



# **City Council Meeting MINUTES**

**Tuesday, January 31, 2023**

**1:30 PM**

**Hybrid Meeting – Council Chambers and Virtually –  
<https://sanjoseca.zoom.us/j/88957084529>**

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



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

*Consistent with AB 361 and City of San Jose Resolution Nos. 80628, 80659, 80685, 80724, 80758, 80809, and 80853 Councilmembers may be teleconferencing from remote locations.*

### **• Call to Order and Roll Call**

9:30 a.m. - Closed Session

**23-157** Closed Session: [See Page 16 for Closed Session Minutes](#)

Absent: All Present.

1:36 p.m. - Afternoon Session

Present: Councilmembers - Jimenez, Torres, Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra  
Kamei; Mahan.

Absent: Councilmembers - All Present.

### **• Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

### **• Invocation (District 1)**

Victoria Thuy Vi McDowell, the Voice of Silicon Valley provided the Invocation through a performance of Amazing Grace.

### **• Orders of the Day**

Upon motion by Councilmember Pam Foley, seconded by Councilmember Sergio Jimenez and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

### **• Closed Session Report**

None

## **1. CEREMONIAL ITEMS**

- 1.1 City Clerk, Toni Taber, provided the Oaths of Office for the newly appointed Councilmembers. (City Clerk)
- 1.2 Councilmember Cohen presented a commendation to recognizing Cherrywood Chinese Immersion Program and invited Principal Tina Tong Choy to speak. (Cohen)
- 1.3 Councilmember Ortiz presented a proclamation to South Bay Labor Council, declaring January 21, 2023 as Almaden Quicksilver Mine Strike to recognize the local history of worker's rights. (Ortiz)
- 1.4 Vice Mayor Kamei presented a proclamation recognizing Victoria Thuy Vi McDowell as the Voice of Silicon Valley. (Kamei)

## **2. CONSENT CALENDAR**

Upon motion by Councilmember Dev Davis seconded by Councilmember Pam Foley and carried unanimously, all the below listed actions were taken as indicated. (11-0.)

Public Comments: Blair Beekman and Paul Soto offered public comment.

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

None provided.

### **2.2 Final Adoption of Ordinances.**

None provided.

### **2.3        23-172        Approval of Council Committee Minutes.**

(a) Regular Public Safety, Finance and Strategic Support Committee Minutes of December 15, 2022. (b) Regular Public Safety, Finance and Strategic Support Committee Minutes of November 17, 2022. (c) Regular Smart Cities and Service Improvements Committee Minutes of November 3, 2022. 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 Council Committee Minutes were approved. (11-0.)

### **2.4 Mayor and Council Excused Absence Requests**

None provided.

## 2.5 City Council Travel Reports.

None provided.

## 2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

- 2.7            23-123            Amendment to the Joint Powers Agreement for the California Cities Gaming Authority.**  
Adopt a resolution authorizing the City Manager to execute the Amendment to the California Cities Gaming Authority Joint Exercise of Powers Agreement to allow for the City of Bell, CA to join the Authority. 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. RES2023-11** was adopted, authorizing the City Manager to execute the Amendment to the California Cities Gaming Authority Joint Exercise of Powers Agreement to allow for the City of Bell, CA to join the Authority. (11-0.)

- 2.8            23-124            Agreement with Cascadia Consulting Group, Inc. for Residential Solid Waste Characterization Services.**  
Adopt a resolution authorizing the City Manager or designee to approve a Master Agreement with Cascadia Consulting Group, Inc. for waste characterization services for a four-year term in an amount not to exceed \$1,000,000 for the contract duration. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Environmental Services)

Action: **Resolution No. RES2023-12** was adopted, authorizing the City Manager or designee to approve a Master Agreement with Cascadia Consulting Group, Inc. (11-0.)

