



CITY COUNCIL MEETING

Draft Minutes

Tuesday, October 1, 2024
1:30 PM

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**

9:34 a.m.- Closed Session. *See Pages 13-15 for Closed Session Minutes.*

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

Absent Councilmembers: Mahan.

1:32 p.m. - **Regular Session.**

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

Absent Councilmembers: All present.

- **Pledge of Allegiance**

Mayor Matt Mahan led the Pledge of Allegiance.

- **Invocation (District 9)**

Councilmember Pam Foley introduced Suzanne St. John-Crane from the American Leadership Forum who offered the invocation.

- **Orders of the Day**

None provided.

- **Adjournment Recognition**

Councilmember Bien Doan adjourned the meeting in memory of Grandmaster Khue Huy Pham, who passed away on July 30, 2024. Grandmaster Pham and his family have shared their passion for martial arts to develop healthy, disciplined, moral, and compassionate individuals excelling in academics and martial arts. His dedication to his students has contributed to making San José a more remarkable city.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

- 1.1 Councilmember David Cohen and Councilmember Peter Ortiz presented the proclamation declaring October 2024 as Filipino-American History Month, a tribute to the rich history, achievements, endeavors, and enduring impact of the Filipino community in the City of San José. Members from FACTsj (Filipino- Americans Coming Together in San José) accepted the proclamation.
- 1.2 Councilmember Omar Torres presented the proclamation declaring October 2024 as National Arts and Humanities Month to recognize, celebrate, and support the tremendous impact of arts and humanities on the local culture and education in the City of San José. The proclamation was accepted by the Office of Cultural Affairs and the and Arts Commission.
- 1.3 Councilmember Pam Foley and Vice Mayor Rosemary Kamei presented the proclamation declaring October 2024 as National Disability Employment Awareness Month in the City of San José to reaffirm our dedication to ensuring equal opportunities and access for all.

2. CONSENT CALENDAR

Councilmember Pam Foley pulled Item 2.5 for comment only.

Councilmember Arjun Batra pulled Item 2.10 for comment only.

Public Comment: None provided.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Bien Doan, and carried unanimously, the Consent Calendar was approved *as a whole*, the below actions were taken as indicated. (10-0-1; Absent: Davis)

2.1 **Approval of City Council Minutes.**

None provided.

2.2 **Final Adoption of Ordinances.**

None provided.

2.3 **Approval of Council Committee Minutes.**

None provided.

2.4 Mayor and Council Excused Absence Requests.

Request for excused absences for:

(a) Vice Mayor Kamei from the regular meeting of Rules and Open Government Committee and Committee of the Whole on October 16, 2024 due to the attendance at the CALAFCO 2024 Annual Conference at Tenaya at Yosemite for authorized City business.

– **RECOMMEND DROP PER COUNCIL OFFICE**

(b) Vice Mayor Kamei from the regular meeting of Rules and Open Government Committee and Committee of the Whole on October 2, 2024 due to the attendance at the Local Agency Formation Commission of Santa Clara County (Santa Clara LAFCO) meeting for authorized City business.

(c) Councilmember Batra from the regular meeting of Community and Economic Development Committee on September 23, 2024 due to family emergency.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Kamei & Batra)
[Rules Committee referral 9/25/2024 - Item A.1.a, (b) & (c)]

Action: The requests for excused absences were approved, *excluding (a) which was dropped per the Council Office.* (10-0-1; Absent: Davis)

2.5 City Council Travel Reports.

None provided.

Councilmember Pam Foley spoke to the work that was done regarding the travel authorization to Dublin, Ireland from September 7-13, 2024 to participate in the Sister City Trip to Dublin, Ireland.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 Actions Related to the Purchase Order with Chrisp Company for the Installation of Thermoplastic, Paint, and Other Roadway Striping.

Adopt a resolution authorizing the City Manager or her designee to:

(a) Execute a purchase order with Chrisp Company (Fremont, CA) for the installation of thermoplastic, paint, and other roadway striping beginning on or about October 2, 2024, and ending on or about October 1, 2025, for a not-to-exceed amount of \$850,000; and

(b) Exercise up to six one-year options to extend the term of the purchase order, with the last option ending on or about October 1, 2031, subject to the appropriation of funds.

