City Council Meeting Minutes

Tuesday, February 4, 2025

1:30 PM

Council Chambers

MATT MAHAN, MAYOR
ROSEMARY KAMEI, DISTRICT 1
PAMELA CAMPOS, DISTRICT 2
CARL SALAS, DISTRICT 3
DAYID COHEN, DISTRICT 4
PETER ORTIZ, DISTRICT 5
MICHAEL MULCAHY, DISTRICT 6
BIEN DOAN, DISTRICT 7
DOMINGO CANDELAS, DISTRICT 8
PAM FOLEY, VICE MAYOR, DISTRICT 9
GEORGE CASEY, DISTRICT 10

• Call to Order and Roll Call

9:30 a.m.- Closed Session. *See Pages 12-14 for Closed Session Minutes.*

Present: Councilmembers: Mahan, Kamei, Campos, Salas, Cohen, Ortiz, Mulcahy, Doan, Candelas, Foley, Casey.

Absent Councilmembers: None.

1:37p.m.- Regular Session.

Present Councilmembers: Mahan, Kamei, Campos, Salas, Cohen, Ortiz, Mulcahy, Doan, Candelas, Foley, Casey.

Absent Councilmembers: None.

• Pledge of Allegiance

Mayor Matt Mahan led the Pledge of Allegiance.

• Invocation (District 2)

Jenny Clendenen, local author, offered the invocation with the reading of a passage.

• Orders of the Day

Mayor Matt Mahan requested that Council vote to add Item 2.10 to the February 4, 2025 City Council Consent Calendar for consideration; Item 2.10, "*City Council Appointments to Committees, Boards, and Commissions."* It would require a determination by a 2/3 vote of the members of the Council present at the meeting.

Public Comment: None provided.

Action to add Item 2.10: Upon motion by Councilmember Domingo Candelas, seconded by Councilmember George Casey, and carried unanimously, Item 2.10 was added to the Consent Calendar. (11-0-0)

• Adjournment Recognition

None provided.

- Closed Session Report

None provided.

1. CEREMONIAL ITEMS

1.1 Councilmember Domingo Candelas presented a proclamation recognizing February 2025 as American Heart Month to raise awareness on heart health and combating heart disease and stroke in the City of San José .

1.2 Councilmember Bien Doan presented a commendation to American Legion Post #809 San José for its advocacy for veterans and its support of the community through programs and initiatives that honor and assist those who have served our nation.

1.3 Councilmember Rosemary Kamei presented a proclamation declaring February 2025 as Black History Month in the City of San José .

2. CONSENT CALENDAR

Public Comment: None provided.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Domingo Candelas, and carried unanimously, the Consent Calendar was approved as a whole. The below actions were taken as indicated. (11-0-0)

Councilmember Peter Ortiz pulled Item 2.9 for comment.

2.1 Approval of City Council Minutes.

(a) Regular City Council Meeting Minutes of October 17, 2023.
(b) Regular City Council Meeting Minutes of October 31, 2023.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: The above-mentioned City Council Minutes were approved. (11-0-0)

2.2 Final Adoption of Ordinances.

None provided.

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 Fifth Amendment to the Professional Services Agreement for Data Management and Customer Call Center Services with Calpine Energy Solutions

Approve a Fifth Amendment to the Professional Services Agreement for Data Management and Customer Call Center Services with Calpine Energy Solutions, LLC, extending the term of the agreement by 90 days, through May 29, 2025, and increasing the maximum compensation by $1,200,000, from $22,000,000 to $23,200,000, 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. (Energy)

Action: The Fifth Amendment to the Professional Services Agreement for Data Management and Customer Call Center Services with Calpine Energy Solutions, LLC was approved. (11-0-0)

2.8 Actions Related to the Purchase Orders with MT Tire Service LLC and Southern Tire Mart LLC for On-Site Tire Service and 24/7 Emergency Road Service.

Adopt a resolution authorizing the City Manager or her designee to amend purchase orders OP 64643 with MT Tire Service LLC (San José, CA), and OP 64644 with Southern Tire Mart LLC (San José, CA) for on-site tire service and 24/7 emergency road service to increase the total compensation by $500,000 for a maximum compensation not-to-exceed $1,100,000 for the period ending February 6, 2025, 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: **Resolution No. RES2025-18** was adopted, authorizing the City Manager or her designee to amend purchase orders OP 64643 with MT Tire Service LLC, and OP 64644 with Southern Tire Mart LLC. (11-0-0)

2.9 Resolution Reaffirming the City's Commitment to Preserving the Safety and Dignity of all its Residents, Regardless of National Origin or Legal Status.