- 2.9            23-125            Amendment to the Agreement with Econolite Systems, Inc. for an Automated Traffic Signal Performance Measures System.**  
Adopt a resolution authorizing the City Manager or designee to: (a) Negotiate and execute the First Amendment to the Agreement with Econolite Systems, Inc. (Anaheim, CA) for an Automated Traffic Signal Performance Measures System to add professional services for mobility modifications and increase maximum compensation by \$11,870 for a revised not to exceed amount of \$248,637 for a three-year initial term ending September 30, 2023; and (b) Negotiate and execute amendments and change orders as required for any unanticipated changes for an additional contingency of \$50,000 during the initial 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)

*(Item continued on next page)*

## 2.9 (Cont'd.)

Action: **Resolution No. RES2023-13** was adopted, authorizing the City Manager, or their designee, to negotiate and execute the First Amendment to the Agreement and amendments and change orders as required for any unanticipated changes for an additional contingency of \$50,000 during the initial term with Econolite Systems, Inc. (11-0.)

**2.10      23-126      City Initiatives Roadmap - Emergency Fiscal Recovery and Planning:  
Amendment to the Agreement with Ernst & Young, LLP for COVID-19  
Consulting Support Services.**

Adopt a resolution authorizing the City Manager or designee to negotiate and execute the Fourth Amendment to the Agreement with Ernst & Young, LLP (San José, California) for consulting support to assist the City of San José in strategic management of COVID-19 funding sources and provide technical guidance related to a comprehensive disaster cost recovery model, to increase compensation by \$260,000 for a revised amount not-to-exceed \$1,500,000 and extend the contract term to June 30, 2023. 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. RES2023-14** was adopted, authorizing the City Manager or their designee to negotiate and execute the Fourth Amendment to the Agreement with Ernst & Young, LLP. (11-0.)

**2.11      23-127      Approval of the 2022 Edward Byrne Memorial Justice Assistance Grant  
Spending Plan; and Adoption of Appropriation Ordinance and Funding Sources  
Resolution Amendments in the Edward Byrne Memorial Justice Assistance  
Grant Trust Fund in 2022-2023.**

(a) Approve the Spending Plan for the 2022 Edward Byrne Memorial Justice Assistance Grant in the amount of \$367,516. (b) Adopt a resolution accepting the 2022 Edward Byrne Memorial Justice Assistance Grant in the amount of \$367,516 and authorizing the City Manager to negotiate and execute the Grant Agreement and all related documents for the grant award received from the U.S. Department of Justice without further City Council action. (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund: (1) Increase the estimate for Revenue from Federal Government by \$367,516; and (2) Establish an appropriation to the Police Department for the 2022 Justice Assistance Grant in the amount of \$367,516. 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. (Police/City Manager)

Action: (a) The Spending Plan for the 2022 Edward Byrne Memorial Justice Assistance Grant was approved, and (b) **Resolution No. RES2023-15**, (c) **Appropriation Ordinance No. 30877**, and Funding Sources **Resolution No. RES2023-16** were adopted. (11-0.)

- 2.12      23-128      **Amendment to the Agreement with San José Downtown Association and San José Downtown Property Owners for Downtown Property-Based Business Improvement District Services.**  
Adopt a resolution to extend the existing agreement with the San José Downtown Association and the San José Downtown property owners for the management and delivery of services for the Downtown Property-Based Business Improvement District, retroactively from January 1, 2023 through June 30, 2023. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical change to the environment. Council Districts 3 and 6. (Transportation)

Councilmember Torres expressed support for this Item and considered it of great importance for San Jose Downtown.

Action: **Resolution No. RES2023-17** was adopted, to extend the existing agreement with the San José Downtown Association and the San José Downtown property owners. (11-0.)

- 2.13      23-167      **Approval of San José Mayor Mahan’s Inaugural Celebration Sponsored by the Mayor’s Office as a City Council sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**  
(a) Approve the Mayor Mahan’s Inaugural Celebration scheduled on February 1, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Mayor) [Rules Committee referral 1/25/2023 - Item A.1.a]

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

- 2.14      23-171      **Retroactive Approval of the District 4 Neighborhood Clean Up Day and Approval of the Alviso Park Tree Planting Event and the Southeast (SE) Berryessa Dumpster Day Sponsored by Council District 4 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.**  
As recommended by the Rules and Open Government Committee on January 25, 2023: (a) Retroactively approve the District 4 Neighborhood Clean Up Day scheduled on January 21, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; (b) Approve the Alviso Park Tree Planting event scheduled on February 4, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; (c) Approve the SE Berryessa Dumpster Day scheduled on February 11, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; and (d) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Cohen) [Rules Committee referral 1/25/2023 - Item B.2]

Action: The City Council sponsored Special Event was retroactively approved and the City Council sponsored Special Events were approved. (11-0.)