CEQA: Categorically Exempt, File No. ER23-009, CEQA Guideline Section 15301(c) Existing Facilities. (Finance)

Action: **Resolution No. RES2024-340** was adopted, regarding the actions related to the purchase order with Chrisp Company for the installation of thermoplastic, paint, and other roadway striping. (10-0-1; Absent: Davis)

2.8 Actions Related to the Purchase Orders with Bayscape Management, Inc., Brightview Landscape Services, Inc., and New Image Landscape Company for Special Districts Landscape Maintenance.

Adopt a resolution authorizing the City Manager or her designee to:

- (a) Execute purchase orders with Bayscape Management, Inc., (Alviso, CA) for Community Facilities Districts No. 14 and No. 17, Maintenance Districts No. 2, No. 5, and No. 18; Brightview Landscape Services, Inc., (Blue Bell, PA) for Maintenance District No. 11; and New Image Landscape Company (Fremont, CA) for Maintenance District No. 21 for landscape maintenance beginning on or about October 1, 2024, and ending on or about September 30, 2025, for a combined not-to-exceed amount of \$557,000;
- (b) Approve a contingency of \$100,000 for unanticipated landscaping maintenance and related services subject to the appropriation of funds; and
- (c) Exercise up to six one-year options to extend the term of the purchase orders, with the last option ending on or about September 30, 2031, subject to the appropriation of funds. CEQA: Categorically Exempt. File No. ER24-086, CEQA Guidelines Section 15301(h), Existing Facilities. (Finance)

Action: **Resolution No. RES2024-341** was adopted, regarding the actions related to the purchase orders with Bayscape Management, Inc., Brightview Landscape Services, Inc., and New Image Landscape Company for special districts landscape maintenance. (10-0- 1; Absent: Davis)

2.9 Actions Related to Funding and Reimbursement Agreements Between the City of San José and LS Power Grid California, LLC, for Permitting Costs.

- (a) Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Funding and Reimbursement Agreement between the City of San José and LS Power Grid California, LLC, to cover the permitting costs related to encroachment permits for the Power Santa Clara Valley Project.
- (b) Adopt a resolution authorizing the City Manager or her designee to negotiate and execute a Funding and Reimbursement Agreement between the City of San José and LS Power Grid California, LLC, to cover the permitting costs related to encroachment permits for the Power South Bay Project. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: (a) **Resolution No. RES2024-342** and (b) **Resolution No. RES2024-343** were adopted, regarding the actions related to funding and reimbursement agreements between the City of San José and LS Power Grid California, LLC, for permitting costs. (10-0-1; Absent: Davis)

2.10 Status Report on the November 2018 Ballot Measure T – The Disaster Preparedness, Public Safety, and Infrastructure General Obligation Bond.

Accept the bi-annual status report on the work plan and implementation updates for projects included in the approved 2018 Measure T – The Disaster Preparedness, Public Safety, and Infrastructure General Obligation Bond.

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

Councilmember Arjun Batra spoke to the great work and progress done by the City regarding the Measure T Bond.

Action: The bi-annual status report on the work plan and implementation updates for projects included in the approved 2018 Measure T – The Disaster Preparedness, Public Safety, and Infrastructure General Obligation Bond was accepted. (10-0-1; Absent: Davis)

2.11 Request for Travel Authorization for Mayor's Staff.

Authorize travel, accept travel payments to the City of San José and designate Mayor's Staff, Stephen Caines, as the City representative to attend the Bloomberg CityLab event in Mexico City, Mexico from October 14 to October 16, 2024. Source of Fund: The Aspen Institute, 501c3 (airfare, lodging, and meals).

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Mayor)
[Rules Committee referral 9/25/2024 - Item A.1.a]

Action: The request for travel authorization for Mayor's Staff was authorized. (10-0-1; Absent: Davis)

2.12 Approval of Independent Police Auditor Business Travel.

Approve the request of Eddie J. Aubrey, Independent Police Auditor, for a business-related trip to attend the NACOLE conference in Tucson, AZ from October 14 through October 17, 2024.