Adopt a resolution reaffirming the City's commitment to protecting the rights and safety of immigrant communities.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Ortiz, Campos, Cohen, and Candelas) [Rules Committee

referral 1/15/2025 - Item C.2]

Mayor Matt Mahan announced that due to the high volume of requests to speak, public comment would be limited to one-minute for the remainder of the Council Meeting.

Angel Rios, Deputy City Manager, City Manager's Office; and Paul Joseph, Police Chief, San José Police Department answered questions from Council.

Public Comment: Marcelo Tagle, Celeste Perez, Gloria Gonzalez, Brandon Dawking, Sandy Perry, Jose A, Roxanne, Gabriel Manrique, Raymond Goins, Azazel Holmkvist, Lorraine Zeller, Margarita, Hector Hernandez, Cassandra Magana, Amanda Flores, Laisha, Shannon, Susana Burgos, Kathy Cordova, Isela Reyes, Huy Tran, Tony Romero, Teresita Garcia, Yurina Guzman, Lorena Cortez, Yolanda Casas, Jeremy Barousse, Engels Garcia, Tori Truscheit, Cindy Bautista, Sofia, no name, Felipe Romero, Karen Matsaueda, Richard Hobbs, Uriel M., Lani Ballard, Dilza Gonzalez, Angel Martinez, Vanessa Hernandez, Sharat Lin, Nora Larson, Aidan, Iheoma, Susan Price, Ofisa Fati, Rev. Matthew McHale, Anne Rosenzweig, Tatiana Villasenor, Phillip Hines, Oliva Ortiz, Victor Vasquez, Deb St. Julien, Terri Teresi, Kathryn Hedges, Lori Katcher, Enrique A., Oliva Navarro, Juritzi Torres, Socorro Montano, Estefania Bautista, Shaunn, Jo E., Maricon M., Yuomi Zavaleta, Alysa, Lorena Sanchez Castaneda, Xochitl Guevara, Poncho Guevara, Paulina Ozuna, Julie Meyerson, Louie M., Michele C., Sandra Asher, Aaron Resendez, Samantha Vazquez, Mary, Drew S., Gaby Del Real, and three speakers (*names not provided for the record)* offered public comment.

Action: Upon motion by Councilmember Peter Ortiz, seconded by Councilmember Bien Doan, and carried unanimously, **Resolution No. RES2025-19** was adopted, reaffirming the City's commitment to protecting the rights and safety of immigrant communities, including the following amendments to the resolution: replace only the second and third instances of the term "otherwise law-abiding", with "undocumented immigrants should not fear arrest or deportation." (11-0-0)

2.10 City Council Appointments to Committees, Boards, and Commissions.
(a) Appoint Councilmember Carl Salas to the: (1) Transportation & Environment Committee. (2) Public Safety, Finance & Strategic Support Committee. (3) ABAG - Executive Board as an Alternate. (4) Appeals Hearing Board as the Liaison. (5) Deferred Compensation Advisory Committee as the Liaison. (6) Downtown Parking Board as the Liaison. (7) Santa Clara Valley Habitat Agency Governing Board as an Alternate. (8) Santa Clara VTA Steering Committee - Diridon Station. (9) Silicon Valley Regional Interoperability Project as an Alternate. (b) Appoint Councilmember Michael Mulcahy to the Santa Clara VTA Steering Committee - Diridon Station.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Mayor)

Action: (a) Councilmember Carl Salas was appointed to the: (1) Transportation & Environment Committee, (2) Public Safety, Finance & Strategic Support Committee, (3) ABAG - Executive Board as an Alternate, (4) Appeals Hearing Board as the Liaison, (5) Deferred Compensation Advisory Committee as the Liaison, (6) Downtown Parking Board as the Liaison, (7) Santa Clara Valley Habitat Agency Governing Board as an Alternate, (8) Santa Clara VTA Steering Committee - Diridon Station, and (9) Silicon Valley Regional Interoperability Project as an Alternate; and
(b) Councilmember Michael Mulcahy was appointed to the Santa Clara VTA Steering Committee - Diridon Station. (11-0-0)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, Jennifer Maguire (Verbal Report)
Jennifer Maguire, City Manager offered a report introducing Tommy O'Hare as the new appointed temporary 2026 Sports and Special Events Director, beginning February 3, 2025. Tommy will oversee major events in 2026, including Super Bowl 60, the NCAA Men's Regional Basketball Tournament, and the FIFA World Cup, with a focus on creating lasting community impact and economic benefits. In addition to his role in 2026, he will also help develop sports infrastructure in the region for future events.