### **3. STRATEGIC SUPPORT**

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

City Manager Jennifer Maguire reported on the recent success of the City's Emergency Operations Centers in evacuating 200 unhoused residents and successfully transferring 126 individuals, including families, to more secure housing at the City's newly created Evacuee Transition facilities in response to the recent atmospheric river storms. The City Manager expressed thanks for the tireless efforts of city staff and the non-profit partners involved in this work including those from Housing, Parks, Recreation, and Neighborhood Services, Public Works, Finance, Information Technology as well as the American Red Cross, Home First, San Jose Conservation Corps, County of Santa Clara, Destination Home, Valley Water, Cal Trains and the Valley Transportation Authority.

#### **3.2 Labor Negotiations Update.**

None provided.

#### **3.3        23-129        Annual Report on City Services 2021-2022.**

Accept the Annual Report on City Services for 2021-2022. 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 Auditor)

City Auditor Joe Rois and Senior Program Performance Auditor Stephanie Noble provided the presentation. Along with the presenters, the following members of staff responded to questions: Housing Director Jacky Morales-Ferrand, Deputy City Manager Omar Passons, Deputy City Manager Rob Lloyd, Police Chief Anthony Mata, Transportation Director John Ristow, Fire Chief Robert Sapien, Planning, Building, Code Enforcement Director Chris Burton, City Librarian Jill Bourne, Office of Economic Development and Cultural Affairs Director Nanci Klein, Office of Economic Development and Cultural Affairs Division Manager Monique Melchor, Assistant City Manager Lee Wilcox, and Director of Communications Carolina Camarena.

Public Comments: Paul Soto and Blair Beekman provided public comment.

Action: Upon motion by Pam Foley, seconded by David Cohen, and carried unanimously, the Annual Report on City Services 2021-2022 was accepted. (11-0.)

#### **3.4        23-130        Report on Request for Proposal for Citywide Security Guard Services. – DEFERRED.**

Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager or designee to: (a) Negotiate and execute agreements with Good Guard Security, Inc. (Chatsworth, CA) for security guard services for the Airport, Transportation, Public Works, Parks, Recreation and Neighborhood Services, Library, and Environmental Services Departments with an initial 14-month term beginning on or about February 1, 2023 and ending March 31, 2024, with a total aggregate compensation for all agreements not to exceed \$9,048,442 for the initial

*(Item continued on next page)*

### 3.4 (Cont'd.)

term, subject to the appropriation of funds; (b) Negotiate and execute amendments and change orders as required to add, delete, or modify services, such as for special events, or to address seasonal variations, budgetary constraints, or unanticipated changes in demand, subject to the appropriation of funds; (c) Exercise up to four one-year options to extend the terms of the agreements through March 31, 2028, subject to the appropriation of funds; and (d) Negotiate and execute additional agreements or purchase orders with Good Guard Security, Inc. leveraging the same Request for Proposal to provide security guard services for other City departments as requested, subject to substantially the same material terms and conditions and 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)  
DEFERRED PER RULES AND OPEN GOVERNMENT COMMITTEE

**THIS REPORT WAS DEFERRED PER RULES AND OPEN GOVERNMENT COMMITTEE.**

## **4. PUBLIC SAFETY SERVICES**

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

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

- 6.1      23-133      Municipal Regional Stormwater Permit Reissuance.**  
As recommended by the Transportation and Environment Committee on December 5, 2022, accept the report on the Municipal Regional Stormwater National Pollutant Discharge Elimination System permit reissuance. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Environmental Services)  
[Transportation and Environment Committee referral 12/5/22 - Item (d)2]

**THIS ITEM WAS HEARD FOLLOWING ITEM 7.1.**

Environmental Service Department's Director Kerrie Romanow, Deputy Director Rajani Nair, and Senior Environmental Program Manager Mary Morse provided the presentation and responded to questions along with the following members of staff: Deputy City Manager Kip Harkness, Parks, Recreation, and Neighborhood Services Director Jon Cicirelli, and Deputy City Manager Omar Passons.

Public Comments: Blair Beekman and Paul Soto offered public comments.

Action: Upon motion by David Cohen, seconded by Councilmember Bien Doan, and carried unanimously, the report on the Municipal Regional Stormwater National Pollutant Discharge Elimination System permit reissuance was accepted. (11-0.)



