscal Year 2021-2022 Sanitary Sewer Service and Use Charge and Storm Sewer Service Charge Assessments for the Santa Clara County Secured Property Tax Roll.

Conduct a Public Hearing on the Fiscal Year 2021-2022 annual report prepared by the Director of Finance detailing the Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges filed with the City Clerk's Office, and adopt a resolution to confirm the approval of the report and the placement of the charges as set forth therein on the 2021-2022 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Finance)

Mayor Sam Liccardo opened the public hearing.

Public Comments: Blair Beekman and Caller "5140" provided comments.

Mayor Sam Liccardo closed the public hearing.

Action: A public hearing was held, and upon motion by Councilmember Raul Peralez, seconded by Councilmember David Cohen and carried unanimously, **Resolution No. 80119** confirming the approval of the report and the placement of the charges as set forth therein on the 2021-2022 Santa Clara County Secured Property Tax Roll was adopted. (11-0.)

3.6 21-1667 Public Hearing for the Fiscal Year 2021-2022 Annual Residential Solid Waste Collection Service Charges for the Santa Clara County Secured Property Tax Roll.

Conduct a Public Hearing on the Fiscal Year 2021-2022 annual report prepared by the Director of Finance detailing the Residential Solid Waste Collection Service Charges filed with the City Clerk's Office, and adopt a resolution to confirm the approval of the report and the placement of charges as set forth therein on the 2021-2022 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Finance)

Mayor Sam Liccardo opened the public hearing.

Public Comments: Blair Beekman and Caller "5140" provided comments.

Mayor Sam Liccardo closed the public hearing.

Action: A public hearing was held, and upon motion by Councilmember Matt Mahan, seconded by Councilmember Raul Peralez and carried unanimously, **Resolution No. 80120** confirming the approval of the report and the placement of the charges as set forth therein on the 2021-2022 Santa Clara County Secured Property Tax Roll was adopted. (11-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 21-1672 C19-016 & CP18-027 - Conforming Rezoning and Site Development Permit for Property Located on the northeast corner of Story Road and South Jackson Avenue. - DEFERRED

(a) Adopt a resolution adopting the Initial Study/Mitigated Negative Declaration for the Rotten Robbie on Story Road project and the associated Mitigation Monitoring and Reporting Plan, all in accordance with the California Environmental Quality Act (CEQA).

(b) Approve an ordinance rezoning the approximately 0.53-gross acre site located on the northeast corner of Story Road and South Jackson Avenue from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District on an approximately 0.53-gross acre site.

(c) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the demolition of an existing approximately 1,500-square foot convenience store for the construction of an approximately 3,200-square foot convenience store and a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale alcohol (Type 20 ABC License - Beer and Wine only) with late night use (hours of operation 5:00 am to 11:00 pm) on an approximately 0.53-gross acre site.

CEQA: Initial Study/Mitigated Negative Declaration (IS/MND) for the Rotten Robbie on Story Road. Council District 5. (Planning, Building and Code Enforcement)

[Continued from 6/22/2021 - Item 10.1(b) (21-1478); Deferred from 6/29/2021 - Item 10.1(b) (21-1630)]

DEFERRED TO 8/17/2021 PER ADMINISTRATION

OPEN FORUM

1. Paul Soto spoke on the legacy of redlining, manifest destiny and extermination of the native people of California.
2. Blair Beekman addressed issues with the 1st Street Corridor, and the need to consider community ideals and good logic.
3. Speaker “5140” insisted that the City can do better.

ADJOURNMENT

The Council of the City of San José adjourned at 3:23 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Ruth Krantz

Ruth Krantz, CMC

Deputy City Clerk, City of San Jose

Approved at Council _____

Attest:

Toni J. Taber, CMC

City Clerk

rmk/08-032021 MIN



SAN JOSÉ CITY COUNCIL CLOSED SESSION

AUGUST 3, 2021

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

Present: Councilmembers - Arenas, Carrasco, Davis, 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: In re: Claim of Harris
Name(s) of Parties(s) Involved:
Court: Workers Compensation Appeals Court
Case No.: ADJ7906743 and ADJ7907911
Amount of Benefits
Money or Other Relief Sought:
2. Case Name: Protecting the Children of Orchard Elementary v. City of San Jose, et al.,
Name(s) of Parties(s) PROTECTING THE CHILDREN OF ORCHARD SCHOOL,
CITY OF SAN JOSE; DOES 1 through 100, inclusive
Court: Superior Court of California, County of Santa Clara
Case No: 20CV370153
Amount of Writ of Mandate to set aside a project approval
Money or Other Relief Sought:
3. Case Name: Bowles v. City, et al.

