



City Council Meeting Minutes

Tuesday, May 16, 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



- **Call to Order and Roll Call**

9:30 a.m.- Closed Session 23-698: *See Pages 17-20 for Closed Session Minutes.*

Present Councilmembers: Mahan, Kamei, Jimenez, Torres, Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra. (Council Chambers Conference Room, W133.)

Absent Councilmembers: All present.

1:36 p.m.- Regular Session:

Present Councilmembers: Mahan, Kamei, Jimenez, Torres, Cohen, Ortiz, Davis, Doan, Candelas, Foley, Batra. (City Hall, Council Chambers.)

Absent Councilmembers: All present.

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 5)**

Councilmember Ortiz introduced the Muwekma Ohlone Tribe of the San Francisco Bay Area who offered the invocation. Tribal Chairwoman, Charlene Nijmeh spoke to the importance of having an official resolution supporting the restoration of the tribes federal recognition status.

- **Orders of the Day**

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

Councilmember Ortiz announced the meeting was adjourned in memory of Carlos Diaz.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

- 1.1 Councilmember Torres and Councilmember Candelas presented the proclamation declaring May 2023 as Mental Health Awareness Month to raise awareness about the importance of mental health in our lives and in the City of San José. The proclamation was presented to the National Alliance on Mental Illness (NAMI). Executive Director, Rovina Nimbalkar spoke on behalf of NAMI.

- 1.2 Councilmember Foley presented the proclamation declaring May 2023 as Affordable Housing Month in the City of San José to recognize that our communities are stronger and more resilient when we all have a safe, stable, and affordable place to call home. The proclamation was presented to members of the Housing Department.
- 1.3 Vice Mayor Kamei, Councilmember Doan, and Councilmember Batra presented the proclamation declaring May 2023 as Asian American and Pacific Islander Heritage Month in the City of San José to recognize the contributions, culture, and heritage of communities in our city from Asia and the Pacific.

2. CONSENT CALENDAR

Public Comment: (In person speakers) Robert Aguirre, Alie Victorine, Angelica Lopez (assisted with Spanish translator), Luc Ha Thi Le, Charles Younem, Isaias (assisted with Spanish translator), Cathleen Langan, (Zoom speakers) Paul Soto, Caller ‘User-6’, Paul Boehm, Roberto Moore, Blair Beekman, Francesca Paist, Braeden Mass, and Christopher Lee provided public testimony regarding the Consent Calendar.

Action: Upon motion by Councilmember Cohen, seconded by Councilmember Davis and carried unanimously, the Consent Calendar was approved as a whole, Item 2.10 was pulled for further discussion only, and the below listed actions were taken as indicated. (11-0.)

2.1 23-754

Approval of City Council Minutes.

(a) Regular City Council Meeting Minutes of February 2, 2021.

(b) Regular City Council Meeting Minutes of May 2, 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. (11-0.)

2.2 23-710

Final Adoption of Ordinances.

(a) Ordinance No. 30904 - An Ordinance of the City of San José Amending Section 2.04.4620 of Chapter 2.04 of Title 2 of the San José Municipal Code and Amending Title 26 of the San José Municipal Code to Provide the Community Energy Department the Authority to Efficiently Procure and Contract for the Purchase and Sale of Power Products and to Ensure Timely Collection of Revenues.

[Passed for Publication on 5/2/2023 - Item 6.1(a) (23-618)]

(b) Ordinance No. 30905 - An Ordinance of the City of San José Amending Part 21 of Chapter 2.08 of Title 2 of the San José Municipal Code to Establish the Climate Advisory Commission and Merge it with the Clean Energy Community Advisory Commission.[Passed for Publication on 5/2/2023 - Item 6.2 (23-619)]

(c) Ordinance No. 30907 - An Ordinance of the City of San José Rezoning 15 Properties from the CP Commercial Pedestrian Zoning District to UR Urban Residential Zoning District, 12 Properties from CP Commercial Pedestrian Zoning District to UV Urban Village Zoning

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2.2 (Cont'd.)

