



City Council Meeting Draft Minutes

Tuesday, September 12, 2023

1:30 PM

Hybrid Meeting - Council Chambers and Virtually -

<https://sanjoseca.zoom.us/j/88471470054>

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**

9:34 a.m.- Closed Session, 23-1178: *See Pages 18-19 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.

1:34 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.

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

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 8)**

Councilmember Domingo Candelas introduced Imam Sami Reham from the Evergreen Islamic Center who offered the invocation with a word of prayer.

- **Orders of the Day**

None provided.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

1.1 Councilmember Domingo Candelas presented the commendation recognizing East San José native Marc Spears for the William Randolph Hearst Foundation Award for excellence in professional journalism from San José State University and the 2023 Naismith Hall of Fame Curt Gowdy Media Award for his contributions to the game of basketball.

1.2 Councilmember Bien Doan presented the proclamation recognizing September 15-17, 2023 as National Fallen Firefighters Memorial Weekend in the City of San José. The proclamation was presented to the family members of the following fallen San José Firefighters: Fire Captain, Rick Wardell; Fire Captain Robert “Bob” Francis; and Fire Engineer, Scott Faye. Fire Chief, Reginald Williams accepted the proclamation.

1.3 Councilmember’s Sergio Jimenez, Omar Torres, Peter Ortiz, Domingo Candelas, Vice Mayor Rosemary Kamei, and Mayor Matt Mahan presented the proclamation declaring September 15, 2023 – October 15, 2023 as National Hispanic Heritage Month to recognize the contributions, history and culture of the Hispanic/Latino community in San José. The proclamation was presented to the following people: Council General , Alejandra Ballona; President, CEO, Latino Business Foundation Silicon Valley, Jesus Flores; Maria Shabine Fernandez; Thomas Gonzales; Melecio Bañuelos; Rodrigo Navarro Gonzalez; Carlos Medina; and Adolfo Gomez.

2. CONSENT CALENDAR

Action: Upon motion by Vice Mayor Rosemary Kamei, seconded by Councilmember Arjun Batra, and carried unanimously, the Consent Calendar was approved *as a whole*. (9-0-2. Absent: Davis, Doan.)

2.1 Approval of City Council Minutes.

None provided.

2.2 23-1170 Final Adoption of Ordinances.

(a) Ordinance No. 30942 - An Ordinance of the City of San José Amending Section 1468 of Chapter 3.36 of Title 3 of the San José Municipal Code to Extend the Deadline for a Retired Member to Submit a Post-Retirement Election for an Optional Settlement Naming a New Spouse or Domestic Partner as Beneficiary from 30 Days to 90 Days After the Date of Marriage or Establishment of the Domestic Partnership in the Police and Fire Department Retirement Plan. [Passed for Publication on 8/22/2023 - Item 2.8 (23-1076)]

(b) Ordinance No. 30946 - An Ordinance of the City of San José Amending Title 12 of the San José Municipal Code to Amend Section 12.04.080 of Chapter 12.04 to Authorize 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 to Regulate the Scheduling of Special Elections for Certain Initiative Measures; Section 12.06.295 of Chapter 12.06 to Remove Limitations on the Amount a Candidate May Loan to Their Own Campaign or Campaign Committee; and Section 12.12.440 of Chapter 12.12 to Remove the Late Filing Fee for Weekly Lobbyists Reports. [Passed for Publication on 8/29/2023 - Item 3.3 (a) (23-1137)]

(c) Ordinance No. 30947 - An Ordinance of the City of San José Amending Title 12 of the San José Municipal Code to Amend Sections 12.10.020 and 12.10.030 of Chapter 12.10 to Redefine Exceptions to

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2.2 (Cont'd.)

the Revolving Door Ordinance and Reduce the Prohibition from Two Years to One Year.

