



City Council Meeting MINUTES

Tuesday, June 29, 2021
11:00 AM

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

June 29, 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.

21-1524: CLOSED SESSION. See Page 50 for Closed Session Minutes.

- **Call to Order and Roll Call**

9:00 a.m. - Closed Session - All Present.

21-1524

11:00 a.m. - Regular Session – All Present.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 6)**

Rabbi Cunin - Congregation Am Echad offered a prayer for the Invocation.

- **Orders of the Day**

Upon motion by Councilmember David Cohen, seconded by Councilmember Maya Esparza and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Item 2.14 deferred to August, and Items 10.3/10.4 to be heard at 1:30 p.m. (10-0-1. Absent: Carrasco)

Mayor Sam Liccardo noted this meeting would be adjourned in memory of Nicholas Cochran, who passed away at the age of 28 on June 4, 2021, and it is his honor to recognize Nicholas for his service to our Fire Department and our City.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

None provided.

2. CONSENT CALENDAR

Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

Public Comments: Blair Beekman and Paul Soto offered comment on items 2.2(e), 2.10, 2.12, 2.22, 2.32 and 2.32. Thomas Ells offered appreciation regarding Item 2.32.

2.1 21-1617 Approval of City Council Minutes.

- (a) City Council Regular Meeting Minutes of January 26, 2021.
 - (b) City Council Study Session Minutes of April 12, 2021.
 - (c) City Council Study Session Minutes of April 23, 2021.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, and Annual Reports, and Informational Memos that involve no approvals of any City action.

Action: The Council Meeting Minutes were approved. (11-0.)

2.2 21-1581 Final Adoption of Ordinances.

- (a) **Ordinance No. 30614** - An Ordinance of the City of San José Amending Various Sections of Chapter 15.14 of Title 15 of the San José Municipal Code Regarding Sewer Use Regulations.
[Passed for Publication on 6/15/2021- Item 2.11(a) (21-1368)]
- (b) **Ordinance No. 30615** - An Ordinance of the City of San José Amending Chapter 4.80 of Title 4 of the San José Municipal Code to Add New Parts Related to the Establishment of the American Rescue Plan Fund, the Affordable Housing Impact Fee Fund, the Homeless Housing, Assistance, and Prevention Fund, and the Ice Centre Expansion Bond Fund.
[Passed for Publication on 6/15/2021- Item 3.8(c) (21-1379)]
- (c) **Ordinance No. 30616** - An Ordinance of the City of San José Amending Various Sections of Title 16 of the San José Municipal Code Relating to Gaming Control to Modify the Process for the Promulgation Regulations; Implement a Monthly Noticing Requirement for Investigations Longer than 180 Days; Eliminate the Annual Reporting Requirements; Repeal Obsolete Sections; Modify Internal Controls Requirements; Revise and Add Definitions; and Make Other Technical, Non-Substantive, or Formatting Changes.
[Passed for Publication on 6/15/2021- Item 4.1 (21-1388)]

(Item Continued on the Next Page)

2.2 21-1581

Final Adoption of Ordinances.

(d) **Ordinance No. 30617** - An Ordinance of the City of San José Repealing Part 3 of Chapter 10.32 of Title 10 of the San José Municipal Code and Amending Title 6 of the San José Municipal Code to Add Chapter 6.90 to Regulate the Sale, Lease and Transfer of Firearms and Firearms Ammunition in San José at Retail.

[Passed for Publication on 6/15/2021- Item 4.2 (21-1393)]

(e) **Ordinance No. 30624** - An Ordinance of the City of San José Enacting a Temporary Moratorium on No-Cause Evictions and Evictions Due to Nonpayment of Rent for Residential Tenants where the Failure to Pay Rent Results from Income Loss Resulting from the Novel Coronavirus (COVID-19).

[Passed for Publication on 6/22/2021 - Item 8.4 (c) (21-1587)]

(f) **Ordinance No. 30626** - An Ordinance of the City of San José Amending Section 23.04.120 of Chapter 23.04 (Downtown Sign Zone) of Title 23 to Make Minor Clarifying Text Alterations Related to Skyline or Rooftop Signs; Repealing Section 23.02.1370 of Chapter 23.02 (Sign Variances) of Title 23; and to Make Other Technical, Non-Substantive, or Formatting Changes of the San José Municipal Code.

