



# **City Council Meeting MINUTES**

**Tuesday, December 14, 2021**

**11:00 AM**

**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



**\* COVID-19 NOTICE \***

*Consistent with AB 361 and City of San Jose Resolution Numbers 79485, 80237, 80266 and 80290, Councilmembers may be teleconferencing from remote locations.*

**• Call to Order and Roll Call**

9:30 a.m.- Closed Session

**21-2554**            **CLOSED SESSION. See Page 30 for Closed Session Minutes.**

11:00 a.m. Present: Councilmembers - Carrasco (via Zoom), Arenas (via Zoom), Davis, Mahan, Jimenez, Jones, Cohen, Esparza (via Zoom), Peralez, Foley; Liccardo.

Absent: Councilmembers   -   All Present.

6:00 p.m.- Evening Session

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

Absent: Councilmembers   -   All Present.

**• Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

**• Invocation (Mayor)**

Rabbi Shaya Bernstein, Chabad at SJSU provided the Invocation.

**• Orders of the Day**

The Orders of the Day and the Amended Agenda were approved.

**• Closed Session Report**

None provided.

# **1. CEREMONIAL ITEMS**

1.1 Councilmember Raul Peralez presented a Commendation to Greater Downtown San José Economic Recovery Task Force for their service to our community. (Peralez)

# **2. CONSENT CALENDAR**

Public Comments: Blair Beekman, Paul Soto and Tessa Woodmansee offered comments.

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Matt Mahan and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

## **2.1 Approval of City Council Minutes.**

None provided.

## **2.2 21-2578 Final Adoption of Ordinances.**

(a) Ordinance No. 30696 - An Ordinance of the City of San José Amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to: (a) Amend Chapter 20.30, Section 20.30.100 to Include Minor Text Alteration to Table 20-50, and Clarifying Changes to Section 20.30.270, ‘Corner Lot-Rear Setback- Exception for Attached Garage’, Section 20.30.500, ‘Development Standards’, and Section 20.30.530, ‘Height Exceptions - Accessory Buildings’; (b) Amend Chapter 20.40, Section 20.40.100 to Rectify Table 20-90 to Add Prior Approved Text; (c) Amend Chapter 20.50, Section 20.50.100 to Rectify Table 20-110 to Add Prior Approved Text; (d) Amend Chapter 20.70, Section 20.70.100 to Include Minor Correction to Table 20-140 to Incorporate Indoor Theater Use; (e) Amend Chapter 20.90, Section 20.90.220 to Correct a Reference to Table 20-190; and to Make Other Technical, Non-Substantive, or Formatting Changes within those Sections of Title 20 of the San José Municipal Code. [Passed for Publication on 11/30/2021 - Item 10.1(a) (21-2491)]

(b) Ordinance 30698 - An Ordinance of the City of San José Amending Sections 5.09.100 and 5.09.300 of Chapter 5.09 of Title 5 of the San José Municipal Code to extend the Reasonable Local Standards for the Design, Site Development and Operation of Emergency Bridge Housing Communities and Their Structures and Facilities in Lieu of Existing State and Local Standards and Standards for Emergency Housing. [Passed for Publication on 12/7/2021 - Item 2.13 (21-2516)]

(c) Ordinance 30700 - An Ordinance of the City Council of the City of San José Suspending Enforcement of Land Use Permits and Provisions of the San José Municipal Code to Temporarily Allow Outdoor Business Operations on Private Property from February 1, 2022 through December 31, 2022. [Passed for Publication on 12/7/2021 - Item 8.1(b) (21-2526)]

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## 2.2 (Cont'd.)

(d) Ordinance 30701 - An Ordinance of the City of San José Adding a New Section 4.59.230 to Chapter 4.59 of Title 4 of the San José Municipal Code to Provide a Refund Under Certain Circumstances To (a) Charitable Organizations that Provide Direct Services or Make Grants in the Areas of Education, Health, Housing, or Human Services Serving Extremely Low-Income San José Residents, Use or Irrevocably Endow the Proceeds from the Conveyance of Real Property Subject to the Real Property Transfer Tax for a Charitable Community Purpose, and, within Three Years of the Property Sale, Fund Direct Services or Make Grants in the Areas of Education, Health, Housing, or Human Services Serving Extremely Low-Income San José Residents in an Amount Equal to Three Times the Tax Refunded; or (b) Charitable Organizations, or Limited Partnerships with a General Partner Charitable Organization, that Purchase a Qualifying Affordable Housing Site and Satisfy Certain Other Requirements.  
[Passed for Publication on 12/7/2021 - Item 8.2 (21-2576)]

Action: (a) Ordinance No. 30696; (b) Ordinance No. 30698; (c) Ordinance No. 30700; (d) Ordinance No 30701 were adopted. (11-0.)

## 2.3 21-2587

### **Approval of Council Committee Minutes.**

- (a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 13, 2021.
- (b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 20, 2021.
- (c) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of October 27, 2021.
- (d) Regular Transportation and Environment Committee Meeting Minutes of November 1, 2021.  
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: Council Committee Minutes were accepted. (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 21-2579 Settlement of National Opioid Litigation.

Approve and join a settlement in the national opioid litigation involving distributors, City of San José v. Amerisourcebergen Drug Corporation, et al., and the intrastate allocation agreement with the State of California, and direct the City Attorney to execute all necessary documents and agreements on behalf of the City of San José. CEQA Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Action: Approval to join a Settlement regarding National Opioid Litigation was accepted. (11-0.)

## 2.8 21-2580 Amicus Curiae Brief in Support of the Legality of the Deferred Action for Childhood Arrivals (DACA) Program in Texas v. United States (5th Cir.).

Authorize the City Attorney to join in Amicus Curiae brief being drafted by the County of Los Angeles and City of Los Angeles on behalf of cities and counties in support of appellants/defendants in a challenge to the legality of the DACA Program in Texas v. United States, Case No. 21-40680 (5th Cir.). CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Attorney)

Action: Approval for the City Attorney to join in an Amicus Curiae brief was accepted. (11-0.)

## 2.9 21-2211 Extension of AB 361 Implementation to Allow Teleconferenced Public Meetings to Continue through January 13, 2022 during the Governor's Proclaimed COVID State of Emergency.