District, Eight Properties from IP Industrial Park Zoning District to TEC Transit Employment Center Zoning District, Six Properties from R-1-8 Single-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, Six Properties from HI Heavy Industrial Zoning District To UV Urban Village Zoning District, Five Properties from R-M Multifamily Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, Four Properties from CG Commercial General Zoning District To UV Urban Village Zoning District, Four Properties from HI Heavy Industrial Zoning District to UR Urban Residential Zoning District, Four Properties from LI Light Industrial Zoning District to MUN Mixed Use Neighborhood Zoning District, Three Properties from CP Commercial Pedestrian Zoning District to MUC Mixed Use Commercial Zoning District, Three Properties from CP Commercial Pedestrian Zoning District to MUN Mixed Use Neighborhood Zoning District, Two Properties from CN Commercial Neighborhood Zoning District to UV Urban Village Zoning District, Two Properties from CO Commercial Office Zoning District to MUC Mixed Use Commercial Zoning District, Two Properties from R-1-8 Single-Family Residential Zoning District to UR Urban Residential Zoning District, Two Properties from R-2 Two-Family Residential Zoning District to UV Urban Village Zoning District, Two Properties from R-M Multifamily Residential Zoning District to CP Commercial Pedestrian Zoning District, Two Properties from R-M Multifamily Residential Zoning District to UR Urban Residential Zoning District, One Property from A Agriculture Zoning District to TR Transit Residential Zoning District, One Property from A Agriculture Zoning District to MUN Mixed Use Neighborhood Zoning District, One Property from R-1-5 Single-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, One Property from R-1-8 Single-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, One Property from R-2 Two-Family Residential Zoning District to MUN Mixed Use Neighborhood Zoning District, One Property from R-2 Two-Family Residential Zoning District to CP Commercial Pedestrian Zoning District, One Property from R-M Multifamily Residential Zoning District to TR Transit Residential Zoning District, One Property from R-1-8 Single-Family Residential Zoning District to CN Commercial Neighborhood Zoning District, and One Property from R-M Multifamily Residential Zoning District to UV Urban Village Zoning District, Located in Various Locations on those Certain Real Properties within the City of San José. [Passed for Publication on 5/9/2023 - Item 10.1(a) (23-678)]

Action: **(a) Ordinance No. 30904** an Ordinance of the City of San José Amending Section 2.04.4620 of Chapter 2.04 of Title 2 of the San José Municipal Code and Amending Title 26 of the San José Municipal Code, **(b) Ordinance No. 30905** an Ordinance of the City of San José Amending Part 21 of Chapter 2.08 of Title 2 of the San José Municipal Code, and **(c) Ordinance No. 30907** an Ordinance of the City of San José Rezoning 15 Properties were adopted. (11-0.)

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 23-686 Termination of the Director of Emergency Services' March 6, 2020, Proclamation of the Existence of a Local Emergency for COVID Response.**
Adopt a resolution terminating the Director of Emergency Services' March 6, 2020, Proclamation of the Existence of a Local Emergency for COVID Response. CEQA: Statutory Exempt, Section 15269, Emergency Projects Undertake specific actions necessary to prevent or mitigate an emergency.
(City Manager)

Action: **Resolution No. RES2023-147** was adopted. (11-0.)

- 2.8 23-687 Actions Related to the San José Clean Energy Rates Data Upload and Load Management Standards Compliance Plan.**
(a) Adopt a resolution ratifying the Community Energy Department's submittal of a request to the California Energy Commission, for an extension of time of a regulatory requirement obligating San José Clean Energy to upload its rates data into a statewide database.
(b) Approve the interim Load Management Standards Compliance Plan that details the steps San José Clean Energy will take to prepare a Final Compliance Plan by the current completion date of October 31, 2024.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Community Energy)

Action: (a) **Resolution No. RES2023-148** was adopted and (b) the interim Load Management Standards Compliance Plan was approved. (11-0.)

2.9 23-688

Appropriation Actions to Purchase Cardiac Monitor - Defibrillator Replacements.

(a) Approve the following 2022-2023 Appropriation Ordinance amendments in the General Fund:

- (1) Decrease the Fire Emergency Equipment Reserve by \$500,000; and
- (2) Increase the Fire Department's Non-Personal/Equipment appropriation by \$500,000.

(b) Approve the following 2022-2023 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Fire Protection Purposes:

- (1) Decrease the Fire Emergency Equipment Reserve by \$280,130; and
- (2) Establish the Emergency Medical Services Equipment appropriation to the Fire Department in the amount of \$280,130.

