



City Council Meeting MINUTES

DRAFT

Tuesday, May 23, 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



- Call to Order and Roll Call

9:32 a.m. - Closed Session

23-789 Closed Session: [See Page 17 for Closed Session Minutes](#)

Absent: All Present.

1:33 p.m. - Afternoon Session

Present: Councilmembers - Jimenez, Torres, Cohen , Ortiz, Davis, Doan, Candelas, Foley (1:36 p.m.), Batra, Kamei; Mahan.

Absent: Councilmembers - All Present.

- Pledge of Allegiance

Mayor Matt Mahan led the Pledge of Allegiance.

- Invocation (District 5)

Vivian Thu Nga provided the invocation through a performance of a musical medley.

- Orders of the Day

Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis, and carried unanimously, the orders of the day were approved with a deferral of Item #3.4 to August, 2023. (9-0-2. Absent: Jimenez, Torres.)

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

- Closed Session Report

None provided.

1. CEREMONIAL ITEMS

1.1 Vice Mayor Rosemary Kamei and Councilmember Domingo Candelas presented a proclamation declaring May 21 to May 27, 2023 as National Public Works Week and recognizing Public Works services to our communities in the City of San José. (Kamei and Candelas)

1.2 Councilmember Arjun Batra presented a proclamation declaring May 28, 2023, as the 105th year of Azerbaijan Independence Day to celebrate and recognize their contribution to the cultural, social, and economic fabric of the City of San José. (Batra)

2. CONSENT CALENDAR

Upon motion by Vice Mayor Rosemary Kamei, seconded by Councilmember Peter Ortiz, and carried unanimously, all the below listed actions were taken as indicated. (9-0-2. Absent: Jimenez, Torres.)

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

- 2.1 23-782 Approval of City Council Minutes.**
(a) Regular City Council Meeting Minutes of April 25, 2023.
(b) Regular City Council Meeting Minutes of May 9, 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. (9-0-2. Absent: Jimenez, Torres.)

- 2.2 23-753 Final Adoption of Ordinances.**
(a) Ordinance No. 30906 - An Ordinance of the City of San José Amending Section 5.09.500 of Chapter 5.09 of Title 5; Sections 15.14.515 and 15.14.770 of Chapter 15.14 of Title 15; Section 20.80.460 of Chapter 20.80, Sections 20.95.020 and Section 20.95.110 of Chapter 20.95, and Sections 20.100.465, 20.100.480, 20.100.910, 20.100.1030 and 20.100.1090 of Chapter 20.100 of Title 20 of the San José Municipal Code to Make Amendments Related to Compliance with the Municipal Regional Stormwater Permit. [Passed for Publication on 5/9/2023 - Item 6.1(a) (23-670)]
(b) Ordinance No. 30908 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 9.78 Gross Acres Situated at the Southeast Corner of Trade Zone Boulevard and Ringwood Avenue (2400 Ringwood Avenue and 1849 Fortune Drive) (APNs 244-17-009 & 244-17-014) from the IP Industrial Park Zoning District to the TEC(PD) Planned Development Zoning District. [Passed for Publication on 5/9/2023 - Item 10.2(b) (23-679)]

Action: (a) **Ordinance No. 30906** and (b) **Ordinance No. 30908** were adopted. (9-0-2. Absent: Jimenez, Torres.)

- 2.3 23-783 Approval of Council Committee Minutes.**
(a) Regular Community and Economic Development Committee Minutes April 24, 2023.
(b) Regular Transportation and Environment Committee Minutes May 1, 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. (9-0-2. Absent: Jimenez, Torres.)