Adopt a resolution of the Council of the City of San José finding the continued existence of the need to extend AB 361 implementation and amending the City's Consolidated Open Government and Ethics (Sunshine) Resolution No. 77135 to incorporate the Governor's proclaimed COVID state of emergency to allow City legislative bodies and Joint Power Authority legislative bodies for which the City serves as lead staffing agency to hold public meetings solely by teleconference or otherwise electronically pursuant to AB 361; to modify agenda noticing and document posting; and to incorporate all future Governor's Executive Orders regarding the Brown Act into the City's open government procedures, as deemed appropriate by the City Clerk and City Manager, without further Council action.

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**2.9 (Cont'd.)**

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

Action: **Resolution No. 80323** regarding Extension of AB 361 Implementation was adopted. (11-0.)

**2.10 21-2555 Sale of Exempt Surplus Land Adjacent to Interstate 280 Right of Way, South of East Reed Street.**

Adopt a resolution:

- (a) Declaring the approximately 5,120 square foot subject property “exempt surplus land” under California Government Code §54221(f)(1) (B) as the land is not necessary for the City of San José’s use, is less than 10,000 square feet, will have no recorded access at the time of conveyance, is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes, and is being transferred to a contiguous property owner; and
  - (b) Authorizing the City Manager, or her designee, to negotiate and execute a Purchase and Sale Agreement, the conveyance deed, and the easement agreement for City-owned property located adjacent to the Interstate 280 right of way, south of East Reed Street, identified as a portion of Assessor’s Parcel Number 472-27-106, to Juniper Fund-III LLC for the consideration of \$115,000 and an easement providing four parking spaces in any future development including the subject property to the benefit of the neighboring Pallesen Apartments owned by Habitat for Humanity, by direct negotiation under San José Municipal Code Section 4.20.070 and in accordance with Council Policy No. 7-13(D)(1) as the transferee is an adjacent property owner and the transaction is for fair market value; and
  - (c) Authorizing the City Manager, or her designee, to negotiate and execute all other documents necessary to complete the transaction.
- CEQA: Categorically Exempt, File No. ER21-296, CEQA Guidelines Section 15312, Surplus Government Property Sales. Council District 3. (Economic Development and Cultural Affairs)

Action: **Resolution No. 80324** regarding Sale of Exempt Surplus Land Adjacent to Interstate 280 Right of Way was adopted. (11-0.)

**2.11 21-2556 Lease Extension and Naming Rights for the San José Municipal Stadium.**

Adopt a resolution:

- (a) Authorizing the City Manager to negotiate and execute an amendment to the Amended and Restated Lease between the City of San José and the San José Giants, d.b.a., Baseball Acquisition Company, Inc., regarding the San José Municipal Stadium located at 588 E. Alma Avenue, including all ancillary documents necessitated by the amendment, to extend the existing lease for a period of five years, with one option for BAC to extend the term for an additional five years; and

*(Item Continued on the Next Page)*

**2.11 (Cont'd.)**

(b) Approving the agreement between the Excite Credit Union and San José Giants, d.b.a., Baseball Acquisition Company, Inc., for the sponsorship of the San José Municipal Stadium, and the renaming of the San José Municipal Stadium to “Excite Ballpark, Home of the San José Giants” for a period of 10 years.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
Council District 7. (Economic Development and Cultural Affairs)

Economic Development Director, Nanci Klein read changes into the record regarding extension of the lease and new owners of the San José Giants to reflect accurate information

Action: **Resolution No. 80325** regarding Lease Extension and Naming Rights for the San José Municipal Stadium was adopted. (11-0.)

**2.12 21-2557**

**Actions Related to Lease Renewals for Office Space with 4th Street San José Partners, La Familia and the Huang Family Trust.**

Adopt a resolution authorizing the City Manager, or designee, to:

(a) Negotiate and execute an agreement, and all necessary documents, with 4th Street San José Partners, LLC, to extend an existing lease for the San José Police Department Gaming Control Unit’s continued use of approximately 3,320 square feet of office space located at 210 N. 4th Street, Suite 202 for five additional years at an estimated cost of \$99,600 for the first year, \$102,588 for the second year, \$105,665.64 for the third year, \$108,835.61 for the fourth year, and \$112,100.68 for the fifth year, totaling \$528,790 for the five-year term;

(b) Negotiate and execute an agreement, and all necessary documents, with La Familia, LP, to extend an existing lease for the San José Police Department Internal Affairs Unit’s continued use of approximately 4,110 square feet of office space located at 777 N. 1st Street, Suites 430 & 666 for five additional years at an estimated cost of \$123,300 for the first year, \$126,999 for the second year, \$130,808.97 for the third year, \$134,73.24 for the fourth year, and \$138,775.24 for the fifth year, totaling \$654,617 for the five-year term; and

(c) Negotiate and execute an agreement, and all necessary documents, with Wen Yuan Huang and Kai-Lee K.L. Huang, Trustees of the Huang Family Trust, dated August 28, 1984 as amended February 28, 2005 to extend and existing lease, with two additional five-year options with an annual increase rate of 3%, for the San José Police Department Family Violence Center’s continued use of approximately 8,041 square feet of office space located at 1671 The Alameda, Suite 100 for five additional years at an estimated cost of \$241,230 for the first year, \$248,466.90 for the second year, \$255,920.91 for the third year, \$263,598.53 for the fourth year, and \$271,506.49 for the fifth year, totaling \$1,280,723 for the five-year term.

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2.12 (Cont'd.)

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
Council District: 3. (Economic Development and Cultural Affairs)

Action: **Resolution No. 80326** regarding Actions Related to Lease Renewals for Office Space with 4th Street San José Partners, La Familia and the Huang Family Trust was adopted. (11-0.)

2.13 21-2559 **Update on Negotiations with Valley Water on the Purified Water Project. - RENUMBERED TO ITEM 3.8 [RENUMBERED TO ITEM 3.8 (21-2636)]**

2.14 21-2560 **Report on Request for Proposal for a Smart Outdoor Light Management.**

- (a) Accept the report on the Request for Proposals.
  - (b) Adopt a resolution authorizing the City Manager to:
    - (1) Negotiate and execute an agreement with Ubicquia LLC (Fort Lauderdale, FL) for the purchase of a Smart Outdoor Lighting Management Solution, including hardware, software, and related services such as implementation, training, warranty, maintenance, and support, for an initial one-year term beginning on or about January 1, 2022 through December 31, 2022 with a total maximum compensation not to exceed \$685,120 during the initial one-year term, subject to the appropriation of funds; and
    - (2) Negotiate and execute amendments and change orders as required for any unanticipated changes such as additional hardware, software subscriptions, and related services for a contingency amount not to exceed \$100,000 during the initial term, subject to the appropriation of funds; and
    - (3) Exercise up to nine one-year options to extend the term of the agreement through December 31, 2031 for additional hardware, software subscriptions, and related services, subject to the appropriation of funds.
- CEQA Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.  
(Finance)

Action: The report on the Request for Proposals was accepted; and (b) **Resolution No. 80327** regarding an agreement regarding a Smart Outdoor Light Management Solution was adopted. (11-0.)

