



CITY COUNCIL MEETING

Amended Agenda

Tuesday, August 13, 2024
1:30 PM

LOCATION:
Council Chambers - 200 E. Santa Clara Street

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Public Comment in Person Only

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

Please scroll to the end for information about the City Council Agenda and for the Rules of Conduct of the meeting.

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- Adaptaciones para discapacitados serán proporcionadas a pedido. Mandé correo electrónico ADA@sanjoseca.gov; Llame (408) 535-8430
- Nhu cầu cho người khuyết tật được cung cấp theo yêu cầu. Email ADA@sanjoseca.gov; Gọi (408) 535-8430
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THE LEVINE ACT

The Levine Act requires a Party in a Proceeding before the City of San José that involves any action related to their contract, license, permit, or use entitlement to disclose any campaign contributions to City elected or appointed officials totaling more than \$250 within the 12 months prior to the City decision. A Participant to a Proceeding may voluntarily report a campaign contribution. Please visit <https://sanjoseca.gov/your-government/appointees/city-clerk/levine-act> for updated forms and information.

How to observe the Meeting (no public comment):

- 1) Cable Channel 26.
- 2) <https://sanjoseca.gov/news-stories/watch-a-meeting>.
- 3) <https://youtube.com/CityofSanJoseCalifornia>.
- 4) By Phone: (888) 475 4499. Webinar ID is 94302037655. Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free).
- 5) Online at: <https://sanjoseca.zoom.us/j/94302037655>
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How to provide spoken Public Comment during the City Council Meeting:

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

Each speaker generally has two minutes to speak per item. The total amount of time allocated for public testimony for each public speakers or for an agenda item may be limited at the Mayor’s discretion, depending on the number of speakers or the length of the agenda. (California Government Code Section 54954.3; Council Policy 0-37)

Fill out a Yellow Speaker's Card and submit it to boxes at the bottom of the Chambers. Do this before the meeting or before the item is heard. This will ensure that the name on the card is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants by calling speakers in an orderly manner. You may remain anonymous, but please fill out a card so we may call you. You can put "anonymous speaker" or "no name" on the card. When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table. To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

• Call to Order and Roll Call

9:30 a.m. - Closed Session, Call to Order in Council Chambers

Open Session, Labor Negotiations Update (See Item 3.2)

Adjourn to Closed Session in Council Chambers Conference Room, W133

See Separate Agenda

1:30 p.m. - Regular Session, Council Chambers, City Hall

6:00 p.m. - Evening Session, Council Chambers, City Hall

*Will not begin until 6pm or until after all afternoon items are heard, whichever is later.

• Pledge of Allegiance

• Invocation (District 7)

Frank Araujo - San José Business Owner

• Orders of the Day

To be heard after Ceremonial Items

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

• Adjournment

This meeting is adjourned in memory of Dr. David Ebersole, master educator, photographer, actor, and musician, who passed away Sunday, May 19, 2024. He was an amazing teacher at LeyVa Middle School in the East Side of San José, sharing his knowledge and love of the arts with his students for decades.

TO BE HEARD AT 1:30 P.M.

• Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

1.1 Presentation of a commendation to the San José Earthquakes to honor their 50th anniversary and celebrate their commitment to bringing the joy of soccer to the youth of San José (Ortiz).

1.2 Presentation of a commendation to Aimee Ramos for her selection to the Mexican Rugby Team and representing both San José State University and the City of San José in the Olympics. (Torres)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

Recommendation:

(a) Ordinance No. 31099 - An Ordinance of the City of San José Amending Chapter 6.88 of Title 6 of the San José Municipal Code to Remove the Delivery Zone Restriction; Increase the Registration Allowance from Five Retail Storefronts to Ten for Equity Business Owners; Revise Definitions and Make Other Changes to Better Align with State Regulations; and Make Other Technical, Non-Substantive, or Formatting Changes. [Passed for Publication on 6/18/2024 - Item 2.29(a) (24-153382)]

