



City Council Meeting Minutes

Tuesday, February 14, 2023

1:30 PM

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

MATT MAHAN, MAYOR
ROSEMARY KAMEI, 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 José Resolution Nos. 80628, 80659, 80685, 80724, 80758, 80809, RES2023-1 and RES2023-22, Councilmembers may be teleconferencing from remote locations.

- **Call to Order and Roll Call**

9:36 a.m.- Closed Session 23-177: *See Pages 17-18 for Closed Session Minutes.*

Present Councilmembers: All present. (Council Chambers Conference Room, W133.)

Absent Councilmembers: All present.

11:00 a.m. - Study Session: Priority Setting Session #1 - Mayoral Transition Committee Report,

Present Councilmembers: All present. (Council Chambers.)

Absent Councilmembers: All present.

2:30 p.m. - Regular Session

Present Councilmembers: All present. (Council Chambers.)

Absent Councilmembers: All present.

6:00 p.m. - Evening Session – Cancelled.

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 2)**

Reverend Dr. Bryan J. Franzen, Pastor of Westminster Presbyterian Church offered the invocation.

- **Orders of the Day**

There were no changes to the Orders of the Day. No vote was required.

Mayor Matt Mahan offered that today's meeting would be adjourned in memory of Bea Robinson Mendez.

- **Closed Session Report**

City Attorney, Nora Frimann stated the City Attorney's Office received authority to file an action; with received direction to bring to open session for Council consideration, joining an amicus brief for both the City and County of Los Angeles in the Texas vs. USA Case relating to DACA.

1. CEREMONIAL ITEMS

- 1.1 Mayor Matt Mahan and Councilmember Domingo Candelas presented the proclamation recognizing February 4, 2023 as Saka Nakodar Day. The proclamation was presented to Sukhdev Bainiwal, Dr. Harinder Singh, and several members of the Sikh community. They raised awareness and honored the four Sikh youths killed during a peaceful religious protest at Saka Nakodar in 1986.
- 1.2 Councilmember Dev Davis presented the proclamation recognizing February 2023 as American Heart Month. The proclamation was presented to Senior Community Impact Director, Dionisio Palencia; Senior Director, Communications & Marketing, Donna Kato, and Lisa Lovely.

2. CONSENT CALENDAR

Public Comment: (Zoom speakers) Alex Shoor, Paul Soto, and Blair Beekman provided public testimony regarding the Consent Calendar.

Action: Upon motion by Councilmember Ortiz, seconded by Councilmember Foley and carried unanimously, the below listed actions were taken as indicated. (10-0-1. Absent: Torres.)

- 2.1 23-218 Approval of City Council Minutes.**
(a) City Council Meeting Minutes of January 24, 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 City Council Minutes were approved. (10-0-1. Absent: Torres.)

2.2 Final Adoption of Ordinances.

None provided.

- 2.3 23-225 Approval of Council Committee Minutes.**
(a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Minutes of January 11, 2023.
(b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Minutes of January 18, 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 Council Committee Minutes were approved. (10-0-1. Absent: Torres.)

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 23-181 **Amendment to the Agreement with Guidehouse, Inc. for Customer Service Vision and Standards Services.**

Adopt a resolution authorizing the City Manager or designee to negotiate and execute the First Amendment to the Master Consulting Agreement with Guidehouse, Inc. (Falls Church, VA) to extend the initial term for 12 months through June 30, 2024, and increase the compensation in the amount of \$400,000 for a maximum compensation not to exceed \$800,000, and with no change in options to extend the agreement, 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. (City Manager)

Action: **Resolution No. RES2023-24** was adopted. (10-0-1. Absent: Torres.)