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. (Fire/City Manager)

Action: (a) **Appropriation Ordinance No. 30909** and (b) **Appropriation Ordinance No. 30910** were adopted. (11-0.)

2.10 23-689

Amendment to the Agreement with County of Santa Clara for Homeless Encampment Clean-up Services.

Adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute the Second Amendment to the Agreement with County of Santa Clara for Homeless Encampment Clean-Up Services to increase compensation by \$1,800,000 for a maximum compensation of \$2,025,000 extending the agreement through May 2027; and

(b) Negotiate and execute additional agreements and amendments with the County of Santa Clara related to Homeless Encampment Clean-Up Services. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Parks, Recreation and Neighborhood Services)

Councilmember Bien Doan requested to pull the item for further discussion only.

Deputy Director, Parks, Recreation and Neighborhood Services, Andrea Flores-Shelton and Division Manager, BeautifySJ, Olympia Williams responded to the Council's questions.

Action: **Resolution No. RES2023-149** was adopted. (11-0.)

2.11 23-720

Retroactive Approval of Black April Commemoration Sponsored by Council District 7 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 May 3, 2023:

(Item Continued on the Next Page)

2.11 (Cont'd.)

(a) Retroactively approve the Black April Commemoration Event scheduled on April 30, 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. (Doan)

[Rules Committee referral 5/3/2023 - Item B.2]

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

2.12 23-771

Retroactive Approval and Approval of Almaden Valley Dumpster Day and Azerbaijan Flag Raising Sponsored by Council District 10 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 May 10, 2023:

(a) Retroactively approve the Almaden Valley Dumpster Day event scheduled on May 13, 2023 as a City Council sponsored Special Event and approve the expenditure of funds;

(b) Approve the Azerbaijan Flag Raising event scheduled on May 22, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; 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. (Batra)

[Rules Committee referral 5/10/2023 - Item B.5]

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

2.13 23-758

Request to Travel and Excused Absence.

As recommended by the Rules and Open Government Committee on May 10, 2023, retroactively authorize travel for Councilmember Davis to attend the Reimagining the Civic Commons event in Macon, Georgia from April 10 - 13, 2023. (Source of Fund: District 6 Funds)

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

[Rules Committee referral 5/10/2023 - Item B.4]

Action: The request to travel and excused absence for Councilmember Davis was retroactively approved. (11-0.)

3. STRATEGIC SUPPORT

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

City Manager, Jennifer Maguire offered the verbal report and spoke to the Vision Zero Behavior Change Campaign. The Department of Transportation's new education campaign is aimed at getting drivers to slow down. She addressed the national crisis of speeding resulting in death and injuries and also addressed the increase of traffic fatalities in the City of San José.

3.2 Labor Negotiations Update.

None provided.

3.3 23-690 Public Hearing on the 2023-2024 Proposed Operating and Capital Budgets and the 2023-2024 Proposed Fees and Charges for the City of San José, including a One-Time Revision of Percentage Allocations of Measure E Real Property Transfer Tax Revenues.

Conduct a Public Hearing on the Proposed Operating and Capital Budgets for the Fiscal Year July 1, 2023 to June 30, 2024, the Proposed Five-Year Capital Improvement Program for 2024-2028, the Proposed Fees and Charges Report for the Fiscal Year 2023-2024, and a One-Time Revision of Percentage Allocations of Measure E Real Property Transfer Tax Revenues for the Fiscal Year 2023-2024. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Budget Director, Jim Shannon; Director, Housing Department, Jacky Morales-Ferrand; and Assistant Director, Housing Department, Rachel VanderVeen offered the presentation and responded to questions.

Mayor Matt Mahan opened the public hearing.

Public Comments:

