



City Council Meeting MINUTES

Tuesday, February 8, 2022

1:30 PM

Virtual Meeting - <https://sanjoseca.zoom.us/j/99346843938>

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



MINUTES OF THE CITY COUNCIL

FEBRUARY 8, 2022

*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution Nos. 79485, 80237, 80266, 80290, 80323 and 80343, Councilmembers may be teleconferencing from remote locations.

22-106 **CLOSED SESSION. See Page 23 for Closed Session Minutes.**

• **Call to Order and Roll Call**

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

22-106 Closed Session

1:30 p.m. Present: Councilmembers - Carrasco, Arenas, Davis, Mahan, Jimenez, Jones, Cohen, Esparza, Peralez, Foley; Liccardo.

Absent: Councilmembers - All Present.

6:00 p.m.- Evening Session

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

Absent: Councilmembers - All Present.

• **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

• **Invocation (District 2)**

Gabriela Sepulveda - local singer/song writer offered a musical performance for the Invocation.

• **Orders of the Day**

Upon motion by Councilmember David Cohen, seconded by Councilmember Sergio Jimenez and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.3 to be heard after Item 3.6.

Public Comments: Blair Beekman and Paul Soto offered comments.

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

• Closed Session Report

None provided.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring Blood Donor Month. (Carrasco)
Councilmember Magdalena Carrasco proclaimed February as Blood Donor Month promoting “I Commit to Donate in 2022” campaign and honored Ken Toren, CEO of Red Cross Silicon Valley and Feras A., who offered additional comments.
- 1.2 Presentation of a proclamation recognizing February 4, 2022 as Saka Nakodar Day. (Arenas)
Councilmember Sylvia Arenas presented a proclamation to Dr. Harinder Singh recognizing Saka Nakodar Day, honoring those who have tirelessly fought for truth and justice to bring the perpetrators to account for the February 4, 1986, tragic injustice when India’s security forces shot and unlawfully killed four Sikh men participating in a peaceful religious procession and protest in Nakodar, Punjab.
- 1.3 Presentation of a commendation to Katia McClain
Councilmember Raul Peralez presented a commendation to Katia McClain in recognition of her exemplary service to downtown San José by making it a more vibrant community for all San José residents. (Peralez)

2. CONSENT CALENDAR

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Pam Foley 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 22-138 Final Adoption of Ordinances.

- (a) Ordinance No. 30716 - An Ordinance of the City of San José Adding Part 6 to Chapter 10.32 of Title 10 of the San José Municipal Code to Reduce Gun Harm by Requiring Gun Owners to Obtain and Maintain Liability Insurance and Establishment of Annual Gun Harm Reduction Fee.
[Passed for Publication on 1/25/2022 - Item 4.1 (22-045)]

Councilmember Dev Davis pulled Item expressed concerns regarding the constitutionality of the proposed ordinance and noted she will register a ‘no’ vote.

Public Comments: Paul Soto, Brad, Blair Beekman, Kirk Vartan, Dave Truslow, Jonathan Fleming, Collin Connors, Brian, Mark Towber, Tod W., Chris, Jill Borders and Bill Gold offered comments.

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2.2 (Cont'd.)

Action: Councilmember Matt Mahan moved to bifurcate the vote, asking that Council vote for the insurance portion of the proposal separately. Councilmember Pam Foley seconded the motion. (10-1. Noes: Davis.)

The vote was bifurcated as follows:

Action: Upon motion by Councilmember Matt Mahan, seconded by Councilmember Pam Foley, the motion carried, and (a) Ordinance No. 30716 including Insurance Requirements, Excluding Sections 10.32.215, 10.32.220, and 10.32.230(b) was adopted. (10-1. Noes: Davis.)

Action: Upon motion by Councilmember David Cohen, seconded by Vice Mayor Chappie Jones, the motion carried, and (a) Ordinance No. 30716, Sections 10.32.215, 10.32.220, and 10.32.230(b), *excluding the Insurance Requirements*, was adopted. (8-3. Noes: Davis, Foley, Mahan.)

2.3 Approval of Council Committee Minutes.

None provided.

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 22-008 **Extension of AB 361 Implementation to Allow Teleconferenced Public Meetings to Continue through March 10, 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.

CEQA: Not a Project, File No. PP17-010, City Organizational and

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2.7 (Cont'd.)

Administrative Activities resulting in no changes to the physical environment. (City Clerk)

Mayor Sam Liccardo pulled Item 2.7 for clarification.

Action: **Resolution No. 80363** regarding Extension of AB 361 Implementation was adopted. (11-0.)

2.8 22-107

Terms of Side Letter Agreements Between the City of San José, the Municipal Employees' Federation, and the City Association of Management Personnel and Amending the Pay Plan.

Adopt a resolution to:

(a) Approve the terms of a Side Letter Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) to provide the following:

(1) Provide employees in the Permit Specialist (3954) classification with an approximate 5.64% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council;

(2) Provide employees in the Senior Permit Specialist (3955) classification with an approximate 7.06% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; and

(a)(3) Provide employees in the Principal Permit Specialist (3950) classification with an approximate 5.64% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council.