[Passed for Publication on 6/22/2021 - Item 10.1 (c) (21-1567)]

(g) **Ordinance No. 30632** - An Ordinance of the City of San José Amending Sections 2.08.2140, 2.08.2220, 2.08.2640, 2.08.2830, 2.08.3040, 2.08.3240, and 2.08.3440 of Chapter 2.08 of Title 2 of the San José Municipal Code to Expedite the Appointment Process for Various Commissions when the Council Appointment Advisory Commission is Unable to Meet.

[Passed for Publication on 6/22/2021 - Item 2.28 (21-1615)]

Item 2.2(e) was pulled for comment. Director of Housing Jacky Morales-Ferrand offered the update of the Law Extension of the California Eviction Moratorium, indicating that her office will be providing a memo with updates.

Action: **Ordinances 30614, 30615, 30616, 30617, 30624, 30626, and 30632** were adopted. (11-0.)

2.3 21-1616

Approval of Council Committee Minutes.

(a) Regular Neighborhood Services and Education Committee Meeting Minutes of February 14, 2019.

(b) Regular Neighborhood Services and Education Committee Meeting Minutes of May 16, 2019.

(c) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of April 18, 2019.

(d) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of December 12, 2019.

(e) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of May 20, 2021

(Item Continued on the Next Page)

2.3 (Cont'd.)

(f) Regular Smart Cities and Service Improvements Committee Meeting Minutes of August 6, 2020.

(g) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of April 14, 2021.

(h) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of April 28, 2021.

(i) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of May 26, 2021.

(j) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of June 9, 2021.

(k) Regular Community and Economic Development Committee Meeting Minutes of April 26, 2021.

(l) Regular Transportation and Environment Committee Meeting Minutes of May 3, 2021.

(m) Joint Meeting of Public Safety, Finance and Strategic Support Committee, Santa Clara County Children, Seniors, and Families Committee, Finance and Government Operations Committee Minutes of April 15, 2019.

(n) Joint Meeting of Public Safety, Finance and Strategic Support Committee and Santa Clara County Children, Seniors, and Families Committee Minutes of April 29, 2021.

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

Action: The Council Committee Minutes were approved. (11-0.)

2.4 21-1628 Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Peralez from the Regular Meetings of the Rules and Open Government Committee on May 26, 2021 and the Transportation and Environment Committee on June 7, 2021 to attend funeral services.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Peralez) [Rules Committee referral 6/23/2021 - Item A.1.a]

Action: The Excused Absence Requests were 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 21-1564 Appointment to the Board of Administration for the Police and Fire Department Retirement Plan.

(a) Appoint Franco Vado as the Police Department Retiree Representative to the Board of Administration for the Police and Fire Department Retirement Plan to a term ending November 30, 2024.

(b) Appoint Dave Wilson as the Police Department Employee Representative to the Board of Administration for the Police and Fire Department Retirement Plan to a term ending November 30, 2021.

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

Deferred to August 3, 2021

2.8 21-1525 Ordinance Amending the Federated City Employees' Retirement System to Cease Normal Contributions for Tier 1 Members at 30 Years of Service Credit.

Approve an ordinance amending Title 3 of the San José Municipal Code to add Section 3.28.725 to Chapter 3.28 related to ceasing the normal contributions for Tier 1 members at 30 years of service credit in the Federated City Employees' Retirement System.

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

Action: **Ordinance No. 30633** amending Title 3 of the San José Municipal Code was passed for publication. (11-0.)

2.9 21-1569 Approval of the Terms of an Agreement with the Association of Legal Professionals (ALP) for the Term of July 1, 2021 Through June 30, 2024.

Adopt a resolution approving the terms of a collective bargaining agreement between the City and the Association of Legal Professionals (ALP) for the term of July 1, 2021 through June 30, 2024, and authorizing the City Manager to execute the agreement with those terms.

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

Action: **Resolution No. 80129** regarding Terms of an Agreement with the Association of Legal Professionals (ALP) was adopted. (11-0.)

2.10 21-1568 Adoption of the Resolution by the Board of Supervisors of the County of Santa Clara Recommending Additional Law Enforcement Training, Policies and Community Outreach on Hate Crimes.

