



# **City Council Meeting MINUTES**

**Tuesday, April 13, 2021  
1:30 PM**

**Virtual Meeting - <https://sanjoseca.zoom.us/j/91325378626>**

SAM LICCARDO, MAYOR  
CHAPPIE JONES, VICE MAYOR, DISTRICT 1  
SERGIO JIMENEZ, DISTRICT 2  
RAUL PERALEZ, DISTRICT 3  
DAVID COHEN, DISTRICT 4  
MAGDALENA CARRASCO, DISTRICT 5  
DEV DAVIS, DISTRICT 6  
MAYA ESPARZA, DISTRICT 7  
SYLVIA ARENAS, DISTRICT 8  
PAM FOLEY, DISTRICT 9  
MATT MAHAN, DISTRICT 10



## MINUTES OF THE CITY COUNCIL

April 13, 2021

*Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79450 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the City Council meeting was not physically open to the public. Public comments were accepted via eComment, email, by phone and webinar.*

The Council meeting was teleconferenced from remote locations.

**21-558: CLOSED SESSION.** See Page 28 for Closed Session Minutes.

The Council of the City of San José convened into Open Session at 1:32 p.m.

- **Call to Order and Roll Call**

9:00 a.m. - Closed Session

**21-682** Closed Session: Absent: Carrasco

1:30 p.m. – Regular Afternoon Session

Present: Councilmembers - Carrasco, Arenas, Davis, Mahan, Jimenez, Jones, Cohen, Esparza, Peralez, Foley; Liccardo.

Absent: Councilmembers - All present.

6:00 p.m. – Evening Session was Canceled.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 4)**

Imam Tahir Anwar, a nationally and globally-respected leader who represents the South Bay Islamic Association, provided the Invocation, noting Ramadan as a time of spiritual reflection, heightened devotion and worship.

- **Adjournment**

Mayor Sam Liccardo noted this meeting would be adjourned in memory of Dr. Waldemar Hall Wenner who passed away on Monday, March 29 at the age of 88 and spoke to his devotion to the community.

## • Orders of the Day

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Sergio Jimenez and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.4 deferred to April 27, 2021 at Councilmember Raul Peralez recommendation. (11-0.)

## **1.CEREMONIAL ITEMS** – none provided.

## **2. CONSENT CALENDAR**

Upon motion by Councilmember Sylvia Arenas, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

### **2.1 Approval of City Council Minutes.**

None provided.

### **2.2 21-715**

#### **Final Adoption of Ordinances.**

(a) **Ordinance No. 30550** - An Ordinance of the City of San José Amending Sections 17.85.200, 17.85.300, 17.85.410, 17.85.420, 17.85.510, 17.85.520, and 17.85.540 of Chapter 17.85 of Title 17 of the San José Municipal Code Related to the San José Energy and Water Building Performance Ordinance.

[Passed for Publication on 3/30/2021- Item 2.10 (21-567)]

(b) **Ordinance No. 30552** - An Ordinance of the City of San José Amending San José Municipal Code Chapter 25.08 to Eliminate the Requirement for On-Demand Taxicab Company and Driver Access Permits at the Norman Y. Mineta San José International Airport and Authorizing the Director of Aviation to Re-institute the On-Demand Taxicab Company and Driver Airport Access Permit Requirements, Including the 300 Permit Cap, in the Event that Efficient Airport Operations, Passenger Service Needs and the Public Interest Require a Limitation on the Number of On-Demand Ground Transportation Providers at the Airport.

[Passed for Publication on 3/30/2021- Item 5.1 (21-581)]

(c) **Ordinance No. 30554** - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.06-Gross Acre Situated on the South Side of East Empire Street at the Southwest Corner of East Empire Street and North Sixth Street (236 East Empire Street) (APN: 249-47-017) from the CN Commercial Neighborhood Zoning District to the R-1-8 Single Family Residence Zoning District.

[Passed for Publication on 3/30/2021- Item 10.1(b) (21-591)]

Action: Ordinance No. 30550, Ordinance No. 30552 and Ordinance No. 30554 were adopted. (11-0.)

### **2.3 Approval of Council Committee Minutes.**

None provided.

### **2.4 21-745 Mayor and Council Excused Absence Requests.**

Request for an excused absence for Councilmember Esparza from the Regular Meeting of the Transportation and Environment Committee on April 5, 2021 due to illness.

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

Action: The Excused Absence Request was approved. (11-0.)

### **2.5 City Council Travel Reports.**

None provided.

### **2.6 Report from the Council Liaison to the Retirement Boards.**

None provided.

### **2.7 21-683 Amendment to the Mount Chual Antenna Site Lease Schedule.**

Adopt a resolution authorizing the City Manager, or his designee, to negotiate and execute a First Amendment to the Antenna Site Lease Schedule dated August 29, 2001 between the City of San José and ComSites West, LLC, a California limited liability company to extend the lease term from May 1, 2021 to April 30, 2036, for a total of 15 years for a total cost of approximately \$540,000, with two additional five-year options to renew for a total cost of approximately \$759,000 if one option term is exercised and \$1,000,000 if both option terms are exercised, 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. (Economic Development)

Action: **Resolution No. 79959** regarding an Amendment to the Mount Chual Antenna Site Lease Schedule was adopted. (11-0.)

### **2.8 21-684 Amendment to the Purchase Order OP 57257 with Tucker Construction for Building Maintenance and Repair Services for Citywide Facilities.**

Adopt a resolution authorizing the City Manager to amend purchase order OP 57257 with Tucker Construction Company (San José, CA) for building maintenance and repair services, to increase compensation by \$200,000 for a revised total amount not-to-exceed \$520,000 through June 30, 2021.

CEQA: Not a Project, File No. PP17-008, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance/Public Works)

Action: **Resolution No. 79960** regarding an Amendment to a Purchase Order with Tucker Construction was adopted. (11-0.)