(In person speakers) Gumby Marques, Alex Stettinski (CEO, Downtown Association), Veronica Amador, Xochilth Avalos, Elizabeth Matthews, Ingrid Granados, Mollie Naber, Laurie Stewart, Yvonne Jimenez, Emily Ann Ramos, Jocelyn Arenas, RJ Ramsey, Chris Logan, Girish Shah, Kylie Clark (WVCS), Poncho G., Kyra Kazantzis, Jen Loving, Alan Gouig (Silicon Valley Council of Non-Profits), Robert Aguirre, Rose Barajas, Mercedes Carabajal, Jessie Gomez, Samuel Alvarez, Larry Whitaker, Aiko Yep, Deborah Ow, Jen Myhre, Kim Guptill, Erin Stanton, Reese Enhardt, Brian Wheatley, Dennis Wan, Gustavo Gonzalez, Bruce Turner, Alex Shoor (Housing Community Development Commission), Andrea Portillo, Oscar Q.M., John B. Henley Jr., Steve Hanleigh, Dmitriy K., Kathy, Kiyomi Yamamoto, Dilza Gonzalez (SOMOS Mayfair), Andrew Bigelow, Greg K., Mahesh, Alex Andrade, Tod W., Ruth Callahan, William Chea, Hong Cao, Huascar Castro, Thein Huynh W., Kazi, Kolumban Boesch, Dixie Baus, Joe Brown, Jeremy Barousse, José Abastida, Victoria Lam (On behalf of County Supervisor Sylvia Arenas), Nachele Bastianelli, Andrew Chung, Gina Zari (Santa Clara County AOR), Steve Pinkston (Rev.), Unathi Zibi (United Way Bay Area), John Bells (S.O.S.), Kathryn
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3.3 (Cont'd.)

Kathryn Hedges, Neil Collins, Carly Peach, Wade Hall, Preston Prince (Santa Clara County Housing Authority), Yi Wang, Delma Hernandez (SBCCT), José Moreno, Armando Cabrera, Anil Babbar, Blair Beekman, Carmen B., Nubia Ramirez, Jenny Zhao, Bonnie Liu, Cheryl L., Michael Fitzgerald, Maricela, Kimi Huang, Phil Mastercola (Winter Faith Collaborative), Cathleen Langan, James Gamino (Got You Covered), June Tran, Steven, Jacky Rivera (South Bay CLT), Amelia Rios (Faith Base), and 7 speakers (*names not stated at the podium*), (*Zoom speakers*) Brian Darby, Gustavo Flores (Vecinos Activos), Thomas K., Mikhail Haurylau, Kelsey Colson, Roma Dawson, Caller ‘Council Representative’, Susan Hare, Sandra Asher, Diana Crumedy (SVBC), Diana Crumedy (SVBC), Caller ‘Events SVH’, Colsaria Henderson, Richard Konda, Brian Powers, Debra Townley, Debra Townley, Hilary Thorsen, Vicenta Mayoral-Lopez (assisted with Spanish Translator), Ofisa Pati, Andrew Siegler, Sketch Oppie, Will Smith, Liz Gonzalez, Fred Brew, Daniel, Gary Smith, Robert Brownstein, Mengna Lin, Josh Selo (Bill Wilson Center), Olivia Ortiz, Roberta Moore, Marcus, Sandy, Tam Quach, Juan Estrada (Green Foothills), Kerrie, Angela, Charles Howard, Richard, Thunder P., Tim, Aracely, Tony Romero (Latinos United for a New America), Victoria, David, Morgan, Sandra, Luis A., Mar (PACT SJ), Caller ‘5058’, Jackie, Braeden Mass, Jeff Zell, Lori Katcher (SURJ), Mario L., J. Govindan, Andreana & Michael Popovich, David, Todd Langton (Agape Silicon Valley), David Noel, Doug Goss, Caller ‘7891’, Isela Reyes, Danny Mangan, Gregory Braley, George, Pierluigi Oliverio, Jey Govindan, Moria Merriweather, Luong Le, Joelle S., Claudine Sipili, Pat and Tim Lockyer, Caller ‘Justice at Work Law Group, LLP), Mathew Reed, Paul Soto, Andrew Siegler, Sandi M., Mary Helen Doherty, Tina Morrill, Sheila Kay (Realtor), James Avalos, Elizabeth Agramont-Justiniano, Paul Cingolani, Amy Cody, Caller ‘User-8’, Joshua Thatcher, and Gail Anne Osmer offered public testimony regarding Item 3.3.

The Council recessed for dinner and returned at 6:25 p.m.

Mayor Matt Mahan closed the public hearing.

Action: A public hearing was held on the 2023-2024 Proposed Operating and Capital Budgets and the 2023-2024 Proposed Fees and Charges for the City of San José, including a One-Time Revision of Percentage Allocations of Measure E Real Property Transfer Tax Revenues.