[Passed for Publication on 8/29/2023 - Item 3.3 (b) (23-1137)]

(d) Ordinance No. 30948 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.63 Gross Acre Situated at the Northeast Corner of Mitzi Drive and Ranchero Way (4146 Mitzi Drive) (APN 299-16-001) from the R-M Multiple Residence Zoning District to the UR(PD) Planned Development Zoning District. [Passed for Publication on 8/29/2023 - Item 10.2 (b) (23-1135)]

Action: (a) **Ordinance No. 30942** amending Section 1468 of Chapter 3.36 of Title 3 of the San José Municipal Code, (b) **Ordinance No. 30946** amending Title 12 of the San José Municipal Code, (c) **Ordinance No. 30947** amending Title 12 of the San José Municipal Code, and (d) **Ordinance No. 30948** rezoning Certain Real Property were adopted. (9-0-2. Absent: Davis, Doan.)

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 23-1179

Settlement of San José Mercury News, LLC v. City of San José.

Approve payment of attorneys' fees and costs in the amount of \$78,225.40 in the San Jose Mercury News, LLC v. City of San José case, and authorize the City Attorney to execute a Settlement Agreement.

CEQA: Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Action: The Settlement of San José Mercury News, LLC v. City of San José was approved. (9-0-2. Absent: Davis, Doan.)

2.8 23-1180

Actions Related to the Purchase Orders with S.C. Anderson Group International, Inc. for Mold and Fungi Abatement and Disposal Services.

Adopt a resolution authorizing the City Manager or designee to exercise up to four one-year options to extend the term of the purchase orders with S.C. Anderson Group International, Inc. (San José, CA) for mold and fungi abatement and disposal services, with the last option ending on or about September 14, 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. RES2023-316** was adopted. (9-0-2. Absent: Davis, Doan.)

2.9 23-1181

Amendment to the Agreement with T2 Systems Canada, Inc for Parking Payment System, Hosting, and Automated Payment Processing Services.

Adopt a resolution authorizing the City Manager or designee to negotiate and execute the First Amendment to the Agreement for Purchase of Parking Payment System, Hosting, and Automated Payment Processing Services with T2 Systems Canada, Inc., formerly Digital Payment Technologies Corporation, to extend services for up to three additional two-year option terms through October 29, 2029 under the same material terms and conditions as the original agreement for a maximum compensation not to exceed \$160,000 for the option period beginning October 30, 2023 and ending October 29, 2025, 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. RES2023-317** was adopted. (9-0-2. Absent: Davis, Doan.)

2.10 23-1182

Actions Related to the Purchase Order with Almaden Body and Paint for Vehicle and Truck Collision Repairs, Bodywork, and Painting Services.

Adopt a resolution authorizing the City Manager or designee to:

(a) Amend purchase order OP 63712 with Almaden Body and Paint (San José, CA) for vehicle and truck collision repairs, bodywork, and painting services to increase the total compensation by \$150,000, for a maximum compensation not-to-exceed \$450,000 for the period ending June 25, 2024; and

(b) Exercise up to four one-year options to extend the term of the purchase order with the last option ending on or about June 25, 2028, 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. RES2023-318** was adopted. (9-0-2. Absent: Davis, Doan.)

2.11 23-1183

Amendment to Master Agreement for Consultant Services with AECOM Technical Services Inc. and Worley Group, Inc. (DBA Advisian) for Various City Facility Projects.

Adopt a resolution authorizing the City Manager or designee to:

(a) Negotiate and execute the First Amendment to the Master Agreement for consultant services with AECOM Technical Services, Inc. (CPMS Contract No. 9608), extending the term from September 30, 2023 to September 30, 2026, to complete various ongoing facility projects, and updating the fee schedule to reflect the time extension with no increase to the maximum compensation; and

(b) Negotiate and execute the First Amendment to the Master Agreement for consultant services with Worley Group, Inc. (DBA Advisian) (CPMS Contract No. 9608), extending the term from September 30, 2023 to September 30, 2026, to complete various ongoing facility projects, and updating the fee schedule to reflect the time extension with no increase to the maximum compensation.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: **Resolution No. RES2023-319** was adopted. (9-0-2. Absent: Davis, Doan.)

2.12 23-1184

Award of Contract for Master Consultant Agreement with Wood Rodgers, Inc. for Master Planning Consultant Services for the Sanitary Sewer System.