**2.15 21-2561 Actions Related to the 2022-2023 Hazardous Vegetation Commencement Report.**

Adopt a resolution:

(a) Accepting the 2022-2023 Hazardous Vegetation Commencement Report compiled by the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation.

(b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the Report are a public nuisance.

(c) Directing the Office of Santa Clara Environmental Resource Agency, Department of Agriculture and Resource Management, Division of Hazardous Vegetation to mail a notice of a public hearing on February 8, 2022, at 1:30 p.m. before the City Council to property owners of affected real properties on the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Categorically Exempt, File No. PP18-094, CEQA Guidelines Section 15301(h) Existing Facilities. (Planning, Building and Code Enforcement)

Action: **Resolution No. 80328** regarding actions related to the 2022-2023 Hazardous Vegetation Commencement Report was adopted. (11-0.)

**2.16 21-2562 Amendment to Master Consultant Agreement with BKF Engineers for Engineering Analysis, Design, Construction Management, and Environmental Consulting Services for Large Trash Capture Projects.**

Approve the First Amendment to the Master Consultant Agreement with BKF Engineers for engineering analysis, design, construction management and environmental consulting services for Large Trash Capture projects, extending the term of the agreement from December 31, 2021 to December 31, 2024, without the increasing of the maximum compensation subject to the appropriation of funds.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

Action: The First Amendment to the Master Consultant Agreement with BKF Engineers was approved. (11-0.)

**2.17 21-2563 Amendment to Master Consultant Agreement with Schaaf & Wheeler Consultant Civil Engineers for Engineering Analysis, Design, Construction Management, and Environmental Consulting Services for Large Trash Capture Projects.**

Approve the First Amendment to the Master Consultant Agreement with Schaaf & Wheeler Consultant Civil Engineers for engineering analysis, design, construction management and environmental consulting services for Large Trash Capture projects, extending the term of the agreement from December 31, 2021 to December 31, 2024, without the increasing of the maximum compensation subject to the appropriation of funds.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

Action: The First Amendment to the Master Consultant Agreement with Schaaf & Wheeler Consultant Civil Engineers was approved. (11-0.)

**2.18 21-2564 Actions Related to the ESUHSD Independence Community Wi-Fi Infrastructure.**

Accept the report on bids and award of contract for the ESUHSD Independence Community Wi-Fi Infrastructure to the low bidder, Rosendin Electric, Inc, in the amount of \$2,126,000 and approve a ten percent contingency in the amount of \$212,600.

CEQA: Categorically Exemption, File No. PP16-085, CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures. Council Districts 3, 4, 5. (Public Works/Library/Housing)

Action: Actions related to the ESUHSD Independence Community Wi-Fi Infrastructure was approved. (11-0.)

**2.19 21-2565 Crossing Agreement with Union Pacific Railroad for work at North 7th Street and Jackson Street.**

Adopt a resolution authorizing the City Manager to negotiate and execute the Crossing Agreement between the City of San José and the Union Pacific Railroad for temporary modifications at the 7th St and Jackson St rail crossings at an amount estimated at \$30,000.

CEQA: Categorically Exempt, File No. ER21-270, CEQA Guidelines Section 15301(c) Existing Facilities. Council District 3. (Transportation)

Action: **Resolution No. 80329** regarding the Crossing Agreement with Union Pacific Railroad for work at North 7th Street and Jackson Street was adopted. (11-0.)

**2.20 21-2615**

**Retroactive Approval of Multiple Special Events Sponsored by Council District 7 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 December 8, 2021:

- (a) Retroactively approve the Dumpster Day held on Clemence Avenue scheduled on September 11, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Retroactively approve the Dumpster Day held on Lone Bluff Way scheduled on September 18, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (c) Retroactively approve the Franklin Family Movie Night held at Franklin Elementary School on September 24, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (d) Retroactively approve the Moon Festival at the Vietnamese American Cultural Center held on September 25, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (e) Retroactively approve the Dumpster Day held at Meadows Elementary School scheduled on September 25, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (f) Retroactively approve the Dumpster Day held at Yerba Buena High School scheduled on October 16, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (g) Retroactively approve the Lone Bluff Senter Family Movie Night held at Lone Bluff Park on October 16, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (h) Retroactively approve the Dumpster Day held in the Seventrees Neighborhood scheduled on October 23, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (i) Retroactively approve the Seventrees Halloween Trunk-or-Treat held at the Seventrees Community Center on October 29, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
- (j) Retroactively approve the Lairon Halloween Trunk-or-Treat held at Lairon Family Resource Center on October 29, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (k) 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. (Esparza)

[Rules Committee referral 12/8/2021 - Item G.1.a]

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

**2.21 21-2620 Approval of Gift Drive for Residents of Emergency Interim Housing at Evans Lane 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 December 8, 2021:

(a) Approve a Gift Drive for Residents of Emergency Interim Housing at Evans Lane scheduled from December 1, 2021 through December 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.

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

[Rules Committee referral 12/8/2021 - Item G.1.b]

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

**2.22 21-2627 Retroactive Approval of the Eastridge Tree Lighting Ceremony 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 December 1, 2021:

(a) Retroactively approve the Eastridge Tree Lighting Ceremony scheduled on November 19, 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. (Arenas)

[Rules Committee referral 12/8/2021 - Item G.1.c]

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

**2.23 21-2634 Retroactive Approval of Deck the Doors 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 December 8, 2021:

(a) Retroactively approve the Deck the Doors scheduled from November 24, 2021 through the month of December 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. (Arenas)  
[Rules Committee referral 12/8/2021 - Item G.1.d]

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

**2.24 21-2635 Boards and Commissions Appointment.**

Approve the following Boards and Commissions appointment:

(a) Federated Retirement Board:

(1) Appoint one Federated Employee Seat, Prachi Avasthy, to a term of December 1, 2021 to November 30, 2025.

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 12/8/2021 - Item A.1.a]

Action: The Appointment of Prachi Avasthy to one Federated Employee Seat for a term of December 1, 2021 to November 30, 2025 was approved. (11-0.)