(b) Approve the terms of a Side Letter Agreement with the City Association of Management Personnel, IFPTE, Local 21 (CAMP) to provide the following:

(1) Provide employees in the Animal Shelter Veterinarian FT (3255) classification with an approximate 25.00% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council;

(2) Provide employees in the Animal Shelter Veterinarian PT (3256) classification with an approximate 18.22% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council;

(c) Amend the City of San José Pay Plan as follows:

(1) Amend the City of San José Pay Plan to increase the annual salary range of the classification of Permit Specialist (3954) to \$60,775.21 - \$73,980.52, effective February 20, 2022;

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2.8 (Cont'd.)

(2) Amend the City of San José Pay Plan to increase the annual salary range of the classification of Senior Permit Specialist (3955) to \$68,540.27 - \$83,437.42, effective February 20, 2022; and

(3) Amend the City of San José Pay Plan to increase the annual salary range of the classification of Principal Permit Specialist (3950) to \$74,443.14 - \$90,505.10, effective February 20, 2022.

(4) Amend the City of San José Pay Plan to increase the annual salary range of the classification of Animal Shelter Veterinarian FT (3255) to \$118,580.80 - \$144,456.00, effective February 20, 2022.

(5) Amend the City of San José Pay Plan to increase the annual salary range of the classification of Animal Shelter Veterinarian PT (3256) to \$112,153.60 - \$155,334.40, effective February 20, 2022.

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

Action: **Resolution No. 80364** approving the terms of a Side Letter Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) was adopted. (11-0.)

2.9 22-108 **Acceptance of the Retirement Plans' Annual Comprehensive Financial Reports for Fiscal Years Ending June 30, 2021 and June 30, 2020.**

Accept the following annual reports:

(a) Police and Fire Department Retirement Plan Annual Comprehensive Financial Report for the Fiscal Years ended June 30, 2021 and June 30, 2020; and

(b) Federated City Employees' Retirement System Annual Comprehensive Financial Report for the Fiscal Years ended June 30, 2021 and June 30, 2020.

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

Action: The Annual Reports were accepted. (11-0.)

2.10 22-168 **Retroactive Approval of the African American History Month Flag Raising Ceremony Sponsored by Council District 1 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on February 2, 2022:

(a) Retroactively approve the African American History Month Flag Raising Ceremony scheduled on February 4, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and

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

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

3. STRATEGIC SUPPORT

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

City Manager Jennifer Maguire offered accolades to the staff for their work with Community Energy projects and spoke on the City's efforts towards providing clean, renewable energy and lessening our reliance on fossil fuels.

Public Comments: Blair Beekman and Paul Soto offered comments.

3.2 Labor Negotiations Update.

None provided.

3.3 22-109 Approval of the 2021-2022 Mid-Year Budget Review Report.

- (a) Approve the 2021-2022 Mid-Year Budget Review Report.
- (b) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2021-2022 Mid-Year Budget Review Report.

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

Budget Director Jim Shannon; Bonny Duong, Assistant Budget Director; Claudia Chang, Deputy Budget Director gave a presentation.

Staff, including the Director of Finance Julia H. Cooper, and Director of Public Works, Matt Cano responded to questions.

Motion: Councilmember Maya Esparza moved approval of staffs' recommendations, including the Mayor's memorandum of February 8, 2022. Councilmember Pam Foley seconded the motion.

Action: On a call for the question, the motion carried unanimously, and (a) The 2021-2022 Mid-Year Budget Review Report was approved; and (b) Appropriation **Ordinance No. 30717** and Funding Sources **Resolution No 80365** were adopted, including Mayor Sam Liccardo's memorandum dated February 8, 2022, recommending allocation of \$2 million from the Community and Economic Recovery Reserve to the Housing Department to rehouse individuals living in Guadalupe River Park, and backfill the reserve using Measure E, Emergency Solutions Grant funding (ESG), or other relevant funding sources in the months ahead. (11-0.)

3.4 22-112 Office of Racial Equity Work Plan Status Report.

As recommended by the Neighborhood Services and Education Committee on January 13, 2022, accept the status report of the Office of Racial Equity from July to December 2021, and the roadmap for January to June 2022 which includes both immigrant affairs and racial equity work.

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

[Neighborhood Services and Education Committee referral 1/13/2022 - Item (d)1]

Zulma Maciel, Director, Office of Racial Equity, and Andrea Truong and Chris Cambises representing the Immigrant Affairs Office, provided a presentation.

Public Comments: Paul Soto, Blair Beekman, Sandra, Jeff C, Cher L., and Brian Darby offered public comment.

Motion: Councilmember Maya Esparza moved approval of the status report. Councilmember Sylvia Arenas provided a second, and additionally asked that a study session be provided as noted below in “Action”. Councilmember Maya Esparza agreed to the amendment.

Action: On a call for the question, the motion carried unanimously, and the Office of Racial Equity Work Plan Status Report was accepted, with direction that a study session be provided to allow on-going learning for policymakers for collectively learning and to embrace race and equity principles into City policies (11-0.)

3.5 22-116 Equity and Inclusion Service Report.

As recommended by the Neighborhood Services and Education Committee on January 13, 2022:

(a) Accept the report on the Library’s equity and inclusion services, including efforts to strengthen departmental capacity to advance equity and inclusion services, understand the use and access to Library services, reach hard-to-reach populations through various efforts including a special focus on disability/adaptive ability access efforts, and the development of the Equity, Diversity and Inclusion Quality Standards for all City sponsored programs.