As recommended by the City Council on May 25, 2021, adopt a resolution referred by the County Hate Crimes Task Force to the Santa Clara County Board of Supervisors on June 22, 2021, affirming the City's commitment to addressing hate crimes by developing a coordinated, region-wide response aligning our efforts with the County. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Manager)

[Rules Committee referral 6/9/2021 - Item A.1.a]

[Deferred from 5/25/2021 - Item 3.6 (21-1266), 6/15/2021 - Item 2.29 (21-1499)]

Action: **Resolution No. 80130** regarding additional Law Enforcement Training, Policies and Community Outreach on Hate Crimes was adopted. (11-0.)

2.11 21-1526 Amendment to the Master Agreement with Flynn Resource Consultants to Provide Professional Consulting Services.

Approve a Second Amendment to the Master Consultant Agreement with Flynn Resource Consultants, Inc. for professional consulting services provided to the Community Energy Department, increasing the maximum compensation from \$990,000 to \$1,990,000 through June 30, 2023, subject to the appropriation of funds, with no change in any other term of the Agreement. (Community Energy)

Action: Amendment to the Master Agreements with Flynn Resource Consultants was approved. (11-0.)

2.12 21-1554 First Restatement of Lease Agreement between the City of San José and Camera 3 Entertainment, Inc. to Establish Guggenheim Entertainment, Inc. as the Tenant at 288 South Second Street.

Adopt a resolution authorizing the City Manager, or his designee, to negotiate and execute:

(a) A First Restatement of the lease dated August 1, 2015 among the City of San José, Camera 3 Entertainment, Inc., a California corporation dba Camera 3 Entertainment, L.P., Jack NyBlom, and Guggenheim Entertainment, Inc., a California corporation, for the use of approximately 7,850 square feet of space at the City-owned building located at 288 South Second Street, San José, CA allowing for a direct lease with Guggenheim Entertainment, Inc. for an initial term of five years at a rate of \$3,000 per month for the first year with a 1.5% annual escalator each year thereafter, and one option to extend for an additional five years; and

(b) All other documents or amendments necessary to effectuate the First Restatement of the lease.

(Item Continued on the Next Page)

2.12 (Cont'd.)

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
Council District 3. (Economic Development)

Action: **Resolution No. 80131** regarding a Lease Agreement between the City of San José and Camera 3 Entertainment, Inc. was adopted. (11-0.)

2.13 21-1551 Approve Master Service Agreements with Cornerstone Earth Group, Golder Associates, Haley & Aldrich, and Kleinfelder for On-Call Environmental Consulting Support for Various City Projects.

Approve master service agreements with the following firms for on-call environmental consulting services for various City projects:

- (a) Cornerstone Earth Group from the date of execution through June 30, 2025 in an amount not to exceed \$1,000,000;
- (b) Golder Associates from the date of execution through June 30, 2025 in an amount not to exceed \$1,000,000;
- (c) Haley & Aldrich from the date of execution through June 30, 2025 in an amount not to exceed \$1,000,000; and
- (d) Kleinfelder from the date of execution through June 30, 2025 in an amount not to exceed \$1,000,000.

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

Action: Master Service Agreements for On-Call Environmental Consulting Support for Various City Projects was approved. (11-0.)

2.14 21-1527 Adoption of the Mitigated Negative Declaration for the Trimble and Agnews Municipal Groundwater Wells Project and Approval of the Project's Status Report and Project Scope.

Adopt a resolution:

- (a) Adopting the Initial Study/Mitigated Negative Declaration for the Trimble and Agnews Municipal Groundwater Wells Project (File No. ER20-015) and the associated Mitigation Monitoring and Reporting Program, in accordance with the California Environmental Quality Act; and
- (b) Approving the status report and project scope for the Trimble and Agnews Municipal Groundwater Wells Project.

CEQA: Trimble and Agnews Municipal Groundwater Wells Project Initial Study and Mitigated Negative Declaration, Planning File No. ER20-015. (Environmental Services)

Action: Deferred to August 2021 per Orders of the Day.

2.15 21-1528 Amend Purchase Order OP 59514 For Lagoon Dredge Rental Services.

Adopt a resolution authorizing the City Manager to:

(a) Amend open purchase order OP 59514 with Dredge America, Inc. (Kansas City, MO) for lagoon dredge rental services to increase compensation by \$200,000, for a revised maximum compensation not-to-exceed \$520,000, and retroactively continue and extend the current purchase order term from September 18, 2020 through July 31, 2021.