3.4 23-691 **Approval of the Issuance of a Multifamily Housing Revenue Note and the Loan of the Proceeds Thereof and Approving Related Documents for the Financing of Tamien Station Affordable and of the Increase to the City Construction-Permanent Loan.**

(a) Adopt a resolution:

- (1) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Tamien Station Affordable), Series 2023D” in a principal amount not to exceed \$66,100,000 (the 2023D Note);
- (2) Approving the loan of 2023D Note proceeds to Tamien Affordable, L.P., a California limited partnership created by Core Affordable Housing LLC, a California limited liability company, to finance the construction and development of a 135-unit multifamily development known as Tamien Station Affordable located at 1197 Lick Avenue in San José (the Development);

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3.4 (Cont'd.)

(3) Approving in substantially final form the Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement and Declaration of Restrictive Covenants, the Contingency Draw Down Agreement and related documents (collectively, the 2023D Note Documents); and

(4) Authorizing and directing the City Manager, Director of Housing, Director of Finance, Assistant Director of Housing, Assistant Director of Finance, Deputy Director, Debt and Treasury Management, or their designees, to execute and deliver the 2023D Note Documents together with any documents ancillary to the 2023D Note Documents.

(b) Adopt a resolution authorizing an increase of up to \$500,000 from Measure E Funds to increase the City Council-approved construction-permanent loan commitment to Tamien Affordable, L.P., a California limited partnership, from \$16,750,000 to \$17,250,000 to provide funds for tenant improvements to the commercial space for a commercial childcare facility.

(c) Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute a Transportation Development Fund Agreement and related documents and agreements with Core Affordable Housing LLC and Central Valley Affordable Housing for funding of Department of Transportation work and services up to \$1,255,000 in Affordable Housing and Sustainable Communities grant funding.

(d) Adopt the following Fiscal Year 2022-2023 Appropriation Ordinance amendments in the General Fund:

(1) Decrease the Measure E - 30% Low-Income Households Reserve by \$500,000; and

(2) Increase the Measure E - 30% Low-Income Households appropriation by \$500,000.

CEQA: Determination of Consistency with the Mitigated Negative Declaration for Tamien Station Transit-Oriented Development Project (Resolution No. 79567), File No. PDC18-025. Council District 3.
(Housing/Finance/City Manager)

Public Comment: (In person speakers) Blair Beekman, Cathleen, (Zoom speaker) and Sheila Kay (Realtor) offered public testimony regarding the item.

Motion: Councilmember David Cohen moved approval of the item. The motion was seconded by Vice Mayor Rosemary Kamei.

Friendly Amendment: Councilmember Arjun Batra requested to include his memorandum dated, May 12, 2023, as part of the motion. The friendly amendment was accepted by the maker of the motion and seconder.

Director, Jacky Morales-Ferrand stated the attachment requested in Councilmember Arjun Batra's memorandum was feasible by the Housing Department.

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3.4 (Cont'd.)

Action: On a call for question, the motion passed unanimously, *including the friendly amendment*. (a) **RES. NO. RES2023-150**, (b) **RES. NO. RES2023-151**, (c) **RES. NO. RES2023-152**, and (d) Appropriation **Ordinance No. 30911** were adopted. Including acceptance of the memorandum from Councilmember Arjun Batra, dated May 12, 2023, recommending: to approve the staff recommendation with the following additions: Direct City of San José Housing Department (CSJHD) to provide an updated “NOFA Summary of Selected Developments” as an attachment every time any project utilizing NOFA funds comes to the City Council for any approvals. The modifications will provide additional context and transparency to the overall utilization of NOFA funds along with the progress and status of each project. Examples of modifications include, but not limited to, distinguishing between funds requested and funds allocated and displaying the amounts of NOFA funds remaining after funds have been allocated. (10-0-1. Absent: Davis.)

3.5 23-692

Approval of the Issuance of Tax-Exempt Multifamily Housing Revenue Notes and the Loan of the Proceeds Thereof for the Financing of the Charles and Approving Other Related Documents and Actions.