(b) Ordinance No. 31100 - An Ordinance of the City of San José Amending Title 24 of the San José Municipal Code to Add a New Part 8 to Chapter 24.02 to Regulate Certain Private Development Projects of More than 10,000 Square Feet by Withholding the Certificate of Occupancy when an Owner or Contractor has Unpaid Final Wage Theft Judgments. [Passed for Publication on 6/18/2024 - Item 2.39 (24-147353)]

(c) Ordinance No. 31106 - An Ordinance of the City of San José Amending Chapters 4.46 and 4.47 of Title 4 of the San José Municipal Code to Suspend the Collection of the Building and Structure Construction Tax and the Commercial Residential Mobilehome Park Building Tax for up to 2,000 Units in Qualified Residential Highrise Projects Located within the Downtown Planned Growth Area as Designated in the San José 2040 General Plan, that are 10 or More Floors or Stories in Height (Not Including Any Nonresidential Uses) where the Highest Occupied Floor has a Floor Level Elevation that is at Least 150 Feet Above Street Level, that Obtain a Building Permit by June 30, 2029, and Pass First Inspection within 12 Months of Obtaining a Building Permit, Provide a Fifty Percent (50%) Reduction of the Building and Structure Construction Tax and the Commercial-Residential-Mobilehome Park Building Tax for up to 2,000 Additional Units in Qualified Residential High-Rise Projects that Obtain a Building Permit between July 1, 2029, and June 30, 2031 and Pass First Inspection within 12 Months of Obtaining a Building Permit, and Provide a Fifty Percent (50%) Reduction of the Building and Structure Construction Tax and the Commercial-Residential-Mobilehome Park Building Tax For up to 6,000 Additional Units in Qualified Residential High-Rise Projects that Obtain a Building Permit thereafter and Pass First Inspection within 12 Months of Obtaining a Building Permit. [Passed for Publication on 6/18/2024 - Item 8.2(b) (24-120632-01)]

(d) Ordinance No. 31107 - An Uncodified ordinance of the City of San José to Revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High Rise Rental Developments, Pursuant to Resolution No. 80766 as Amended, Effective July 1, 2024, Specified in the Schedule of Fees and Charges Resolution. [Passed for Publication on 6/18/2024 - Item 8.2(f) (24-120632-01)]

(e) Ordinance No. 31109 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.13-Gross Acre Situated on the Easterly Side of Wabash Street, Approximately 350 Feet Southwesterly of Archer Street (0 Wabash Street) (APN 015-05-079) from the CN Commercial Neighborhood Zoning District to the R-1-8 Single Family Residence Zoning District. [Passed for Publication on 6/18/2024 - Item 10.1(a) (24-147360)]

2.3 Approval of Council Committee Minutes.

2.4 Mayor and Council Excused Absence Requests.**Recommendation:**

Request for an excused absence for Councilmember Jimenez from the regular meetings of the City Council on June 18, 2024 and the Public Safety, Finance and Strategic Support Committee (PSFSS) on June 20, 2024 due to illness.

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

2.5 City Council Travel Reports.**2.6 Report from the Council Liaison to the Retirement Boards.****2.7 Minimum Annual Guarantee Adjustment for Bayport and Elevate Concessionaries.****Recommendation:**

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a one-time retroactive adjustment to the Minimum Annual Guarantee for the Food and Beverage concession agreements with Elevate Gourmet Brands-SFO Group and Bayport Concessions, LLC.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates, and Fares without changes to or expansion of services. (Airport)

2.8 City Manager's Travel to Dublin, Ireland.**Recommendation:**

Authorize travel for City Manager Jennifer Maguire to Dublin, Ireland on September 7-13, 2024 to participate in the Sister City Trip to Dublin, Ireland.