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

[Rules Committee referral 9/25/2024 - Item A.1.a]

Action: The request for a business-related trip to attend the NACOLE conference in Tucson, AZ from October 14 through October 17, 2024 for Eddie J. Aubrey, Independent Police Auditor was approved. (10-0-1; Absent: Davis)

2.13 Retroactive Approval and Approval of Multiple Special Events 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 September 25, 2024:

- (a) Retroactively approve the Talk with Batra scheduled on July 20, 2024, as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Approve the Senior Day at the Almaden Community Center scheduled on October 5, 2024, as a City Council sponsored Special Event and approve the expenditure of funds;
- (c) Approve the Hoffman/Via Monte Property Owners meeting scheduled on October 7, 2024, as a City Council sponsored Special Event and approve the expenditure of funds;
- (d) Approve the Shredding and E-Waste Day scheduled on October 12, 2024, as a City Council sponsored Special Event and approve the expenditure of funds;
- (e) Approve the Dumpster Days in the Santa Teresa area scheduled on October 26, 2024, as a City Council sponsored Special Event and approve the expenditure of funds;
- (f) Approve the Talk with Batra scheduled on October 19, 2024, as a City Council sponsored Special Event and approve the expenditure of funds; and
- (g) 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. (Batra)

[Rules Committee referral 9/25/2024 - Item B.4]

Action: The City Council Sponsored Special Events were retroactively approved. (10-0-1; Absent: Davis)

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 **Adoption of Statement of Policy and City Council Questions for the Prospective Director of Finance.**

Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Director of Finance as described in the staff memorandum, in compliance with City Charter Section 411.1.

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

City Manager Jennifer Maguire spoke to the item.

Public Comment: None provided.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the Statement of Policy and City Council Questions related to the selection of a prospective Director of Finance as described in the staff memorandum, in compliance with City Charter Section 411.1 was adopted. (10-0-1; Absent: Davis)

4. PUBLIC SAFETY

5. TRANSPORTATION & AVIATION SERVICES

5.1 **Summary Vacation of Melina Street, Bruce Avenue, and Portions of Regent Street, University Avenue, Emory Street, Walnut Street, and Spring Street with Reservations of Public Service Easements Within the Areas Being Vacated and Conditional Vacation of a Portion of University Avenue All Within Guadalupe Gardens.**

(a) Conduct a public hearing on the summary vacations of Melina Street, Bruce Avenue, and a portion of Regent Street, University Avenue, Emory Street, Walnut Street, and Spring Street with the reservation of Public Service Easements within the areas being vacated in Guadalupe Gardens, and a conditional vacation of a portion of University Avenue within Guadalupe Gardens.

(b) Adopt a resolution:

(1) Approving the report of the Director of Public Works and Director of Aviation setting forth the facts justifying the summary vacation of Melina Street, Bruce Avenue, and a portion of Regent Street, University Avenue, Emory Street, Walnut Street, and Spring Street with the reservation of Public Service Easements within the areas being vacated in Guadalupe Gardens (Subject Portion 1);

(2) Summarily vacating Subject Portion 1, which is excess right-of-way not required for street purposes and reserving Public Service Easements within the areas being vacated; and

(3) Directing the City Clerk to record a certified copy of the resolution of vacation for Subject Portion 1 with the Office of the Clerk-Recorder, County of Santa Clara.

(c) Adopt a resolution:

(1) Approving the report of the Director of Public Works and Director of Aviation setting forth the facts justifying the conditional vacation of a portion of University Avenue between Coleman Avenue and Walnut Street within Guadalupe Gardens (Subject Portion 2);

(2) Conditionally vacating Subject Portion 2 following the completion of the condition to abandon and/or relocate existing in-use public utility facilities; and

(3) After satisfaction of the condition, directing the City Clerk to record a certified copy of the resolution of vacation for Subject Portion 2 with the Office of the Clerk-Recorder, County of Santa Clara.