### **3. STRATEGIC SUPPORT**

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

None provided.

**3.2 Labor Negotiations Update.**

None provided.

**3.3 21-2585 Team San José and the Convention and Visitors Bureau Performance Report Annual Review. - DEFERRED**

As recommended by the Community and Economic Development Committee on November 11, 2021, Accept the report on Team San José and the Convention and Visitors Bureau's performance for FY 2020-21.

**Deferred to January 11, 2022 per Rules and Open Government Committee**

- 3.4 21-2545 City of San José Council District Redistricting Public Hearing.**  
(a) Conduct a Public Hearing for City of San José Council District Redistricting.  
(b) Approve an ordinance to establish and declare boundaries of the City Council Districts using the 2020 federal Census data.  
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.  
(City Clerk) **Heard Last**

*The following was discussed and voted on at the December 15, 2021 Council Meeting and continued from the public hearing held December 14, 2021:*

Motion: Vice Mayor Chappie Jones moved a continuance of Item 3.4 to 9 a.m. December 15, 2021. The motion was seconded by Councilmember Sergio Jimenez. (10-1. Noes: Arenas.)

Motion: Vice Mayor Chappie Jones moved the action re: “Map Version 1 Corrected 12/9” as noted below in “Action”. The motion was seconded by Councilmember Matt Mahan.

Action: On a call for the question, the motion carried re: “Map Version 1 Corrected 12/9” to (1) Move small neighborhoods TBD from D2 into D10 to ensure the variance is within 10%. (2) Move Hillview between Story and King from D7 to D5 and (3) withdrawn. (4) Moving Little Portugal back to D3 from D5 as reflected in the current boundaries adopted in 2011. (5) Move Aborn and Silver Creek back to D7 from D8, and (6) to correct a technical problem with mapping move Hillview airport neighborhood from D5 to D8 noting the airport will remain in D5. (7-4. Noes: Jimenez, Peralez, Carrasco, Arenas.)

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember David Cohen and carried, the action to retain the East/West boundary was approved. (9-2. Noes: Davis, Mahan.)

A motion was made by Councilmember Sylvia Arenas to use the ‘Ace’ memo regarding the boundary for D6-D9 to and return Canoas to Willow Glen. The motion was seconded by Councilmember Magdalena Carrasco.

Substitute Motion: Councilmember Matt Mahan moved to keep the D6-D9 boundary where it is and unite Palmia Park neighborhood, moving the line to the 85 and Cottle Road. Councilmember Dev Davis seconded the motion.

Action: On a call for the question, the motion carried to keep the D6-D9 boundary where it is and unite Palmia Park neighborhood, moving the line to the 85 and Cottle Road. (6-5. Noes: Jimenez, Peralez, Carrasco, Esparza, Arenas.)

Motion: Councilmember Sergio Jimenez recommended moving Palmia Park back to District 2 as indicated below in “Action”.

Action: On a call for the question, the motion carried unanimously to move Palmia Park back to District 2 and to add Metcalf from D2 to D10, plus include Kaiser and area bounded by Santa Theresa Blvd., Cottle Road, 85 to Monterey Highway with Great Oaks as a boundary to the south. (11-0.)

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### 3.4 (Cont'd.)

Motion: Councilmember Raul Peralez moved to include the sliver bounded by Mabury Road, Upper Penitencia Creek and Educational Park Drive.

Action: On a call for the question, the motion carried unanimously to include the sliver bounded by Mabury Road, Upper Penitencia Creek and Educational Park Drive. (11-0.)

Action: **Ordinance No. 30702** Establishing and Declaring Boundaries of the City Council Districts using the 2020 Federal Census Data was passed for publication. (11-0.)

Action: Councilmember Maya Esparza moved that the Council return to the January 11, 2022 meeting to discuss ways in which determinations regarding the redistricting process may be improved. The motion was seconded by Councilmember Dev Davis and passed unanimously. (11-0.)

### 3.5 21-2546 Charter Review Commission Report and Recommendations. - DEFERRED

- (a) Accept the Report of the Charter Review Commission.
- (b) Provide direction to staff to develop any accepted recommendations for one or more ballot measures for the June 2022 statewide primary election, November 2022 statewide general election, or beyond, as appropriate.

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

**Deferred to January 11, 2022 Per Rules and Open Government Committee**

### 3.6 21-2566 Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Notes and the Loan of the Proceeds Thereof for the Mariposa Place Affordable Housing Development, Located at 750 West San Carlos Street, and Approving Related Documents.

Adopt a resolution:

- (a) Authorizing the issuance of a tax-exempt multifamily housing revenue notes designated as “City of San José, California Multifamily Housing Revenue Note (Mariposa Place), Series 2021E-1 (Tax-Exempt)” in a principal amount not to exceed \$31,341,010 (the “2021E-1 Note”) and a taxable multifamily housing revenue note designated as “City of San José, California Multifamily Housing Revenue Note (Mariposa Place), Series 2021E-2 (Taxable)” in a principal amount not to exceed \$6,000,000 (the “2021E-2 Note”) (together with the 2021E-1 Note, the “2021E Notes”);
- (b) Approving the loan of the proceeds of the 2021E Notes to San José W. San Carlos LP, a California limited partnership, an affiliate of developer and project sponsor Danco Communities, a California corporation, to finance the construction and development of an 80-unit multifamily development known as Mariposa Place located at 750 West San Carlos Street in San José;

*(Item Continued on the Next Page)*

### 3.6 (Cont'd.)

(c) Approving in substantially final form the Bank Loan Agreement, the Borrower Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, and related documents (collectively, the “2021E Note Documents”);

(d) 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 2021E Note Documents together with any documents ancillary to the 2021E Note Documents; and

(e) Approving the payment of the annual Regulatory Agreement monitoring fee of approximately \$39,176 in two parts: (i) \$7,500 to be paid on par with the Bond debt service and (ii) the remaining amount of the fee, approximately \$31,676, to be paid as a permitted expense after debt service.

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. (Housing/Finance)

Public Comments: Blair Beekman, Paul Soto and Tessa Woodmansee provided comments.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 80330** approving the issuance of a tax-exempt multifamily housing revenue notes was adopted. (11-0.)