2.8 23-182 **Amendment to Purchase Order with Jensen Landscape Services, LLC for Landscape and Irrigation Maintenance Services.**

Adopt a resolution authorizing the City Manager or designee to amend purchase order OP 59024 with Jensen Landscape Services, LLC (Milpitas, CA) for landscape and irrigation maintenance services to increase the total compensation by \$90,000, for a maximum compensation not-to-exceed \$511,000 for the period ending June 30, 2023. CEQA: Determination of Consistency with the Norman Y. Mineta San José International Airport Master Plan Amendment Environmental Impact Report, File No. ER22-279. (Finance)

Action: **Resolution No. RES2023-25** was adopted. (10-0-1. Absent: Torres.)

2.9 23-183 **Actions Related to the First Amendment to the Funding Agreement with Santa Clara Valley Water District for the Coyote Creek and Guadalupe River Trail Patrol Program.**

(a) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a first amendment to the agreement for the Coyote Creek and Guadalupe River Trail Patrol Program with the Santa Clara Valley Water District in the amount of \$400,000 for the extension of six months (January 1, 2023 to June 30, 2023).

(Item Continued on the Next Page)

2.9 (Cont'd.)

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

(1) Increase the Coyote Creek and Guadalupe River Trail Patrol City-Wide Expenses appropriation to the Police Department by \$400,000; and

(2) Increase the estimate for Revenue from Local Agencies by \$400,000. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Police/City Manager)

Action: (a) **Resolution No. RES2023-26**, (b) Appropriation **Ordinance No. 30882**, and (b) Funding Sources **Resolution No. RES2023-27** were adopted. (10-0-1. Absent: Torres.)

2.10 23-184

Actions Related to the 9387 - Park: Happy Hollow Park & Zoo Exhibit Poles Project.

Award a construction contract for the 9387 - Park: Happy Hollow Park & Zoo Exhibit Poles Project to Suarez & Munoz Construction, Inc. pursuant to City Charter Section 1217 (h), in the amount of \$1,712,600 and approve a ten percent contingency in the amount of \$171,260. CEQA: Categorically Exempt, File No. ER21-115, CEQA Guidelines Section 15301. Existing Facilities. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services)

Action: The construction contract related to the 9387- Park: Happy Hollow Park & Zoo Exhibit Poles Project was awarded. (10-0-1. Absent: Torres.)

2.11 23-185

Agreement Between the Santa Clara Valley Transportation Authority and the City of San José for the Eastridge to BART Regional Connector Project.

(a) Adopt a resolution making certain findings as the responsible agency for purposes of and pursuant to the provisions of the California Environmental Quality Act (CEQA) in connection with the approval of discretionary actions by the City of San José deemed necessary for the construction and operation of the Eastridge to BART Regional Connector Project and adopting the related Mitigation Monitoring and Reporting Program.

(b) Adopt a resolution authorizing the City Manager or designee to negotiate and execute Amendment No. 1 of the Operations and Maintenance Agreement between the Santa Clara Valley Transportation Authority and the City for the Eastridge to BART Regional Connector Project. CEQA: Santa Clara Valley Transportation Agency's Eastridge to BART Regional Connector Project Final Environmental Impact Report, Final Supplemental Environmental Impact Report and Second Supplemental

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2.11 (Cont'd.)

Environmental Impact Report. File No. ER22-268. Council Districts 5 and 8. (Transportation)

Action: (a) **Resolution No. RES2023-28** and (b) **Resolution No. RES2023-29** were adopted. (10-0-1. Absent: Torres.)

2.12 23-207

Acceptance of the Retirement Plans' Annual Comprehensive Financial Reports for Fiscal Years Ending June 30, 2022 and June 30, 2021.

Accept the following annual reports:

(a) Police and Fire Department Retirement Plan Annual Comprehensive Financial Report for the Fiscal Years ended June 30, 2022 and June 30, 2021; and

(b) Federated City Employees' Retirement System Annual Comprehensive Financial Report for the Fiscal Years ended June 30, 2022 and June 30, 2021.

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

[Deferred from 2/7/2023 - Item 2.8 (23-160)]

Action: (a) The Police and Fire Department Retirement Plan Annual Comprehensive Financial Report and (b) Federated City Employees' Retirement System Annual Comprehensive Financial Report for the Fiscal Years ending June 30, 2022 and June 30, 2021 were both accepted. (10-0-1. Absent: Torres.)