Name(s) of Parties(s) Involved: JOHN BOWLES, CITY OF SAN JOSE, TODD YO, WILLIAM WOLFE, ERICK ENDERLE, and DOES 1-10, inclusive
Court: U.S. District Court, Northern District of California
Case No.: 5:19-cv-01027-NC
Amount of Money or Other Relief Sought: Damages according to proof

4. Case Name: Sutter's Place, Inc. dba Bay 101 v. California Gambling Control Commission, et al.,
Name(s) of Parties(s): Sutter's Place, Inc. dba Bay 101, California Gambling Control Commission, City of San Jose, Garden City, Inc., dba Casino M8TRIX
Court: Superior Court of California, County of San Francisco
Case No: CPF-21-517433
Amount of Money or Other Relief Sought: Writ of Mandate for Declaratory Relief

5. Case Name: Sutter's Place, Inc. dba Bay 101 v. City of San Jose; City Council of San Jose, et al.
Name(s) of Parties(s): Sutter's Place, Inc. dba Bay 101, City of San Jose, City Council of San Jose, Does 1-5
Court: Superior Court of California, County of Santa Clara
Case No: 21CV377181
Amount of Money or Other Relief Sought: Damages according to proof

6. Case Name: Blackstone Gaming LLC v. City of San Jose, et al.,
Name(s) of Parties(s): Blackstone Gaming, LLC, City of San Jose, City Council of San Jose, Does 1-5
Court: Superior Court of California, County of Santa Clara
Case No: 21CV377672
Amount of Money or Other Relief Sought: Damages according to proof

7. Case Name: Garden City, Inc., dba Casino M8TRIX v. California Gambling Control Commission
 Name(s) of Parties(s) GARDEN CITY, INC. dba CASINO M8TRIX, a California corporation, CALIFORNIA GAMBLING CONTROL COMMISSION, CITY OF SAN JOSE, a California charter city; SUTTER'S PLACE, INC. dba BAY 101, a California corporation
 Court: Superior Court of California, County of San Francisco
 Case No: CPF -21-517466
 Amount of Money or Other Relief Sought: Writ of Mandate for Declaratory Relief
8. Case Name: Garden City, Inc., dba Casino M8TRIX v. City of San Jose, et al.,
 Name(s) of Parties(s) Garden City, Inc. dba Casino M8trix, City of San Jose, City Council of San Jose, Does 1-5
 Court: Superior Court of California, County of Santa Clara
 Case No: 21CV376617
 Amount of Money or Other Relief Sought: Damages according to proof
9. Case Name: Santa Clara Unified School District v. City of San Jose, et al.,
 Name(s) of Parties(s) Santa Clara Unified School District, City of San and Does 1-100
 Court: Superior Court of California, County of Santa Clara
 Case No: 20CV374923]
 Amount of Money or Other Relief Sought: Petition for Writ of Mandate for Refund and Declaratory Relief

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

**CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT
CODE SECTION 54957.6:**

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or **Association of Building, Mechanical and Electrical**
 Name and Title **Inspectors (ABMEI)**
 of
 Unrepresented
 Employees:

 Nature of wages/salaries, hours, working conditions, etc.
 negotiations:

 Name of Memorandum of Agreement – City of San José and
 Existing Association of Building, Mechanical and Electrical
 Contract or Inspectors (ABMEI)
 MOA:

 How to Obtain Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
 a copy of Telephone – Employee Relations: (408) 535-8150
 Existing
 Contract or
 MOA:
2. Organization or **Association of Engineers & Architects (AEA)**
 Name and Title
 of
 Unrepresented
 Employees:

 Nature of wages/salaries, hours, working conditions, etc.
 negotiations:

 Name of Memorandum of Agreement — City of San José and
 Existing Association of Engineers & Architects (AEA)
 Contract or
 MOA:

 How to Obtain Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
 a copy of Telephone – Employee Relations: (408) 535-8150
 Existing
 Contract or
 MOA:

3. Organization or Name and Title of Unrepresented Employees: **Association of Maintenance Supervisory Personnel (AMSP)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: City of San José - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
4. Organization or Name and Title of Unrepresented Employees: **City Association of Management Personnel Agreement (CAMP)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: Benefit & Compensation Summary — City of San José and City Association of Management Personnel Agreement

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
5. Organization or Name and Title of Unrepresented Employees: **International Association of Firefighters (IAFF), Local 230 (IAFF#230)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

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| | Name of Existing Contract or MOA: | Memorandum of Agreement Between City of San José and International Association of Firefighters (IAFF), Local 230 |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 6. | Organization or Name and Title of Unrepresented Employees: | International Brotherhood of Electrical Workers, Local 332 (IBEW) |
| | Nature of negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing Contract or MOA: | Memorandum of Agreement Between City of San José and International Brotherhood of Electrical Workers, Local 332 (IBEW) |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 7. | Organization or Name and Title of Unrepresented Employees: | Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF) |
| | Nature of negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing Contract or MOA: | Memorandum of Agreement — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |

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

Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and San José Police's Association

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoosea.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

11. Organization or Name and Title of Unrepresented Employees: **Association of Legal Professionals of San José (ALP)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: Memorandum of Agreement – City of San José and Association of Legal Professionals of San José

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoosea.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

By unanimous consent, Council recessed from the Closed Session to reconvene in Regular Open Session at 1:32 p.m. in the Council Chambers.