2.4 23-787 Mayor and Council Excused Absence Requests
Request for an excused absence for Councilmember Davis from the Regular Meeting of Rules and Open Government Committee on May 17, 2023 due to Authorized City Business at Blue Zones Monterey County Site Visit, Salinas, California. 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 5/17/2023 - Item A.1.a]

Action: The excused absence for Councilmember Davis was approved. (9-0-2. Absent: Jimenez, Torres.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 23-733 Amendment to Services Agreement Between the City of San José and Faith Group, LLC for Airport On-Call IT Services.
Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Second Amendment to the Master Services Agreement between the City of San José and Faith Group, LLC for on-call information technology services, extending the expiration of the current term by one year to July 4, 2024, and increasing the maximum compensation by \$346,000 for a not to exceed total of \$1,535,000. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Airport)

Action: **Resolution No. RES2023-156** was adopted, authorizing the City Manager or designee to negotiate and execute a Second Amendment to the Master Services Agreement between the City of San José and Faith Group, LLC. (9-0-2. Absent: Jimenez, Torres.)

2.8 23-734 Amendment to Master City of San José Consultant Agreement with Jviation, Inc., a Woolpert Company for Airport On-Call Professional Consulting Services.
Approve a Second Amendment to the Master City of San José Consultant Agreement between the City of San José and Jviation, Inc., a Woolpert Company for on-call professional consulting services, extending the expiration of the current term from August 27, 2023, to June 30, 2025, with no additional compensation. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Airport)

Action: The Second Amendment to the Master City of San José Consultant Agreement between the City of San José and Jviation, Inc., a Woolpert Company was approved. (9-0-2. Absent: Jimenez, Torres.)

2.9 23-735 **Amendment to Master City of San José Consultant Agreement between the City of San José and Kimley-Horn and Associates for Airport On-Call Professional Consulting Services.**
Approve a Second Amendment to the Master City of San José Consultant Agreement between the City of San José and Kimley-Horn for on-call professional consulting services, extending the expiration of the current term from September 12, 2023, to September 12, 2024, with no change in maximum compensation. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Airport)

Action: The Second Amendment to the Master City of San José Consultant Agreement between the City of San José and Kimley-Horn was approved. (9-0-2. Absent: Jimenez, Torres.)

2.10 23-736 **Airport Concession Disadvantaged Business Enterprise Program for Federal Fiscal Years 2024-2026.**
Adopt a resolution: (a) Approving the proposed Airport Concession Disadvantaged Business Enterprise (ACDBE) program update in accordance with the Federal Aviation Administration (FAA) regulations for the San José Mineta International Airport; (b) Approve the three-year ACDBE race-neutral goal of 7.7% for all Airport Concessions, other than car rentals, for Federal Fiscal Years (FFY) 2024-2026; (c) Approve the three-year ACDBE race-neutral goal of 0.40% for rental cars for FFY 2024-2026; (d) Authorizing the City Manager to submit the three-year ACDBE program to the FAA; and (e) Authorizing the City Manager to make revisions to the three-year ACDBE plan as requested by the FAA. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Airport)

Action: **Resolution No. RES2023-157** was adopted, (a) approving the proposed Airport Concession Disadvantaged Business Enterprise (ACDBE) program update, (b) approving the three-year ACDBE race-neutral goal of 7.7% for all Airport Concessions, (c) approving the three-year ACDBE race-neutral goal of 0.40% for rental cars for FFY 2024-2026, (d) authorizing the City Manager to submit the three-year ACDBE program to the FAA (e) authorizing the City Manager to make revisions to the three-year ACDBE plan as requested by the FAA. (9-0-2. Absent: Jimenez, Torres.)

2.11 23-737 **Set a Public Hearing on the Levy of the Proposed Downtown Business Improvement District Assessments.**
(a) Preliminarily approve the 2023-2024 Annual Report and Budget as filed by the Downtown Business Improvement District Advisory Board, or as modified by City Council. (b) Adopt a resolution of intention to levy the annual assessment for Fiscal Year 2023-2024, and set Tuesday, June 6, 2023 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Statutorily Exempt, CEQA Guidelines Section 15061(b), Review for Exemption, File No. PP08-048. Council District 3. (Economic Development and Cultural Affairs)

Action: (a) The 2023-2024 Annual Report and Budget as filed by the Downtown Business Improvement District Advisory Board was preliminarily approved and (b) **Resolution No. RES2023-158** of intention was adopted, to levy the annual assessment for Fiscal Year 2023-2024, and set Tuesday, June 6, 2023 at 1:30 p.m. as the date and time for the public hearing. (9-0-2. Absent: Jimenez, Torres.)