Approve the Master Consultant Agreement with Wood Rodgers, Inc. for on-call master planning consultant services for the City of San José's Sanitary Sewer Master Plan Phase IV and Updates Project from the date of execution to December 31, 2026, in an amount not to exceed \$1,500,000. CEQA: Exempt, File No. PP10-001, Feasibility and Planning Studies with no commitment to future actions. (Public Works)

Action: The Master Consultant Agreement with Wood Rodgers, Inc. for on-call master planning consultant services for the City of San José's Sanitary Sewer System was approved. (9-0-2. Absent: Davis, Doan.)

2.13 23-1194

Retroactive Approval of Ethiopian Flag Raising Ceremony and Tower 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 Events.

As recommended by the Rules and Open Government Committee on August 30, 2023:

(a) Retroactively approve the Ethiopian Flag Raising Ceremony and Tower Lighting scheduled on September 7, 2023 as City Council sponsored Special Events and approve the expenditure of funds; and

(b) Approve and accept donations from various individuals, businesses, or community groups to support the events.

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2.13 (Cont'd.)

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Mayor)
[Rules Committee referral 8/30/2023 - Item B.3]

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

2.14 23-1197

Retroactive Approval of Roosevelt Community Center Eggstavanza Sponsored by Council District 3 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 August 30, 2023:

- (a) Retroactively approve the Roosevelt Community Center Eggstavanza scheduled on March 25, 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. (Torres)
[Rules Committee referral 8/30/2023 - Item B.4]

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

2.15 23-1214

Boards and Commissions Appointment.

Approve the following Boards and Commissions appointments:

(a) Airport Commission:

(1) District 4 Seat: Appoint Jasvinder Sohal for a term of September 12, 2023 to June 30, 2027.

(2) District 8 Seat: Appoint Surjit Bains for a term of September 12, 2023 to June 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 9/6/2023 - Item A.1.a]

Action: The Boards and Commissions appointments of Jasvinder Sohal and Surjit Bains were approved. (9-0-2. Absent: Davis, Doan.)

2.16 23-1218

Approval of “Free Use” of City Hall West Plaza and Rotunda for the 2023 Plaza Azul Farmer’s Market Series.

As recommended by the Rules and Open Government Committee on September 6, 2023, adopt a resolution authorizing “Free Use” for the Plaza Azul Farmer’s Market series held at the City Hall West Plaza every Tuesday, August 29-November 14, 2023, co-hosted by
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2.16 (Cont'd.)

Councilmember Davis' office, Councilmember Torres' office, and the Office of Economic Development and Cultural Affairs.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Davis and Torres)
[Rules Committee referral 9/6/2023- Item B.2]

Action: **Resolution No. RES2023-320** was adopted. (9-0-2. Absent: Davis, Doan.)

2.17 23-1222

Approval of Tower and Rotunda Lighting as San José Fallen Firefighters Memorial Weekend 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 September 6, 2023, approve the Tower and Rotunda Lighting for recognizing September 15-17, 2023 as San José Fallen Firefighters Memorial Weekend scheduled from September 13-14, 2023 as a City Council sponsored Special Event and approve the expenditure of funds.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Doan)
[Rules Committee referral 9/6/2023 - Item B.3]

Action: The City Council Sponsored Special Event was approved. (9-0-2. Absent: Davis, Doan.)

2.18 23-1225

Retroactive Approval of Berryessa Community Movie Night Sponsored by Council District 4 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 September 6, 2023:

- (a) Retroactively approve the Berryessa Community Movie Night scheduled on July 29, 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. (Cohen)
[Rules Committee referral 9/6/2023 - Item B.4]

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

3. STRATEGIC SUPPORT

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

City Manager, Jennifer Maguire offered the verbal report and announced that this week San José will be hosting “Welcoming Week”, with more than 60 local government agencies and 120 non-profit partners across the US in attendance to celebrate cities and counties who aim to make their communities more inclusive, including all immigrants and refugees.

3.2 Labor Negotiations Update.

None provided.

3.3 23-1199 Settlement of NAACP of San José / Silicon Valley, et al. v. City of San José, et al.