2.13 23-242

VEBA Advisory Committee Appointment.

As recommended by the Rules and Open Government Committee on February 8, 2023, approve the following appointment to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee for a partial term beginning March 1, 2023 and ending May 31, 2025:

(a) Pablo Polidoro as the IAFF Local 230 active employee member nominated by the IAFF Local 230. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Human Resources) [Rules Committee referral 2/8/2023 - Item B.5]

Action: The Voluntary Employees Beneficiary Association (VEBA) Advisory Committee Appointment was approved. (10-0-1. Absent: Torres.)

2.14 23-230

Approval of Ukraine Flag Raising Ceremony and Tower and Rotunda Lighting 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.

As recommended by the Rules and Open Government Committee on February 8, 2023:

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2.14 (Cont'd.)

- (a) Approve the Ukraine Flag Raising Ceremony scheduled in February 24, 2023 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Approve the Ukrainian flag colors Tower and Rotunda Lighting scheduled on February 24 - 26, 2023; and
- (c) 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 2/8/2023 - Item B.2]

Action: The City Council Sponsored Special Event was approved. (10-0-1. Absent: Torres.)

2.15 23-234

Approval of Comanche Blossom Valley Neighborhood Association Dumpster Day Sponsored by Council District 10 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on February 8, 2023:

- (a) Approve the Comanche Blossom Valley Neighborhood Association Dumpster Day scheduled on March 4, 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. (Batra) [Rules Committee referral 2/8/2023 - Item B.3]

Action: The City Council Sponsored Special Event was approved. (10-0-1. Absent: Torres.)

2.16 23-238

Approval of Winter Walk and Senior Resource Fair Sponsored by Council Districts 10, 9, and 2 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on February 8, 2023:

- (a) Approve the Winter Walk and Senior Resource Fair scheduled on February 24, 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. (Batra) [Rules Committee referral 2/8/2023 - Item B.4]

Action: The City Council Sponsored Special Event was approved. (10-0-1. Absent: Torres.)

3. STRATEGIC SUPPORT

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

City Manager, Jennifer Maguire offered the report and spoke to the San José Airport rebranding work being done, gave a background to the Airports history, its new logo, and branding identity. She honored and spoke to the legacy of former United States Secretary of Transportation, Norman Mineta. She presented a video discussing the process of developing the Airport's new brand identity and what it represents for the now San José Mineta Airport. She highlighted and thanked Airport Director, John Aitken, and his entire team for their important work on this project.

3.2 Labor Negotiations Update.

None presented.

3.3 23-186 Approval of the 2022-2023 Mid-Year Budget Review Report.

(a) Approve the 2022-2023 Mid-Year Budget Review Report.

(b) Adopt related Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Section III (Recommended Budget Adjustments and Clean-Up Actions) of the 2022-2023 Mid-Year Budget Review Report.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action; and File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager)

Budget Director, Jim Shannon; Assistant Budget Director, Bonny Duong; Deputy Budget Director, Claudia Chang; Financial Status Coordinator, Selena Ubando; Operating Budget Coordinator, Bryce Ball; Director of Employee Relations and Director of Human Resources, Jennifer Schembri; and Capital Budget Coordinator, Stewart Patri offered the presentation and responded to questions.

Public Comment: (Zoom speakers) Jean Desdren, Paul Soto, Blair Beekman, and another speaker offered public testimony regarding the item.

Action: Upon motion by Councilmember Ortiz, seconded by Councilmember Foley and carried unanimously, the (a) 2022-2023 Mid-Year Budget Review Report was approved; and (b) Appropriation **Ordinance No. 30883** and (b) Funding Sources **Resolution No. RES2023-30** were adopted. (11-0.)

3.4 23-188 Report on Request for Proposal for Citywide Security Guard Services.

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,

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3.4 (Cont'd.)