(b) Execute up to two additional one-year options to extend the term of the purchase order with the last option year ending on or about July 31, 2023, subject to the annual appropriation of funds.

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

Action: **Resolution No. 80132** amending Purchase Order OP 59514 For Lagoon Dredge Rental Services was adopted. (11-0.)

2.16 21-1529 Actions Related to the Purchase Orders for Collision Repair and Body Shop Services.

Adopt a resolution authorizing the City Manager to:

(a) Execute purchase orders with T&J Lewis, Inc. (Newark, CA), Fleet Bodyworx, Inc. (Gilroy, CA), and Pan American Body Shop, Inc. (San José, CA) for collision repair and body shop services for an initial twelve-month period, starting on or about June 30, 2021 and ending on or about June 29, 2022 for a total cumulative compensation not-to-exceed amount of \$3,600,000; and

(b) Exercise up to four one-year options to extend the term of the purchase orders through on or about June 29, 2026, subject to the annual appropriation of funds.

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

Action: **Resolution No. 80133** regarding actions related to the Purchase Orders for Collision Repair and Body Shop Services was adopted. (11-0.)

2.17 21-1530 Actions Related to Purchase Orders for Contract Electrical Maintenance and Repair Services for Public Works.

Adopt a resolution to:

(a) Ratify the amendment to the purchase orders with Rosendin Electric, Inc. (San José, CA) and Cupertino Electric, Inc. (San José, CA) for contract electrical maintenance and repair services to retroactively extend the term from September 1, 2020 through June 1, 2021; and

(Item Continued on the Next Page)

2.17 (Cont'd.)

(b) Authorize the City Manager to negotiate and execute purchase orders with Rosendin Electric, Inc. (San José, CA) and Cupertino Electric, Inc. (San José, CA) for contract electrical maintenance and repair services to extend services for up to two additional one-year option terms for a total of six options through May 31, 2023 for a total combined compensation not-to-exceed \$3,000,000 through the option term beginning June 2, 2021 and ending May 31, 2022, subject to the appropriation of funds.

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

Action: **Resolution No. 80134** regarding actions related to Purchase Orders for Contract Electrical Maintenance and Repair Services for Public Works was adopted. (11-0.)

2.18 21-1531 Amendment to the COVID-19 Purchase Order OP 59829 for Temporary Equipment Rental and Repair Services for Homeless Shelters.

Adopt a resolution authorizing the City Manager to:

(a) Amend purchase order OP 59829 with Herc Rental, Inc. (San José, CA) for temporary equipment rental and repair services for homeless shelters to increase compensation by \$300,000, for a revised maximum compensation not-to-exceed \$620,000 from December 15, 2020 to December 14, 2021.

(b) Execute up to four additional one-year options to extend the term of the purchase order with the last option year ending on or about December 14, 2025, subject to the annual appropriation of funds.

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

Action: **Resolution No. 80135** regarding an amendment to the COVID-19 Purchase Order OP 59829 for Temporary Equipment Rental and Repair Services for Homeless Shelters was adopted. (11-0.)

2.19 21-1532 Actions Related to Open Purchase Order OP 57204 with Tucker Construction for Emergency Board-Up Services.

Adopt a resolution authorizing the City Manager to amend open purchase order OP 57204 with Tucker Construction Company (San José, CA) for emergency board-up services, to retroactively continue and extend the term of the purchase order and to increase compensation by \$165,000 for a revised maximum compensation not to exceed \$485,000 for the period between December 31, 2020 and October 31, 2021.

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

Action: **Resolution No. 80136** regarding actions related to Open Purchase Order OP 57204 with Tucker Construction was adopted. (11-0.)

2.20 21-1533 Report on Request for Proposal for Energy Trading and Risk Management Software.

Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an agreement with cQuant.io, Inc. (Louisville, CO) for energy trading and risk management software for an initial one-year term beginning on or about July 1, 2021 through June 30, 2022 with a maximum compensation not to exceed \$301,000, subject to the appropriation of funds;

(b) Negotiate and execute amendments and change orders as required for any unanticipated changes, including additional software subscriptions, for a contingency amount not to exceed \$60,000 during the initial term, subject to the appropriation of funds; and

(c) Exercise up to four one-year options to extend the term of the agreement through June 30, 2026 for ongoing software subscriptions, support, maintenance, and related professional services, subject to the appropriation of funds.