Adopt a resolution:

- (a) Authorizing the issuance of a: (1) tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (The Charles), Series 2023B-1” in a principal amount not to exceed \$44,562,052 (2023B-1 Note) and (2) taxable multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (The Charles), Series 2023B-2” (Taxable) in a principal amount not to exceed \$12,000,000 (2023B-2 Note and with the 2023B-1 Note, the 2023B Notes);
 - (b) Approving the loan of 2023B Note proceeds to Keyes, L.P. (Borrower) a California limited partnership created by Charities Housing Development Corporation of Santa Clara County, a California nonprofit public benefit corporation, to finance the construction and development of a 99-unit multifamily development known as The Charles located at 551 Keyes in San José (the Development);
 - (c) Approving in substantially final form the Funding Loan Agreement, the Project Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, and related documents (collectively, the 2023B Note Documents);
 - (d) Confirming the eligibility of the 2023B Notes to be structured with related parties under the Bond Policy Pilot Program which allows approval of multifamily housing revenue bond transactions that are subject to a bond fee cap under the applicable Treasury regulations for multifamily housing revenue bond transactions with related parties; and
 - (e) Authorizing and directing the City Manager, Director of Housing, Director of Finance, Assistant Director of Housing, Assistant Director of Finance, Deputy Director, Debt & Treasury Management, or their designees, to execute and deliver the 2023B Note Documents together with any documents ancillary to the 2023B Note Documents.
- CEQA: Categorical Exemptions per Public Resources Code Section

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3.5 (Cont'd.)

21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109. Council District 3. (Housing/Finance)

Public Comment: (Zoom speaker) Paul Soto and (In person speaker) Cathleen offered public testimony regarding the item.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Vice Mayor Rosemary Kamei and carried unanimously, (a) **RES. NO. RES2023-153** was adopted. (10-0-1. Absent: Davis.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

- 5.1 23-694 City Initiatives Roadmap: BeautifySJ Vehicle Blight Status Report.**
As recommended by the Transportation and Environment Committee on May 1, 2023, accept the status report on BeautifySJ Vehicle Blight analysis, design, and testing work to improve vehicle complaint case handling, coordinating cross-department response and outcomes as part of the approved City Initiatives Roadmap for 2022-2023.
CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Transportation/Information Technology/Police/Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement) [Transportation and Environment Committee referral 5/1/2023 - Item (d)4]

Director, Department of Transportation, John Ristow; Assistant Director, Department of Transportation, Lily Lim-Tsao; Chief Information Officer, (IT) Information Technology Department, Khaled Tawfik; Division Head, Information Technology Department, Heather Hoshii; Division Manager, BeautifySJ, Olympia Williams; and Chief Intergovernmental Relations Officer, City Manager's Office of Administration, Policy and Intergovernmental Relations, Zane Barnes offered the presentation and responded to questions.

Public Comment: (In person speakers) Blair Beekman, Cathleen L., (Zoom speakers) Paul Soto, Kathryn Hedges (SURJ), Brian Darby, and Thunder P. offered public testimony regarding the item.

Motion: Councilmember David Cohen moved approval of the joint memorandum he co-wrote, dated, May 12, 2023, and recommendation #1 and #3 of Councilmember Arjun Batra's memorandum dated, May 12, 2023. The motion was seconded by Councilmember Omar Torres.

Friendly Amendment: Councilmember Arjun Batra requested to include his memorandum *as a whole* dated, May 12, 2023, as a part of the motion. The friendly amendment was accepted by the maker of the motion and seconder.

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3.4 (Cont'd.)