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 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 from 1/31/2023 - Item 3.4 (23-130)]

Finance Director, Julia Cooper and Assistant Finance Director, Luz Cofresi-Howe offered the presentation and responded to questions.

Public Comments: (In person speakers) Eric Jimenez and Arielle (United Service Workers West), Neil Patrick-McClintick, Spencer, Sean Paul Guess; (Zoom speakers) Forest, Paul Soto, Ruth Silver Taube, Blair Beekman, Krista De La Torre, Sanjay, Louise Auerhahn, and Tejinder Dhimi (United Service Workers West) offered public testimony regarding the item.

Action: Upon motion by Councilmember Bien Doan, seconded by Vice Mayor Rosemary Kamei and carried unanimously, the report on Request for Proposal for Citywide Security Guard Services was accepted, and **Resolution No. RES2023-31** was adopted; including the acceptance of the memorandum from Councilmember Bien Doan, dated February 14, 2023, recommending: acceptance and approval of the staff memorandum for item 3.4. (11-0.)

3.5 23-243

City Council Appointments of Standing Committees and Boards, Commissions and Committees and Assignments.

(a) Discuss, amend and/or approve the 2023 City Council Standing Committee Appointments.

(b) Discuss, amend and/or approve Councilmember appointments to Boards, Commissions or Committees and assignments. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Mayor) [Rules Committee referral 2/1/2023 - Item A.1.a] [Referred from 2/7/2023 - Item 3.3]

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3.5 (Cont'd.)

Public Comments: (Zoom speakers) Blair Beekman, Paul Soto, and Jill Borders offered public comments regarding the item.

Motion: Councilmember Pam Foley moved approval of the item. The motion was seconded by Councilmember Domingo Candelas.

Friendly Amendment: Councilmember David Cohen requested to include his memorandum as part of the motion. The friendly amendment was accepted by the maker of the motion and seconder.

Action: On a call for question, the motion carried, including the friendly amendment. (a) The 2023 City Council Standing Committee Appointments were approved, (b) the Councilmember appointments to Boards, Commissions or Committees and assignments were approved; including the acceptance of the memorandum from Councilmember David Cohen, dated February 2, 2023, recommending to: (1) Appoint Councilmember David Cohen to represent San Jose as a Director on the Boards of the Bay Area Water Supply & Conservation Agency and the Bay Area Regional Water System Financing Authority to the four-year term that begins on July 1, 2023. (11-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 23-189 Agreement with Jacobs Engineering Group for Program Management Support Services at San José Mineta International Airport.

Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Master Consultant Agreement with Jacobs Engineering Group for Program Management Support Services at San José Mineta International Airport, for a period of seven years from execution, in a total amount not to exceed \$71,000,000 over the term of the agreement. CEQA: Not a Project, File No. PP17-002, Consultant services for design/study/inspection, or other professional services with no commitment to future action. Council District 6. (Airport)

Public Comment: (Zoom speakers) Blair Beekman and Paul Soto offered public testimony regarding the item.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Pam Foley and carried unanimously, **Resolution No. RES2023-32** was adopted. (11-0.)

5.2 23-190

Authorization to Seek Funding from United States Department of Transportation's National Infrastructure Investments under the Infrastructure Investment and Jobs Act Grant.

Adopt a resolution authorizing the City Manager or designee to apply for, execute, and accept upon receipt, grants from the United States Department of Transportation's National Infrastructure Investments (i.e., Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program) under the Infrastructure Investment and Jobs Act, (also referred to as the Bipartisan Infrastructure Law), in a total amount not to exceed \$25 million, for the Terminal A Ground Transportation Island Project at the San José Mineta International Airport. 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. (Airport)

Aviator Director, John Aitken offered the presentation and responded to questions.

Public Comment: (Zoom speakers) Blair Beekman and Paul Soto offered public testimony regarding the item.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. RES2023-33** was adopted. (11-0.)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

7.1 23-193

City Initiatives Roadmap: Digital Equity and Empowerment Program Status Report.