## **7. NEIGHBORHOOD SERVICES**

### **7.1            23-134            Mayor's Gang Prevention Task Force Plan - San José Youth Violence Prevention Strategy.**

As recommended by the Neighborhood Services and Education Committee on December 8, 2022: (a) Accept the Mayor's Gang Prevention Task Force Strategic Plan. (b) Adopt the following changes: (1) San José Youth Empowerment Alliance as the new name of the Mayor's Gang Prevention Task Force as approved by the Policy Team on October 27, 2022; and (2) Discontinue use of the term "Hot Spots" by the Administration to define areas of high youth and gang crime and replace it with the term Opportunity Neighborhoods. CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Parks, Recreation and Neighborhood Services) [Neighborhood Services and Education Committee referral 12/8/2022- Item (d)2] [Deferred from 1/24/2023 - Item 7.1]

### **THIS ITEM WAS HEARD FOLLOWING ITEM 3.3**

Parks, Recreation, and Neighborhood Services Director Jon Cicirelli, Deputy Director Andrea Flores Shelton, and Division Manager Mario Maciel, provided the presentation and responded to questions along with Office of Economic Development and Cultural Affairs Division Manager Monique Melchor.

Parks, Recreation, and Neighborhood Services Director Jon Cicirelli requested the removal of Item 2 from the Staff Recommendations.

Public Comments: Forty-eight members of the public offered public comments including representatives and members of New Hope for Youth, The Tenacious Group, Catholic Charities, and various Neighborhood Associations.

Action: Upon motion by Omar Torres, seconded by Councilmember Bien Doan and carried unanimously, the Mayor's Gang Prevention Task Force Strategic Plan was accepted with the following change: (1) San José Youth Empowerment Alliance as the new name of the Mayor's Gang Prevention Task Force as approved by the Policy Team on October 27, 2022. (11-0).

### **7.2            23-135            Actions Related to a Future Park Located at the Southwest Corner of Alma Avenue and Sanborn Avenue.**

(a) Approve a Park Master Plan for a new public park at the southwest corner of Alma Avenue and Sanborn Avenue. (b) Adopt the name "Elia Park" per City Council Policy 7-5 and the Donation Agreement. (c) Adopt a resolution authorizing the City Manager to: (1) Submit a grant application and, if awarded, negotiate, and execute a grant agreement with the Santa Clara Valley Open Space Authority for an amount up to \$1,000,000 contributing to design and construction of the park, and all other actions necessary to effectuate the grant; and (2) Negotiate and execute a Conservation Easement with the Santa Clara Valley Open Space Authority for

*(Item continued on next page)*

## 7.2 (Cont'd.)

perpetual use of the land for recreational park purposes only that requires a conservation easement for legally enforceable land preservation agreement. (d) Adopt the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #7: (1) Decrease the Alma Avenue and Sanborn Avenue Park Reserve by \$274,000; and (2) Increase the Alma Park Master Plan and Design appropriation by \$274,000. CEQA: Categorically Exempt, File No. ER21-153, CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures. Council District 7. (Parks, Recreation and Neighborhood Services/City Manager)]

Parks, Recreation, and Neighborhood Services Director Jon Cicirelli, Associate Landscape Architect Han-Lei Wang, and Planner Leonel Tapia provided the presentation and responded to questions.

Public Comments: Paul Soto offered public comment.

Action: Upon motion by Bien Doan, seconded by Councilmember Omar Torres and carried unanimously, (a) the Park Master Plan for a new public park was approved; (b) the name “Elia Park” was adopted; (c) and **Resolution No. RES2023-18** and (d) **Appropriation Ordinance No. 30878** were adopted. (10-0-1. Absent: Jimenez.)