Action: On a call for question, the motion passed unanimously, the status report on BeautifySJ Vehicle Blight analysis, design, and testing work to improve vehicle complaint case handling, coordinating cross-department response and outcomes as part of the approved City Initiatives Roadmap for 2022-2023 was accepted, *including the friendly amendment*. Along with the acceptance of the joint memorandum from Councilmember David Cohen, Councilmember Dev Davis, Councilmember Peter Ortiz, Vice Mayor Rosemary Kamei, and Mayor Matt Mahan dated May 12, 2023, recommending: (1) Addressing Abandoned and Illegally Parked Vehicles: (a) Return to City Council with an ordinance to address the parking of all boats, unoccupied trailers, and other accessories (equipment and signage like advertising, pumps, tanks, etc.) on the street by the end of 2023. (b) Improve compliance of the 72-hour parking limit ordinance by more prominently marking vehicles with a large warning message when they have violated the time limit. If they still do not move, provide citations, and eventually tow vehicles. (c) Consider expanding and marketing the Free Unwanted Car Pickup program, potentially partnering with a non-profit, that facilitates residents disposing their unwanted vehicles, to include public property. (i) Explore ways this can be integrated into the SJ 311 app. (ii) Potentially allow vehicle owner to mark the notice of violation or call a number if they want the vehicle towed if they are the legal owner of the vehicle. (d) Shift resources to respond to at least 10,000 complaint-based investigations of vehicles that are violating the 72-hour parking ordinance, while continuing focused proactive enforcement. (e) Pursue legislative and ordinance changes to address health, safety, and environmental impacts of lived-in vehicles to address dumping bio-waste and (2) Improving the SJ 311 Application: (a) Provide more courteous and clear replies to vehicle blight reports. (b) Offer an opportunity for one appeal/rebuttal of the decision with guidance given on what the requirements are and why the original complaint did not meet the parameters. (3) Develop and present recommendations to the Transportation and Environment Committee (T&E) of how to improve street sweeping performance through enforcement of parking restrictions. (a) Explore the use of alternating sweep schedules that allow residents to park on one side of their street on street sweeping day. (b) Explore a method for tracking street sweeping and where trouble spots are to focus outreach and enforcement. (c) Develop communications and marketing campaign to inform residents of their street sweeping days, including providing sweeping schedules to City Councilmembers' offices to distribute to their districts. (4) Provide a verbal status report every six months to T&E committee in FY23-24, followed by annual reports in subsequent fiscal years.

Also including acceptance of the memorandum from Councilmember Arjun Batra dated May 12, 2023, *as a whole* recommending: to accept the status report on BeautifySJ Vehicle Blight and direct staff to provide the following additional information: (1) Investigate methods that can be used to report the number of vehicles that have been towed and impounded but were later released to determine how many vehicles were truly abandoned and how many were reclaimed by their owners. (2) Explore alternative methods that can be used to obtain precise movement and status of a reported vehicle since its initial reporting. (3) Develop procedures to post notices on abandoned vehicles providing owners with alternatives to dispose of their vehicles. (10-0-1. Absent: Davis.)

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 23-695 Long-Term Renewable Energy Agreement with Pacific Gas and Electric Company.

Adopt a resolution authorizing the Director of the Community Energy Department or the Director's designee to negotiate and execute a long-term agreement with Pacific Gas and Electric Company to buy
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6.1 (Cont'd.)

renewable energy for a term of no more than 20 years from 2023 through 2043, in an amount not to exceed \$7,500,000 annually and \$150,000,000 in aggregate, to be paid solely from the San José Clean Energy Operating Fund and subject to the annual appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Community Energy)

Public Comment: (In person speaker) Blair Beekman and (Zoom speakers) Brian Darby, and Kathryn Hedges (SURJ) offered public testimony regarding the item.

Councilmember Arjun Batra recused himself from the item due to a conflict of interest pertaining to his stock investments of Pacific Gas and Electric Company (PG&E).

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Sergio Jimenez and carried unanimously, **Resolution No. RES2023-154** was adopted. (9-1-1. Recused: Batra. Absent: Davis.)

6.2 23-696

Republic Services Commercial Solid Waste Customer Service Rates.

(a) Conduct a Public Hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates for 2023-2024 are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services.

(b) Adopt a resolution increasing the Maximum Commercial Solid Waste Services Rates in the City of San José for 2023-2024 by 6.31 percent pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organics processing services. CEQA: Not a Project, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Environmental Services)

Mayor Matt Mahan opened the public hearing.

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

Action: A public hearing was held, upon motion by Councilmember David Cohen, seconded by Councilmember Pam Foley and carried unanimously, (b) **RES. NO. RES2023-155** regarding increasing the Maximum Commercial Solid Waste Services Rates in the City of San José for 2023-2024 by 6.31 percent pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement was adopted. (10-0-1. Absent: Davis.)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 23-697

Future of San Pedro Street Status Report.

Accept staff's recommendation on a preferred layout and cost estimate for the potential permanent closure of San Pedro Street to non-emergency vehicular traffic between W. Santa Clara and St. John Streets and to pilot the potential permanent street closure.

CEQA: Categorically Exempt, File No. ER23-080, CEQA Guidelines Section 15301, Existing Facilities. Council District 3. (Economic Development and Cultural Affairs/Public Works/Transportation/Fire)

DEFERRED TO 5/23/2023 PER RULES AND OPEN GOVERNMENT COMMITTEE.