(b) Adopt a resolution approving the Equity, Diversity and Inclusion Quality Standards.

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

[Neighborhood Services and Education Committee referral 1/13/2022 - Item (d)3]

Library Director Jill Bourne and Manager of Equity and Inclusion Services Karla Alvarez provided a presentation.

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3.5 (Cont'd.)

Public Comments: Blair Beekman, Paul, Sandra, Michele Rowic, Jennifer Lucas (State Council on Developmental Disabilities), and Cher L. offered comments.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Magdalena Carrasco and carried unanimously, (a) The Equity and Inclusion Service Report was accepted; and (b) **Resolution No. 80366** approving the Equity, Diversity and Inclusion Quality Standards was adopted. (11-0.)

3.6 22-117 **Guadalupe Gardens Fencing Project and Activation Alternatives.**

(a) Accept the report on Guadalupe Gardens Fencing and Activation Alternatives including protective and activation measures and authorize the City Manager to:

(1) Receive feedback on the Prototype Park Concept Plan and Vehicle Prevention Project; and

(2) Identify ongoing operating, programming and stewardship costs needed to implement the Prototype Park Concept Plan with the Guadalupe River Park Conservancy or through a Request for Proposals process.

(b) Adopt a resolution authorizing the Director of Public Works to:

(1) Award and execute a contract for the construction of the 9821 - Guadalupe Gardens Fencing Project, to the lowest responsive, responsible bidder in an amount not to exceed \$1,500,000;

(i) In the event that not all of the \$1,500,000 is utilized, reallocate any remaining funding for protecting the land and other mitigation solutions to secure the space;

(2) Decide any timely bid protest(s) and make the City's final determination as to the lowest responsive bidder that is responsible as needed to award the contract; and

(3) Establish a construction contingency of up to 10% of the amount of the construction contract for the Project.

CEQA: Categorically Exempt, File No. ER21-005, CEQA Guidelines 15303(e). New Construction or Conversion of Small Structures and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision making body. Council Districts 3 and 6. (Airport/Parks, Recreation and Neighborhood Services/Public Works/Housing)

[Deferred from 1/25/2022 - Item 3.6 (22-038)]

Mayor Sam Liccardo disclosed an inadvertent Brown Action Violation.

A presentation was provided by Director of Parks, Recreation and Neighborhood Services, Jon Cicirelli; Deputy Director Parks, Recreation and Neighborhood Services Community Services, Andrea Flores Shelton; Director of Housing Jacky Morales-Ferrand; and Deputy Director of Parks, Recreation and Neighborhood Services Capital Improvements, Nicolle Burnham.

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3.6 (Cont'd.)

Public Comments: Becky Moskowitz (Law Foundation of SV), Cindy, Fred Buzo, Julianna Pendleton, Mike Fox, Jason, Kiona, “RK”, Mike, Scott Lajon, Marshall Woodmansee, Carl Selous, Manager of the Guadalupe Community Garden, Gary and Robert.

Members of staff, including Deputy Director of Housing, Ragan Henninger and Director of Aviation, Judy Ross responded to questions.

Motion: Councilmember Raul Peralez moved approval of staffs’ recommendations, including the joint memorandum dated February 24, 2022 and with direction to staff to return in one month to determine if the June 30th deadline should be extended. Vice Mayor Chappie Jones seconded the motion.

Councilmember David Cohen requested a friendly amendment, asking that extending the June 30th deadline be included in Council’s management strategy discussion on April 12, 2022. The amendment to the motion was included.

Action: On a call for the question, the motion carried unanimously, and (a) The report on Guadalupe Gardens Fencing and Activation was accepted; and (b) **Resolution No 80367** regarding the 9821 - Guadalupe Gardens Fencing Project contract was adopted, including the joint memorandum from Mayor Sam Liccardo and Councilmembers Peralez, Cohen and Mahan, dated February 4, 2022, to:

1. Accept Recommendation #1 and refer activation alternatives to the budget process.
2. Amend Recommendation #2 to clarify that the \$1.5 million will not be used for a perimeter chain-link fence but rather to supplement the proposed activation solutions that require protective measures.
3. Comply with FAA direction to ensure there are no unhoused residents in the Guadalupe Gardens area by June 30, 2022 by accelerating rehousing efforts - as directed in the October 15, 2021 joint memo from the Mayor, Vice Mayor, and Councilmembers Peralez and Cohen - with additional direction to:
 - a. Identify the outstanding need for housing and safe parking solutions by working with HomeFirst to compare the latest census count conducted in the Guadalupe Gardens and along the river against the number of unhoused residents who:
 - i. Have accepted and moved in to housing;
 - ii. Have been referred to a housing solution and are awaiting placement;
 - iii. Are unlikely to accept housing, but willing to accept safe parking, shelter, or a drug rehabilitation program.
 - b. Return through the budget process with a dedication of Measure E funding to ensure housing solutions (e.g. rapid rehousing dollars, hotel/motel vouchers) and priority within the coordinated entry system are available to all unhoused residents listed in the latest census count.
 - i. Once funding is allocated, disaggregate the construction timeline for Lot E from the abatement schedule.
 - c. Confirm that a portion of funds from the recent Safe Parking RFP is set aside to open a safe parking site on public or private land for the operational cars and/or RVs currently parked in the Guadalupe River Park and Gardens area.