2.12 23-738 Set a Public Hearing on the Levy of the Proposed Japantown Business Improvement District Assessments.

(a) Preliminarily approve the 2023-2024 Budget Report as filed by the Japantown Business Improvement District Advisory Board, or as modified by City Council. (b) Adopt a resolution of intention to levy the annual assessment for Fiscal Year 2023-2024, and set Tuesday, June 6, 2023 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Statutorily Exempt, CEQA Guidelines Section 15061(b), Review for Exemption, File No. PP08-048. Council District 3. (Economic Development and Cultural Affairs)

Action: (a) The 2023-2024 Budget Report as filed by the Japantown Business Improvement District Advisory Board was preliminarily approved and (b) **Resolution No. RES2023-159** of intention was adopted, to levy the annual assessment for Fiscal Year 2023-2024, and set Tuesday, June 6, 2023 at 1:30 p.m. as the date and time for the public hearing. (9-0-2. Absent: Jimenez, Torres.)

2.13 23-739 Actions Related to the Purchase Orders with MTSA, Inc. and ACCO Engineered Systems, Inc. for Water Testing/Treatment and Preventative/Corrective Maintenance for HVAC Systems.

Adopt a resolution authorizing the City Manager to exercise up to four one-year options to extend the terms of the purchase orders with MTSA, Inc. (Sunnyvale, CA) and ACCO Engineered Systems, Inc. (San José, CA) for water testing/treatment and preventative/corrective maintenance for HVAC systems with the last option ending on or about June 5, 2027, subject to the appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Action: **Resolution No. RES2023-160** was adopted, authorizing the City Manager to exercise up to four one-year options to extend the terms of the purchase orders with MTSA, Inc. (Sunnyvale, CA) and ACCO Engineered Systems, Inc. (9-0-2. Absent: Jimenez, Torres.)

2.14 23-740 Amendment to the Agreement with Ethosoft, Inc. for a Laboratory Information Management System.

Adopt a resolution authorizing the City Manager to negotiate and execute the First Amendment to the Agreement for a Laboratory Information Management System with Ethosoft, Inc. (Norcross, Georgia) to extend the initial term for an additional 12 months through June 14, 2024, under the same material terms and conditions as the original Agreement with no change in initial term compensation, and exercise up to nine one-year options to extend the Agreement through June 14, 2033, or as may be adjusted to align with the software renewal 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/Environmental Services)

Action: **Resolution No. RES2023-161** was adopted, authorizing the City Manager to negotiate and execute the First Amendment to the Agreement for a Laboratory Information Management System with Ethosoft, Inc. (9-0-2. Absent: Jimenez, Torres.)

- 2.15 23-741 **Amendment to Agreement with Stanley Convergent Security Solutions, Inc. for Airport Automated Access Control System and Related Services.**
Adopt a resolution authorizing the City Manager to negotiate and execute the Third Amendment to the Agreement for Airport Automated Access Control System Services with Stanley Convergent Security Solutions, Inc. (Fishers, IN) to extend services for up to two additional one-year option terms through June 30, 2025 under the same material terms and conditions as the original agreement with maximum compensation not to exceed \$300,000 for the option period beginning July 1, 2023 and ending June 30, 2024, 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/Airport)

Action: **Resolution No. RES2023-162** was adopted, authorizing the City Manager to negotiate and execute the Third Amendment to the Agreement for Airport Automated Access Control System Services with Stanley Convergent Security Solutions, Inc. (9-0-2. Absent: Jimenez, Torres.)

- 2.16 23-742 **Amendment to the City Pay Plan. - DEFERRED.**
Adopt a resolution amending the City of San José Pay Plan effective May 23, 2023, to create the Wastewater Facility Deputy Director (U) (3626) classification with an annual pensionable salary range of \$145,715.99 - \$235,185.60. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Human Resources) DEFERRED TO 6/6/2023 PER ADMINISTRATION

DEFERRED TO JUNE 6, 2023 CITY COUNCIL MEETING PER ADMINISTRATION.