**2.9 21-685 Amendment to the COVID-19 Purchase Order OP 58765 with United Site Services, Inc. for Temporary Fencing Rentals & Repair Services.**

Adopt a resolution authorizing the City Manager to amend COVID-19 Purchase Order OP 58765 with United Site Services, Inc. (San José, CA) for temporary fencing rentals and repair services, to add portable restroom and handwashing station rental services, to increase compensation by \$635,000 for a revised maximum compensation not-to-exceed \$955,000, and to retroactively extend the term from April 17, 2020 through December 31, 2021.

CEQA: Not a Project, File No. PP17-008, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance/Public Works)

Action: **Resolution No. 79961** regarding an Amendment to a Purchase Order with United Site Services, Inc., was adopted. (11-0.)

**2.10 21-686 Pavement Maintenance Projects Eligible for Senate Bill No. 1 Funding.**

Adopt a resolution approving a list of pavement maintenance projects eligible for San Jose's 2021-2022 allocation of the Road Maintenance and Rehabilitation Account funding, which was made available by the approval of Senate Bill No. 1 (SB-1), otherwise known as the Road Repair and Accountability Act of 2017.

CEQA: Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

Action: **Resolution No. 79962** regarding Pavement Maintenance Projects Eligible for Senate Bill No. 1 Funding was adopted. (11-0.)

**2.11 21-687 Award of Construction Contracts for the 2021 Major Streets Concrete and ADA Ramps Major Project and the 2021 Major Streets Remove & Replace Project.**

(a) Approve award of a construction contract for the 2021 Major Streets Concrete and ADA Ramps Major Project, to the low bidder, McKim Corporation, in the amount of \$1,538,654 and approve an approximate 10% contingency in the amount of \$153,900.

(b) Approve award of a construction contract for the 2021 Major Streets Remove & Replace Project, to the low bidder, Radius Earthwork, Inc., in the amount of \$1,427,100 and approve an approximate 10% contingency in the amount of \$142,700.

CEQA: Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

Action: The award of construction contracts for McKim Corporation and Radius Earthworks were accepted. (11-0.)

**2.12 21-746 Boards and Commissions Appointment.**

Approve the following Boards and Commissions appointment:

(a) Housing and Community Development Commission:

(1) District 1 Seat: Roma Dawson to a term ending June 30, 2021.

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

[Rules Committee referral 4/7/2021 - Item A.1.a]

Action: The Boards and Commissions appointment was approved. (11-0.)

**2.13 21-753 VEBA Advisory Committee Appointment.**

As recommended by the Rules and Open Government Committee on April 7, 2021, approve the appointment of Aidan Guy, nominated by the Police Officers' Association as the Police Officers' Association active employee member, to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee for a partial term beginning May 1, 2021 and ending May 31, 2024.

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

[Rules Committee referral 4/7/2021- Item F.1.a]

Action: The (VEBA) Advisory Committee appointment was approved. (11-0.)

**2.14 21-760 Retroactive Approval of Walnut Mobile Home Park Dumpster Day Sponsored by Council District 2 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on April 7, 2012:

(a) Retroactively approve the Walnut Mobile Home Park Dumpster Day scheduled on April 10, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

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

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

**2.15      21-767      Retroactive Approval of Dumpster Day Sponsored by Council District 5 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 April 7, 2021:

- (a) Retroactively approve the Dumpster Day scheduled on February 27, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

**2.16      21-772      Retroactive Approval of Annual Leadership Sponsored by Council District 5 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 April 7, 2021:

- (a) Retroactively approve the Annual Leadership scheduled on March 26, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

**2.17      21-779      Approval of April 2021 as Stress Awareness Month Sponsored by Council District 8 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 April 7, 2021:

- (a) Approve the April 2021 as Stress Awareness Month as a City Council sponsored Special Event and approve the expenditure of funds.
- (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. (Arenas)  
[Rules Committee referral 4/7/2021 - Item G.1.d]

Councilmember Sylvia Arenas spoke to the effects of stress on everyone, including younger children. She highlighted Emy Flores, Evergreen School District Superintendent, who presented a video entitled “Safe Together” addressing the reopening of schools.

Public Comments: Blair Beekman offered comments.

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

**2.18 21-786 Retroactive Approval of Dumpster Day in the Tropicana Lanai Neighborhood 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 April 7, 2021:

- (a) Retroactively approve the Dumpster Day in the Tropicana Lanai Neighborhood scheduled on March 13, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

**2.19 21-793 Retroactive Approval of Dumpster Day on Singleton Drive 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 April 7, 2021:

- (a) Retroactively approve the Dumpster Day on Singleton Drive scheduled on March 20, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

**2.20 21-800 Retroactive Approval of Owsley Community Baseball Clinic 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 April 7, 2021:

- (a) Retroactively approve the Owsley Community Baseball Clinic scheduled on March 27, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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



**2.21 21-814 Retroactive Approval of Los Lagos Easter Egg Drive Through 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 April 7, 2021:

- (a) Retroactively approve the Los Lagos Easter Egg Drive Through scheduled on March 27, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

**2.22 21-821 Retroactive Approval of Ramblewood Elementary Easter Egg Giveaway 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 April 7, 2021:

- (a) Retroactively approve the Ramblewood Elementary Easter Egg Giveaway scheduled on March 31, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

**2.23 21-828 Retroactive Approval of Seven Trees Easter Egg Giveaway 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 April 7, 2021:

- (a) Retroactively approve the Seven Trees Easter Egg Giveaway scheduled on April 2, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

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

**2.24 21-835 Approval of 15th Annual Santos Family Car Show 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 April 7, 2021:

(a) Approve the 15th Annual Santos Family Car Show scheduled on September 4, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

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

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

### **3. STRATEGIC SUPPORT**

#### **3.1 Report of the City Manager, David Sykes (Verbal Report)**

None provided.

#### **3.2 Labor Negotiations Update.**

None provided.

#### **3.3 21-699 Board of Fair Campaign and Political Practices Appointments.**

(a) Interview applicants for appointment to the Board of Fair Campaign and Political Practices.

(b) Appoint two (2) applicants for a term ending March 1, 2025.

(c) Appoint one (1) applicant to a term ending March 1, 2023.