CEQA: Categorically Exempt, CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. Council District 6. (Public Works/Airport)

Public Comment: “Batman of San José” provided public testimony regarding the item.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Sergio Jimenez, and carried unanimously, (a) the public hearing was conducted, (b) **Resolution No. RES2024-344** and (c) **Resolution No. RES2024- 345** were adopted, regarding the summary vacation of Melina Street, Bruce Avenue, and Portions of Regent Street, University Avenue, Emory Street, Walnut Street, and Spring Street with reservations of public service easements within the areas being vacated and conditional vacation of a portion of university avenue all within Guadalupe Gardens. (10-0-1; Absent: Davis)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 **Establishment of the Tully Road Eastridge Business Improvement District.**

Receive a report and accept public comment on the establishment of the Tully Road Eastridge Business Improvement District.

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 7 and 8. (Economic Development and Cultural Affairs)

Public Comment: None provided.

Action: Upon motion by Councilmember Domingo Candelas, seconded by Councilmember Bien Doan, and carried unanimously, the report was received and public comment on the establishment of the Tully Road Eastridge Business Improvement District was accepted. (10-0-1; Absent: Davis)

8.2 **Downtown San José Office Incentives.**

(a) Approve an ordinance amending Chapter 4.76 of Title 4 of the San José Municipal Code to add a new Section 4.76.749 to temporarily exempt from the City's Business Tax new tenants executing leases for office space, or new property owners engaging in owner-occupied office uses, in the Downtown Business Improvement District when certain requirements are satisfied.

(b) Adopt a resolution amending the Master Parking Rate Schedule to establish a Downtown Office Lease Incentive Parking Program at City-owned and operated facilities and update various parking programs and rates.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. Council Districts 3 and 6. (Economic Development and Cultural Affairs/Transportation/Finance)

Nanci Klein, Director, Office of Economic Development and Cultural Affairs and Nathan Donato-Weinstein, Downtown Manager, Office of Economic Development offered the presentation and responded to questions.

Public Comment: Tomoyo Yoshinaga, Blair Carson, Alex Stettinski, Chris Shay, and Brendan Rawson provided public testimony regarding the item.

Motion: Councilmember Omar Torres moved approval of the item, including the joint memorandum he co-authored with Mayor Mahan, Councilmember Davis, and Councilmember Jimenez, dated, September 27, 2024.

Friendly Amendment: Councilmember Arjun Batra requested to put restrictions that the incentive be made available to new business, new businesses outside of San José, brand new businesses forming anywhere could be allowed, but an existing business from within San José relocating the incentive should not be available. The friendly amendment was *not* accepted by the maker of the motion and seconder.

Substitute Motion: Councilmember Arjun Batra moved approval of the item, including his friendly amendment mentioned above. The substitute motion failed for a lack of second.

Friendly Amendment: Councilmember Pam Foley requested that the report come back in June and *not three months* to the Community and Economic Development (CED) Committee, and include tenant incentives for retention, a review of tenant improvements such as waiving permit fees, and ways to streamline the process. The friendly amendment was accepted by the maker of the motion and seconder.

Councilmember Cohen requested that Staff include an analysis of what currently prevents people from coming to Downtown San José even though there are certain businesses there and where those businesses are coming from, as part of the evaluation.

Councilmember Cohen requested clarification regarding the process regarding tenant incentives over \$100,000. City Staff and City Attorney Nora Frimann confirmed the process.

Action: Upon motion by Councilmember Omar Torres, seconded by Councilmember Dev Davis, and carried unanimously, (a) **Ordinance No. 31127** was *passed for publication*, amending Chapter 4.76 of Title 4 of the San José Municipal Code to add a new Section 4.76.749; (b) **Resolution No. RES2024-346** was adopted, amending the Master Parking Rate Schedule to establish a Downtown Office Lease Incentive Parking Program at City-owned and operated facilities and update various parking programs and rates.