## **8. COMMUNITY & ECONOMIC DEVELOPMENT**

- |     |        |  |
|-----|--------|--|
| 8.1 | 23-136 | <p><b>First Substantial Amendment to the Fiscal Year 2022-2023 Annual Action Plan for Transfer of Neighborhood Stabilization Program Income Funds to Community Development Block Grant for Eligible Uses.</b></p> <p>(a) Hold a public hearing to allow for public comment. (b) Adopt a resolution relating to the following actions regarding a first amendment to the existing Fiscal Year 2022-2023 Annual Action Plan that includes changes to the federal Neighborhood Stabilization Program and the Community Development Block Grant to the City of San José: (1) Approve the following changes relating to the Substantial Amendment to the Fiscal Year 2022-2023 Annual Action Plan to: (i) Decrease Neighborhood Stabilization Program income funds by \$584,220 and redirect funds to Community Development Block Grant eligible uses; (ii) Increase Community Development Block Grant program income funds by \$584,220 and apply funds to other Community Development Block Grant eligible uses; (2) Authorize the Housing Department to submit the Substantial Amendment to the U.S. Department of Housing and Urban Development; and (3) Authorize the City Manager or her designee to negotiate and execute agreements with grantees for the activities identified in these Annual Action Plan amendments and all related contract amendments, extensions, and changes. 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, and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Housing)</p> |
|-----|--------|--|

*(Item continued on next page)*

## 8.1 (Cont'd.)

Housing Department's Director Jacky Morales-Ferrand, Deputy Director Ragan Henninger and Senior Development Officer Sandra Murillo provided the presentation and responded to questions.

Mayor Mahan opened the public Hearing.

Public Comments: Paul Soto and Blair Beekman offered public comment.

Mayor Mahan closed the public Hearing.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Omar Torres, and carried unanimously, (b) **Resolution No. RES2023-19**, relating to the following actions regarding a first amendment to the existing Fiscal Year 2022-2023 Annual Action Plan, was adopted. (10-0-1. Absent: Jimenez.)

## 8.2      23-137      **Actions Related to the Loan Commitment for New Affordable Housing Development Located at 1510-1540 Parkmoor Avenue.**

(a) Adopt a resolution: (1) Approving a total commitment of up to \$16,826,688 from the Low and Moderate Income Housing Asset Fund and the Affordable Housing Impact Fee Fund for a Construction-Permanent Loan to Allied Housing, Inc. or an affiliated development entity for the Parkmoor Community Apartments, located at 1510-1540 Parkmoor Ave., which is being developed to provide 79 affordable rent-restricted units, and two unrestricted manager units, which commitment includes an amount not to exceed \$11,803,587 in the Low and Moderate Income Housing Asset Fund and \$5,023,101 in the Affordable Housing Impact Fee Fund; (2) Authorizing a loan-to-value ratio of greater than 100% to Allied Housing Inc. or an affiliated development entity; (3) Authorizing the loan terms to allow an increase in the rents and income restrictions up to 60% of area median income for new tenants in project-based voucher subsidized units in the event of expiration or termination of project-based vouchers for the Parkmoor Community Apartments, or for all tenants in the event of foreclosure, to the extent the City has determined such increase is needed for the feasibility of the development and allowed by other funds; and (4) Authorizing the Director of Housing or the Director's designee to negotiate and execute loan documents and all other documents, including any amendments thereto, related to City financing for the Parkmoor Community Apartments. (b) Adopt the following 2022-2023 Appropriation Ordinance amendments in the Affordable Housing Impact Fee Fund: (1) Decrease the Housing Project Reserve appropriation by \$4,400,000; (2) Decrease the Unrestricted Ending Fund Balance by \$623,101; and (3) Increase the Housing Loans and Grants appropriation to the Housing Department by \$5,023,101. (c) Adopt the following 2022-2023 Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund: (1) Decrease the Housing Project Reserve appropriation by \$2,245,000; (2) Decrease the Committed Projects Reserve by \$9,558,587; and (3) Increase the Housing Loans and Grants appropriation to the

*(Item continued on next page)*

## 8.2 (Cont'd.)

Housing Department by \$11,803,587. CEQA: Exempt; CEQA review per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. Council District 6. (Housing/City Manager)

### **THE PRESENTATIONS AND PUBLIC COMMENT FOR ITEMS 8.2 AND 8.3 WERE PROVIDED TOGETHER.**

Housing Department's Director of Housing Jacky Morales-Ferrand and Deputy Director Rachel VanderVeen provided the presentation and responded to questions.

Public Comments: Sean Paul, Alex Shoor (Catalyze SV), Lalo Mendez (Catalyze SV), Rene Baez, Blair Beekman, Paul Soto and Jill Borders offered public comments.