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

Public Comments: Paul Soto expressed personal observations.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Pam Foley and carried unanimously, Louis Silver and Isabella Nyakundi were appointed to the Board of Fair Campaign and Political Practices for a term ending March 1, 2025. A third applicant will be interviewed during a future meeting of the Council to fill the remaining seat.

### 3.4 21-691

#### **Return Together.**

As recommended by the Rules and Open Government Committee on March 24, 2021:

(a) City Council take the following action:

(1) Adopt an uncodified urgency ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker, and setting forth the facts constituting the urgency; and

(2) Approve an uncodified ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker.

**PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES. City Charter Section 605(d).**

(b) If the City Council is unable to take the action in part “a” of this recommendation by the required vote of eight (8) City Council members, approve an uncodified ordinance requiring certain specified employers to offer reemployment to any worker laid off due to the COVID-19 pandemic if the employer is hiring for the same or substantially similar job formerly held by the laid off worker.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Perez, Jimenez and Cohen)

[Rules Committee referral 3/24/2021 - Item G.3]

*Deferred to April 27, 2021 per Orders of the Day.*

## **4. PUBLIC SAFETY SERVICES**

### 4.1 21-697

#### **Police Department Duty Manual Updates Report.**

As recommended by the Public Safety, Finance and Strategic Support Committee on March 18, 2021, accept a report on updates to the Police Department's Duty Manual, including but not limited to Section S4312 Sexual Assault Cases and Section S4313 Domestic Violence, for the purposes of improving the Police Department's interaction with survivors of domestic violence, child abuse, sexual assault, human trafficking, and other vulnerable populations, including 1) requiring officers to respond to and investigate all calls for service for domestic violence, child abuse, sexual assault, and human trafficking for potential high lethality and write a police report if a crime occurred, and 2) ensuring a trauma-informed approach to an officer's response by providing survivors with access to an in-person advocate and/or a referral to such advocate by telephone, pamphlet, or resource card before the officer leaves the scene regardless if the survivor asks for the referral services.

*(Item Continued on the Next Page)*

#### 4.1 (Cont'd.)

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Police)  
[Public Safety, Finance and Strategic Support Committee referral  
3/18/2021 - Item (d)2]

Police Lieutenant Jaime Jimenez introduced the topic, and Crime and Intelligence Analyst Angelie Montesa provided the presentation. Councilmember Sylvia Arenas was recognized for leading this effort.

Public Comment: Paul Soto, Blair Beekman and Ms. Flores offered comment.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Maya Esparza and carried unanimously, the Police Department Duty Manual Updates Report was accepted, including the joint memorandum from Councilmembers Arenas, Carrasco, Davis, Esparza, and Foley, dated April 9, 2021, to:

1. Accept report on updates to the Police Department's Duty Manual.
  2. Direct the City Manager to return to the Public Safety, Finance, and Strategic Support (PSFSS) Committee no later than February 2022 with an update to the Police Department's Duty Manual amendments to report on the status of duty manual completions to ensure implementation.
  3. Direct the City Manager to return to the PSFSS Committee with a report evaluating the City's implementation of the Sexual Assault Bill of Rights as part of the Sexual Assault Response and Strategy Workplan and include community advocate agency feedback including but not limited to Asian Americans for Community Involvement, Center for Child Protection Spark Clinic, Community Solutions, Next Door Solutions to Domestic Violence, and YWCA of Silicon Valley.
- (11-0.)

## **5. TRANSPORTATION & AVIATION SERVICES**

## **6. ENVIRONMENTAL & UTILITY SERVICES**

### **6.1 21-707 Santa Clara Valley Water District Efforts to Develop Purified Water Projects in Santa Clara County. - HEARD AT 4:00 P.M.**

As recommended by the Rules and Open Government Committee on April 7, 2021, accept the report regarding the status of the Santa Clara Valley Water District's (Valley Water) Purified Water Project in Santa Clara County and direct the Administration to:

- (a) Negotiate an amended or new Master Agreement between Valley Water and the City of San José relating to Valley Water's Payment for City's support services to the expedited purified water program for an amount adequate to fund all costs incurred by the City to support negotiation of new agreements including legal services and a facilitator.

*(Item Continued on the Next Page)*

## 6.1 (Cont'd.)

(b) Coordinate with Valley Water to negotiate and enter into a three-party agreement with a mutually agreed upon consultant -to facilitate negotiation meetings between the City and Valley Water for six months; and establish the executive steering committee comprised of representatives from the San Jose City Council and Valley Water Board, staff from each agency only if the negotiation with the facilitator requires additional guidance.

(c) Negotiate with Valley Water an agreement to fund the reservation of wastewater effluent for potential water reuse projects with terms and conditions substantially similar to the Partnership Agreement to Advance Resilient Water Reuse Programs in Santa Clara County between Valley Water and the cities of Palo Alto and Mountain View dated December 10, 2019.

(d) Return to the San José City Council in December 2021 for action/consideration on a reservation of wastewater effluent agreement with Valley Water.

(e) Following the reservation of wastewater effluent, engage Valley Water to negotiate an amended or new Ground Lease and Property Use Agreement for the existing Advanced Water Treatment Facility, concurrently with an amended or new Recycled Water Facilities and Programs Integration Agreement.

(f) Direct the administration to continue prior Council direction on negotiating the expanded use of recycled water with Valley Water to increase a local, drought-resilient water supply and reduce reliance on imported water.

(g) Return to the San José City Council on June 15, 2021 with an update regarding the status of the negotiations.