### 3.7 21-2574 **Project Labor Agreement Amendments.**

As recommended by the Rules and Open Government Committee on November 17, 2021, direct staff to negotiate with the Santa Clara Building & Construction Trades Council with the goal of expanding the scope of the City’s Project Labor Agreement (PLA) to:

(a) Decrease the project threshold covered under the PLA from \$3,000,000 to \$1,000,000.

(b) Remove the annual CPI adjustment to the threshold.

(c) Remove exemptions to the PLA currently included in Addendum C for street maintenance, sewer maintenance, municipal water, airport pavement maintenance, on-call contracts, and building maintenance and rehabilitation.

(d) Specify that contractors on covered projects will employ apprentices from a joint labor-management apprenticeship program approved by the California Division of Apprenticeship Standards.

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

(Cohen and Esparza) [Rules Committee referral 11/17/2021- Item G.2]

*(Item Continued on the Next Page)*

### 3.7 (Cont'd.)

Director of Public Works, Matt Cano and Deputy Director of Housing Rachel VanderVeen offered a presentation.

Public Comments: David Bini, Tessa Woodmansee, Nicole Goehrling, Joe Lubas, Louise Auerhahn (Work2Future), and Paul Soto offered comments.

Vice Mayor Chappie Jones asked that Staff report back on local and small business participation and return back as part of the annual report to the CED Committee with this analysis and differentiate between PLA and non-PLA projects.

Motion: Councilmember David Cohen moved approval of the joint memorandum he authored with Councilmember Maya Esparza, dated December 10, 2021.

A friendly amendment from Councilmember Dev Davis was included to continue to have the City bid and award housing rehabilitation projects, and continue for them to be exempt for Addendum C so as not to impact affordable housing projects.

An additional friendly amendment from Councilmember Maya Esparza was accepted to include an assessment of the CPI adjustment to the data points coming back in a year for Council's review.

Substitute Motion: Councilmember Matt Mahan requested further staff analysis with a referral to the CED Committee, including outreach to stakeholders and how staff resources may be deployed. The motion was seconded by Councilmember Dev Davis.

On a call for the question, the substitute motion failed.

Action: On a call for the question, the motion carried including the joint memorandum from Councilmembers Cohen and Esparza dated 12/10/21, to:

1. Direct staff to negotiate and execute the revisions to the PLA specified in the 11/10/21 Rules Committee memorandum from Councilmembers Cohen and Esparza.
2. Authorize staff to negotiate additional minor changes to the PLA if such changes are amenable to both city staff and the Santa Clara/San Benito County Building Trades Council.
3. Provide the San Jose-Santa Clara Treatment Plant Advisory Committee (TPAC) with recommendations regarding the specific terms of the PLA for TPAC's consideration at the next available opportunity, prior to execution of the PLA.

Also including the memorandum from Councilmember Sylvia Arenas, dated 12/10/21, to:

1. Approve the November 10, 2021 memo from Councilmembers Cohen and Esparza on Project Labor Agreement Amendments.
2. Direct the City Manager to immediately move forward on implementing all amendments from the November 10, 2021 memo to the City's Project Labor Agreement.

*(Item Continued on the Next Page)*

### 3.7 (Cont'd.)

Including Item 2 from Vice Mayor Chappie Jones memo dated 12/14/2021:

2. For staff to return to Council in one year with:

A. Data and analysis of impact of proposed changes on small and local business participation in the City's procurement program.

B. Data and analysis of impact to city's cost in implementing PLA's.

Also, with direction to staff to report back on local and small business participation as part of the annual report to the CED Committee, with this analysis to differentiate between PLA and non-PLA projects.

With the inclusion that the issue regarding apprenticeship return to the CED Committee in Fall 2022 prior to returning to Council; that the City housing rehabilitation projects continue to be exempt for Addendum C so as not to impact affordable housing projects; and that an assessment of the CPI adjustment return in a year for Council's review

~~(9-2. Noes: Davis, Mahan.)~~

*Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Raul Peralez and carried unanimously, Item 3.7 was reconsidered at Mayor Sam Liccardo's request due to his intention to vote "no" on Item 3.7.*

The revised vote was (7-4. Noes: Davis, Foley, Mahan, Liccardo.)

**Council adjourned for a recess at 1:54 p.m. and returned at 2:10 p.m. with all members present with the exception of Councilmember Magdalena Carrasco. She continued remotely for Item 6.1.**

### 3.8 21-2636 **Update on Negotiations with Valley Water on the Purified Water Project. - DEFERRED (RENUMBERED FROM ITEM 2.13)**

Accept the report regarding negotiation status for Santa Clara Valley Water District's Purified Water Project in Santa Clara County.

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

Action: Upon motion from Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, this item was **deferred** to January 11, 2022. (10-0-1. Absent: Carrasco.)

## **4. PUBLIC SAFETY SERVICES**

## **5. TRANSPORTATION & AVIATION SERVICES**

- 5.1 21-2567 Community Forest Management Plan. - DEFERRED**  
Adopt a resolution approving the Community Forest Management Plan.  
CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Transportation)  
**Deferred to January 25, 2022 Per Administration**

## **6. ENVIRONMENTAL & UTILITY SERVICES**

- 6.1 21-2568 2022 Power Mix and Rates.**  
Adopt a resolution:  
(a) Amending San José Clean Energy's (SJCE) rate and service options as follows (Plan A) beginning January 1, 2022:  
(1) Increasing the renewable energy content for SJCE's GreenSource standard service to 60% and continuing to set rates at 8% above Pacific Gas & Electric (PG&E) generation rates after accounting for the Franchise Fee Surcharge and the Power Charge Indifference Adjustment (PCIA);  
(2) Increasing the renewable content for SJCE's lowest-cost service GreenValue to 40% and continuing to set rates at parity to PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA;  
(3) Continuing to set rates for TotalGreen, SJCE's 100% renewable energy service, at \$0.005 or \$0.01 per kilowatt-hour above GreenSource, depending on rate class; and  
(4) Amending the rate for the SJ Cares program, which is open to California Alternate Rates for Electricity and Family Electric Rate Assistance customers, to 5% below PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA while continuing to provide SJ Cares customers with GreenSource renewable content.  
If there is a delay in the implementation of PG&E's rate change and PG&E's PCIA change:  
(b) Amending SJCE rate and service options as follows (Plan B) beginning January 1, 2022, provided that SJCE adopt Plan A as soon as is practically reasonable after PG&E's rate change and PCIA change are implemented:  
(1) Increasing the renewable energy content for SJCE's GreenSource standard service to 60% and set rates at 30% above PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA;  
(2) Increasing the renewable content for SJCE's lowest-cost service GreenValue to 40% and continuing to set rates at parity with PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA;  
(3) Continuing to set rates for TotalGreen, SJCE's 100% renewable energy service, at \$0.005 or \$0.01 per kilowatt-hour above GreenSource, depending on rate class; and

*(Item Continued on the Next Page)*

**6.1 (Cont'd.)**

(b) (4) Continuing to set rates for the SJ Cares program, which is open to California Alternate Rates for Electricity and Family Electric Rate Assistance customers, at parity with PG&E generation rates after accounting for the Franchise Fee Surcharge and the PCIA while continuing to provide SJ Cares customers with GreenSource renewable content. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Community Energy)

Director, Community Energy Department, Lori Mitchell introduced Zach Struyk, Associate Director, and Joe Flores, Deputy Director followed with a presentation.