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

2.9 Lease Agreement Between the City of San José and Habitat for Humanity Silicon Valley for Its Continued Use of City-Owned Property Located at 1608 Las Plumas Avenue as a Restore Resale Outlet.**Recommendation:**

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a retroactive lease agreement and all documents necessary to effectuate the lease, between the City of San José, a municipal corporation of the State of California, as Landlord, and Habitat for Humanity Silicon Valley, a California nonprofit corporation, as Tenant, for its continued use of approximately 14,606 square feet of space at the City-owned property located at 1608 Las Plumas Avenue for an initial term of three years commencing July 1, 2024, and expiring June 30, 2027, at a rental rate of \$124,443.12 for the first year, \$128,176.44 for the second year, and \$132,021.72 for the third year, totaling \$384,641.28 for the initial term, with three mutual options to extend for an additional three years each at a rental rate that shall be determined and agreed upon by both parties.

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/Environmental Services)

2.10 Federal Highway Administration Grant Application for Public Charging Infrastructure.

Recommendation:

Adopt a resolution authorizing the City Manager or her designee to file an application with the Federal Highway Administration for its Charging and Fueling Infrastructure Community Program grant; and if awarded, negotiate and execute a project agreement, and any related documents, for up to \$6 million in reimbursements from the Federal Highway Administration and up to \$1.5 million in City matching funds for a total project cost of up to \$7.5 million to install approximately 100 electric vehicle charging ports at City facilities for use by the public and City of San José fleet, commencing upon the date of the Federal Highway Administration's approval of award and the City's execution of an approved project agreement, with work to be scheduled to commence by no later than September 30, 2027.

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

2.11 Moratorium on Natural Gas Infrastructure Prohibition Ordinance.

Recommendation:

Approve an ordinance amending Chapter 17.845 of Title 17 (*Prohibition of Natural Gas Infrastructure in Newly Constructed Buildings*), Section 17.845.010, of the San José Municipal Code to implement a moratorium on further City enforcement of Chapter 17.845 until local control over natural gas infrastructure is clarified or authorized.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Environmental Services/Planning, Building, and Code Enforcement)

2.12 Renewal of the Online Computer Library Center Services for Online Cataloging Services, Library-to-Library Borrowing Fees, and Transaction Fees.

Recommendation:

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

- (a) Negotiate and execute a purchase order with Online Computer Library Center (Dublin, OH) for online cataloging subscription and services for a maximum compensation of \$106,000 for the one-year option term beginning August 16, 2024 and ending August 15, 2025, or as may be adjusted to align with the software renewal term;
- (b) Negotiate and execute amendments as-required for any unanticipated changes during the one-year term beginning August 16, 2024 and ending August 15, 2025, or as may be adjusted to align with the software renewal term, subject to the appropriation of funds; and
- (c) Exercise up to six additional one-year options to extend the term of the purchase order through August 15, 2031, or as may be adjusted to align with the software renewal term, subject to the appropriation of funds.

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

2.13 CARES Act and SECURE Act Amendments to Deferred Compensation, PTC, and 401(a) Plans.

Recommendation:

- (a) Approve an ordinance amending Chapter 3.48 of Title 3 of the Deferred Compensation Plan to comply with the CARES Act and SECURE Act.
- (b) Adopt a resolution approving an amendment to the Basic Plan Document for the Deferred Compensation Plan to comply with the CARES Act and SECURE Act and authorize the City Manager or her designee to execute the amended Basic Plan Document and other documents as necessary to administer the Deferred Compensation Plan set forth in Chapter 3.48 of the San José Municipal Code. This amendment will become effective on the same date as the ordinance to amend Chapter 3.48 of Title 3 of the Deferred Compensation Plan to comply with the CARES Act and SECURE Act.
- (c) Approve an ordinance amending Chapter 3.49 of Title 3 of the Defined Contribution Plan for Unit 99 Employees to comply with the CARES Act and SECURE Act.
- (d) Adopt a resolution approving an amendment to the Basic Plan Document for the Defined Contribution Plan for Unit 99 Employees to comply with the CARES Act and SECURE Act and authorize the City Manager or her designee to execute the amended Basic Plan Document and other documents as necessary to administer the Defined Contribution Plan for Unit 99 Employees set forth in Chapter 3.49 of the San José Municipal Code. This amendment will become effective on the same date as the ordinance to amend Chapter 3.49 of Title 3 of the Defined Contribution Plan for Unit 99 Employees to comply with the CARES Act and SECURE Act.
- (e) Approve an ordinance amending Chapter 3.50 of Title 3 of the Part-time Temporary Contract (PTC) Plan to comply with the CARES Act and SECURE Act.
- (f) Adopt a resolution approving an amendment to the Basic Plan Document for the PTC Plan to comply with the CARES Act and SECURE Act and authorize the City Manager or her designee to execute the amended Basic Plan Document and other documents as necessary to administer the PTC Plan set forth in Chapter 3.50 of the San José Municipal Code. This amendment will become effective on the same date as the ordinance to amend Chapter 3.50 of Title 3 of the PTC Plan to comply with the CARES Act and SECURE Act. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources)