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

[3/19/2021 Joint City Council/Santa Clara Valley Water District Board Special Meeting - Item 5] [Rules Committee referral 4/7/2021 - Item G.3]

Motion: Vice Mayor Chappie Jones moved approval of the staff report, joint memorandum including a portion of Councilmember David Cohen's memorandum as noted below: Councilmember Sylvia Arenas seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the report was accepted, including the joint memorandum from Mayor Sam Liccardo, Vice Mayor Chappie Jones and Councilmember Sergio Jimenez, dated April 7, 2021, with changes as noted, including an amendment to Item #4 (from Councilmember Cohen's memorandum, Item #2):

Accept staff's recommendation to accept the report regarding the status of the Santa Clara Valley Water District's (Valley Water) Purified Water Project in Santa Clara County and direct the Administration to:

*(Item Continued on the Next Page)*

## 6.1 (Cont'd.)

1. Negotiate an amended or new Master Agreement between Valley Water and the City of San José and Valley Water relating to Valley Water's Payment for City's support services to the expedited purified water program for an amount adequate to fund all costs incurred by the City to support negotiation of new agreements including legal services and a facilitator.
2. Coordinate with Valley Water to negotiate and enter into a three-party agreement with a consultant to facilitate negotiation meetings between the City and Valley Water for six months; and establish the executive steering committee comprised of representatives from the San Jose City Council and Valley Water Board, staff from each agency only if the negotiation with the facilitator requires additional guidance.
3. Negotiate with Valley Water an agreement to fund the reservation of wastewater effluent for potential water reuse projects with terms and conditions substantially similar to the Partnership Agreement to Advance Resilient Water Reuse Programs in Santa Clara County between Valley Water and the cities of Palo Alto and Mountain View dated December 10, 2019.
4. Return to the San José City Council ~~in~~ *no later than* December 2021 for action/consideration for an agreement with Valley Water. *Should these facilitated meetings not make significant progress within 60 days, establish an executive steering committee comprised of representatives from the San José City Council and the Valley Water Board to provide additional guidance.*
5. Following the reservation of wastewater effluent, engage Valley Water to negotiate an amended or new Ground Lease and Property Use Agreement for the existing Advanced Water Treatment Facility, concurrently with an amended or new Recycled Water Facilities and Programs Integration Agreement.
6. Direct the administration to continue prior Council direction on negotiating the expanded use of recycled water with Valley Water to increase a local, drought-resilient water supply and reduce reliance on imported water.
7. Return to the San José City Council on June 15, 2021 with an update regarding the status of the negotiations.

Also including Item #3 from Councilmember Cohen's memorandum, to encourage that negotiations allow experts from both agencies to have the opportunity to address perceived risks and find solutions that maintains an equitable risk sharing model.  
(11-0.)

## 6.2 21-708 **Overview on Water Supply Planning and Water Charge Rates Setting Processes.**

Receive information on the Santa Clara Valley Water District's water supply planning efforts and the Fiscal Year 2021-2022 water charge setting process.

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. (Mayor) [3/19/2021 Joint City Council/Santa Clara Valley Water District Board Special Meeting - Item 6]

Public Comments: Offering comments were speaker "5140", Paul Soto, Roland LeBrun, P.J. Curran and Blair Beekman.

*(Item Continued on the Next Page)*

## 6.2 (Cont'd.)

Valley Water Chair, Tony Estremera gave an introduction. Aaron Baler, COO Water Valley Water gave an overview on Water Supply Planning. Staff spoke on water usage and the rates setting processes.

Motion: Councilmember Maya Esparza moved approval with additional direction as noted below in “Action”. Councilmember Sylvia Arenas seconded the motion.

Action: On a call for the question, the motion was carried unanimously, the Overview on the Santa Clara Valley Water District’s water supply planning efforts and the Fiscal Year 2021-2022 water charge setting process was accepted, with direction to staff to return with a letter for submission to Valley Water expressing our concerns around the impacts of the increases, particularly on our hardest hit households; and requesting that they reduce or eliminate the increases for this year, evaluating which projects may be moved onto the property tax rolls, and evaluate any other potential cost savings measures, explore creation of an equity program compliant with Prop 218 that could create a low income tier that may allow them to charge a lower rate.

(11-0.)

## **7. NEIGHBORHOOD SERVICES**

### **7.1 21-700 Public Park Naming Located at Gimelli Way.**

As recommended by the Parks and Recreation Commission on February 3, 2021, approve “Delano Manongs Park” as the name of a new park located on Gimelli Way per the Parks and Recreation Commission’s and the Parks, Recreation and Neighborhood Services Department’s recommendation consistent with public response. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making results in no changes to the physical environment. Parks and Recreation Commission recommends approval (8-0). Council District 5. (Parks, Recreation and Neighborhood Services) [Parks and Recreation Commission referral 2/3/21 - Item VII.B]

Deputy Director of Parks, Recreation and Neighborhood Services, Nicolle Burnham and Rebekah Ross, Supervising Planner provided a presentation, discussed the park-naming process and outreach done.

Public Comments: Offering public comment were Paul Soto, Thelma Barajas (Trustee) and LEAD Filipino members: Brenda Cendejas, Daniel Lazo, Daniel Young, Dr. Angelica Cortez, and Kathy Tran. Allie Hughe spoke on behalf of Supervisor Otto Lee; and Clarence, Don Wan and Daisy offered additional comments.

Councilmember Magdalena Carrasco spoke to recognizing our Filipino ancestors, nothing this was completely community driven and thanked all organizers involved.

Action: Upon motion by Councilmember Magdalena Carrasco, seconded by Councilmember Sylvia Arenas and carried unanimously, “Delano Manongs Park” was accepted as the name of a new park located on Gimelli Way per the Parks and Recreation Commission’s and the Parks, Recreation and Neighborhood Services Department’s recommendation. (11-0.)

## **8. COMMUNITY & ECONOMIC DEVELOPMENT**

### **8.1 21-701**

#### **Actions Related to the Park Avenue Reconfiguration Project.**

(a) Conduct a Public Hearing to allow each person whose property is to be acquired a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030 of Cal. Cod of Civ. Proc.