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3.6 (Cont'd.)

- i. Return to Council by April 2022 with a clear timeline to open the safe parking site and refer residents from Guadalupe River Park.
- 4. Implement direction from the October 15, 2021 memo to clear all vehicles from parkland by June 30, 2022 in Phase 3 and along the river by:
 - a. Prioritizing clearing vehicles that are on the trail;
 - b. Directing operable vehicles to move to Spring St (or a safe parking site);
 - c. Working with residents to repair inoperable vehicles that need minor fixes or assisting with administrative issues, such as expired registration; and
 - d. Allowing for the towing of inoperable vehicles from parkland.
- 5. Ensure by June 30th there will be unhindered public use of the creek trail from West Hedding to West Santa Clara St.

With additional direction that staff return in one month to determine if the June 30 date needs to be extended and to include in Council's management strategy discussion on April 12, 2022. (11-0.)

Council was recessed at 6:43 p.m. and reconvened at 7:10 p.m. with all Councilmembers present. Councilmember Maya Esparza requested that Item 5.2 be heard directly after the break due to the evident public interest.

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 22-118 2022-2024 Local Streets Resurfacing (Multi-Year) Project.

(a) Approve award of a construction contract for the 2022-2024 Local Streets Resurfacing (Multi-Year) Project, to the low bidder, MCK Services, Inc. in a total amount of \$9,794,415.45 during the initial term, establish a construction contingency of 10% in a total amount of \$979,000.

(b) Adopt a resolution authorizing the Director of Transportation to do the following:

(1) Exercise up to two one-year option periods, for a total amount not to exceed \$10,000,000 for each option year, contingent on the appropriation of funds; and

(2) Establish a construction contingency for any option year of up to 10% of the contract amount, not to exceed \$1,000,000 for each option year, contingent on the appropriation of funds.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 3, 4, 7 and 8. (Transportation)

Public Comments: Paul Soto and Blair Beekman offered comments.

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5.1 (Cont'd.)

Director of Department of Transportation, John Ristow responded to questions from Council.

Action: Upon motion by Councilmember Maya Esparza. Seconded by Councilmember Pam Foley and carried unanimously, (a) Award of a construction contract for 2022-2024 Local Streets Resurfacing (Multi-Year) Project was accepted; and (b) **Resolution No 80368** regarding the contract and related contingencies was adopted. (10-0-1. Absent: Carrasco.)

5.2 22-133 Community Forest Management Plan.

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 from 12/14/2021 - Item 5.1 (21-2567), 1/25/2022 - Item 5.2 (22-041) and 2/1/2022 - Item 5.3 (22-131)]

Director of Department of Transportation, John Ristow; Deputy Director Rick Scott; City Arborist Russell Hansen; and Consulting Arborist Ryan Allen Dudek provided a presentation and responded to questions from Council.

Motion: Councilmember Magdalena Carrasco offered a brief presentation and moved to adopt the resolution and accept the joint memorandum she coauthored dated January 21, 2022, the supplemental memorandum from Mayor Sam Liccardo and Councilmembers Carrasco, Davis, Esparza and Cohen, dated February 4, 2022; and Councilmember Matt Mahan's memorandum dated January 25, 2022. Councilmember Matt Mahan seconded the motion.

Action: On a call for the question, the motion carried unanimously, and **Resolution No 80369** approving the Community Forest Management Plan was adopted, including the joint memorandum from Mayor Sam Liccardo and Councilmembers Carrasco, Davis, Esparza and Cohen, dated January 21, 2022, to: Approve the Community Forest Management Plan with the following direction to the City Manager:

1. Establish the Advisory Group referenced in the CFMP and include representatives that understand the best practices for expanding a healthy community forest, and the equity imperative in doing so. The Advisory Committee should be limited to a manageable size, but at a minimum include:
 - a. City staff from DOT, PRNS, and PBCE – with consultation as required with the Office of Racial Equity and ESD;
 - b. Our City Forest;
 - c. Other relevant government agencies and non-profit partners, such as the Open Space Authority, San José Conservation Corps, Valley Water, and the Santa Clara County Association of Realtors;
 - d. Residents, local groups with a strong interest in tree care (e.g. neighborhood associations), and advocates from two or three of the most canopy-deficient districts in the City.

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5.2 (Cont'd.)