2.14 Approval of Free Use for Various San José Public Library Events in the City Hall Rotunda and City Council Chambers.

Recommendation:

Adopt a resolution authorizing “Free Use” for one private event and one Saturday event for the Library Department for fiscal year 2024-2025, in the City Hall Rotunda and City Council Chambers.

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

2.15 Report on Bids and Award of Contract for the 10346-San José Museum of Art Cooling Tower Replacement Project.

Recommendation:

(a) Report on bids and award of a contract for the construction of the 10346-San José Museum of Art Cooling Tower Replacement Project to the lowest responsive, responsible bidder, ACCO Engineered Systems Inc., for the base bid and Bid Alternate No.1 and No. 2 in the amount of \$1,442,305; and
(b) Approve a 15% contingency in the amount of \$216,346.
CEQA: Exempt, File No. ER24-103/15302(c) Replacement or reconstruction of existing utility systems and/or facilities. Council District 3. (Public Works)

2.16 Actions Related to the 10331: On-Call Landscape Construction Contract 23-24 Re-Bid Project.

Recommendation:

Award of a contract for the on-call construction of capital improvement projects (10331 – On-Call Landscape Construction Contract 23-24 Re-Bid Project) to Suarez & Munoz Construction, Inc. pursuant to City of San José Charter, Section 1217 (h), for a maximum not to exceed amount of \$1,000,000 and a term of three years.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

2.17 Authorization to Apply for the United States Department of Housing and Urban Development’s Eviction Protection Grant Program.

Recommendation:

Adopt a resolution authorizing the Housing Director or his designee to apply for the United States Department of Housing and Urban Development’s Eviction Protection Grant Program Notice of Funding Opportunity to request \$2.5 million to support initiatives that enhance City investments in eviction services for both tenants and housing providers.
CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Housing)

2.18 City Clerk’s Travel to Dublin, Ireland.

Recommendation:

Authorize travel for City Clerk Toni Taber to Dublin, Ireland on September 7-13, 2024 to participate in the Sister City Trip to Dublin, Ireland.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

3. STRATEGIC SUPPORT

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

3.2 Labor Negotiations Update.**Accept Labor Negotiations Update.****TO BE HEARD AT 9:30 A.M.****3.3 Actions Related to Mayor and Councilmembers' Travel to Dublin, Ireland for the Sister City Delegation.****Recommendation:**

(a) Approve travel to Dublin, Ireland and request for an excused absence for the following Councilmembers from the following meetings due to Authorized City Business: City of San José Dublin Sister City Delegation: to be updated on August 7, 2024.

(b) Approve Delegation Leader and related travel costs from the Mayor/Council Travel Budget; and

(c) Approve the receipt of gifts received by the Sister City Delegation in an official capacity as a representative of the City in accordance with San José Municipal Code Section 12.08.120.B.

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

3.4 Adoption of Statement of Policy and City Council Questions for the Prospective Chief of Police.**Recommendation:**

Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Chief of Police as described in the staff memorandum, in compliance with City Charter Section 411.1.

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

3.5 Fiscal Year 2024-2025 Property Tax Levy for General Obligation Bonds.**Recommendation:**

Adopt a resolution establishing the Fiscal Year 2024-2025 property tax levy on all taxable property within the City of San José for the purpose of funding the City's general obligation bonded indebtedness and to pay the respective administration fee to the County of Santa Clara.