(b) Adopt a resolution determining that the public interest and necessity require the acquisition through condemnation of Parcel A (consisting of  $\pm 1,281$  square feet and owned by the heirs and devisees of James Smith, deceased), with the Parcel referred to as a "Property" for the Park Avenue Reconfiguration Project in conformance with Cal. Code Civ. Proc. Section 1245.220, et. seq., and making the following findings and determinations to declare that:

(1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

(2) The public interest and necessity require the project, described below, which is in the Park Avenue public right-of-way, at the corner of Almaden Boulevard and Park Avenue as described in Exhibit "A" to Parcel A's proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Park Avenue Reconfiguration Project;

(3) The Property to be acquired for the proposed Park Avenue Reconfiguration Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Exhibit "A" to Parcel A's proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Park Avenue Reconfiguration Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, for the acquisition of the Property, has not been made by the City to the owner of record, the heirs and devisees of James Smith, deceased, because the heirs or devisees of the deceased owner cannot be identified with reasonable diligence;

(6) The City has complied with all conditions and statutory requirements that are necessary for approval and adoption of the Park Avenue Reconfiguration Project, including those prescribed by the California Environmental Quality Act ("CEQA", Pub. Res. Code § 21000, et seq.). On September 3, 2019, the City prepared a Determination of Consistency of the Park Avenue Reconfiguration Project to the Downtown Strategy 2040 Final Environmental Impact Report certified by the City on December 18, 2018 (State

*(Item Continued on the Next Page)*



## 8.1 (Cont'd.)

Clearinghouse No. 2003042127). The City has also determined that the Park Avenue Reconfiguration Project is exempt from environmental review under the provisions of Section 15301(c) of the State Guidelines for Implementation of CEQA as an existing public facility;

(7) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(8) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(9) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount determined by the summary appraisals of the Property or by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced or which may otherwise be required by law for the maintenance of the proceeding in eminent domain. The deposit is conditioned on the availability of funds under the Real Property Purchase and Sale and Cost Payment Agreement dated December 4, 2020 between SJ CityView LLC and the City of San José.

**PLEASE NOTE: APPROVAL OF THIS RESOLUTION OF NECESSITY REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3 VOTE OF ALL MEMBERS OF THE COUNCIL). California Code of Civil Procedure Section 1245.240.**

(c) Adopt a resolution determining that the public interest and necessity require the acquisition through condemnation of Parcel B (consisting of ±2,849 square feet and owned by the heirs and devisees of Jose M. Villar, deceased (Brad Jepson, Trustee of Estate of Charleyne Nobes, Janet Lipscomb, Karen Washburn, Michael Nobes, Rose Nobes Rawcliffe, Carol Nobes, Garret Nobes, Kyle Nobes, Lyndsey Nobes and Tammy Nobes Hill), with the Parcel referred to as a "Property") for the Park Avenue Reconfiguration Project in conformance with Cal. Code Civ. Proc. Section 1245.220, et. seq., and making the following findings and determinations to declare that: (1)The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

*(Item Continued on the Next Page)*

## 8.1 (Cont'd.)

(2) The public interest and necessity require the project, described below, which is in the Park Avenue public right-of-way, at the corner of Almaden Boulevard and Park Avenue as described in Exhibit "A" to Parcel B's proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Park Avenue Reconfiguration Project;

(3) The Property to be acquired for the proposed Park Avenue Reconfiguration Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Exhibit "A" to Parcel B's proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Park Avenue Reconfiguration Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, for the acquisition of the Property, has been made by the City to the living heirs and devisees of the last owner of record Jose M. Villar, deceased;

(6) The City has complied with all conditions and statutory requirements that are necessary for approval and adoption of the Park Avenue Reconfiguration Project, including those prescribed by the California Environmental Quality Act ("CEQA", Pub. Res. Code § 21000, et seq.). On September 3, 2019, the City prepared a Determination of Consistency of the Park Avenue Reconfiguration Project to the Downtown Strategy 2040 Final Environmental Impact Report certified by the City on December 18, 2018 (State Clearinghouse No. 2003042127). The City has also determined that the Park Avenue Reconfiguration Project is exempt from environmental review under the provisions of Section 15301(c) of the State Guidelines for Implementation of CEQA as an existing public facility;

(7) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(8) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(9) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount determined by the summary appraisals of the Property or by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced or

## 8.1 (Cont'd.)

which may otherwise be required by law for the maintenance of the proceeding in eminent domain. The deposit is conditioned on the availability of funds under the Real Property Purchase and Sale and Cost Payment Agreement dated December 4, 2020 between SJ CityView LLC and the City of San José.

**PLEASE NOTE: APPROVAL OF THIS RESOLUTION OF NECESSITY REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3 VOTE OF ALL MEMBERS OF THE COUNCIL). California Code of Civil Procedure Section 1245.240.**

(d) Adopt a resolution determining that the public interest and necessity require the acquisition through condemnation of Parcel C (consisting of ±782 square feet owned by the heirs and devisees of Carmen I. De Queveda, deceased, Adelena Quevedo and Alfonso Quevedo), with the Parcel referred to as a “Property”) for the Park Avenue Reconfiguration Project in conformance with Cal. Code Civ. Proc. Section 1245.220, et. seq., and making the following findings and determinations to declare that:

(1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

(2) The public interest and necessity require the project, described below, which is in the Park Avenue public right-of-way, at the corner of Almaden Boulevard and Park Avenue as described in Exhibit “A” to Parcel C’s proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Park Avenue Reconfiguration Project;

(3) The Property to be acquired for the proposed Park Avenue Reconfiguration Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Exhibit “A” to Parcel C’s proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Park Avenue Reconfiguration Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, for the acquisition of the Property, has been made by the City to the living heirs and devisees of Carmen I. De Queveda, deceased;

(6) The City has complied with all conditions and statutory requirements that are necessary for approval and adoption of the Park Avenue Reconfiguration Project, including those prescribed by the California Environmental Quality Act (“CEQA”, Pub. Res. Code § 21000, et seq.). On September 3, 2019, the City prepared a

## 8.1 (Cont'd.)

Determination of Consistency of the Park Avenue Reconfiguration Project to the Downtown Strategy 2040 Final Environmental Impact Report certified by the City on December 18, 2018 (State Clearinghouse No. 2003042127). The City has also determined that the Park Avenue Reconfiguration Project is exempt from environmental review under the provisions of Section 15301(c) of the State Guidelines for Implementation of CEQA as an existing public facility;

(7) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(8) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

(9) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount determined by the summary appraisals of the Property or by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced or which may otherwise be required by law for the maintenance of the proceeding in eminent domain. The deposit is conditioned on the availability of funds under the Real Property Purchase and Sale and Cost Payment Agreement dated December 4, 2020 between SJ CityView LLC and the City of San José.