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

Action: The report was accepted, and **Resolution No. 80137** regarding the Proposal for Energy Trading and Risk Management Software was adopted. (11-0.)

2.21 21-1534 Actions Related to Purchase Orders for Removal and Replacement of Concrete, the Purchase of Asphalt, the Purchase of Electrical Parts and Supplies, Mailing Services, and Plumbing Services.

Adopt a resolution authorizing the City Manager to:

(a) Amend the open purchase orders with Reed & Graham, Inc. (San José, CA) and Granite Construction Company (Los Angeles, CA) for the purchase of asphalt, to retroactively continue and extend the term of the purchase orders from May 1, 2020 through October 31, 2021 and to increase compensation by a cumulative not-to-exceed amount of \$281,000, for a revised maximum compensation not-to-exceed \$581,000;

(b) Amend the open purchase orders with Buckles Smith Electric Company (San José, CA) and Edges Electrical Group, LLC (San José, CA) for the purchase of electrical parts and supplies, to extend the term of the purchase orders from July 1, 2021 through October 31, 2021 and to increase compensation by a cumulative amount of \$1,200,000, for a revised maximum compensation not-to-exceed \$6,200,000;

(c) Amend the open purchase orders with The Sourcing Group, LLC (Pleasanton, CA) and E & J VALUEPLUS dba SENDnLINK (San José, CA) for mailing services, to extend the term of the purchase orders from October 14, 2021 through December 31, 2021 and to increase compensation by a cumulative amount of \$145,500, for a revised maximum compensation not-to-exceed \$430,000;

(Item Continued on the Next Page)

2.21 (Cont'd.)

(d) Amend the open purchase order with Stephen Ciari Plumbing and Heating, Inc. dba Ciari Plumbing & Heating, Inc., (San Jose, CA) for plumbing services, to retroactively continue and extend the term of the purchase order from July 1, 2020 through May 31, 2021 and to increase compensation by a cumulative amount of \$855,000 for a revised maximum compensation not-to-exceed \$1,645,000; and
(e) Amend the open purchase orders with Bearden Construction Co., Inc dba CB Concrete, Inc. (Los Gatos, CA), Duran Construction Group (San José, CA), Golden Bay Construction, Inc. (Hayward, CA), and J.J.R. Construction, Inc. (San Mateo, CA) for concrete removal and replacement services, to retroactively continue and extend the term of the purchase orders from January 12, 2021 through August 31, 2021 and to increase compensation by a cumulative not-to-exceed amount of \$1,245,333, for a revised maximum compensation not-to-exceed \$6,093,666.

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

Action: **Resolution No. 80138** regarding the Purchase Orders for Removal and Replacement of Concrete, the Purchase of Asphalt, the Purchase of Electrical Parts and Supplies, Mailing Services, and Plumbing Services was adopted. (11-0.)

2.22 21-1535 Actions Related to the Purchase Orders for Mobile Communication and Equipment Installation Services for Emergency Vehicles.

Adopt a resolution authorizing the City Manager to:

- (a) Execute a purchase order with Emergency Vehicle Specialist, Inc. (Hollister, CA) for mobile communication and equipment installation services for emergency vehicles for an initial twelve-month, starting on or about June 29, 2021 and ending on or about June 28, 2022, for an amount not-to exceed \$1,250,000; and
- (b) Exercise up to four one-year options to extend the term of the purchase orders with the last option ending on or about June 28, 2026, subject to the annual appropriation of funds.

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

Action: **Resolution No. 80139** regarding the Purchase Orders for Mobile Communication and Equipment Installation Services for Emergency Vehicles was adopted. (11-0.)

2.23 21-1536 Approval of a Second Amendment to Standard City of San José Consultant Agreement between the City of San José and HC Group, Incorporated.

Adopt a resolution authorizing the Director of Housing to negotiate and execute an amendment to extend a consultant agreement with HC Group, Incorporated, to June 30, 2022 and increase the maximum total compensation by \$154,253 from \$295,360 to \$449,613.

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

Action: **Resolution No. 80140** regarding a Second Amendment to Standard City of San José Consultant Agreement between the City of San José and HC Group, Incorporated was adopted. (11-0.)

2.24 21-1562 Actions Related to the Escalator Replacement at the Dr. Martin Luther King, Jr Library.