Councilmember Batra expressed concern on the cost of each unit and the time required for construction and suggested the benefits of prefab construction to reduce both costs and time.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember David Cohen and carried unanimously, (a) **Resolution No. RES2023-20**, (b) Appropriation **Ordinance No. 30879**, (c) and Appropriation **Ordinance No. 30880** were adopted. (10-1. Noes: Batra.)

- 8.3      23-138      Actions Related to the Loan Commitment and Land Purchase for the Dry Creek Crossing Affordable Housing Development Located at 2388 S. Bascom Avenue.**
- (a) Adopt a resolution: (1) Approving a total Construction-Permanent Loan commitment of up to \$9,450,000 and a land acquisition loan or acquisition funding commitment of up to \$5,200,000 in funds from Measure E Real Property Transfer Tax allocations (Measure E) for Pacific Southwest Community Development Corporation or an affiliated development entity in conjunction with CRP Affordable Housing and Community Development LLC or affiliated entities (collectively, Developer), for Dry Creek Crossing, located at 2388 S. Bascom Ave., which will provide 63 affordable rent-restricted apartments and one unrestricted manager's apartment (Development); (2) Authorizing a loan-to-value ratio of greater than 100% for this Development; (3) Authorizing the Director of Housing to acquire the 2388 S. Bascom Ave site from the Developer for a price not to exceed \$5,200,000 and to ground lease the site to the Developer for the Development; (4) Authorizing the Director of Housing or the Director's designee to negotiate and execute documents and document amendments related to the acquisition and development of the site, and the ground leasing of the site, including a deed acceptance and any riders to the ground leases required by government entities and to execute lender's consents to these lease riders; (5) Authorizing the Director of Housing or the Director's designee to negotiate and execute loan documents and all other documents, including any amendments thereto, related to City financing for the Development; and (6) Making a determination that, consistent with Government Code Section 37364, after acquisition, the 2388 S. Bascom Ave site is to be leased to the Developer without

*(Item continued on next page)*

### 8.3 (Cont'd.)

first offering the site to the public for any other use, since the site will be restricted so as to provide housing affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development or its successors, and that this use is in the City's best interests. (b) Adopt the following 2022-2023 Appropriation Ordinance amendments in the General Fund: (1) Decrease the Measure E - 40% Extremely Low-Income Households Reserve by \$4,185,714; (2) Decrease the Measure E - 30% Low-Income Households Reserve by \$7,906,349; (3) Decrease the Measure E - 5% Moderate-Income Households Reserve by \$2,557,937; (4) Increase the Measure E - 40% Extremely Low-Income Households appropriation to the Housing Department by \$4,185,714; (5) Increase the Measure E - 30% Low-Income Households appropriation to the Housing Department by \$7,906,349; and (6) Establish the Measure E - 5% Moderate-Income Households appropriation to the Housing Department in the amount of \$2,557,937. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 9. (Housing/City Manager)

**THE PRESENTATIONS AND PUBLIC COMMENT FOR ITEMS 8.2 AND 8.3 WERE PROVIDED TOGETHER.**

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Omar Torres, and carried unanimously, staff recommendations were approved with the adoption of (a) **Resolution No. RES2023-21**; and (b) Appropriation **Ordinance No. 30881**. (11-0.)

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

### **10. LAND USE**

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

**END OF CONSENT CALENDAR.**

## **10 Land Use – Regular Agenda**

- 10.2          23-139          Burbank 44 & C20-011 - Annexation and Prezoning for Certain Real Property Located at 1883-1887, 1891-1995, 1897-1899 West San Carlos Street and 13 Boston Avenue. - RENOTICED TO 2/14/2023 (Initiate Annexation).**
- (a) Adopt a resolution certifying the Environmental Impact Report for the 1881 West San Carlos Project, making certain findings concerning significant impacts, mitigation measures, and alternatives, and adopting a Statement of Overriding Considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act. (b) Approve an ordinance rezoning an approximately 0.895-gross-acre site in Santa Clara County unincorporated territory designated as Burbank No. 44 into the Mixed Use Commercial Zoning District. (c) Adopt a resolution initiating proceedings and scheduling February 14, 2023, for City Council consideration of the reorganization of the territory designated as Burbank No. 44, which involves the annexation to the City of San José of approximately 0.895 gross acres of land from Santa Clara County unincorporated territory and the detachment of the same from the appropriate special districts, excepting the Burbank Sanitary District. CEQA: Environmental Impact Report for the 1881 West San Carlos Project (Burbank 44/C20-011/ CP20-020/T20-016), State Clearinghouse No. 2020120059. Planning Commission recommended approval 12/14/2022 - Item 5.a. (10-0-0). Council District 6. (Planning, Building and Code Enforcement)