**PLEASE NOTE: APPROVAL OF THIS RESOLUTION OF NECESSITY REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3 VOTE OF ALL MEMBERS OF THE COUNCIL). California Code of Civil Procedure Section 1245.240.**

(e) Adopt a resolution determining that the public interest and necessity require the acquisition through condemnation of Parcel D (consisting of 1,312 square feet owned by the heirs and devisees of Francois Baptiste Christian, deceased), with the Parcel referred to as a "Property") for the Park Avenue Reconfiguration Project in conformance with Cal. Code Civ. Proc. Section 1245.220, et. seq., and making the following findings and determinations to declare that:

(1) The City is authorized to acquire the Property and exercise the power of eminent domain to and in accordance with Article 1, Section 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.), Section 200 of the

## 8.1 (Cont'd.)

City of San José Charter, and Government Code Sections 37350, 37350.5, 37351, 37353 and 40404;

(2) The public interest and necessity require the project, described below, which is in the Park Avenue public right-of-way, at the corner of Almaden Boulevard and Park Avenue as described in Exhibit “A” to Parcel D’s proposed resolution of necessity, to be posted separately and by reference made a part hereof, for the Park Avenue Reconfiguration Project;

(3) The Property to be acquired for the proposed Park Avenue Reconfiguration Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(4) The acquisition of Property, as described in Exhibit “A” to Parcel D’s proposed resolution of necessity, to be posted separately, is necessary for the public uses proposed in the Park Avenue Reconfiguration Project;

(5) The offer required by Section 7267.2 of the Government Code, together with the accompanying statement of the amount established as just compensation, for the acquisition of the Property, has not been made by the City to the owner of record, the heirs and devisees of Francois Baptiste Christian, deceased, because the heirs or devisees of the deceased owner cannot be identified with reasonable diligence;

(6) The City has complied with all conditions and statutory requirements that are necessary for approval and adoption of the Park Avenue Reconfiguration Project, including those prescribed by the California Environmental Quality Act (“CEQA”, Pub. Res. Code § 21000, et seq.). On September 3, 2019, the City prepared a Determination of Consistency of the Park Avenue Reconfiguration Project to the Downtown Strategy 2040 Final Environmental Impact Report certified by the City on December 18, 2018 (State Clearinghouse No. 2003042127). The City has also determined that the Park Avenue Reconfiguration Project is exempt from environmental review under the provisions of Section 15301(c) of the State Guidelines for Implementation of CEQA as an existing public facility;

(7) All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property have been complied with by the City;

(8) Authorizing the City Attorney, or their designee, to institute, maintain, and prosecute to final judgment, in the name of the City of San José, proceedings in eminent domain in the Superior Court of the State of California, County of Santa Clara, for the condemnation of the Property herein described, and to take all steps necessary, including applying for an Order for Possession before Judgment, for said condemnation in the name of the City and correcting any errors or to making or agreeing to non-material changes in the description of the Property interests to be acquired that are deemed necessary for the conduct of the condemnation action; and

*(Item Continued on the Next Page)*

## 8.1 (Cont'd.)

(9) Authorizing the City Attorney, or their designee, to make a deposit in the State Treasury Condemnation Fund from lawfully available funds of the City, in the amount determined by the summary appraisals of the Property or by the court in which eminent domain proceedings concerning the Acquisition Parcels herein authorized are commenced or which may otherwise be required by law for the maintenance of the proceeding in eminent domain. The deposit is conditioned on the availability of funds under the Real Property Purchase and Sale and Cost Payment Agreement dated December 4, 2020 between SJ CityView LLC and the City of San José.

**PLEASE NOTE: APPROVAL OF THIS RESOLUTION OF NECESSITY REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3 VOTE OF ALL MEMBERS OF THE COUNCIL). California Code of Civil Procedure Section 1245.240.**

(f) Adopt a resolution:

(1) Approving the report of the Director of Public Works setting forth the facts justifying the conditional summary vacation of the 14,348 square feet portion of Park Avenue between Almaden Boulevard and Market Street (“Subject Property”);

(2) Conditionally vacating the Subject Property, which after the satisfaction of the condition, will be superseded by relocation; and

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

(g) Accept the funds of \$310,000 from a Real Property and Sale and Cost Payment Agreement to reimburse the City for any City-incurred costs, fees, and expenses associated with the pursuit and/or completion of the purchase or condemnation action related to the Acquisition Parcels to support the construction of the Park Avenue Reconfiguration Project and CityView Development Project.

(h) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

(1) Increase the estimate for Other Revenue by \$310,000; and

(2) Increase the Office of Economic Development’s Non-Personal/Equipment appropriation by \$310,000.

CEQA: Supplemental Environmental Impact Report to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 79586) for CityView, File No. H19-016; Addendum to the Downtown Strategy 2040 Final Environmental Impact Report for 200 Park Avenue Office Project, File No. H18-045; Determination of Consistency to the Downtown Strategy 2040 Final Environmental Impact Report for the Park Avenue Reconfiguration Project, File No. PP19-071. Council District 3. (Economic Development/Public Works/City Manager)

*(Item Continued on the Next Page)*

## 8.1 (Cont'd.)

Economic Development Director, Nanci Klein and Kevin Ice, Real Estate Services offered a presentation.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Addressing the issue were members of the public: Paul Soto, Blair Beekman, Brian Darby, Mike Sodergren and Roland LeBrun.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pam Foley and carried unanimously, (a) The public hearing was held, and four resolutions of necessity, (b) **Resolution No. 79963**; (c) **Resolution No. 79964**; (d) **Resolution No. 79965**; and (e) **Resolution No. 79966**, were voted on separately and adopted; and (f) **Resolution No. 79967**, justifying the conditional summary vacation; and (h) Appropriation **Ordinance No. 30555** and Funding Sources **Resolution No. 79968** were adopted. (11-0.)