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

• Open Forum

1. Blair Beekman addressed concerns regarding his public comment being interrupted on Zoom during the Consent Calendar portion of the meeting.
2. Thomas K. expressed his disappointments regarding the mishandling of the Coyote Creek encampment sweep, specifically that residents were told they'd have time from May 15th to June 5th to relocate, which was not honored. He also stated his efforts went unanswered regarding the Lived Experience Advisory Board of Silicon Valley.
3. Brian Darby stated the breakdown of communication is a prevalent problem regarding important City issues.
4. Paul Soto spoke to his concerns of City Government ideas and issues.
5. Kathryn Hedges (SURJ) spoke to her Zoom public comment being interrupted.

City Clerk, Toni Taber addressed the Zoom public comment concerns.

• **Adjournment**

The Council of the City of San José adjourned at 8:20 p.m. in memory of Carlos Diaz, who passed away on April 29, 2023. Carlos, also known as DJ Carlos, was a husband, father, East San José Community Leader and longtime pillar of the California hip-hop community, both as a DJ and through his business, Knight Sounds Entertainment.

Minutes Recorded, Prepared and Respectfully Submitted by,

DRAFT

Yasmin Johnson
Deputy City Clerk, City of San José

Approved at Council on:

Attest By:

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

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, MAY 16, 2023

The Council of the City of San José convened into Closed Session at 9:32 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 – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

1. Case Name: In re: Claim of Murphy

Name(s) of Partie(s)

Court: Workers' Compensation Appeals Board

Case No: ADJ14796940

Amount of Money or Other Relief Sought: Benefits.

2. Case Name: In re: Claim of Malandrino

Name(s) of Partie(s)

Court: Workers' Compensation Appeals Board

Case No: ADJ15509263, ADJ15509261, ADJ10606495, ADJ 17267002, ADJ15509262

Amount of Money or Other Relief Sought: Benefits.

3. Case Name: County Sanitation District 2-3, et a. v. City, et al.

Name(s) of Parties(s) Involved: COUNTY SANITATION DISTRICT 2-3; WEST VALLEY SANITATION DISTRICT; BURBANK SANITARY DISTRICT; CUPERTINO SANITARY DISTRICT; CITY OF MILPITAS, CITY OF SAN JOSE, CITY OF SANTA CLARA; and DOES 1-50, inclusive

Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction

Case No.: 18-CV-325480

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

4. Case Name: Jody Smith V. City of San Jose, et al.
Name(s) of Partie(s) JODY SMITH, CITY OF SAN JOSE, GRILL 'EM STEAKHOUSE
Court: Superior Court of California, Santa Clara County
Case No: 22CV395617

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

5. Case Name: San Jose Mercury News LLC v. City of San Jose
Name(s) of Partie(s) SAN JOSE MERCURY NEWS LLC; CITY OF SAN JOSE
Court: Superior Court of California, Santa Clara County
Case No: 23CV415609

Amount of Money or Other Relief Sought: Writ of Mandate; Declaratory Relief; Costs and Attorneys' Fees

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: **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: <https://www.sanjoseca.gov/your-government/departments/employee-relations/labor-relations-information/bargaining-units-labor-contract-info>
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: <https://www.sanjoseca.gov/your-government/departments/employee-relations/labor-relations-information/bargaining-units-labor-contract-info>
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: <https://www.sanjoseca.gov/your-government/departments/employee-relations/labor-relations-information/bargaining-units-labor-contract-info>
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: <https://www.sanjoseca.gov/your-government/departments/employee-relations/labor-relations-information/bargaining-units-labor-contract-info>
Telephone – Employee Relations: (408) 535-8150

5. 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: <https://www.sanjoseca.gov/your-government/departments/employee-relations/labor-relations-information/bargaining-units-labor-contract-info>
Telephone – Employee Relations: (408) 535-8150
6. Organization or Name and Title of Unrepresented Employees: **San José Police Dispatchers’ Association (SJPDA)**
- Nature of negotiations: wages/salaries, hours, working conditions, etc.
- Name of Existing Contract or MOA: Memorandum of Agreement – City of San Jose and Municipal Employees’ Federation (MEF), AFSCME, Local 101
- 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
7. 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 Jose and Peace Officer Park Ranger Association
- 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