As recommended by the Neighborhood Services and Education Committee on December 8, 2022, accept a report on preliminary findings and recommendations related to the Digital Inclusion and Broadband strategy, Digital Inclusion Fund grant program, and Digital Equity program outcomes as part of the approved City Initiatives Roadmap for 2022-2023.

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

[Neighborhood Services and Education Committee referral 12/8/2022 - Item (d)4]

DEFERRED TO 3/14/2023 PER ADMINISTRATION

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 23-194

Sixth Substantial Amendment to the Fiscal Year 2019-2020 Annual Action Plan for the Reallocation of Coronavirus Aid Relief and Economic Security Act Funds Awarded by the U.S. Department of Housing and Urban Development for Eligible Use.

- (a) Hold a public hearing to allow for public comment.
- (b) Adopt a resolution relating to the following actions regarding a sixth amendment to the existing Fiscal Year 2019-2020 Annual Action Plan that includes changes to the federal Coronavirus Aid Relief and Economic Security Act (CARES Act) funds awarded by the United States Department of Housing and Urban Development to the City of San José:
 - (1) Approve the changes relating to the Substantial Amendment to the Fiscal Year 2019-2020 Annual Action Plan to reallocate Community Development Block Grant CARES Act balance of \$6,770,616 and apply funds to Community Development Block Grant CARES Act 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 their 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)

Housing Deputy Director, Ragan Henninger and Housing Director, Jacky Morales-Ferrand

Public Comment: (In person speaker) Sean Paul Guess; (Zoom speakers) Paul Soto, and Blair Beekman offered public testimony regarding the item.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Domingo Candelas and carried unanimously, (a) The public hearing to allow for public comment was held and (b) **Resolution No. RES2023-34** was adopted. (11-0.)

8.2 23-208

Overruling Objections to the 2023-2024 Weed Abatement Commencement Report and Directing the Removal of Weeds or Refuse.

Conduct a Public Hearing and adopt a resolution:

- (a) Overruling any and all objections to the 2023-2024 Weed Abatement Commencement Report (Report); and
- (b) Directing the Santa Clara County Consumer and Environmental

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8.2 (Cont'd.)

Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Categorically Exempt, CEQA Guidelines Section 15301(h) Existing Facilities, File No. PP18-094. (Planning, Building and Code Enforcement)

[Deferred from 2/7/2023 - Item 8.1 (23-165)]

DEFERRED TO 2/28/2023 PER ADMINISTRATION

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

- 10.1(a) 23-195 Burbank 47 Annexation, C22-040 & ER22-042 - Annexation, Conforming Pre-Zoning, and Determination of Consistency with Envision San Jose 2040 General Plan Environmental Impact Report for the for Property Located at 560 South Bascom Avenue. - HEARD IMMEDIATELY AFTER CONSENT**
- (1) Approve an ordinance pre-zoning two parcels on certain real property within Santa Clara County unincorporated territory totaling 0.51-gross acre, including an area of approximately 0.47 gross acre (APN No. 277-29-045) to the City of San José CP Commercial Pedestrian Zoning District and an area of approximately 0.04 gross acre (APN No. 277-29-044) to the City of San José R-1-8 Single-Family Residence Zoning District.
- (2) Adopt a resolution initiating proceedings and setting March 14, 2023, for City Council consideration of the reorganization of territory designated as Burbank No. 47, which involves the annexation to the City of San José of approximately 1.31-gross acre of land from Santa Clara County unincorporated territory and the detachment of the same from the appropriate special districts. CEQA: Determination of Consistency with Envision San Jose 2040 General Plan Final Program EIR, Resolution No. 76041, and Addendum thereto. Council District 6. (Planning, Building and Code Enforcement)

Public Comment: (Zoom speakers) Jeff Buchanan and Paul Soto offered public testimony regarding the item.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley and carried unanimously, (a)(1) **Ordinance No. 30884** was passed for publication; and (a)(2) **Resolution No. RES2023-35** was adopted. (10-0-1. Absent: Torres.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