Public Comments: Blair Beekman, Tessa Woodmansee and Paul Soto provided comments.

Action: Upon motion by Councilmember Matt Mahan, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 80331** regarding 2022 Power Mix and Rates was adopted. (11-0.)

**6.2 21-2558 Actions Related to the Issuance of a Non-Exclusive Franchise Agreement for the Collection, Transport, and Delivery of Residential Clean-out Material and Construction and Demolition Debris.**

(a) Conduct a public hearing on the application of Hanson & Fitch, Inc. dba Hayward Transfer Station for a Non-Exclusive Franchise associated with non-exclusive collection, transport, and delivery of residential clean-out material and construction and demolition debris.

(b) Approve an ordinance granting a franchise to this company.

(c) Approve the Non-Exclusive Franchise Agreement with Hanson & Fitch, Inc. dba Hayward Transfer Station for the collection, transport, and delivery of residential clean-out material and construction and demolition debris, effective on the date of the ordinance granting the franchise, through June 30, 2022, with an option for the City to extend the agreement for an additional one-year term through, June 30, 2023. CEQA: Categorically Exempt, File No. ER21-287, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services)

Mayor Sam Liccardo opened the public hearing.

Public Comments: Blair Beekman, Tessa Woodmansee and Paul Soto offered comments.

Mayor Sam Liccardo closed the public hearing.

Action: A public hearing was held, and upon motion by Councilmember David Cohen, seconded by Councilmember Sergio Jimenez and carried unanimously, Actions Related to the issuance of a Non-Exclusive Franchise Agreement for the Collection, Transport, and Delivery of Residential Clean-out Material and Construction and Demolition Debris were accepted, and (b) **Ordinance No. 30703** was passed for publication. (11-0.)

## 7. NEIGHBORHOOD SERVICES

## 8. COMMUNITY & ECONOMIC DEVELOPMENT

### 8.1 21-2586 **Actions Related to Continued Shelter Crisis to Activate Two Overnight Warming Locations During the Cold Weather Season.**

(a) Adopt a resolution declaring the continued existence of a shelter crisis in the City of San José pursuant to, and in accordance with, the provisions of California Government Code section 8698 et seq., and designating the following two City-owned facilities to be occupied as Overnight Warming Locations by homeless individuals, especially those vulnerable to COVID-19, during the cold weather season:

- (1) Evergreen Library, 2635 Aborn Rd, San José, CA 95121; and
- (2) Leininger Center, 1300 Senter Rd, San José, CA 95112.

(b) Adopt a resolution authorizing the Director of Housing to negotiate and execute a grant agreement with HomeFirst, retroactive to December 1, 2021, in an amount not to exceed \$915,000 to implement the Overnight Warming Locations through June 30, 2022.

(c) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Housing Trust Fund:

- (1) Increase the Housing and Homeless Projects appropriation to the Housing Department by \$515,000; and
- (2) Decrease Unrestricted Ending Fund Balance by \$515,000.

(d) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Multi-Source Housing Fund:

- (1) Increase the CARES Emergency Shelter Grants appropriation to the Housing Department by \$400,000; and
- (2) Decrease Unrestricted Ending Fund Balance by \$400,000.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council Districts 7 and 8. (Housing/Library/Parks, Recreation and Neighborhood Services/City Manager)

Deputy Director of Housing, Ragan Henninger introduced the topic, and Kelly Hemphill, Homelessness Response Manager, offered a presentation.

Public Comments: Paul Soto, Blair Beekman, Tessa Woodmansee and Caller “6910” presented comments.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Matt Mahan and carried unanimously, (a) **Resolution No. 80332** declaring the continued existence of a shelter crisis in the City of San José and designating two City-owned facilities to be occupied as Overnight Warming Locations; (b) **Resolution No. 80333** regarding a grant agreement with HomeFirst; (c) Appropriation **Ordinance No. 30704** in the Housing Trust Fund; and (d) Appropriation **Ordinance No. 30705** in the Multi-Source Housing Fund were adopted. (11-0.)

*Council adjourned following Item 8.1 and reconvened with all Councilmembers present at 6:05 p.m.*

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

### **10. LAND USE**

#### **10.1 Land Use on Consent Calendar**

No Land Use items on Consent Calendar.

#### **10 Land Use - Regular Agenda**

##### **10.2 21-2569 PDC15-067 - Planned Development Rezoning for a Mixed-Use Development on a 2.77 gross-acre site located at 1260 E. Santa Clara Street.**

(a) Adopt a resolution adopting the Empire Lumber Mixed Use Mitigated Negative Declaration, for which an Initial Study was prepared, and associated Mitigation Monitoring and Reporting Plan, all in accordance with the California Environmental Quality Act (CEQA), as amended.

(b) Approve an ordinance of the City of San José rezoning certain real properties situated on the south side of East Santa Clara Street, east of South 26th Street and north of Shortridge Avenue (1260 East Santa Clara Street) (APNs 467-33-001, 467-33-002, 467-33-003, 467-33-004, 467-33-006, 467-33-007, and 467-33-008) from CG Commercial General Zoning District and LI Light Industrial Zoning District to CP(PD) Planned Development Zoning District on a 2.77 gross-acre site.

CEQA: Mitigated Negative Declaration for the Empire Lumber Mixed Use Project. Planning Commission recommends approval (8-0-3; Bonilla, Ornelas-Wise and Torrens absent). (Planning, Building and Code Enforcement)

**Deferred to January 11, 2022 Per Rules and Open Government Committee**

**CONTINUE GENERAL PLAN HEARING (2021 2ND CYCLE) FROM DECEMBER 7, 2021**

**10.3      21-2571      General Plan Four-Year Review - Opportunity Housing.**

(a) Decline to move forward with the City’s Opportunity Housing effort at the present time in order to focus on implementation of Senate Bill 9 (SB 9), which requires the City to allow most of the Opportunity Housing types contemplated as part of the Four-Year Review of the General Plan process.