Adopt the following 2020-2021 Appropriation Ordinance amendments in the Library Construction and Conveyance Tax Fund:

(a) Decrease Dr. Martin Luther King, Jr. Library Improvements Reserve by \$476,000; and

(b) Establish the Dr. Martin Luther King, Jr. Library Escalator Replacement appropriation in the amount of \$476,000.

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. Council District 3. (Library/City Manager)

Action: Appropriation **Ordinance No. 30634** regarding actions related to the Escalator Replacement at the Dr. Martin Luther King, Jr. Library was adopted. (11-0.)

2.25 21-1537 Actions Related to the Tully Road Ballfields Dog Park Improvements.

(a) Accept the staff recommendation to install fencing at Tully Road Ballfields to create an interim dog park.

(b) Adopt the following 2021-2022 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:

(1) Establish the Tully Road Ballfields Dog Park Improvements appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$100,000; and

(2) Decrease the Future PDO/PIO Projects Reserve appropriation by \$100,000.

CEQA: Not a Project, File No. ER21-106, CEQA Guideline Section 15303 New Construction or Conversion of Small Structures. (Parks, Recreation and Neighborhood Services/City Manager)

Action: Actions related to the Tully Road Ballfields Dog Park Improvements were accepted, and (b) Appropriation **Ordinance No. 30635** was adopted. (11-0.)

2.26 21-1538 Internal Transfer for Future Park Site Located on 460 Park Avenue.

(a) Adopt a resolution authorizing the internal transfer of approximately 0.39 acres of land known as 460 Park Avenue, from the Office of Economic Development to the Parks, Recreation and Neighborhood Services Department for the future construction of additional park and open space in exchange for the appraised value of \$390,000.

(b) Adopt the following 2020-2021 Appropriation Ordinance amendments in the Subdivision Park Trust Fund:

(1) Decrease Future PDO / PIO Projects Reserve by \$390,000; and

(2) Establish the Council District 3 Property Acquisition appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$390,000.

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

Action: (a) **Resolution No. 80141** regarding the Internal Transfer for Future Park Site Located on 460 Park Avenue; and (b) Appropriation **Ordinance No. 30636** were adopted. (11-0.)

2.27 21-1549 Award of Contract for 9411 - Traffic Signal Installation at 6th Street and Taylor Street.

(a) Report on bids and award of contract for the 9411 - Traffic Signal Installation at 6th Street and Taylor Street to the low bidder, Redgwick Construction Co., in the amount of \$1,239,045.

(b) Approve a ten percent contingency in the amount of \$123,905.

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

Action: The report on bids and award of contract for 9411 – Traffic Signal Installation with related contingencies was approved. (11-0.)

2.28 21-1550 Amendment to Master Agreement with Construction Testing Services for Special Inspection Services.

Approve the Second Amendment to the Master Agreement with Construction Testing Services (CPMS Contract No. 8650-A) extending the term from June 30, 2021 to December 31, 2021 for the sole purpose to complete special inspection services for the All-Inclusive Playground at Lincoln Glen Park 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: The Amendment to Master Agreement with Construction Testing Services for Special Inspection Services was approved. (11-0.)

2.29 21-1539 Change Order Approval Under the PG&E Turnkey Service and Financing Agreements for LED Streetlight Conversion.

(a) Approve Change Order No. 01 for completed work involving lead testing of existing painted streetlight poles in the amount of \$32,175 under the PG&E Turnkey Service Agreement for Streetlight LED Conversion.

(b) Adopt a resolution authorizing the Director of Transportation and the Director of Public Works to negotiate and execute future change orders to the PG&E Turnkey Service Agreement for Streetlight LED Conversion subject to the following conditions:

- (1) The amount of the change order is \$100,000 or less,
- (2) The amount of the change order is appropriated, and
- (3) The change order does not extend the repayment period in the On-Bill Financing Loan Agreement.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c) Existing Facilities and PP19-024, CEQA Guidelines Section 15303(d) New Construction of Small Structures. (Transportation)

Action: The Change Order Approval Under the PG&E Turnkey Service and Financing Agreements for LED Streetlight Conversion was approved, and (b) **Resolution No. 80142** was adopted. (11-0.)

2.30 21-1540 Extension of Abandoned Vehicle Abatement Service Authority Program.

Adopt a resolution authorizing the City of San José to continue its participation in the Santa Clara County Abandoned Vehicle Abatement Service Authority program and the extension for a fourth 10-year term, beginning May 1, 2022, of the collection of the vehicle registration fee by the California Department of Motor Vehicles.