- 2.17 23-743 **Amendment to Agreement with Stanley Convergent Security Solutions, Inc. for Airport Automated Access Control System and Related Services.**
Adopt a resolution approving a list of pavement maintenance projects eligible for San José's 2023-2024 allocation of the Road Maintenance and Rehabilitation Account funding, which was made available by the approval of Senate Bill No. 1, otherwise known as the Road Repair and Accountability Act of 2017. CEQA: Exempt, File No. ER23-009, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

Action: **Resolution No. RES2023-163** was adopted, approving a list of pavement maintenance projects eligible for San José's 2023-2024 allocation of the Road Maintenance and Rehabilitation Account funding. (9-0-2. Absent: Jimenez, Torres.)

- 2.18 23-762 **Retroactive Approval of Dumpster Day Sponsored by Council District 9 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 10, 2023: (a) Retroactively approve the Dumpster Day scheduled on May 20, 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. (Foley) [Rules Committee referral 5/10/2023 - Item B.6]

(Item continued on next page)

2.18 (Cont'd.)

Action: The City Council Sponsored Special Event was retroactively approved. (9-0-2. Absent: Jimenez, Torres.)

2.19 23-786 **Retroactive Approval of Multiple Special Events 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 May 17, 2023: (a) Retroactively approve the District 4 Community Leadership Forum scheduled on April 8, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; (b) Retroactively approve the District 4 Cataldi Park Tree Planting scheduled on April 29, 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 events. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Cohen) [Rules Committee referral 5/17/2023 - Item B.2]

Action: The City Council Sponsored Special Event was retroactively approved. (9-0-2. Absent: Jimenez, Torres.)

2.20 23-788 **Boards and Commissions Appointment.**

Approve the following Boards and Commissions appointments: (a) Youth Commission: (1) District 1 Seat: Appoint Aanya Mishra for a term of June 1, 2023 to May 31, 2025. (2) District 2 Seat: Appoint Neyha Pradeepkumar for a term of June 1, 2023 to May 31, 2024. (3) District 5 Seat: Reappoint Andrew Lieu for a term of June 1, 2023 to May 31, 2025. (4) District 6 Seat: Reappoint Amiya Bansal for a term of June 1, 2023 to May 31, 2024. (5) District 7 Seat: Appoint Megan Luong for a term of June 1, 2023 to May 31, 2025. (6) District 9 Seat: Reappoint Agam Singh for a term of June 1, 2023 to May 31, 2025. (7) District 10 Seat: Appoint Nolan Mascarenhas for a term of June 1, 2023 to May 31, 2024. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk) [Rules Committee referral 5/17/2023 - Item A.1.a]

Action: The following appointments to the Youth Commission were approved: (1) District 1 Seat: Appoint Aanya Mishra for a term of June 1, 2023 to May 31, 2025. (2) District 2 Seat: Appoint Neyha Pradeepkumar for a term of June 1, 2023 to May 31, 2024. (3) District 5 Seat: Reappoint Andrew Lieu for a term of June 1, 2023 to May 31, 2025. (4) District 6 Seat: Reappoint Amiya Bansal for a term of June 1, 2023 to May 31, 2024. (5) District 7 Seat: Appoint Megan Luong for a term of June 1, 2023 to May 31, 2025. (6) District 9 Seat: Reappoint Agam Singh for a term of June 1, 2023 to May 31, 2025. (7) District 10 Seat: Appoint Nolan Mascarenhas for a term of June 1, 2023 to May 31, 2024. (9-0-2. Absent: Jimenez, Torres.)