3.2 Labor Negotiations Update.

None provided.

3.3 Options for Expanding Alternative Response and Co-Response Programs to 911 Calls for Service.
As recommended by the Public Safety, Finance and Strategic Support Committee on October 17, 2024:
(a) Accept the Options for Expanding Alternative Response and Co-Response Programs to 911 Calls for Service Report.
(b) Direct the City Manager or her designee to continue collaboration with the County of Santa Clara to identify opportunities to expand the 911-to-988 call transfer program, educate residents on services available through 988, and monitor implementation of the Trusted Response Urgent Support Team expansion pilot.
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) [Public Safety, Finance and Strategic Support Committee referral 10/17/2024 - Item (d)3] [Deferred from 1/14/2025 - Item 4.1]

Sarah Zarate, Director, Office of Administration, Policy, and Intergovernmental Relations; Tom Westphal, Deputy Director, Office of Administration, Policy, and Intergovernmental Relations; Kailyn Kenney, Assistant to the City Manager, Office of Administration, Policy, and Intergovernmental Relations; and Raania Mohsen, Assistant to the City Manager, Office of Racial and Social Equity, offered the presentation and responded to questions.

Jennifer Hern, Police Communications Manager, San José Police Department, responded to questions from Council.

Public Comment: Xochitl Guevara, Poncho Guevara, Cassandra Magana, Amanda F., Gianella, Azakel H., Viviana Barnwell, Isela Reyes, Lindsey Mansfield, Lizette Estrada-Valencia, Sandra Asher, missed lady with handheld mic, Kathryn Hedges, Melissa Luke, Debbie Ow, Karen Matsueda, Dilza Gonzalez, Nora Larson, Phillip Hines, Anne Rosenzweig, Deb St. Julian, Elisa Koff Ginsborg, Rev. Matthew McHale, Michele C., Elise, Reverend Dana Bainbridge, Sigrid Jacobsen, Patty, Chris Scott, and Lori offered public comment.

Action: Upon motion by Councilmember Domingo Candelas, seconded by Councilmember Bien Doan, and carried unanimously, (a) the Options for Expanding Alternative Response and Co-Response Programs to 911 Calls for Service Report were accepted; and (b) the City Manager or her designee were directed to continue collaboration with the County of Santa Clara to identify opportunities to expand the 911-to-988 call transfer program, educate residents on services available through 988, and monitor implementation of the Trusted Response Urgent Support Team expansion pilot; *including staff direction to include the most data possible on the investments available from the County for the Trusted Response Urgent Support Team.*

Including acceptance of the joint memorandum co-authored by Councilmember's Ortiz, Candelas, and Cohen, dated January 31, 2025, recommending the following:
1. Direct the City Manager to prepare a Manager's Budget Addendum outlining budget options for:
   a. Utilizing opioid settlement funding to maintain investment in the San José TRUST team.
   b. Targeted outreach augmenting the County of Santa Clara's community education campaign to raise awareness of services available through 988, including TRUST, to address emergencies related to mental health and substance abuse.
2. Direct staff to include continued engagement with members of the disability community with physical disabilities, including deaf, blind, and wheelchair-bound community members.
3. Direct staff to continue coordination with the County of Santa Clara on transferring appropriate 911 calls to the 988 call center, providing regular updates to the City Council.

Also including acceptance of the memorandum authored by Councilmember Mulcahy, dated January 31, 2025, recommending the following:
1. Accept the staff recommendation.
2. Direct the City Manager's Office to accelerate efforts which increase public awareness and education about services available through 988, and to approach the expansion of the 911-to-988 call transfer program with urgency. (11-0-0)

4. PUBLIC SAFETY SERVICES

No items provided.

5. TRANSPORTATION & AVIATION SERVICES

No items provided.

6. ENVIRONMENTAL & UTILITY SERVICES

No items provided.

7. NEIGHBORHOOD SERVICES

7.1 Actions Related to the Tri-Party Agreement with the Friends of Levitt Pavilion San José and the Mortimer & Mimi Levitt Foundation for the Levitt Pavilion at St. James Park.