(a) Approve the settlement in the case NAACP of San José / Silicon Valley, et al. v. City of San José, et al. in the total amount of \$2.9 million to Plaintiff M. Michael Acosta and authorize the City Attorney to execute a settlement agreement.

(b) Approve the settlement in the case NAACP of San José / Silicon Valley, et al. v. City of San José, et al. in the total amount of \$450,000 to plaintiffs Joseph Maldonado, Mahmoudreza Naemeh, Megan Swift, Joseph Cañas, Leslie Vasquez, Peter Allen, Shaunn Cartwright, Yessica Riles, José Gustavo Flores Rodriguez, Cindy Cuellar, NAACP of San José / Silicon Valley, and San José Peace and Justice Center and authorize the City Attorney to execute a settlement agreement.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

City Attorney, Nora Frimann addressed the protest incidents that took place in San José as a result of the death of George Floyd who died at the hands of Minneapolis police officers in May of 2020. Nora spoke to the settlements before the Council and recommended that Council move approval of the settlements.

Public Comment: (*Zoom Speaker*) Blair Beekman offered public testimony regarding the item.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Peter Ortiz, and carried unanimously, (a) the settlement in the case NAACP of San José/ Silicon Valley, et al. v. City of San José and (b) the settlement in the case NAACP of San José / Silicon Valley, et al. v. City of San José, et al. were approved. (11-0.)

3.4 23-1185

Approval of the Terms of an Agreement Between the City of San José and Each of the Following Bargaining Units: the Association of Engineers and Architects, IFPTE, Local 21 (AEA), the Association of Maintenance Supervisory Personnel, IFPTE, Local 21 (AMSP), the City Association of Management Personnel, IFPTE, Local 21 (CAMP), and the Municipal Employees' Federation, AFSCME, Local 101 (MEF) for the Term of July 1, 2023 - June 30, 2026, and Authorizing the City Manager to Execute Agreements with Those Terms; Approval of Side Letter Agreements Between the City of San José and Each of the Following Bargaining Units to Amend Certain Articles in the Current Memoranda of Agreements: the Association of Building, Mechanical and Electrical Inspectors (ABMEI), the Association of Legal Professionals (ALP), the Peace Officer Park Rangers Association (POPRA), the San Jose Police Dispatchers' Association (SJPDA), International Union of Operating Engineers, Local #3 (OE#3)), and the International Brotherhood of Electrical Workers, Local No. 332 (IBEW), and Authorizing the City Manager to Execute Agreements with Those Amendments; and Approval of Changes to Compensation and Benefits for Executive Management and Professional Employees in Unit 99 and Other Unrepresented Employees (Units 81/82) for Fiscal Years 2023-2024, 2024-2025, and 2025-2026. - HEARD SECOND TO LAST

(a) Adopt a resolution to:

(1) Approve the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, IFPTE, Local 21 (AEA) for the term of July 1, 2023, through June 30, 2026, and authorize the City Manager to execute an agreement with those terms.

(2) Approve the terms of a collective bargaining agreement between the City and the Association of Maintenance Supervisory Personnel, IFPTE, Local 21 (AMSP) for the term of July 1, 2023, through June 30, 2026, and authorize the City Manager to execute an agreement with those terms.

(3) Approve the terms of a collective bargaining agreement between the City and the City Association of Management Personnel, IFPTE, Local 21 (CAMP) for the term of July 1, 2023, through June 30, 2026, and authorize the City Manager to execute an agreement with those terms.

(4) Approve the terms of a collective bargaining agreement between the City and the Municipal Employees' Federation, AFSCME, Local 101 (MEF) for the term of July 1, 2023, through June 30, 2026, and authorize the City Manager to execute an agreement with those terms.

(5) Approve the terms of a Side Letter Agreement between the City and the Association of Building, Mechanical and Electrical Inspectors (ABMEI) to amend certain articles in the current Memorandum of Agreement for the term of July 1, 2023, through June 30, 2026, and authorize the City Manager to execute an agreement with those terms.

(6) Approve the terms of a Side Letter Agreement between the City and the Association of Legal Professionals (ALP) to amend certain
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3.4 (Cont'd.)

articles in the current Memorandum of Agreement for the term of July 1, 2023, through June 30, 2026, and authorize the City Manager to execute an agreement with those terms.