## 10. LAND USE

### 10.1 Land Use on Consent Calendar

(a) **21-702 C18-030, H18-051 & T18-048 - Rezoning, Site Development Permit and Vesting Tentative Map for Property Located at 967 North Capitol Avenue. - TO BE HEARD IMMEDIATELY AFTER CONSENT**

(1) Approve an ordinance rezoning certain real property located at the west side of North Capitol Avenue approximately 300 feet easterly of Berryessa Road (967 North Capitol Avenue) from the A Agricultural Zoning District to the R-M Multiple Residence Zoning District on an approximately 0.3-gross acre site.

(2) Adopt a resolution approving, subject to conditions, the Vesting Tentative Subdivision Map to subdivide one parcel into six residential condominium units and one common area parcel.

(3) Adopt a resolution approving, subject to conditions, a Site Development Permit for the demolition of an existing single-family residence, accessory building, and the removal of three ordinance-size trees for the construction of six multifamily units on an approximately 0.3-gross acre site.

CEQA: Exempt per CEQA Guidelines Section 15303 for New Construction. Planning Commission recommends approval (6-0-1; Oliverio absent). Council District 4. (Planning, Building and Code Enforcement)

Councilmember David Cohen pulled the item to ask that parklands be kept in mind, asking that zoning not preempt plan for parks. Deputy Director of Planning, Robert Manford and Economic Development Director, Nanci Klein responded.

Public Comments: Blair Beekman and Paul Soto offered comments.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis and carried unanimously, (1) **Ordinance No. 30556** rezoning certain real property located at the west side of North Capitol Avenue was passed for publication; (2) **Resolution No. 79969**, approving the Vesting Tentative Subdivision Map; and (3) **Resolution No. 79970**, approving a Site Development Permit, were adopted. (11-0.)

(b)     **21-703           C20-018 - Conforming Rezoning for Property Located at 359 North 4th Street and 405 North 4th Street.**

Approve an ordinance rezoning certain real property located on the western side of North 4th Street and Washington Street (359 North 4th Street and 405 North 4th Street), approximately 400 feet northwest of E Julian Street, from the LI Light Industrial and R-M Multiple Residence Zoning Districts to the PQP Pubic/Quasi-Public Zoning District on an approximately 2.66-acre site.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Council District 3. (Planning, Building and Code Enforcement)  
*Heard Immediately After Consent*

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis and carried unanimously, **Ordinance No. 30557** rezoning certain real property located at the western side of North 4th Street and Washington Street was passed for publication. (11-0.)

## **10.1 Land Use on Consent Calendar (Cont'd.)**

(c)     **21-704           C21-005 - Conforming Rezoning for Property Located at 60 North Third Street.**

Approve an ordinance rezoning certain real property located on the northeast side of North Third Street, approximately 170 feet southeasterly of East Saint John Street (60 North Third Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District on an approximately 0.81-gross acre site.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Council District 3. (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis and carried unanimously, **Ordinance No. 30558** rezoning certain real property located at the northeast side of North Third Street was passed for publication. (11-0.)



(d)     **21-705           C21-006 - Conforming Rezoning for Property Located at 0 Montague Expressway.**

Approve an ordinance rezoning certain real property located on the north side of Montague Expressway, approximately 640 feet west of North First Street from the A(PD) Planned Development Zoning District to the IP Industrial Park Zoning District on an the approximately 11.19-gross acre site.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto. Council District 4. (Planning, Building and Code Enforcement)

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis and carried unanimously, **Ordinance No. 30559** rezoning certain real property located at the north side of Montague Expressway was passed for publication. (11-0.)

**END OF CONSENT CALENDAR**

**10 Land Use - Regular Agenda**

**10.2     21-706           H19-033 - Site Development Permit for Property Located at 282 South Market Street.**

(a) Adopt a resolution certifying the Block 8 Mixed Use Office Project Supplemental Environmental Impact Report and making certain findings concerning significant impacts, mitigation measures, and alternatives, and adopting a Statement of Overriding Considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA).

(b) Adopt a resolution approving, subject to conditions, a Site Development Permit, to allow the construction of an 18-story commercial building with approximately 12,771 square feet of commercial retail and approximately 482,026 square feet of commercial office, an alternative parking arrangement, and a Downtown Design Guideline exception on an approximately 1.49-gross acre site.

CEQA: Block 8 Mixed Use Office Supplemental Environmental Impact Report (SCH# 2003042127) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). Planning Commission recommends approval (7-0). Council District 3. (Planning, Building and Code Enforcement)

Deputy Planning Director, Robert Manford provided a presentation.

Public Comments: Paul Soto and Brian Darby provided public comment.

*(Item Continued on the Next Page)*

**10.2     (Cont'd.)**

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, (a) **Resolution No. 79971**, certifying the Block 8 Mixed Use Office Project Supplemental Environmental Impact Report; and (b) **Resolution No. 79972**, approving a Site Development Permit, were adopted, including the April 13, 2021 memorandum from Mayor Sam Liccardo, approving the staff recommendation, while:

1. Directing the City Attorney to revise the ordinance regarding encroachments of private development into the public realm to match that of the International Building Code, or of cities such as Los Angeles and Seattle, permitting encroachments more than 15 feet above the ground without limitation;
2. Where not legally feasible for a specific reason articulated to Council, direct Staff to explore more creative options that might enable such projects to get built without constraint, e.g., through agreements for City to claim title to the encroaching portion of a building but with exclusive leases to the property owner for a substantial duration matching the building's useful life (e.g, 99 years), in those circumstances where the City Manager and City Council find:
  - a. Greater flexibility will substantially improve the architecture and design viewable to the public, or some mechanism for exists for public to recapture value (such as for publicly accessible rooftop amenities, or additional contributions to the public realm with some nexus to the encroachment); and
  - b. encroachment occurs at an elevation—e.g. 50 feet above the street, or 50 feet below—where it appears unlikely to have any adverse impact on the public's use of the public right of way; and
  - c. the lease is subjected to a Brown Act-compliant public hearing and vote of the Council.
3. Should no options exist under California law, then in the coming year, discuss with our state delegation a legislative proposal that would allow encroachment of private development into the public realm under conditions similar to those stated above.