2. Pursue additional funding to support CFMP implementation including:
 - a. Engaging with the Governor's Office of Planning and Research (OPR) on the forthcoming tree related funding opportunities with Regional Early Action Planning Grants 2.0 (REAP 2.0), Transformative Climate Communities Funding (TCC) and Adaptation Planning Grants, as well as accessing funding through the Healthy Streets Program created through the Infrastructure Investment and Jobs Act (H.R. 3684), and any other governmental funding identified by City lobbyists;
 - b. Determining whether VMT fees could fund tree development in low-canopy districts, ensuring their integration in new capital projects.
3. Respond during the January 25th Council hearing, or no later than the presentation of budget estimates referenced in #6, below, to prior Mayor and Council requests to:
 - a. (From the Mayor's 2021 Budget Message) Identify potential cost savings to the more than \$1000/tree cost estimate provided to Council when we last voted to increase spending on tree plantings;
 - b. (From 2019) Identify why the City cannot waive civil liability for disadvantaged homeowners and property owners in canopy-deprived neighborhoods to accept and support trees in park strips fronting their property, where they choose trees that the City has determined to be least likely to damage adjacent sidewalks;
 - c. (From Resilience Corps authorization in Mayor's 2021 Budget Message): Clarify what barriers currently prevent allowing Resilience Corps members to participate in tree plantings, maintenance, or tree care, despite longstanding practice of Americorps members doing so, and identify opportunities for Resilience Corps to help with street trees.
4. Through the budget process, direct DOT to bring forward budget estimates for the:
 - a. Completion of a street tree inventory;
 - b. The planting and establishment of between 2000 and 3000 street trees annually that will be distributed with an equity lens, prioritizing historically underserved communities; and considers median income, environmental inequities, and over paved neighborhoods,
 - i. Bring forward estimates related to the creation of pocket forests (a small area of densely planted trees, shrubs and ground cover plants, to create a woodland ecosystem), that strategically uses open spaces;
 - c. Pavement removal in over-paved neighborhoods, creating space for tree canopy, and effectively targeting urban heat island effect;
 - d. Hiring of an Assistant Arborist that, within their range of duties, could prioritize oversight of existing parks trees;
 - e. Bring forward specific options for minimizing General Fund impacts, such as through leveraging the energy of the Resilience Corps, Conservation Corps members, Our City Forest, and the use of technology.
5. Aligned with Strategies #1 & 2 of Goal 4 ("Funding the Community Forest", p. 142), explore, and report findings to Transportation and Environment Committee and Neighborhood Services and Education Committee, whether it would save both property owners and the City money for the City to assume the responsibility for maintenance and planting of street trees in park strips, and relieve homeowners of that burden. The City could charge property owners a modest property-based, Proposition 26-compliant annual

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5.2 (Cont'd.)

fee for preventative pruning, tree maintenance, removal, and sidewalk repair. Determine whether, and the extent to which, the cost burden for doing so could be outweighed by other considerations, namely:

- Avoiding more expensive burdens on property owners and the City from neglect (see pp. 85-87), lack of pruning, sidewalk repairs, and poor species selection;
- Reducing the routine frustration experienced by thousands of homeowners burdened with contractor bills, hefty permit fees, and challenging permit requirements (pp 168-170);
- Saving City staff time and cost allocated to communicating and coordinating with residents about permits, regulation requirements, and fees;
- Exploiting the savings generated by economies of scale through City assumption of work, and the integration of inspection, maintenance, and repair.

6. Prior to implementing elements of Strategy #2 (Revising the Planning Process), which might result in increased costs and delays to housing builders and homeowners, determine and report the following to Council:

- a. Upon completion of the street tree inventory and any other available data, evaluate whether the data demonstrates that tree loss and lack of canopy is disproportionately caused by development displacement, or rather predominantly due to neglect and lack of care of existing trees along streets, in park strips, parks, and private property;
- b. Determine the extent to which elements of Strategy #2 will impede, slow, or add cost to the process for development of housing, particularly affordable housing, and jobs-expanding development, with a particular recognition of the already burdensome challenges that City Hall's planning and building process routinely impose on builders.

7. PBCE policy currently puts forth an x:x tree replacement to tree loss ratio. While this policy does ensure an adequate number of trees are planted, it fails to ensure adequate canopy coverage is achieved. Vital benefits from trees – specifically their efficiency in combating urban heat island effects – are more closely correlated with canopy cover rather number of trees. Return to the Transportation and Environment Committee and the Community and Economic Development Committee in the Fall with a “Zero Net Canopy Loss” policy that explicitly states we will not allow for any loss of tree canopy in the City where development occurs.

Also including Councilmember Matt Mahan's memorandum dated January 25, 2022:

1. Include in the research and outreach entailed in my colleagues' Recommendation #2 potential corporate partners with a significant presence in San Jose, such as Adobe and Zoom, and especially those with a track record of investing in tree and forest-related projects in other locations, such as Cisco and Paypal.
2. In consultation with Our City Forest (OCF), consider requiring that the sponsorship of future tree planting events reflect the true cost of establishing a new tree, as outlined in the OCF Master Agreement. Further consider encouraging partners that are unable to

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5.2 (Cont'd.)

provide this level of per-tree sponsorship to instead sponsor community maintenance and care of existing trees.

Additionally, including the supplemental memorandum from Mayor Sam Liccardo and Councilmembers Carrasco, Davis, Esparza and Cohen, dated February 4, 2022:

1. Supplementary to the recommendations outlined in our January 21st memorandum, direct the City Auditor to determine:

- a. how and whether the city is collecting tree-related mitigation fees from developers,
- b. how and whether the city is enforcing tree-planting conditions on development,
- c. how the city is spending tree mitigation funds, and
- d. how the city can most cost-effectively plant more trees.