(7) Approve the terms of a Side Letter Agreement between the City and the Peace Officer Park Ranger Association (POPRA) to amend certain articles in the current Memorandum of Agreement for the term of July 1, 2023, through June 30, 2026, and authorize the City Manager to execute an agreement with those terms.

(8) Approve the terms of a Side Letter Agreement between the City and the San Jose Police Dispatchers' Association (SJPDA) to amend certain articles in the current Memorandum of Agreement for the term of July 1, 2023, through June 30, 2026, and authorize the City Manager to execute an agreement with those terms.

(9) Approve the terms of a Side Letter Agreement between the City and the International Union of Operating Engineers, Local #3 (OE#3), and authorize the City Manager to execute an agreement with those terms.

(10) Approve the terms of a Side Letter Agreement between the City and International Brotherhood of Electrical Workers, Local No. 332 (IBEW), and authorize the City Manager to execute an agreement with those terms.

(11) Approve amendments to compensation and benefits for executive management and professional employees in Unit 99 and other unrepresented employees in Units 81/82, for Fiscal Years 2023-2024, 2024-2025, and 2025-2026.

(b) Adopt the related 2023-2024 Appropriation Ordinance amendments in various funds as detailed in Attachment J to the staff memorandum.

(c) Approve the changes to budgeted positions in various departments as detailed in Attachment K to the staff memorandum. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no physical changes to the environment. (City Manager)

Public Comment: (*In person speakers*) James Reber, Justin Imamura, Jeremy Corrales, Laura Stuchinsky, Dee M. (MEF), Mary Morse, Yadira Ibanez, Sarah Abroff, Blair Beekman, Debra Grabelle (IFPTE), Shaunn, Nawa, (*Zoom Speakers*) Jeffrey Buchanan, Julie Jennings, Abigail Hindson, Mary Helen Doherty, Cindy Harlin (AFSCME/MEF), Jenny Zhao, Mila Bekele, Lisa Charpontier, Diya Prasanth, Mani Bekele, Aurelia Sanchez, Giavanna Vega, Alyssa Grondahl, Caller 'User-1', Caller 'JanN', Kristin Ingram, Donna Kattengell, Erika Pinto, Samantha Jauregui, David Parker, Dian Crumedy (SVBC), Caller '4379', Juan Estrada, Erin Pang, Khari Crawford, Brian Darby, Mike Kraus, Cheryl, Mayra Pelagio, Nick R., Victoria Partida, Anthony Montes, Belinda Espino, Jordan Moldow, Nora Morales, Fred Brew, Natasha Opfell, Carlos E. Murillo, William Chea, Melanie, Kathy Fuchs Oberstar, Kathryn Hedges (SURJ), Minh Tran, Jon Linthacum, ZM, Paul Soto, Giovanni Forcina, Jason Day, John Leipelt, Fred Brew, Juliana Park, Mary Rubin, Brad, and Lupe Rodarte-Velasquez offered public testimony regarding the item.

3.4 (Cont'd.)

Motion: Councilmember Pam Foley moved approval of the staff recommendation, the contract agreements, and the joint memorandum she co-authored dated, September 12, 2023, as part of the motion. The motion was seconded by Councilmember Sergio Jimenez.

Vice Mayor Rosemary Kamei requested the following friendly amendment: that staff look into a potential pilot utilizing or recruiting high school seniors that would enable them to become eligible to apply for crossing guards positions; to help fill the current vacancies as a possible solution.

Councilmember Pam Foley stated the friendly amendment was a separate item not in conjunction with the motion on the floor and suggested that it be included as part of Vision Zero Task Force focus discussion on the topic of crossing guards. Vice Mayor Rosemary Kamei accepted the request and retracted her friendly amendment.

Amendment to the Motion: Councilmember Arjun Batra requested the following amendment to Item 1(b)(3) of the joint memorandum dated, September 12, 2023; “iii. Any surplus/overage funds *should be applied through Viva Calle to the Parks, Recreation and Neighborhood Services (PRNS) Department not the whole general fund*; budgets should be used to continue three Viva Calle events per year.” The friendly amendment was accepted by the maker of the motion and seconder.