(10-0-1. Absent: Carrasco.)

## OPEN FORUM

1. Paul Soto urged increased resources to address the racial inequities in this area.
2. Blair Beekman spoke to good subsidies for the poor, positive sustainability, and the need for closed captioning use during meetings.
3. Roland LeBrun urged closed captioning use and translation services so every ethnic group may express themselves.
4. Speaker "5140" recommended the City focus on basic infrastructure needs.

### • Notice of City Engineer's Pending Decision on Final Maps

#### FOR RECEIPT:

Tract: 10564

Location: S/W corner of Almaden Road and Petroni Way

District: 10

Lots/Units: 6/6

Type: SFD

Developer: Almaden Investments LLC

## ADJOURNMENT

The Council of the City of San José adjourned at 6:20 p.m. in memory of community advocate Dr. Waldemar Hall Wenner who passed away on Monday, March 29 at the age of 88.

Minutes Recorded, Prepared and Respectfully Submitted by,

*Ruth Krantz*

Ruth Krantz, CMC

Deputy City Clerk, City of San Jose

Approved at Council on April 25, 2023



Toni J. Taber, CMC  
City Clerk

rmk/04-13-2021MIN



## SAN JOSÉ CITY COUNCIL CLOSED SESSION

**APRIL 13, 2021**

The Council of the City of San José convened into Closed Session at 9:00 a.m.  
This meeting was teleconferenced from remote locations.

Present: Councilmembers - Arenas, Davis, Esparza, Mahan, Jimenez, Jones, Cohen,  
Perez, Foley; Liccardo.

Absent: Councilmembers - Carrasco.

Closed Session Item(s) discussed:

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

1. Case Name: Thomas-Comet, Dorothy Gean v. City of San Jose; et al.,  
Name(s) of Parties(s) DOROTHY GEAN THOMAS-COMET, an individual;  
CITY OF SAN JOSE; SALVADOR NANEZ;  
GENOVEVA NANEZ and DOES 1 through 100,  
inclusive;  
Court: Superior Court of California, County of Santa Clara  
Case No: 19CV358910  
Amount of Money Damages according to proof  
or Other Relief  
Sought:
2. Case Name: Huerta, David v. City of San Jose  
Name(s) of Parties(s) David Huerta, City of San Jose. DOES 1 to 20  
Court: Superior Court of California, County of Santa Clara  
Case No: 20CV363227  
Amount of Money Damages according to proof  
or Other Relief  
Sought:

3. Case Name: In re: Claim of Alvarado  
Name(s) of Parties(s)  
Involved:  
Court: Workers Compensation Appeals Court  
Case No.: ADJ10246081  
Amount of Money or Other Benefits  
Relief Sought:

**B. PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957:**

Title: City Manager  
Name: David Sykes

**C. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6:**

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or **Association of Engineers & Architects (AEA)**  
Name and Title of  
Unrepresented  
Employees:  
Nature of wages/salaries, hours, working conditions, etc.  
negotiations:  
Name of Existing Memorandum of Agreement — City of San José and  
Contract or MOA: Association of Engineers & Architects (AEA)  
How to Obtain a Web: <http://www.sanjoseca.gov/index.aspx?NID=508>  
copy of Existing Telephone – Employee Relations: (408) 535-8150  
Contract or MOA:
2. Organization or **Association of Maintenance Supervisory Personnel**  
Name and Title of (AMSP)  
Unrepresented  
Employees:  
Nature of wages/salaries, hours, working conditions, etc.  
negotiations:  
Name of Existing City of San José - Association of Maintenance  
Contract or MOA: Supervisory Personnel (AMSP) Benefit &  
Compensation Summary  
How to Obtain a Web: <http://www.sanjoseca.gov/index.aspx?NID=508>  
copy of Existing Telephone – Employee Relations: (408) 535-8150  
Contract or MOA:

3.        Organization or        **City Association of Management Personnel**  
Name and Title of        **Agreement (CAMP)**  
Unrepresented  
Employees:  
Nature of        wages/salaries, hours, working conditions, etc.  
negotiations:  
Name of Existing        Benefit & Compensation Summary — City of San José  
Contract or MOA:        and City Association of Management Personnel  
Agreement  
How to Obtain a        Web: <http://www.sanioseca.gov/index.aspx?NID=508>  
copy of Existing        Telephone – Employee Relations: (408) 535-8150  
Contract or MOA:
4.        Organization or        **Municipal Employees' Federation, AFSCME Local**  
Name and Title of        **101, AFL-CIO (MEF)**  
Unrepresented  
Employees:  
Nature of        wages/salaries, hours, working conditions, etc.  
negotiations:  
Name of Existing        Memorandum of Agreement — City of San José and  
Contract or MOA:        Municipal Employees' Federation, AFSCME Local 101,  
AFL-CIO  
How to Obtain a        Web: <http://www.sanioseca.gov/index.aspx?NID=508>  
copy of Existing        Telephone – Employee Relations: (408) 535-8150  
Contract or MOA:
5.        Organization or        **San José Police Officers' Association**  
Name and Title of        **(SJPOA)**  
Unrepresented  
Employees:  
Nature of        wages/salaries, hours, working conditions, etc.  
negotiations:  
Name of Existing        Memorandum of Agreement — City of San José and  
Contract or MOA:        San José Police's Association  
How to Obtain a        Web: <http://www.sanioseca.gov/index.aspx?NID=508>  
copy of Existing        Telephone – Employee Relations: (408) 535-8150  
Contract or MOA:

By unanimous consent, Council recessed from the Closed Session at 12:19 p.m. to reconvene in Regular Open Session at 1:30 p.m. in the Council Chamber.