

SAN JOSÉ CITY COUNCIL CLOSED SESSION AGENDA

September 14, 2021

Place: Teleconference

Time: **9:30 a.m.**

Item(s) to be discussed:

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

1. Case Name: In re: Mark Chavez
Name(s) of Parties(s) Involved:
Court: Workers Compensation Appeals Court
Case No.: ADJ13192533
Amount of Money or Other Relief Sought: Benefits
2. Case Name: Santa Cruz, et al., v. City of San Jose, et al.,
Name(s) of Parties(s) Involved: MARISSA SANTA CRUZ, PAEA I'SUVA TUKUAFU, CITY OF SAN JOSE; [FNU] THOMPSON; SAUL ZEPEDA, and DOES 1-10, inclusive,
Court: United States District Court, Northern District of California
Case No.: 5:20-cv-00351-NC
Amount of Money or Other Relief Sought: Damages according to proof
3. Case Name: Mallinckrodt plc, et al.
Name(s) of Parties(s) Involved:
Court: U.S. Bankruptcy Court, District of Delaware
Case No.: 20-12522-JTD

Amount of Chapter 11 Bankruptcy proceedings
Money or Other
Relief Sought:

B. CONFERENCE REGARDING POTENTIAL THREAT TO PUBLIC SERVICES OR FACILITIES PURSUANT TO GOVERNMENT CODE SECTION 54957(a):

Consultation with: IT Department

C. CONFERENCE REGARDING POTENTIAL THREAT TO PUBLIC SERVICES OR FACILITIES PURSUANT TO GOVERNMENT CODE SECTION 54957(a):

Consultation with: Security

D. CONFERENCE WITH LEGAL COUNSEL – THREATENED LITIGATION:

Attached written communication threatening litigation pursuant to Sections 54956.9(d)(2) and (e)(3) of the Government Code:

Number of matter(s) to be discussed: 1
Facts:

E. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6:

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or Name and Title of Unrepresented Employees: **Association of Building, Mechanical and Electrical Inspectors (ABMEI)**
Nature of negotiations: wages/salaries, hours, working conditions, etc.
Name of Existing Contract or MOA: Memorandum of Agreement – City of San José and Association of Building, Mechanical and Electrical Inspectors (ABMEI)
How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

2. Organization or Name and Title of Unrepresented Employees: **Association of Engineers & Architects (AEA)**

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

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

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

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

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

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

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

4. Organization or Name and Title of Unrepresented Employees: **City Association of Management Personnel Agreement (CAMP)**

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

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

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

- | | | |
|-----|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Name of Existing Contract or MOA: | Memorandum of Agreement — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150 |
| 8. | Organization or Name and Title of Unrepresented Employees: | International Union of Operating Engineers, Local No. 3 (OE#3) |
| | Nature of negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing Contract or MOA: | Memorandum of Agreement Between City of San José and International Union of Operating Engineers, Local No. 3 (OE#3) |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150 |
| 9. | Organization or Name and Title of Unrepresented Employees: | Peace Officer Park Ranger Association (POPRA) |
| | Nature of negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing Contract or MOA: | Memorandum of Agreement — City of San José and Peace Officer Park Ranger Association |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150 |
| 10. | Organization or Name and Title of Unrepresented Employees: | San José Police Officers' Association (SJPOA) |

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

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

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

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

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

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

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

August 26, 2021

San Jose City Council

200 E. Santa Clara St.
San José, CA 95113

RE: Demand for Cure and Correction: Ralph M. Brown Act

(Government Code § 54950 *et seq.*)

Dear Mayor Liccardo, Council Members Jones, Jimenez, Peralez, Cohen, Carrasco, Davis, Esparza, Arenas, Foley, and Mahan, City Manager Maguire.

A substantial violation of a central provision of the Ralph M. Brown Act may, unless cured and corrected, jeopardize the finality of the action taken by the San Jose City Council of Santa Clara County.

On August 24, 2021 the San Jose City Council took action by voting on Agenda item #3.4, to mandate the SARS-COV-2 “Vaccines” in order for citizens to access a number of indoor services and venues.

That action was not in compliance with the Brown Act because on information and belief, the action taken occurred as the culmination of a discussion unlawfully held in closed session; the action taken was the result of one or more non-public serial meetings or discussions of a majority of the members of the San Jose City Council; and the San Jose City Council’s failure to remain present during public comment, as well as to allow a reasonable time and opportunities for public comment and failing to maintain viewpoint neutrality by providing different speakers with different amounts of time to speak. At times during the meeting facilities that were to be made available to persons with disabilities or medical conditions were locked during the meeting and inaccessible even after access to them was requested. All members of the public that made comments were asked to identify themselves and the Agenda for the meeting was misleading. The Agenda stated “Vaccine Mandate” when it could have easily stated “Vaccine Mandate using QR Code-Enabled Technology to Identify Vaccinated Individuals” or some other version of this to inform the public of the true intentions of the Mandate.

Government Code Section 54952.6 defines “action taken” for the purposes of the Act expansively, *i.e.*, as “a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.”

Pursuant to Government Code Section 54960.1, I demand that the San Jose City Council cure and correct the unlawfully taken action by rescinding the action taken, with noticed to all

immediately affected persons, and if the matter is rescheduled for a future meeting, providing adequate description of the matter on that meeting's agenda.

Government Code Section 54960.1 allows you 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me so recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case I would seek the award of court costs and reasonable attorney fees pursuant to Section 54960.5

Very Truly Yours,



cc: **Office of the City Attorney**
200 E. Santa Clara St.
16th Floor
San Jose, CA 95113

Ezekiel 32:1-16

August 26, 2021

San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

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Cristie Connors



cc: **Office of the City Attorney**
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16th Floor
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dotran

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

cc: **Office of the City Attorney**
200 E. Santa Clara St.
16th Floor
San Jose, CA 95113

August 26, 2021

San Jose City Council

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A handwritten signature in black ink, appearing to be 'JMF' or similar, written over a black redaction bar.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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Very Truly Yours,

Lan Nguyen

Lan Nguyen

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

cc: **Office of the City Attorney**

200 E. Santa Clara St.

16th Floor

San Jose, CA 95113

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Very Truly Yours,

A handwritten signature in black ink, consisting of several loops and a final upward stroke.A solid black horizontal bar used to redact text.A solid black horizontal bar used to redact text.A solid black horizontal bar used to redact text.A solid black horizontal bar used to redact text.

cc: **Office of the City Attorney**
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Very Truly Yours,

A handwritten signature in black ink, appearing to read 'R7A', with a long horizontal flourish extending to the right.

Ruben Rosso

Four horizontal black bars of varying lengths, redacting the address information.

cc: **Office of the City Attorney**
200 E. Santa Clara St.
16th Floor
San Jose, CA 95113

Ezekiel 32:1-16