Substitute Motion: Councilmember Bien Doan moved approval of the staff recommendation and his memorandum dated, September 11, 2023, as a substitute motion. The substitute motion failed for a lack of a second.

Action: On a call for question, the motion passed unanimously, (a) **Resolution No. RES2023-321** and (b) 2023-2024 Appropriation **Ordinance No. 30949** were adopted; (c) the changes to the budgeted positions in various departments as detailed in Attachment K to the staff memorandum were approved. Also including the acceptance of the joint memorandum from Councilmember David Cohen, Councilmember Pam Foley, and Councilmember Sergio Jimenez dated September 12, 2023, *including the following amendment to Item 1(b)(3)*, recommending: (1) Approve the staff recommendation with the following changes in cost savings and refunding: a. Adjust the following items: (i) Decrease each City Council Office appropriation by \$10,000 for a total of \$100,000 (ii) Decrease the Office of the Mayor appropriation by \$100,000 (iii) Increase the Personal Services appropriation to the Parks, Recreation and Neighborhood Services Department by \$200,000 (b) Fund all the following items with cost savings from item above: (i) Add 1.0 Events Coordinator I/II to the Parks, Recreation and Neighborhood Services Department to support Viva CalleSJ and Viva Parks placemaking events (ii) Add 1.0 Recreation Leader part-time to the Parks, Recreation and Neighborhood Services Department to support the Viva CalleSJ and Viva Parks placemaking events (iii) Any surplus/overage funds *should be applied through Viva Calle to the Parks, Recreation and Neighborhood Services (PRNS) Department not the whole general fund*; budgets should be used to continue three Viva Calle events per year. (2) Direct Parks, Recreation and Neighborhood Services Department to pursue

- 3.4 (Cont'd.) private grants and sponsorships to fund non-personal costs for a third Viva Calle event.
(3) Evaluate ways to ease and simplify the crossing guard application process to increase the number of completed submissions.(9-1-1. Noes: Mahan. Absent: Davis.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 23-1198 California Department of Transportation (Caltrans) State Route 87 Roadway Rehabilitation Project.

Accept the status report on the California Department of Transportation (Caltrans) State Route 87 Roadway Rehabilitation Project.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. Council Districts 2, 3, 6, 7, 9, and 10. (Transportation)

Caltrans Public Information Officer, Victor Gauthier; Caltrans Construction Manager, Scott McCrank; and Caltrans Project Manager, Francis Mensah offered the presentation and responded to questions.

Public Comment: (*In person speaker*) Shaunn and (*Zoom Speaker*) Blair Beekman offered public testimony regarding the item.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Pam Foley, and carried unanimously, the status report on the California Department of Transportation (Caltrans) State Route 87 Roadway Rehabilitation Project was accepted. (11-0.)

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 23-1186 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 renewable energy for a term of no more than 20 years, from 2023 through 2043, in an estimated amount of \$10,000,000 annually and not to exceed \$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; and repealing Resolution No. RES2023-154. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Community Energy)

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6.1 (Cont'd.)

Public Comment: (*Zoom Speaker*) Blair Beekman offered public testimony regarding the item.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Bien Doan, and carried unanimously, **Resolution No. RES2023-322** was adopted. (11-0.)

6.2 23-1187

San José Building Reach Code Administrative Update.

(a) Make findings related to the local geographical, topographical, climatic conditions and cost effectiveness, which are necessary to make modifications to the State of California's Building Energy Efficiency Standards.

(b) Approve an ordinance amending various sections of Chapter 24.12 of Title 24 (Technical Codes) to modify provisions of the 2022 California Building Energy Efficiency Standards with certain exceptions, modifications, and additions which serve as a reach code to increase building efficiency, mandate electric- and solar-readiness, and incentivize all-electric development.

(c) Authorize the City Manager or designee to submit a reach code submittal package to the California Energy Commission for its approval as required by law.