- 2.21 23-795 Police and Fire Department Retirement Plan Board Public Member Appointment.**
Reappoint Andrew Lanza as a Board Public Member to the Board of Administration for the Police and Fire Department Retirement Plan to a term ending on April 30, 2027. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk) [Rules Committee referral 5/17/2023 - Item A.1.a]

Action: Andrew Lanza was reappointed as a Board Public Member to the Board of Administration for the Police and Fire Department Retirement Plan to a term ending on April 30, 2027. (9-0-2. Absent: Jimenez, Torres.)

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

None provided.

- 3.3 23-744 2022 Biennial Ethics Review.**
(a) Accept the report on the Biennial Ethics Review. (b) Approve an ordinance amending Section 12.21.430 of Chapter 12.21 of Title 12 of the San José Municipal Code to clarify the appeal process for a Public Records Act request. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Attorney/City Manager)

Office of Administration, Policy and Intergovernmental Relations' Director Sarah Zárate, and Open Government Manager Edwin Huertas, and Chief Deputy City Attorney Rosa Tsongtaatarii provided the presentation and responded to questions with City Attorney Nora Frimann.

Public Comments: Blair Beekman offered public comments.

Action: Upon motion by Vice Mayor Rosemary Kamei, seconded by Councilmember Arjun Batra, and carried unanimously, (a) the report on the Biennial Ethics Review was accepted and (b) **Ordinance No. 30912** was passed for publication, amending Section 12.21.430 of Chapter 12.21 of Title 12 of the San José Municipal Code. (9-0-2. Absent: Jimenez, Torres.)

3.4 23-765 Board of Fair Campaign and Political Practices Recommended Revisions to the Title 12 of the San José Municipal Code, Ethics and Open Government, and Repealing Resolution No. 79187 Governing the Board’s Regulations and Procedures.

(a) Council by motion waive the 10-day noticing requirement for the following item, and consider the following recommendation; (b) Approve an ordinance amending Title 12 of the San José Municipal Code to amend Section 12.04.080 of Chapter 12.04 authorizing the City Clerk to dismiss without prejudice insufficient complaints or complaints that are outside the jurisdiction of the Board of Fair Campaign and Political Practices; Section 12.05.020 of Chapter 12.05 regulating the schedule of Special Elections for certain initiative measures; Section 12.06.295 of Chapter 12.06 removing limitations on the amount a candidate may loan to their own campaign or campaign committee; Section 12.10.020 and 12.10.050 of Chapter 12.10 removing the nonprofit exception in the Revolving Door Ordinance; and Section 12.12.440 of Chapter 12.12 removing the late filing fee for weekly lobbyist reports; or (c) In the alternative, approve an ordinance amending Title 12 of the San José Municipal Code to amend Section 12.04.080 of Chapter 12.04 authorizing the City Clerk to dismiss without prejudice insufficient complaints or complaints that are outside the jurisdiction of the Board of Fair Campaign and Political Practices; Section 12.05.020 of Chapter 12.05 regulating the schedule of Special Elections for certain initiative measures; Section 12.06.295 of Chapter 12.06 removing limitations on the amount a candidate may loan to their own campaign or campaign committee; Section 12.10.020 of Chapter 12.10 to redefine the nonprofit exception in the Revolving Door Ordinance; and Section 12.12.440 of Chapter 12.12 removing the late filing fee for weekly lobbyist reports; and (d) Adopt a resolution amending regulations and procedures for the San José Board of Fair Campaign and Political Practices, Investigations, and Hearings and repealing Resolution No. 79187. (Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.6.B.2.a.) CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Attorney) [Rules Committee referral 5/10/2023 - Item C.1 and 5/17/2023 - Item A.1.a]

THIS ITEM WAS DEFERRED PER ORDERS OF THE DAY.

3.5 23-768 Proposed Ordinance to Revise Section 12.06.030 of Title 12 of the San José Municipal Code.

Approve an ordinance amending Section 12.06.030 of Title 12 of the San José Municipal Code entitled Municipal Campaign and Officeholder Account to amend the definition of a candidate to conform with State Law. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Attorney) [Rules Committee referral 5/10/2023 - Item C.2 and 5/17/2023 - Item A.1.a]

Chief Deputy City Attorney Rosa Tsongtaarii provided the presentation and responded to questions.