(a) Adopt a resolution:
(1) Finding the proposed Tri-Party Agreement between the City of San José, Friends of Levitt Pavilion San José, and Mortimer & Mimi Levitt Foundation for future development and operation of Levitt Pavilion at St. James Park meet the criteria set forth in Section 1700.1 of the City Charter and Council Policy 7-8; and
(2) Authorizing the City Manager or her designee to negotiate and execute a Tri-Party Agreement with the Friends of Levitt Pavilion San José and the Mortimer & Mimi Levitt Foundation for future development and operation of a Levitt Pavilion with an initial five-year term length from the date of execution until the fifth anniversary of the effective date with three additional options to extend of up to five years each, through December 31, 2041.
(b) Adopt the following 2024-2025 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
(1) Increase the St. James Park Phase I Reserve appropriation by $5,000,000; and
(2) Decrease the Future PDO/PIO Projects Reserve by $5,000,000.
CEQA: Determination of Consistency with the St. James Park Capital Vision and Levitt Pavilion Project Certified Environmental Impact Report (Resolution No. 79770). Council District 3. (Parks, Recreation and Neighborhood Services/City Manager)

Jon Cicirelli, Director, Department of Parks, Recreation, and Neighborhood Services; Ed Bautista, Communications Manager, Department of Parks, Recreation, and Neighborhood Services; Chris Burton, Director, Department of Planning, Building, and Code Enforcement; Sharon Yazowski, President and CEO, Levitt Foundation; and Fil Maresca, Board Chair, Friends of Levitt Pavilion, responded to questions from Council.

Public Comment: Sharon Yazowski (President and CEO, Levitt Foundation), Fil Maresca (Board Chair, Friends of Levitt Pavilion), Alex Stettinski, Michelle D., Sandra Moll, Jeremy Metz, Laura Wolford, Sally Schroeder, Cindy Ahola, Camille C., Suzanne St. John Crane, Dan Pulcrano, Deanna Sisneros, Tania M., Matthew McHale, and Mike Sodergren offered public comment.

Action: Upon motion by Vice Mayor Pam Foley, seconded by Councilmember David Cohen, and carried unanimously, (a) **Resolution No. RES2025-20** was adopted, (1) Finding the proposed Tri-Party Agreement between the City of San José, Friends of Levitt Pavilion San José, and Mortimer & Mimi Levitt Foundation for future development and operation of Levitt Pavilion at St. James Park meet the criteria set forth in Section 1700.1 of the City Charter and Council Policy 7-8; and
(2) Authorizing the City Manager or her designee to negotiate and execute a Tri-Party Agreement with the Friends of Levitt Pavilion San José and the Mortimer & Mimi Levitt Foundation for future development and operation of a Levitt Pavilion with an initial five-year term length from the date of execution until the fifth anniversary of the effective date with three additional options to extend of up to five years each, through December 31, 2041; and (b) **Ordinance No. 31175** was adopted, (1) increasing the St. James Park Phase I Reserve appropriation by $5,000,000; and (2) decreasing the Future PDO/PIO Projects Reserve by $5,000,000. (11-0-0)

7.2 Abandoned Shopping Cart Policy Options.

Direct the City Manager to:
(a) Conduct an outreach process with retailers in San Jose to evaluate options for enhancing the City's efforts to prevent and retrieve abandoned shopping carts, including the possibility of the City establishing a cart retrieval program, implementing an abandoned shopping cart retrieval program on a voluntary cost-recovery basis, adopting enhanced regulations as part of the City's existing regulatory program, and other options as retailers may wish to propose.
(b) Advocate for changes to state law that would remove barriers to the City recovering its costs for retrieving abandoned shopping carts.
CEQA: Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Planning, Building, and Code Enforcement)

Chris Burton, Director, Department of Planning, Building, and Code Enforcement; Rachel Roberts, Deputy Director, Department of Planning, Building, and Code Enforcement; Peter Hamilton, Assistant to the City Manager, City Manager's Office, Olympia Williams, Deputy Director, Department of Parks, Recreation, and Neighborhood Services; and Khaled Tawfik, Director, Information Technology, offered the presentation and responded to questions from Council.

Public Comment: Tim James offered public comment.

Action: Upon motion by Councilmember Michael Mulcahy, seconded by Councilmember George Casey, the motion carried, the City Manager was directed to: (a) conduct an outreach process with retailers in San Jose to evaluate options for enhancing the City's efforts to prevent and retrieve abandoned shopping carts, including the possibility of the City establishing a cart retrieval program, implementing an abandoned shopping cart retrieval program on a voluntary cost-recovery basis, adopting enhanced regulations as part of the City's existing regulatory program, and other options as retailers may wish to propose; and(b) advocate for changes to state law that would remove barriers to the City recovering its costs for retrieving abandoned shopping carts.