**RENOTICED TO 2/14/2023 (Initiate Annexation) PER ADMINISTRATION.**

## • Open Forum

1. Sean Paul spoke on enhancing the community's economic development through investment in infrastructure and the foundation required for growth to take place.
2. Citiaimina Ortiz expressed concern and urgency on the Fallon Statue not yet being removed despite approval to remove by the City Council and Cultural Affairs.
3. Blair Beekman spoke on commenting in public meetings among new Councilmembers and their wish to share positive comments and create a safe space for conversation.
4. Paul Soto emphasized history being important to the identity of the City as well as the credibility of San Jose and recognition around the world.
5. Brian Darby expressed his approval of the meeting.
6. Lei F protested the 535 N Capitol Ave. Development by Community Development Partners and expressed concern on the use of private roadways by the new development.
7. Jill Borders spoke on the relationship between those that are renters and those that are owners and expressed concern on the Renter-specific application question required for new Commission and Council members.
8. Kate Shiu expressed concern on the density of the 535 N Capitol Ave. development and spoke on a lack of clarity on the development plans in regard to building height.
9. Rene Baez offered thanks to the Mayor and Councilmembers and spoke on the requirement for Developers to hire responsible General Contractors and existing protections in surrounding cities.
10. Cayce Hill, Executive Director of Veggielution, spoke on the connection between food security and housing security to build agency and Veggielution's effort to bring integrative services to the 525 N. Capitol Ave development.
11. Fan Liu protested the 525 N Capitol Ave. development and expressed concern on the potential of negative impacts to local traffic infrastructure and potential increasement of the unhoused community.
12. Nishanth Sivakumar spoke in opposition to the 525 N Capitol Ave. development. They expressed that the initial intended use and density of the project has changed and expressed a desire for a safe community.
13. Supritha Amudhu opposed the 525 N Capitol Ave. development and expressed their desire to maintain the existing community and space.

## • Adjournment

The Council of the City of San José adjourned at 9:14p.m. in the memory of Barinder S. Ahluwalia who passed away on December 20, 2022. Barinder was a longtime Berryessa resident who was dedicated to public service, including serving on the City of San José's Planning Commission and Parks and Recreation Commission.

Minutes Recorded, Prepared, and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

get/01-31-23 MIN

SAN JOSÉ CITY COUNCIL CLOSED SESSION

**JANUARY 31, 2023**

The Council of the City of San José convened into Closed Session at 9:30 a.m.

This meeting was held in City Hall Conference room W-133

Present: Councilmembers - Jimenez, Torres, Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra  
Kamei; Mahan.

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: California Waste Solutions, Inc. v. City of San Jose, et al.  
Name(s) of Partie(s) California Waste Solutions, Inc.; City of San Jose; and  
Involved: DOES 1 to 50,  
Court: Superior Court, State of California Santa Clara County  
Case No.: 23CV409641

Amount of Money or Damages according to proof  
Other Relief Sought:

2. Case Name: San Jose Spotlight, et al., v. City of San Jose, et al.,  
Name(s) of Partie(s) SAN JOSÉ SPOTLIGHT and FIRST AMENDMENT  
Involved: COALITION, CITY OF SAN JOSÉ and MAYOR SAMUEL  
THEODORE LICCARDO, individually and as an official for  
the City of San José  
Court: Santa Clara County Superior  
Case No.: 22CV394443

Amount of Money or Declaratory And Injunctive Relief  
Other Relief Sought:



## **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: 1

## **C. 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: **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 (MEF)  
How to Obtain a copy of Existing Contract or MOA: Web: <https://www.sanjoseca.gov/your-government/departments/employee-relations/labor-relations-information/bargaining-units-labor-contract-info>  
Telephone – Employee Relations: (408) 535-8150

By unanimous consent, Council recessed from the Closed Session to reconvene in Regular Open Session at 1:30 p.m. in the Council Chamber.