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3.5 (Cont'd.)

Public Comments: Lucila Ortiz (Working Partnerships, USA), Roma Dawson, John Tucker (MEF-AFSCME Local 101), Paul Soto, Andrea Portillo (SOMOS Mayfair), Bea Pangilinan (Asian Law Alliance), and Roxanne (Trans Room for Transwomen) offered public comments.

Motion: Councilmember David Cohen made a motion to move the May 19, 2023 joint memorandum co-authored by Councilmembers Jimenez, Cohen, Davis, Candelas, and Foley. This motion was seconded by Councilmember Dev Davis.

Substitute Motion: Councilmember Bien Doan made a substitute motion to move only the staff recommendation and include an estimated timeline on when staff will return with additional recommendations. This motion did not receive a second.

Action: On a call to the question, the May 19, 2023 joint memorandum co-authored by Councilmembers Jimenez, Cohen, Davis, Candelas, and Foley was adopted to:

1. Approve an ordinance amending Section 12.06.030 of Title 12 of the San José Municipal Code entitled Municipal Campaign and Officeholder Account to amend the definition of a candidate to conform with State Law.
2. Clarify the definition of agent at the end of section 12.06.060 and add a clause to the ordinance to specifically include office holders' staff members as agents. For purposes of this section, "agent" includes members of a candidate's city and political campaign staff.
3. Direct the City Attorney to return to the Council with recommendations for enforceable regulations that address perceived or real conflicts of interest created by City employees who solicit campaign contributions for candidate-controlled campaign committees and campaign committees making independent expenditures in local City Council and Mayoral campaigns, with the following suggestions:
 - a. Analyze whether Levine Act/Government Code Section 84308 restrictions can apply to City employees who solicit contributions for both candidate-controlled committees and committees making independent expenditures in local candidate elections.
 - b. Return with reasonable disclosure requirements to alert the public when City employees solicit campaign contributions for each of these kinds of campaign committees.
 - c. Explicitly exclude from these regulations solicitations for campaign contributions to committees expending funds on local ballot measures.
4. Direct staff to finalize recommendations to guarantee the applicability of these changes no later than August 1, 2023.

Ordinance No. 30913 was passed for publication. (8-1-2. Noes: Doan. Absent: Jimenez, Torres.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

- 5.1 23-745 BART Silicon Valley Phase II Extension Project Contract Package 2 Specific Construction Transportation Management Plan for West Portal Early Works.**
Approve Santa Clara Valley Transportation Authority’s Contract Package 2 Construction Transportation Management Plan for Early Works at the West Portal as part of Santa Clara Valley Transportation Authority’s Bay Area Rapid Transit Silicon Valley Phase II Extension Project. CEQA: File No. ER21-065, Supplemental Environmental Impact Statement and Subsequent Environmental Impact Report for the Santa Clara Valley Transportation Authority’s BART Silicon Valley Phase II Extension Project. Council District 6. (Public Works)

Acting Public Works Director Matt Loesch, VTA Business Operations and Communications Director Bernice Alaniz, VTA Engineer’s Erica Roecks and Bruce Shewchuk, and Kiewit Shea Traylor Construction Contractor for VTA Luis Paiz provided the presentation and responded to questions.

Public Comments: Roxanne, Blair Beekman, Luke De Vogelaere (San José Earthquakes Soccer), and Paul Soto offered public comments.

Action: Upon motion by Councilmember Bien Doan, seconded by Councilmember Dev Davis, and carried unanimously, the Santa Clara Valley Transportation Authority’s Contract Package 2 Construction Transportation Management Plan was approved. (9-0-2. Absent: Jimenez, Torres.)