- 10.2 23-196 Burbank 44 Annexation C20-011 & ER20-146 - Annexation and Pre-Zoning of Five Unincorporated Parcels from the County of Santa Clara to the City of San José (APNs: 274-16-050, 052, 053, 069 & 070) - RENOTICED**
- (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 pre-zoning certain real property an approximately 0.895-gross-acre site in Santa Clara County unincorporated territory designated as Burbank No. 44 to the Mixed-Use Commercial Zoning District.
- (c) Adopt a resolution initiating proceedings and scheduling March 28, 2023 for City Council consideration of the reorganization of 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 (File Nos. Burbank 44/C20-011/ CP20- 020/T20-016). Council District 6. (Planning, Building and Code Enforcement)

RENOTICED TO 2/28/2023

- 10.3 23-197 H21-005/ER21-018 & T21-005 - Site Development Permit and Vesting Tentative Map for Certain Real Property Located at 550 East Brokaw Road.**
- (a) Adopt a resolution certifying the 550 E. Brokaw 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 (CEQA).
- (b) Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to subdivide one lot into four lots on an approximately 19.70-gross acre site.
- (c) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the demolition of an existing approximately 213,626-square foot commercial building and the removal of 274 trees (210 ordinance-size, 64 non-ordinance-size) for the construction of seven office buildings totaling approximately 1,924,110 square feet and two parking structures totaling approximately 1,647,920 square feet on an approximately 19.70-gross acre site. CEQA: 550 E. Brokaw Project Environmental Impact Report (ER21018). Planning Commission recommended approval (Item 5.a, 1/11/2023 Planning Commission agenda) (8-0-2, Ahluwalia and Young absent). Council District 3. (Planning, Building and Code Enforcement)

RENOTICED TO 2/28/2023

H21-048/ER21-276 & T21-043 - Administrative Hearing on the Environmental Appeal for the Apollo Residential Project.

(a) Conduct an Administrative Hearing to consider the environmental appeal of the Planning Director's reliance on the Apollo Residential Project Addendum to the Downtown Strategy 2040 Final Environmental Impact Report in accordance with the California Environmental Quality Act (CEQA) for a Site Development Permit and Vesting Tentative Map (File Nos. H21-048 and T21-043), to allow the demolition of the existing buildings on-site (totaling approximately 15,908 square feet) and construct a 20-story residential tower with up to 471 units and 7,661 square feet of ground floor retail, on an approximately 1.1-acre site.

(b) Adopt a resolution denying the environmental appeal and upholding the Planning Director's reliance on the Apollo Residential Project Addendum to the Downtown Strategy 2040 Final Environmental Impact Report in accordance with the California Environmental Quality Act, as amended, and finding that:

(1) The City Council has independently reviewed and analyzed the Addendum for the Apollo Residential Project, and related administrative record related to Site Development Permit No. H21-048; and

(2) The Addendum for the Apollo Residential Project was prepared and completed in full compliance with the CEQA of 1970, as amended, together with State and local implementation guidelines; and

(3) Reliance on the Addendum for the Apollo Residential Project reflects the independent judgment and analysis of the City of San José, as 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 Apollo Residential Project Addendum and none of the following events occurred as outlined in Section 21166 of Public Resources Code (PRC): (i) substantial changes are proposed in the project which will require major revisions of the environmental report; (ii) substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report; or (iii) new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available. Further, a new, subsequent, or supplemental environmental impact report is not required because no impacts outside the scope of the Downtown Strategy 2040 EIR were identified in Section 15168 of the CEQA Guidelines. CEQA: Apollo Residential Project Addendum to the Downtown Strategy 2040 Final Environmental Impact Report. Council District 6. (Planning, Building and Code Enforcement)

RENOTICED TO 2/28/2023

• Open Forum

In Person Speakers:

1. Cassie Stewart stated Julian Street Inn (JSI) helped her out immensely when she was homeless, such as with assistance to receive Section 8 Housing.
2. Cathleen Langan spoke to the importance of “loving your neighbor” and her experiences living at a creek nicknamed “Jurassic Park Area.”
3. Sean Paul Guess spoke to opportunity costs faced in San José, the importance of investing in the Youth, economy improvements, taxes and revenues for businesses, and equity.