(11-0.)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 22-119 Overruling Objections to the 2022-2023 Hazardous Vegetation Commencement Report and Directing the Removal of Weeds or Refuse.**
Conduct a Public Hearing and adopt a resolution:
(a) Overruling any and all objections to the 2022-2023 Hazardous Vegetation Commencement Report (Report); and
(b) Directing the Santa Clara County Consumer and Environmental Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.
CEQA: Categorically Exempt, File No. PP18-094, CEQA Guidelines Section 15301(h) Existing Facilities. (Planning, Building, and Code Enforcement)

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sergio Jimenez and carried unanimously, **Resolution No 80370** Overruling Objections to the 2022-2023 Hazardous Vegetation Commencement Report and Directing the Removal of Weeds or Refuse and including direction to the Santa Clara County Consumer and Environmental Protection Agency was adopted. (11-0.)

8.2 22-120 Envision San José 2040 General Plan Annual Performance Review Report for FY 2020-2021.

Accept the Envision San José 2040 General Plan Annual Performance review report.

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

Public Comments: Paul Soto, Jill Borders, Blair Beekman and “User #2” provided comments.

Action: Upon motion by Councilmember Maya Esparza, seconded by Vice Mayor Chappie Jones and carried unanimously, the Envision San José 2040 General Plan Annual Performance Review Report was accepted.

(11-0.)

8.3 22-156 Approval of a Downtown High-Rise Residential Tax and Fee Waiver for the Carlyle at 51 Notre Dame Street. - DEFERRED

Conduct a public hearing to approve an economic development tax and fee waiver in connection with a reduction in construction taxes and the Affordable Housing Impact Fee for a downtown residential high-rise at 51 Notre Dame Street in the amount of \$4,390,599 pursuant to California Government Code Section 53083 and Open Government Resolution No. 77135 Section 2.3.2.6.C.

CEQA: Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and addenda thereto, Planning File No. SP20-020. Council District 3. (Economic Development and Cultural Affairs/Housing)

[Deferred from 1/25/2022 - Item 8.1 (22-042), 2/1/2022 - Item 8.1 (22-132)]

DEFERRED TO 2/15/2022 PER ADMINISTRATION

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

OPEN GENERAL PLAN (2022 CYCLE 1) HEARING

10.1 Land Use on Consent Calendar

- (a) 22-121 **GP21-009 and C21-008 - General Plan Amendment and Conforming Rezoning for Certain Real Property Located on 1500 Berger Drive.**
- (a) Adopt a resolution amending the Envision San Jose 2040 General Plan Land Use/Transportation Diagram Land Use Designation from Heavy Industrial to Light Industrial on an approximately 0.68-gross acre site located on 1500 Berger Drive.
- (b) Approve an ordinance rezoning certain real property located on the east side of Berger Drive approximately 400 feet north of Gish Road (1500 Berger Drive) from the HI Heavy Industrial Zoning District to the LI Light Industrial Zoning District.
- CEQA: Categorical Exemption under CEQA Guidelines section 15301 for Existing Facilities. Planning Commission recommends approval 10-0-1 (Cantrell absent). Council District 3. (Planning, Building and Code Enforcement)

Public Comments: Paul Soto had comments.

Action: Upon motion by Councilmember Maya Esparza, seconded by Vice Mayor Chappie Jones and carried unanimously, (a) **Resolution No 80371** amending the Envision San José 2040 General Plan was adopted; and The 2021-2022 Mid-Year Budget Review Report was approved; and (b) **Ordinance No. 30718** approving rezoning of certain real property located on the east side of Berger Drive was passed for publication. (11-0.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

- 10.2 22-122 **GP21-007 and C21-029 - General Plan Amendment and Conforming Rezoning for Certain Real Property Located on 2905 Senter Road.**
- (a) Planning Director recommends that the Council take the following actions:
- (1) Adopt a resolution adopting the Initial Study/Negative Declaration for 2905 and 2911 Senter Road General Plan Amendment, for which an Initial Study was prepared, all in accordance with CEQA, as amended.
- (2) Adopt a resolution denying the application to amend the Envision San Jose 2040 General Plan Land Use/Transportation Diagram land use designation from Neighborhood/Community Commercial to Mixed Use Commercial and denying the application for rezoning from the CN Commercial Neighborhood and CP Commercial Pedestrian Zoning District to the MUC Mixed Use Commercial Zoning District on an approximately 1.09-gross acre site located at 2905 and 2911 Senter Road.

(Item Continued on the Next Page)

10.2 (Cont'd.)

(b) Alternatively, Planning Commission recommends that the City Council take the following actions:

(1) Adopt a resolution adopting the initial study/negative declaration for 2905 and 2911 Senter Road General Plan Amendment negative declaration, for which an initial study was prepared, in accordance with CEQA, as amended.

(2) Adopt a resolution amending the Envision San Jose 2040 General Plan Land Use/Transportation Diagram Land Use Designation from Neighborhood/Community Commercial to Mixed Use Commercial on an approximately 1.09-gross acre site located on 2905 and 2911 Senter Road.