- 5.2 23-746 Report on Bids and Award of Contract for the 10272 - 2023 Local Streets Resurfacing North Project.**
(a) Report on bids and award of contract for the 10272 - 2023 Local Streets Resurfacing North Project, to the lowest responsive, responsible bidder, MCK Services, Inc., in the amount of \$11,460,866; and (b) Approve a 10% contingency in the amount of \$1,146,000. CEQA: Exempt, File No. ER23-009, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 4, 5, 6, and 8.
(Transportation/Public Works)

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

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Bien Doan, and carried unanimously, (a) the report on bids and award a construction contract for the 10272 - 2023 Local Streets Resurfacing North Project, to the lowest responsive, responsible bidder, MCK Services, Inc., in the amount of \$11,460,866 and (b) a 10% contingency in the amount of \$1,146,000 was approved. (9-0-2. Absent: Jimenez, Torres.)

- 5.3 23-747 Report on Bids and Award of Contract for the 2023 Local Streets Remove and Replace Pavement Project.**
(a) Report on bids and approve award of contract for the 2023 Local Streets Remove and Replace Pavement Project, to the low bidder, O’Grady Paving, Inc., in the amount of \$3,833,200; and (b) Approve a 10% contingency in the amount of \$383,000. CEQA: Exempt, File No. ER23-009, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation/Public Works)

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5.3 (Cont'd.)

Public Comments: None provided.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Domingo Candelas, and carried unanimously, (a) the report on bids and award a construction contract for the 2023 Local Streets Remove and Replace Pavement Project, to the low bidder, O'Grady Paving, Inc., in the amount of \$3,833,200 and (b) a 10% contingency in the amount of \$383,000 was approved. (9-0-2. Absent: Jimenez, Torres.)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 23-748 **Update on the Future of San Pedro Street.**
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 Santa Clara and St. John streets. 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 from 5/16/2023 - Item 8.1 (23-697)]

Office of Economic Development and Cultural Affairs Deputy Director Blage Zelalich, Acting Public Works Director Matt Loesch, and Fire Marshall James Dobson provided the presentation and responded to questions.

Public Comments: Paul Soto, Blair Beekman and Erika Pinto (SPUR) offered public comment.

Action: Upon motion by Councilmember Bien Doan, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the 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 Santa Clara and St. John streets were accepted. (9-0-2. Absent: Jimenez, Torres.)

- 8.2 23-749 **Approval of the Issuance of Tax-Exempt and Taxable Multifamily Housing Revenue Notes and the Loan of the Proceeds thereof for the Financing of 777 West San Carlos and Approving Related Documents.**
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 (777 West San Carlos), Series 2023C-1 (Tax-Exempt) in a principal amount not to exceed \$70,700,000 and; (2) taxable multifamily housing revenue note designated as City of San José Multifamily Housing Revenue Note (777 West San Carlos), Series 2023C-2 (Taxable) in a principal amount not to exceed \$1,300,000 (the

(Item continued on next page)

8.2 (Cont'd.)

2023C-1 Note and with the 2023C-2 Note, collectively the 2023C Notes); (b) Approving the loan of 2023C Notes proceeds to San José Sunol Street LP (Borrower), a California limited partnership created by Danco Communities, a California for-profit corporation, to finance the construction and development of a 154-unit multifamily development known as 777 West San Carlos located at 260 Sunol Street, 270 Sunol Street, and 777 West San Carlos Street in San José (Development); (c) 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 2023C Notes Documents); and (d) Authorizing and directing the City Manager, Director of Housing, Director of Finance, Assistant Director of Housing, Assistant Director of Finance, Deputy Director of Finance, Debt & Treasury Management, or their designees, to execute and deliver the 2023C Notes Documents together with any documents ancillary to the 2023C Notes Documents. CEQA: Exempt 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/Finance)

HEARD IMMEDIATELY AFTER CONSENT CALENDAR.

Acting Public Works Director Matt Loesch, Housing Policy and Planning Administrator Ban San, and Public Works Division Manager Chris Hickey responded to questions.

Public Comments: Alex Shoor (Catalyze SV), Matthew Tinsley (Strong Start Initiative – Santa Clara County Office of Education), Jaime Arteage (Nor Cal Carpenters Union), Kenneth Do (Carpenters Union Local 405), Paul Soto, Blair Beekman, and Brian Darby offered public comments.