CEQA: Statutorily Exemption, File No. PP17-005, Adjustment to Fees, Rates and Fares without changes to or expansion of services. (Finance)

3.6 Public Hearing for the Fiscal Year 2024-2025 Annual Residential Solid Waste Collection Service Charges to be Placed on the 2024-2025 Santa Clara County Secured Property Tax Roll.

Recommendation:

(a) Conduct a public hearing on the Fiscal Year 2024-2025 annual report prepared by the Director of Finance detailing the Residential Solid Waste Collection Service Charges filed with the City Clerk's Office.

(b) Adopt a resolution confirming the approval of the report and the placement of charges as set forth therein on the 2024-2025 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony.

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

3.7 Public Hearing for the Fiscal Year 2024-2025 Sanitary Sewer Service and Use Charge and Storm Sewer Service Charge Assessments to be Placed on the 2024-2025 Santa Clara County Secured Property Tax Roll.

Recommendation:

(a) Conduct a public hearing on the Fiscal Year 2024-2025 annual report prepared by the Director of Finance detailing the Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges filed with the City Clerk's Office.

(b) Adopt a resolution confirming the approval of the report and the placement of the charges as set forth therein on the 2024-2025 Santa Clara County Secured Property Tax Roll, with such modifications the City Council may make based on public hearing testimony.

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

4. PUBLIC SAFETY

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 San José Clean Energy 2024 Mid-Year Rates.

Recommendation:

Adopt a resolution:

(a) Establishing updated San José Clean Energy rates, inclusive of the Power Charge Indifference Adjustment and Franchise Fee Surcharge, for GreenSource, TotalGreen, and SJ Cares according to the rate schedule set forth in Attachments A, B, and C in the staff memorandum, effective August 15, 2024; and

(b) Establishing a Residential Super Off-Peak Charging Rate Pilot Program that creates a new rate plan called E-ELEC-SJ with a new time-of-use period from 9 a.m. to 2 p.m. for the period of one year.

CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates and Fares, resulting in no changes to the physical environment. (Energy)

6.2 Amendment to Council Policy 1-24, San José Clean Energy Financial Reserves Policy.

Recommendation:

Adopt a resolution amending Council Policy 1-24, San José Clean Energy Financial Reserves Policy, to establish a Rate Stabilization Reserve for the San José Clean Energy program and make technical and clarifying changes.

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

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

9. REDEVELOPMENT – SUCCESSOR AGENCY

• Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

If the afternoon Regular Session agenda items are completed after 5:00 p.m., this Open Forum will be held at the end of the full meeting. Members of the Public may only speak at Open Forum once.

• Council will recess until 6:00 p.m.

10. LAND USE

Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

10.1 Land Use on Consent Calendar

No Land Use Items on Consent Calendar

END OF CONSENT CALENDAR

10. Land Use - Regular Agenda**10.2 H22-022 & ER22-113 - Public Hearing on the Environmental Appeal of the 865 Embedded Way Industrial Project Initial Study supporting a Mitigated Negative Declaration as the Environmental Clearance for Approval of a Site Development Permit.****Recommendation:**

(a) Conduct a Public Hearing to consider the environmental appeal of the Planning Director's adoption of the 865 Embedded Way Industrial Project Initial Study supporting a Mitigated Negative Declaration (MND) in accordance with the California Environmental Quality Act (CEQA) for a Site Development Permit (File Nos. H22-022, ER22-113) to allow the construction of a one-story 121,400 square foot industrial building and a surface parking lot on a vacant 10.17-acre site.

(b) Adopt a resolution denying the environmental appeal and upholding the Planning Director's adoption of the 865 Embedded Way Industrial Project MND in accordance with CEQA, as amended, and finding that:

(1) The City Council has independently reviewed and analyzed the MND for the 865 Embedded Way Industrial Project, and related administrative records for Site Development Permit No. H22-022;

(2) The MND for the 865 Embedded Way Industrial Project was prepared and completed in full compliance with CEQA, as amended, together with state and local implementing guidelines;

(3) Adoption of the MND for the 865 Embedded Way Industrial Project reflects the independent judgment and analysis of the City of San José, as the lead agency for the Project; and

(4) Preparation of a new, subsequent, or supplemental environmental document is not required because the appeal does not raise any new significant impacts that have not already been analyzed or addressed in the 865 Embedded Way Industrial Project MND in accordance with Public Resources Code (PRC) Section 21083 or CEQA Guidelines Sections 15073 and 15185.