CEQA: Categorically Exempt, File No. ER23-175, CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services/Planning, Building and Code Enforcement)

Director, Environmental Services Department, Kerrie Romanow and Deputy Director, Environmental Services Department, Julie Benabente offered the presentation and responded to questions.

Public Comment: (*Zoom speakers*) Martha O'Connell, Paul Soto, Rocio Molina, and Caller 'User-1' offered public testimony regarding the item.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Peter Ortiz, and carried unanimously, the staff recommendations were approved, (a) the findings were made related to the local geographical, topographical, climatic conditions and cost effectiveness, (b) **Ordinance No. 30950** amending various sections of Chapter 24.12 of Title 24 (Technical Codes) of the San José Municipal Code was *passed for publication*; and (c) the City Manager or designee submitted a reach code submittal package to the California Energy Commission for its approval as required by law was authorized. (10-0-1. Absent: Jimenez.)

7. NEIGHBORHOOD SERVICES

7.1 23-1188 Enhancing the Youth Commission and Youth Participation in the City. HEARD AT 6:47 P.M.

Approve an ordinance of the City of San José amending Part 48 of Chapter 2.08 of Title 2 of the San José Municipal Code to add Section 2.08.4835 to compensate members of the Youth Commission for their participation, amend Section 2.08.4840 special eligibility requirements to encourage participation of youths, and amend Section 2.08.4850 to enhance the function, powers, and duties of the Youth Commission. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no physical changes to the environment. (Library)

City Librarian, Jill Bourne; Librarian, Megan Maloy; Senior Librarian, Elizabeth Nolan; Youth Commissioners: Ananya Sriram (former D7 Youth Commissioner); Deitra V. Hoang (Chair, D3 Youth Commissioner); and Andrew Lieu (D5 Youth Commissioner), offered the presentation and responded to questions.

Public Comment: (*In person speakers*) Thy Luong (District 4 Youth Commissioner), Aldojoell Gonzalez-Muñiz (District 8 Youth Commissioner), Nolan Mascarenhas (Vice Chair, District 10 Youth Commissioner), Blair Beekman (*Zoom speakers*) Rocio Molina, Paul Soto, Misrayn (Gabby) Mendoza, Giovanni Forcina, and Gerbenn S. offered public testimony regarding the item.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Omar Torres, and carried unanimously, **Ordinance No.30951** amending part 48 of Chapter 2.08 of Title 2 of the San José Municipal Code was *passed for publication*. (10-0-1. Absent: Davis.)

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 23-1189 Purchase and Sale Agreement for Properties Extending the Five Wounds Trail from E. William Street to the Proposed Little Portugal BART Station.

Adopt a resolution:

(a) Authorizing the City Manager or designee, to negotiate and execute a Purchase and Sale Agreement between the City of San José and Santa Clara Valley Transportation Authority, for the fee simple acquisition of the property known as Assessor's Parcel Numbers 467-36-095, 467-36-094, 472-05-069, 467-35-108, 467-35-109, 467-35-089, 467-33-075, 467-33-092, 467-33-087, 467-33-091, and 249-65-077, and acquisition of a recreation trail easement on Assessor's Parcel Numbers 467-07-052, 467-07-070, 467-09-077, and 467-09-078, for the amount of \$0, plus any closing costs; and

(Item Continued on the Next Page)

8.1 (Cont'd.)

(b) Authorizing the City Manager or designee, to execute all other documents necessary to effectuate the transfer of property to the City. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council District 3. (Economic Development and Cultural Affairs)

Public Comment: (*In person speakers*) Joan Rivas-Cosby, Blair Beekman, (*Zoom speakers*) Bill Rankin (Save Our Trails/ Coyote Meadows Coalition), Alie Victorine, and Katherine Hedges (SURJ) provided public testimony regarding the item.

Action: Upon motion by Councilmember Omar Torres, seconded by Councilmember Domingo Candelas, and carried unanimously, **Resolution No. RES2023-323** was adopted. (11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10.LAND USE

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember David Cohen, and carried unanimously, the Land Use Consent Calendar was approved *as a whole*. (9-0-2. Absent: Davis, Doan.)