(3) Approve an ordinance rezoning certain real property of approximately 1.09 gross acres located at the southwestern corner of the intersection of Senter Road and Lewis Road (2905 and 2911 Senter Road) from the CN Commercial Neighborhood and CP Commercial Pedestrian Zoning District to the MUC Mixed Use Commercial Zoning District. CEQA: 2905 and 2911 Senter Road General Plan Amendment Initial Study / Negative Declaration. Planning Commission recommends approval (8-2-1; Oliverio and Young opposed. Cantrell absent). Council District 7. (Planning, Building and Code Enforcement)

Deputy Director Chris Burton and PBCE Division Manager, Michael Brilliot provided an overview.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Erik Schoennauer of the Schoennauer Company, representing the applicant, provided merits to the project. Paul Soto and Blair Beekman offered comments.

Mayor Sam Liccardo closed the public hearing.

Councilmember Maya Esparza spoke to the project's merits and opined that this site is under-utilized.

Motion: Councilmember Maya Esparza moved her memorandum dated February 4, 2022. The motion was seconded by Councilmember Pam Foley.

Extensive discussion followed. Mayor Sam Liccardo indicated that we have already dramatically reduced employment lands and he would be registering a "no" vote.

Action: On a call for the question, the motion carried, with "Option B" chosen: Item (b)(1) **Resolution No 80372** adopting the initial study/negative declaration for 2905 and 2911 Senter Road General Plan Amendment negative declaration; and (b)(2) **Resolution No. 80373** amending the Envision San Jose 2040 General Plan Land Use/Transportation Diagram Land Use Designation were adopted; and (b)(3) **Ordinance No. 30719** approving rezoning of certain real property located on the east side of Berger Drive was passed for publication, including Councilmember Maya Esparza's memorandum dated February 4, 2022 to: Approve the Planning Commission's recommendation to:

(Item Continued on the Next Page)

10.2 (Cont'd.)

1. Adopt a resolution adopting the 2905 and 2911 Senter Road General Plan Amendment Negative Declaration for which an Initial Study was prepared, in accordance with the CEQA (Exhibit D), as amended;
 2. Adopt a resolution approving the General Plan Amendment to change the Land Use/Transportation Diagram land use designation from Neighborhood/Community Commercial to Mixed Use Commercial (Exhibit B); and
 3. Approve an ordinance approving the Conforming Rezoning from the CN Commercial Neighborhood Zoning District and the CP Commercial Pedestrian Zoning District to the MUC Mixed Use Commercial Zoning District (Exhibit C).
- (9-3: Noes: Jimenez, Davis, Liccardo.)

10.3 22-123 **GP21-006 and C21-030 - General Plan Amendment and Conforming Rezoning for Certain Real Property Located on 1271 & 1279 E. Julian Street.**

- (a) Adopt a resolution adopting the Initial Study/Negative Declaration for 1271 and 1279 Julian Street General Plan Amendment, for which an Initial Study was prepared, all in accordance with CEQA, as amended.
 - (b) Adopt a resolution amending the Envision San Jose 2040 General Plan Land Use/Transportation Diagram Land Use Designation from Mixed Use Neighborhood to Urban Residential on an approximately 0.97-gross acre site located on 1271 and 1279 E. Julian Street.
 - (c) Approve an ordinance rezoning certain real property of approximately 0.97 gross acre located northwest of East Julian Street, approximately 150 feet southwesterly of Wooster Avenue (1271 and 1279 East Julian Street) from the R-1-8 Single-Family Residence Zoning District to the UR Urban Residential Zoning District.
- CEQA: 1271 and 1279 Julian Street General Plan Amendment Initial Study / Negative Declaration. Planning Commission recommends approval (10-0-1, Cantrell absent). Council District 3. (Planning, Building and Code Enforcement)

Division Manager, Michael Brilliot provided an overview.

Mayor Sam Liccardo opened the public hearing.

Jerry Strantos representing the applicant, spoke to merits of this development.

Public Comments: (1) Caller 5931, and Paul Soto offered comments.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Chappie Jones and carried unanimously, (a) **Resolution No 80374** adopting the Initial Study/Negative Declaration for 1271 and 1279 Julian Street General Plan Amendment; and (b) **Resolution No 80375** amending the Envision San Jose 2040 General Plan Land Use Designation were adopted; and (c) **Ordinance No. 30720** Conforming Rezoning for Certain Real Property Located on 1271 & 1279 E. Julian Street was passed for publication. (11-0.)

GP21-004 and C21-009 - General Plan Amendment and Conforming Rezoning for Certain Real Property Located on 7246 Sharon Drive.

(a) Planning Director recommends that the Council take the following actions:

(1) Adopt a resolution adopting the 7246 Sharon Drive General Plan Amendment and Conforming Rezoning Negative Declaration for which an initial study was prepared, in accordance with CEQA, as amended.

(2) Adopt a resolution denying the application for an amendment to the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Neighborhood Community Commercial to Mixed Use Neighborhood and the application for a conforming rezoning from the CP Commercial Pedestrian Zoning District to the MUN Mixed Use Neighborhood Zoning District on an approximately 0.6-gross acre site at 7246 Sharon Drive.

(b) Alternatively, Planning Commission recommends that the City Council take the following actions:

(1) Adopt a resolution adopting the 7246 Sharon Drive General Plan Amendment and Conforming Rezoning Negative Declaration for which an initial study was prepared, in accordance with CEQA, as amended.

(2) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram Land Use Designation from Neighborhood Community Commercial to Mixed Use Neighborhood on an approximately 0.6-gross acre site on 7246 Sharon Drive.