(b) Direct staff to develop citywide design standards for implementation of SB 9.

(c) Direct staff to explore allowance for “SB 9-type” housing projects within R-2 Zoning Districts and on historic properties that do not qualify under SB 9.

CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from a decision-making body. Planning Commission recommends approval of staff recommendation with the addition of direction to staff to explore options for creating affordable housing units as part of SB 9 implementation (8-2-1; Garcia and Oliverio opposed and Bonilla absent). (Planning, Building and Code Enforcement)

Jerad Ferguson, Housing Catalyst San José, offered a presentation.

Public Comments: Forty-seven members of the public offered comments, including Brenda Dillman, Debra Perman, Brian Prescott, Paul Soto, Tobin Gilman, Margaret Ma, Corey Smith, Ilaf Esuf, Poncho Guevara, Alli Rico, Aaron Eckhouse, Salim Damerджи, Buford Barr, John Nourse, Ruth Callahan, Alison Cingolani, Mathew Reed (SV@home), Ano Odisho, Trevor Wu, Carlin Black, Marni Kamzan, Tessa Woodmansee, Shiloh Ballard, Steven G. Tami S., Kiyomi Honda Yamama, Ben Leech (Preservation Action Council), Carol, Doris Livezey, Misrayn Mendoza, Alex Shoor, Jordan Grimes, Kyra Kazantzis, Gerald Giles, Edward Saum, Caller 4379, Roma Dawson, Cam Coulter, Mike Sodergren, “CK”, Kelly Snider, Gerald Giles, Dan S., Judy Engelbrecht and Gregory Braley.

Motion: Councilmember Raul Peralez moved staffs’ recommendations including the joint memorandum noted below and Mayor Sam Liccardo’s memorandum dated December 13, 2021. Councilmember David Cohen seconded the motion.

Action: On a call for the question, actions regarding the General Plan Four-Year Review - Opportunity Housing were accepted, including the joint memorandum from Councilmembers Peralez, Jimenez, Cohen and Esparza dated 12/10/21, to:

Accept staff recommendation and direct staff to:

1. Explore existing resources, and additional programs or policies that could incentivize the inclusion of more affordability within Senate Bill 9 (SB9) projects. This work should be incorporated into the SB 9 implementation work as recommended by staff.
2. Explore opportunities such as education workshops, technical support and processing, and coordination with Community Development Financial Institutions (CDFIs) and lenders to make construction of SB 9 homes more accessible, equitable and feasible

*(Item Continued on the Next Page)*

### 10.3 (Cont'd.)

3. Facilitate a robust and inclusive citywide community outreach effort when developing SB 9's design standards

Also including Mayor Sam Liccardo's memorandum dated 12/13/21, to:  
Accept staff recommendation and the memo from Peralez/Jimenez/Cohen/Esparza with the following addition:

1. For properties within the 12 historic districts in the City of San Jose and those listed on the city's historic inventory, allow "SB 9-type" housing projects with the following exceptions:

a. Explicitly disallow demolition of any contributing building or "individually significant" structure (25% demo of exterior walls allowed by SB9).

b. If a single structure in a historic district is split into two or more units, require that applicants follow the city's "Your Old House" historic design standards for historic structures and ensure that both exterior and interior changes will minimally impact the existing exterior structure (e.g. windows, doors, additions, and massing).

2. Ensure that implementation of SB9 for specific R-2 zoned properties with a structure built before 1950 moves forward once a clear, discretionary historic review process is in place.

(9-2. Noes: Davis, Mahan.)

**10.4            21-2572            GPT21-005 - Amendments to General Plan Policy IP-5.12 Related to Commercial Requirements for Affordable Housing Projects Allowed to Proceed Ahead of Approval of an Urban Village Plan or in a Horizon II or III Urban Village. Proposed Amendments are Associated with the Envision San José 2040 General Plan Four-Year-Review and a Portion of the Urban Village Implementation and Policy Modifications (GPT21-005) which, Except for Amendments to General Plan Policy IP 5.12, were Already Heard by Council on December 7, 2021.**

Adopt a resolution approving the General Plan Text Amendments on General Plan Policy IP-5.12 associated with the Envision San José 2040 General Plan Four-Year Review and file number GPT21-005. CEQA: Addendum to the Envision San José 2040 General Plan Final Program EIR and Supplemental EIR to the Envision San José General Plan Final Program EIR and addenda thereto (City Council Resolution No. 80300). Planning Director recommends approval of staff recommendation. Planning Commission recommends approval of Planning staff recommendation with the changes recommended by the Four-Year Review Task Force in those instances where they differ from the Planning staff's recommendations. (9-1-1: Oliverio opposed; Garcia absent). (Planning, Building and Code Enforcement)

***Item heard prior to Item 10.3. Council Consideration of General Plan Policy IP 5.12 was carried over from December 7, 2021 Council meeting.***

*(Item Continued on the Next Page)*

## 10.4 (Cont'd.)

Deputy Director, Planning, Building and Code Enforcement, Michael Brilliot offered a presentation, and he and Deputy Director, Office of Economic Development, Chris Burton, responded to questions.

Public Comments: Brian Prescott, Caller #3, Jill Borders, Nicole Buccalo, Huascar Castro, Ray Bramson (Destination: Home), Tessa Woodmansee, Blair Beekman, Mathew Reed, Aaron Eckhouse, Marni Kamzan, Paul Soto, Alex Shoor (Catalyze SV), Kathy Robinson (Charities Housing), Jan Lindenthal, Kevin Zwick, Misrayn Mendoza, Vincent Rocha, Carlin Black, Rick from SV@Home and Gabriela Zelaya expressed their opinions and offered comments.

Motion: Councilmember Raul Peralez moved approval of the December 10, 2021 memorandum from he and Councilmembers Davis and Arenas; the December 14, 2021 joint memorandum from Councilmembers Cohen and Foley dated; and Item #4 from Mayor Sam Liccardo's December 13 memorandum. Councilmember Dev Davis seconded the motion.

Councilmember Maya Esparza asked for a friendly amendment to exclude the Capitol Caltrain Village Station until more planning analysis can be completed. The amendment was accepted.