Mayor Matt Mahan requested additional information on the cost per unit as a footnote in future memos.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley, and carried unanimously, **Resolution No. RES2023-164** was adopted. (9-0-2. Absent: Jimenez, Torres.)

8.3 23-750 Seventh Substantial Amendment to the Fiscal Year 2019-2020 Annual Action Plan to Reallocate a Portion of Community Development Block Grant Cares Act Funding Awarded by the United States Department of Housing and Urban Development.

(a) Hold a public hearing to allow for public comment. (b) Adopt a resolution relating to the following actions regarding a seventh Substantial Amendment to the Fiscal Year 2019-2020 Annual Action Plan to use the Community Development Block Grant Coronavirus Aid, Relief, and Economic Security Act funding 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

(Item continued on next page)

8.3 (Cont'd.)

Fiscal Year 2019-2020 Annual Action Plan to apply to the Community Development Block Grant Coronavirus Aid, Relief, and Economic Security Act Program Allocation Plan; (2) Reallocate \$250,000 in Community Development Block Grant Coronavirus Aid, Relief, and Economic Security Act funds from the Law Foundation of Silicon Valley to Sacred Heart Community Services for the Eviction Diversion and Settlement Program, and authorize the Director of Housing to negotiate and execute an amendment to the Sacred Heart Community Services contract relating to these additional funds and extend the contract effective July 1, 2023 through December 31, 2023; and (3) Authorize the Housing Department to submit the Substantial Amendment to the United States Department of Housing and Urban Development. 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 Department's Interim Deputy Director Kristen Clements and Division Manager Emily Hislop provided the presentation and responded to questions.

Public Comments: Mayor Matt Mahan opened the public hearing. Paul Soto and Blair Beekman offered public comment. Mayor Mahan closed the public hearing.

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, **Resolution No. RES2023-165** was adopted. (9-0-2. Absent: Jimenez, Torres.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

10 Land Use – Regular Agenda

• Open Forum

1. Paul Soto expressed criticism on comments made by the Council and spoke on their Chicano heritage.
2. Blair Beekman spoke on the City budget process and the impacts on city housing policies.

- **Adjournment**

The Council of the City of San José adjourned at 4:55 p.m. in memory of San José Evergreen Community College District Vice Chancellor, Jorge Escobar, who passed away on April 16, 2023. Jorge was a husband, a father and a community leader who was a committed public servant for our Evergreen community

Minutes Recorded, Prepared, and Respectfully Submitted by,

A handwritten signature in black ink that reads "Grace Turner". The signature is written in a cursive, flowing style.

Grace Turner
Deputy City Clerk

get/05-23-23 MIN

SAN JOSÉ CITY COUNCIL CLOSED SESSION

MAY 23, 2023

The Council of the City of San José convened into Closed Session at 9:35 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: In re: Claim of Caginia
Name(s) of Partie(s)
Involved:
Court: Workers Compensation Appeals Court
Case No: ADJ15573355, ADH9729222, ADJ16953663, ADJ16953671
Amount of Money or Benefits
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 REAL PROPERTY DESIGNATED REPRESENTATIVES
PURSUANT TO GOVERNMENT CODE SECTION 54956.8:**

1. Property Street Address, Parcel Number, or Other Unique Reference of Property: 1300 Berryessa Road, San José, California, 95133.
Negotiating Parties: Omar Passons, Nanci Klein, and Kevin Ice on behalf of the City of San José; Craig Kovaleski of CBRE, on behalf of the property owner Terreno Berryessa, LLP.
Under Negotiation: The direction will concern price and terms of payment.
Likely Range of Value of Property: Negotiated price based present comparable property values, potential use of and improvements to the property, and unique terms of the lease.

D. 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: Memorandum of Agreement — City of San José and 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 (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
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:
 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 José 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

By unanimous consent, Council recessed from the Closed Session to reconvene in Regular Open Session at 1:35 p.m. in the Council Chamber.