CEQA: Initial Study/Mitigated Negative Declaration for the 865 Embedded Way Industrial Project. Council District 2. (Planning, Building, and Code Enforcement)

10.3 PDC21-035, PT22-003, PD22-002 & ER21-284 – Planned Development Rezoning, a Vesting Tentative Map, and a Planned Development Permit on Certain Real Property Located at 0 Seely Avenue. – NOT TO BE HEARD BEFORE 6:00 P.M.

Recommendation:

(a) Adopt a resolution certifying the 0 Seely Avenue Mixed-Use Project Environmental Impact Report, and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and a related mitigation monitoring and reporting plan, in accordance with the California Environmental Quality Act, as amended.

(b) Approve an ordinance rezoning certain real property of an approximately 22.88-gross-acre site situated at the northeasterly corner of Montague Expressway and Seely Avenue (APNs 097-15-033 & 034 & 097-66-004) from the IP Industrial Park Zoning District to an IP(PD) Planned Development Zoning District.

(c) Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to subdivide three parcels into 48 parcels (32 buildable parcels, and 16 common parcels) and to allow up to 154 residential condominium units and up to six commercial condominium units on an approximately 22.88-gross-acre site.

(d) Adopt a resolution approving, subject to conditions, a Planned Development Permit to allow the demolition of two residences, a fruit stand, and ancillary structures totaling approximately 19,820 square feet and the removal of 584 trees (261 ordinance size and 323 non-ordinance-size, with 1,085 replacement trees) for the construction of a mixed-use development consisting of 1,472 multifamily residential units, approximately 18,965 square feet of commercial space, a 2.5-acre public park, up to six commercial condominium units, and Saturday construction hours from 8:00 AM to 5:00 PM on an approximately 22.88-gross-acre site.

CEQA: Environmental Impact Report for the Seely Avenue Mixed-Use Project. Planning Commission recommends approval (10-1; Garcia opposed) (Item 5.a. on the 6/26/2024 Planning Commission agenda). Council District 4. (Planning, Building and Code Enforcement).

NOT TO BE HEARD BEFORE 6:00 p.m.

• Open Forum - continued from the afternoon

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

If the afternoon Regular Session agenda items are completed before 5:00 p.m., this Open Forum will be continued from the earlier open forum. Members of the public may only speak at Open Forum once.

• Adjournment

This meeting is adjourned in memory of Dr. David Ebersole, master educator, photographer, actor, and musician, who passed away Sunday, May 19, 2024. He was an amazing teacher at LeyVa Middle School in the East Side of San José, sharing his knowledge and love of the arts with his students for decades.

TO BE HEARD AT 1:30 P.M.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection online at <https://sanjoseca.primegov.com/public/portal?fromiframe=1> or at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov.

ABOUT THE AGENDA

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support** - The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.
- **Transportation & Aviation Services** - A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Community & Economic Development** - Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <https://sanjoseca.primegov.com/public/portal?fromiframe=1>. Council Meetings are televised live and rebroadcast on Channel 26.

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- (a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- (b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- (c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- (d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- (e) Persons in the audience will not place their feet on the seats in front of them.
- (f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- (g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- (a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- (b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- (c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

3. Addressing the Council, Committee, Board or Commission:

- (a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- (b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the total amount of time allocated for public testimony for each public speaker or for an agenda item is in the discretion of the Chair of the meeting and may be limited when appropriate.

(California Government Code Section 54954.3; Council Policy 0-37) Applicants and appellants in land use matters are usually given more time to speak. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Council, Committee, Board or Commission.

- (c) Speakers should discuss only the agenda item when called to speak for that item, and only topics related to City business when called to speak during open forum on the agenda.
- (d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- (e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- (f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- (g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.