Action: **Resolution No. 80334** approving the General Plan Text Amendments on General Plan Policy IP-5.12 associated with the Envision San José 2040 General Plan Four-Year Review and file number GPT21-005 was adopted, including the December 14, 2021 joint memorandum from Councilmembers Cohen and Foley, to:

1. Accept the Task Force recommendation on Policy 5.12 to eliminate commercial requirements for 100 percent affordable housing developments in urban villages.
2. Direct staff to explore creating a collaborative process for connecting nonprofit developers interested in on-site commercial opportunities with local small businesses.

### **Including the December 10, 2021 joint memorandum from Councilmembers Davis, Arenas and Jimenez:**

1. Approve the General Plan Task Force recommendation regarding commercial requirements in the General Plan, including Policy IP-5.12, which removes the commercial requirements for 100% deed-restricted affordable housing developments currently embedded under that policy.
2. Direct City Staff to immediately begin working on a citywide policy that removes any obligation for 100% affordable housing developments to provide commercial space in their projects and return to the City Council with a proposed General Plan Amendment to implement this policy by January 11, 2022.

Also including #3 from Councilmember Raul Peralez memorandum dated December 13, 2021:

3. Direct staff to explore incentivizing commercial and retail through awarding projects applying for the City's competitive affordable housing funding/NOFA process with higher points.

*(Item Continued on the Next Page)*

#### **10.4 (Cont'd.)**

**And including Item #4 from Mayor Sam Liccardo's memorandum of December 13, 2021**

4. Study key employment sites and includes strategies to encourage or incentivize the development of ground-floor commercial space in affordable housing projects, including but not limited to:

- a. Condominiumizing and financing commercial space separate from the affordable housing project
- b. Utilizing the City's commercial paper program to develop and/or build out the commercial space
- c. Utilizing lease-revenue bonds, backed publicly or privately, to develop and/or build out the commercial space
- d. Partnering with impact investors to own, build out, manage, and lease to tenants the commercial space
- e. Exploring commercial community land trusts – akin to the residential community land trusts being explored as part of the Housing Crisis Workplan – to provide more community driven leasing, and affordable spaces for small businesses and non-profit organizations.

And including the friendly amendment from Councilmember Maya Esparza to exclude Capitol Caltrain Village Station until more planning analysis can be completed.

(11-0.)

**CLOSE THE GENERAL PLAN HEARING (2021 2ND CYCLE)**

10.5 21-2570

**SB 9 Implementation - Adopt an Urgency Ordinance Amending Title 20 of the Municipal Code to Add Provisions to Implement Senate Bill 9.**

(a) Adopt an Urgency Ordinance amending Title 20 of the Municipal Code to implement Senate Bill 9.

**PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES. City Charter Section 605(d).**

(b) Approve an ordinance amending Title 20 of the San José Municipal Code to implement Senate Bill 9.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. Planning Commission recommends approval (11-0). (Planning, Building and Code Enforcement)

Planning Division Manager Martina Davis provided a presentation.

Public Comments: Eight members of the public offered comments, including Sandra, Tobin Gilman, Caller #4, Marni Kamzan Trevor Wu and Misrayn Mendoz.

Motion: Councilmember Raul Peralez moved approval of staffs' recommendations, including the joint memorandum from Councilmembers Jimenez, Peralez, Cohen and Esparza, dated December 10, 2021. Councilmember David Cohen seconded the motion.

Councilmember Pam Foley requested a friendly amendment for to staff to report back with standards in developing a neighborhood notification program. The friendly amendment was accepted.

Action: On a call for the question, the motion carried, and (a) Urgency **Ordinance No. 30706** amending Title 20 of the Municipal Code to implement Senate Bill 9 was adopted; and (b) **Ordinance No. 30707** amending Title 20 of the San José Municipal Code to implement Senate Bill 9 was passed for publication, with the inclusion of the joint memorandum from Councilmembers Jimenez, Peralez, Cohen and Esparza, dated December 10, 2021, to approve the staff recommendations with the following modification: include in the ordinance language to address situations in which the standards physically preclude the creation of a second unit in violation of state law. For example:

*In the event these standards physically preclude the creation of a second unit pursuant to Senate Bill 9, applicants shall seek waivers through a process to be defined in administrative guidelines promulgated by the City.*

Also including a recommendation for staff to report back with standards in developing a neighborhood notification program.

(9-1-1. Noes: Davis. Absent: Arenas.)

• **Notice of City Engineer's Pending Decision on Final Maps**

**FOR APPROVAL:**

**Tract: 10564**

**Location: S/W corner of Almaden Road and Petroni Way**

**District: 10**

**Lots/Units: 6/6**

**Type: SFD**

**Proposed Decision: Approved**

**Developer: Almaden Investments LLC**

**CONTINUATION**

*At 11:15 p.m. the Council of the City of San José meeting was continued to 9 a.m., December 15, 2021 to hear Council discussion regarding Item 3.4 City of San José Council District Redistricting.*

**OPEN FORUM (heard December 15, 2021)**

1. Blair Beekman spoke to ideas of reimagining and equity to address law enforcement concerns. He asked that the CPUC not go forward with PG&E's solar ideas and addressed the public's ability to speak on consent and agenda items.
2. Margaret Ma thanked council for work on redistricting.
3. Tessa Woodmansee spoke to a need to focus on the climate crisis.
4. Jill Borders spoke to reparations for marginalized communities and suggested YouTube videos offering good suggestions.
5. Ellina noted the discussions on process slated for January 11 should include Charter Review and should be deferred to a council meeting with a lighter schedule to allow adequate time for review.
6. Todd W. offered ideas for public to be allowed more time.

**ADJOURNMENT**

**The Council of the City of San José adjourned at 11:52 A.M. on December 15, 2021**

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/12-14-2021 MIN



## **SAN JOSÉ CITY COUNCIL CLOSED SESSION**

**DECEMBER 14, 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 (Zoom), Carrasco (Zoom), Davis, Esparza (Zoom),  
Mahan, Jimenez, Jones, Cohen, Peralez, Foley; Liccardo.

Absent: Councilmembers - All present.

Closed Session Item(s) discussed:

A.CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION: Initiation of litigation pursuant to Sections  
54956.9(d)(4) of the Government Code: Number of matter(s) to be discussed: 1

By unanimous consent, Council recessed from the Closed Session at 11:15 a.m. to reconvene immediately in  
Regular Open Session in the Council Chambers.