Including the *amended* joint memorandum co-authored by Mayor Mahan, Councilmember Torres, Councilmember Davis, and Councilmember Jimenez, dated, September 27, 2024, recommending the following: Accept staff recommendation with the following modification: Direct staff to return to the Community and Economic Development Committee *in June* ~~at least three months~~ before the program expires with a report on the program's effectiveness. Based on the health of the downtown office market, the report should analyze extending the program, *the report is also to include tenant incentives for retention, a review of tenant improvements such as waiving permit fees, and ways to streamline the process.* (11-0-0)

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. Pachuco Agbalog spoke to his efforts and frustrations reaching out to Council regarding his previous legal matter.

• Adjournment

The Council of the City of San José adjourned the meeting at 3:25 p.m. in memory and honor of Grandmaster Khue Huy Pham, who passed away on July 30, 2024. Grandmaster Pham and his family have shared their passion for martial arts to develop healthy, disciplined, moral, and compassionate individuals excelling in academics and martial arts. His dedication to his students has contributed to making San José a more remarkable city.

Minutes Recorded, Prepared, and Respectfully Submitted by,

DRAFT

Yasmin Johnson,
Deputy City Clerk City of San José

Approved at Council on:

of Actions: 8

Attest By:

Toni Taber, MMC
City Clerk, City of San José



Office of the City Attorney

SAN JOSÉ CITY COUNCIL CLOSED SESSION MINUTES

October 1, 2024 Present

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

Absent Councilmembers: Mahan.

Place: City Hall Conference Room W-133

Time: 9:34 a.m.

CLOSED SESSION ITEM(S) DISCUSSED:

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

1. Case Name: City of San Jose v. SC SJ Holdings LLC, et al.
 Name(s) of Party(ies) CITY OF SAN JOSE, SC SJ HOLDINGS LLC, FMT SJ, EGALE CANYON CAPITAL, LLC ACCOR MANAGEMENT US INC.
 Court: Superior Court of Santa Clara County
 Case No: 24CV433723
 Amount of Money or Other Relief Sought: Damages according to proof

2. Case Name: Tovar, David Sr., et al. v. City of San Jose, et al.
 Name(s) of Party(ies) DAVID TOVAR, SR., D.T.M., J.M., AND D.T.; CITY OF SAN JOSE, SERGEANT MAURICIO JIMENEZ, OFFICER HANS JORGENSEN, OFFICER JAMES SOH, OFFICER ALVARO LOPEZ, AND OFFICER TOPUI FONUA
 Court: U.S. District Court, Northern District of California
 Case No: 21-cv-02497
 Amount of Money or Other Relief Sought: Damages according to proof

3. Case Name: Hunter, Pernell v. City of San Jose et al.
Name(s) of Party(ies) HUNTER PERNELL, OFFICER MATTHEW
DIVINA JR.
Court: U.S. District Ct. N.D. Cal.
Case No: 23-cv-01641
Amount of Money or Other Relief Sought: Damages according to proof
4. Case Name: Sutter's Place, Inc., dba Bay 101 v. City of San Jose
Name(s) of Party(ies) SUTTER'S PLACE, INC., CITY OF SAN JOSE ET
AL.
Court: Court of Appeal of the State of California, Sixth
Appellate District
Case No: H046146
Amount of Money or Other Relief Sought: Refund, declaratory relief, injunctive relief
5. Case Name: Sutter's Place, Inc., dba Bay 101 v. City of San Jose
Name(s) of Party(ies) SUTTER'S PLACE, INC., CITY OF SAN JOSE ET
AL.
Court: Superior Court of Santa Clara County
Case No: 2014-1-CV267311
Amount of Money or Other Relief Sought: Damages according to proof
6. Case Name: Sutter's Place, Inc., dba Bay 101 v. City of San Jose
Name(s) of Party(ies) SUTTER'S PLACE, INC., CITY OF SAN JOSE ET
AL.
Court: Superior Court of Santa Clara County
Case No: 2016-1-CV-298883
Amount of Money or Other Relief Sought: Damages according to proof

7.

Case Name: Montellano, Ernesto v. City of San Jose, Greenwaste Recovery, Inc., et al.,

Name(s) of Party(ies) Ernesto Montellano, City of San Jose, Greenwaste Recovery, Inc. and DOES 1-20

Court: Santa Clara County Superior Court

Case No: 20CV367890

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