Including acceptance of the joint memorandum co-authored by Mayor Mahan and Councilmember's Cohen, Mulcahy, Doan, and Casey, dated February 4, 2025, recommending the following:

1. Accept the staff recommendation.
2. Direct the City Manager to report back to Council before May 2025 with:
   a.) An executed agreement to provide an abandoned shopping cart retrieval service that includes SJ311 integration for reporting abandoned carts, sets clear expectations for cart removal from creeks and trails, and outlines the process for disposing of carts filled with personal items, similar to the City of Milpitas.
   b.) Progress on establishing a voluntary cost-recovery cart retrieval program similar to the City of Milpitas.

c.) Recommendations to amend Municipal Code 9.60 to:
i. Prescribe stronger loss prevention strategies in the mandatory abandoned cart prevention plan, such as by mandating wheel locking mechanisms,
ii. Add a provision to 9.60.320 to assign penalties for unlawfully removing a cart from the premises of a business establishment without permission. (10-1-0. Noes: Campos)

8. COMMUNITY AND ECONOMIC DEVELOPMENT

No items provided.

9. REDEVELOPMENT – SUCCESSOR AGENCY

No items provided.

10. LAND USE

No items provided.

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

- **Open Forum**

  None provided.

- **Adjournment**

  The Council of the City of San José adjourned at 7:57 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Daniel Aguilar

Daniel Aguilar
Deputy City Clerk, City of San José

Approved at Council on:

# of Actions: 6

Attest By:

Toni J. Taber, MMC
City Clerk, City of San José

SAN JOSÉ CITY COUNCIL CLOSED SESSION AGENDA

February 4, 2025

Present: Councilmembers: Mahan, Kamei, Campos, Salas, Cohen, Ortiz, Mulcahy, Doan, Candelas, Foley, Casey.
Absent Councilmembers: None.

Place: City Hall Conference Room W-133

Time: 9:30 a.m.

Item(s) Discussed:

A. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):**

1.
Case Name: In re: Claim of Betancourt
Name(s) of Party(ies)
Court: Worker's Compensation Appeals Court
Case No: ADJ16994120, ADJ17283104, ADJ1858485, ADJ17379457
Amount of Money or Other Relief Sought: Benefits

2.
Case Name: In re: Claim of Johnson
Name(s) of Party(ies)
Court: Worker's Compensation Appeals Court
Case No: ADJ15840062, ADJ15839599, and ADJ15839556
Amount of Money or Other Relief Sought: Benefits

3.
Case Name: Vee, Ryoga v. City of San Jose

	Name(s) of Party(ies)	RYOGA VEE, CITY OF SAN JOSE
	Court:	Santa Clara Superior Court
	Case No:	21CV385105
	Amount of Money or Other Relief Sought:	Damages according to proof
4.	Case Name:	Johnson, Kyle v. City of San Jose
	Name(s) of Party(ies)	JOHNSON, KYLE, CITY OF SAN JOSE, JAMES ADGAR
	Court:	United States District Court, Northern District of California, San Jose Division
	Case No:	5:21-cv-01849-BLF
	Amount of Money or Other Relief Sought:	Damages according to proof
5.	Case Name:	Sutter's Place, Inc. v. City of San Jose
	Name(s) of Party(ies)	SUTTER'S PLACE, INC. DBA BAY 101, CITY OF SAN JOSE
	Court:	Superior Court of California, County of Santa Clara
	Case No:	1-14-CV-267311, consolidated with 16CV298883
	Amount of Money or Other Relief Sought:	Damages according to proof
6.	Case Name:	Sutter's Place, Inc., dba Bay 101 v. City of San Jose
	Name(s) of Party(ies)	SUTTER'S PLACE, INC., CITY OF SAN JOSE ET AL.
	Court:	Superior Court of California, County of Santa Clara
	Case No:	1-13-CV-258057
	Amount of Money or Other Relief Sought:	Refund, declaratory relief, injunctive relief

7.	Case Name:	Sutter's Place, Inc., dba Bay 101 v. City of San Jose
	Name(s) of Party(ies)	SUTTER'S PLACE, INC., CITY OF SAN JOSE ET AL.
	Court:	Superior Court of Santa Clara County
	Case No:	2016-1-CV-298883
	Amount of Money or Other Relief Sought:	Damages according to proof
8.	Case Name:	City of San Jose v. Sutter's Place, Inc., dba Bay 101 v.
	Name(s) of Party(ies)	CITY OF SAN JOSE ET AL., SUTTER'S PLACE, INC.
	Court:	Superior Court of California, County of Santa Clara
	Case No:	23CV418952
	Amount of Money or Other Relief Sought:	Damages according to proof

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

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

Number of matter(s) to be discussed: 3