10.1(a) 23-1190 C22-125, H22-041 & ER22-273 - Conforming Rezoning and Site Development Permit on Certain Real Property Located at 575, 591 and 593 N 5th Street. -HEARD IMMEDIATELY AFTER CONSENT

(1) Approve an ordinance rezoning certain real property located on the west side of North 5th Street, approximately 50 feet southeasterly of the intersection of North 5th Street and Jackson Street (575, 591, & 593 North 5th Street, APNs 249-40-002, 249-40-003, and 249-40-004) from the A(PD) Planned Development Zoning District to the MUC Mixed-Use Commercial Zoning District.

(2) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the removal of two walls, a portion of the roof, a side door, and a portico, for the construction of a 1,149-square-foot addition to an approximately 3,476-square-foot new dental office, on an approximately 0.43-gross-acre site.

CEQA: Exempt pursuant to CEQA Guidelines Section 15301(e) for Existing Facilities. Council District 3. (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Domingo Candelas, and carried unanimously, (a)(1) **Ordinance No. 30952** was *passed for publication* and (a)(2) **Resolution No. RES2023-324** was adopted. (9-0-2. Absent: Davis, Doan.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

• Open Forum

In Person Speakers:

1. Blair Beekman spoke to concepts of peace and the importance of open dialogues.
2. King Surinder spoke to an incident she faced regarding an armed security officer.

Zoom Speakers:

3. Shaunn spoke to the importance of employees knowing they are valued and involved.
4. Paul Soto spoke to the importance of the “Welga” in San José and an incident he faced.
5. Gerbenn S. spoke to a Youth Commission article he read dated July 24, 2020 regarding homeless youth and stated he’s sent emails to the commission requesting assistance with a stipend for his college education.
6. Misrayn (gabby) Mendoza spoke to the importance of equity in the City regarding the LGBTQ community.
7. Cole Cameron requested Council’s consideration regarding an email he submitted a week ago regarding the Veterans Parade.

• Adjournment

The Council of the City of San José adjourned at 7:49 p.m.

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, SEPTEMBER 12, 2023

The Council of the City of San José convened into Closed Session at 9:34 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:

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: 2

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

1. Case Name: Haidar v. City of San Jose, et al.,
Name(s) of Party(ies) NABIL HAIDAR, CITY OF SAN JOSE, SAN JOSE POLICE DEPARTMENT, EDGARDO GARCIA, JOHNSON FONG, ROBERT LABARBERA, ANTHONY MATA, STEWART DAVIES, THOMAS BARNARD, and DOES 1-50, inclusive
Court: Superior Court of California; County of Santa Clara
Case No: 18CV335617
Amount of Money or Other Damages according to proof
Relief Sought:

2. Case Name: NAACP of San Jose Silicon Valley, et al., v. City of San Jose, et al.,
Name(s) of Party(ies) NAACP OF SAN JOSÉ/ SILICON VALLEY; SAN JOSÉ PEACE AND JUSTICE CENTER; M. MICHAEL ACOSTA, AS AN INDIVIDUAL; AND JOSEPH CAÑAS; LESLIE VASQUEZ; PETER ALLEN; SHAUNN CARTWRIGHT; YESSICA RILES; JOSÉ GUSTAVO FLORES RODRIGUEZ; ALEX LEE; JOSÉPH MALDONADO; CINDY CUELLAR; MAHMOUDREZA NAEMEH; AND MEGAN SWIFT, ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED, CITY OF SAN JOSÉ; SAM LICCARDO; EDGARDO GARCIA; DAVID SYKES; JASON DWYER; RONNIE LOPEZ, LEE TASSIO, JARED YUEN;

SEAN MICHAEL CURRY, OFFICER FNU
DELGADO, and DOES 1-100

Court: U.S. District Court; District of Northern California

Case No: 4:21-cv-01705-PJH

Amount of Money or Other Damages according to proof

Relief Sought:

**C . PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO
GOVERNMENT CODE SECTION 54957:**

Department or Agency: City Manager

Title: City Manager

Name: Jennifer Maguire

By unanimous consent, Council recessed from the Closed Session; to reconvene in Regular Open Session at 1:34 p.m., at City Hall, Council Chambers.