(3) Approve an ordinance rezoning certain real property of approximately 0.6 gross acre located on the west side of Sharon Drive approximately 220 feet south of De Anza Boulevard (7246 Sharon Drive) from the CP Commercial Pedestrian Zoning District to the MUN Mixed Use Neighborhood Zoning District.

CEQA: Initial Study / Negative Declaration. Planning Commission recommends approval (7-3-1; Lardinois, Oliverio, and Young opposed; Cantrell absent). Council District 1. (Planning, Building and Code Enforcement)

Division Manager, Michael Brilliot provided an overview, indicating staff recommends denial.

Mayor Sam Liccardo opened the public hearing.

Representing the applicant, Edesa Bitbadal espoused benefits to the City of San José.

Mayor Sam Liccardo closed the public hearing.

Motion: Vice Mayor Chappie Jones moved the joint memorandum he coauthored with Councilmember Raul Perez dated February 4, 2022 approving the GP amendment with expectations as noted. Councilmember Raul Perez seconded the motion.

(Item Continued on the Next Page)

10.4 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, with “Option B” chosen: (b)(1) **Resolution No 80376** adopting the 7246 Sharon Drive General Plan Amendment and Conforming Rezoning Negative Declaration; and (b)(2) **Resolution No 80377** amending the Envision San José 2040 General Plan Land Use/Transportation Diagram Land Use Designation were adopted; and (b)(3) **Ordinance No. 30721** rezoning certain real property of approximately 0.6 gross acre located on the west side of Sharon Drive was passed for publication, including the joint memorandum from Vice Mayor Chappie Jones and Councilmember Raul Peralez dated February 4, 2022, to:

1) Approve the GP amendment with the following expectations:

- The developer will submit the Planned Development application for the live-work project for the site.

(11-0.)

10.5 22-125 **GP21-003 and C21-036 - General Plan Amendment and Conforming Rezoning for Certain Real Property Located on 3354 Keaton Loop.**

(a) Adopt a resolution adopting the 3354 Keaton Loop General Plan Amendment Project Negative Declaration or which an initial study was prepared, in accordance with CEQA, as amended.

(b) Adopt a resolution amending the Envision San Jose 2040 General Plan Land Use/Transportation Diagram Land Use Designation from Residential Neighborhood to Neighborhood/Community Commercial on an approximately 0.665-gross acre site located on 3354 Keaton Loop.

(c) Approve an ordinance rezoning certain real property of approximately 0.66 gross acre located at the southeast corner of Keaton Loop and San Felipe Road (3354 Keaton Loop) from the A Agriculture Zoning District to the CP Commercial Pedestrian Zoning District.

CEQA: 3354 Keaton Loop General Plan Amendment Project Initial Study / Negative Declaration. Council District 8. (Planning, Building and Code Enforcement)

Division Manager, Michael Brilliot provided an overview.

Mayor Sam Liccardo opened the public hearing.

Applicant Sal Caruso expressed merits of the project. Paul Soto provided comments.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Maya Esparza and carried unanimously, (a) **Resolution No 80378** adopting the 3354 Keaton Loop General Plan Amendment Project Negative Declaration; and (b) **Resolution No 80379** amending the Envision San José 2040 General Plan Land Use/Transportation Diagram Land Use Designation were adopted; and (c) **Ordinance No. 30722** rezoning certain real property of approximately 0.66 gross acre located at the southeast corner of Keaton Loop and San Felipe Road was passed for publication. (11-0.)

CONTINUE GENERAL PLAN (2022 CYCLE 1) HEARING TO MARCH 15, 2022 AT 6:00 PM

OPEN FORUM

1. Paul Soto asked that symbols be reflected on that grace the frontal part of Santa Clara University Mission and St. Joseph's Basilica to identify 'who's in charge here'.
2. Blair Beekman spoke to law enforcement questions and the need to identify open, accountable practices and offered appreciation for the good efforts being made by San José.
3. Caller User #2: opined that Open Forum should be at beginning of meeting and offered criticism of the Council and gun restriction legislation.

ADJOURNMENT

The Council of the City of San José adjourned at 11:23 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/02-08-2022 MIN



SAN JOSÉ CITY COUNCIL CLOSED SESSION

FEBRUARY 8, 2022

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

Present: Councilmembers - Arenas, Carrasco, Davis, 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: Santa Clara Unified School District v. City of San
Jose, et al.,

Name(s) of Santa Clara Unified School District, City of San
Parties(s) and Does 1-100, inclusive

Court: Superior Court of California, County of Santa Clara

Case No: 20CV374923

Amount of Petition for Writ of Mandate for Refund and
Money or Other Declaratory Relief
Relief Sought:

B. 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

C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(3) of the Government Code:

Number of matter(s) to be discussed: 1

Facts: County of Santa Clara claim for a refund of Transient Occupancy Taxes ("TOT"), Convention Center Facilities District Taxes ("CCFD"), and San José Hotel Business Improvement District Fees ("HBID")

D. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(3) of the Government Code:

Number of matter(s) to be discussed: 1

Facts: General Plan Amendment and rezoning

By unanimous consent, Council recessed from the Closed Session and reconvened in Regular Open Session at 1:30 p.m. in the Council Chambers.