Zoom Speakers:

1. Blair Beekman thanked Councilmember’s Torres and Jimenez for speaking out to hear public comment first during today’s study session.
2. Vasanth Shetty requested a thorough investigation regarding the Indian Warrior, Shivaji Maharaj statue that was stolen on January 31st but was recently recovered.
3. Viraj Raut addressed the incident regarding the Indian Warrior, Shivaji Maharaj statue, urged law enforcement to disclose answers, and requested a public hearing.
4. Sandeep stated he perceived the Indian Warrior, Shivaji Maharaj statue being stolen as a hate crime, spoke to hate crimes towards the Indian community, and urged security measures for the statue.
5. Rakshit Ashtekar addressed his concerns regarding the Indian Warrior, Shivaji Maharaj statue being stolen, the hurt it caused his family and himself, and the importance of the statue for the Indian Community.
6. Paul Soto quoted Martin Luther King Jr, spoke to racism, generational redlining, and social mobility.
7. Jill Borders thanked Councilmember Foley for asking questions regarding the Mobile Home community and the importance of talking about what it takes to acquire stable living in the City.

• Adjournment

The Council of the City of San José adjourned at 5:33 p.m. in honor and memory of Bea Robinson Mendez, a local Chicana leader, whose work has been fundamental in serving the most vulnerable in our community. Her legacy is incredible, having co-founded Next Door Solutions to Domestic Violence in her garage. Her cultural understanding raised Next Door to become the second largest and first bi-lingual domestic violence shelter in the nation.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC City Clerk
yj/2-14-23/MIN

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 14, 2023

The Council of the City of San José convened into Closed Session at 9:36 a.m.

The meeting was held in Council Chambers Conference Room, W133.

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

Absent: Councilmembers - All present.

CLOSED SESSION ITEM(S) DISCUSSED:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Initiation of litigation pursuant to Section 54956.9(d)(4) of the Government Code:

Number of matter(s) to be discussed: 2

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

1. Case Name: Cho v City of San Jose, et al.
Name(s) of Partie(s) Anthony Cho, City of San Jose, Zachary David Preuss, Tyler Moran, Matthew Rodriguez, and Steven Gaona, and Does 1-10, Inclusive
Court: United States District Court, Northern District of California
Case No: 5:21-cv-05503-VKD
Amount of Money Damages according to proof
or Other Relief
Sought:

C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(4):

1. Case Name: State of Texas et. al., v. United States of America et. al.,
Name(s) of Partie(s) State of Texas; State of Alabama; State of Arkansas; State of Louisiana; State of Nebraska; State of South Carolina; State of West Virginia; State of Kansas; State of Mississippi, United States of America; Alejandro Mayorkas, Secretary; U.S. Department of Homeland Security; Troy Miller, Acting Commissioner, U.S. Customs and Border Protection; Tae D. Johnson, Acting Director of U.S. Immigration and Customs Enforcement;

Court:	Ur M. Jaddou, Director of U.S. Citizenship and Immigration Services, Elizabeth Diaz; Jose Magana-Salgado; Karina Ruiz De Diaz; Jin Park; Denise Romero; Angel Silva; Moses Kamau Chege; Hyo-Won Jeon; Blanca Gonzalez; Maria Rocha; Maria Diaz; Elly Marisol Estrada; Darwin Velasquez; Oscar Alvarez; Luis A. Rafael; Nanci J. Palacios Godinez; Jung Woo Kim; Carlos Aguilar Gonzalez; State of New Jersey, United States Court of Appeals for the Fifth Circuit
Case No:	21-40680
Amount of Money or Other Relief Sought:	Equitable Relief.

By unanimous consent, Council recessed from the Closed Session at 10:50 a.m.; to reconvene in Regular Open Session at 11:00 a.m. in Council Chambers.