CEQA: Not a Project, File No. PP17-010, City organizational and administrative activities resulting in no changes to the physical environment. (Transportation)

Action: **Resolution No. 80143** regarding the Extension of Abandoned Vehicle Abatement Service Authority Program was adopted. (11-0.)

2.31 21-1541 Consultant Services Agreement for Vision Zero Strategic Communications and Outreach Plan.

Adopt a resolution authorizing the City Manager or designee to negotiate and execute an Agreement for Consultant Services between the City of San José and Moore Iacofano Goltsman, Inc. (MIG) for the development of a comprehensive Vision Zero strategic communications and outreach plan in an amount not to exceed \$991,700 for the initial three-year term, with two 1-year options to extend.

CEQA: Not A Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Transportation)

Action: **Resolution No. 80144** regarding Consultant Services Agreement for Vision Zero Strategic Communications was adopted. (11-0.)

Actions Related to the Airport Connector Funding and Support Services.

(a) Adopt a resolution authorizing the City Manager or designee to negotiate and execute an agreement with ARUP for a term from execution to December 2024 for planning and design consulting services to develop the Airport Connector Pre-Development Agreement Request for Proposals equal to \$425,000, and provide follow up services in a total amount not to exceed \$2,925,000.

(b) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a funding agreement with the Valley Transportation Authority (VTA) for \$2,500,000, approved by the VTA Board of Directors on June 3, 2021, to partially fund the above consultant services, including taking necessary budget actions.

(c) Adopt the following 2020-2021 Appropriation Ordinance amendments in the Construction Excise Tax Fund:

- (1) Increase the Regional Rail Planning appropriation by \$250,000; and
- (2) Decrease the Unrestricted Ending Fund Balance by \$250,000.

(d) Adopt the following 2020-2021 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:

- (1) Increase the Regional Rail Planning appropriation to the Transportation Department by \$250,000; and
- (2) Decrease the Unrestricted Ending Fund Balance by \$250,000.

(e) Adopt the following 2021-2022 Appropriation Ordinance and Funding Sources Resolution amendments in the Building and Structure Construction Tax Fund:

- (1) Increase the Revenue from Local Agencies by \$1,250,000; and
- (2) Increase the Regional Rail Planning appropriation to the Transportation Department by \$1,250,000.

(f) Adopt the following 2021-2022 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:

- (1) Increase the Revenue from Local Agencies by \$1,250,000; and
- (2) Increase the Regional Rail Planning appropriation to the Transportation Department by \$1,250,000.

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

Council Districts 3 and 6. (Transportation/City Manager)

Action: (a) **Resolution No. 80145** regarding executing an agreement with ARUP; (b) **Resolution No. 80146** regarding a funding agreement with VTA; (c) Appropriation **Ordinance No. 30637** for the 2020-2021 Construction Excise Tax Fund; (d) Appropriation **Ordinance No. 30638** for 2020-2021 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund; (e) Appropriation **Ordinance No. 30639** and Funding Sources **Resolution No. 80147** for 2021-2022 Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund; (f) Appropriation **Ordinance No. 30640** and Funding Sources **Resolution No. 80148** for 2021-2022 Appropriation Ordinance Funding Sources Resolution amendments in the Construction Excise Tax Fund were adopted. (11-0.)

2.33 21-1610 Actions Related to the Suspension of the Affordable Housing Impact Fee.

Adopt a resolution amending Resolution No. 77218, as previously amended by Resolutions No. 78010, 78392, 78473, 78576, and 79294 (collectively the “Housing Impact Fee Resolution”), to suspend the Affordable Housing Impact Fee program for new projects approved on or after May 1, 2021.

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

[Deferred from 6/22/2021 - Item 2.15 (21-1449)]

Action: **Resolution No. 80149** regarding actions related to the Suspension of the Affordable Housing Impact Fee was adopted. (11-0.)

2.34 21-1635 Retroactive Approval of Multiple Special Events Sponsored by Council District 3 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on June 23, 2021:

(a) Retroactively approve the Dumpster Day held on Delmas Avenue and North 28th Street on May 15, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

(b) Retroactively approve the Dumpster Day held on Madera Avenue on May 22, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

(c) Retroactively approve the Dumpster Day held on Floyd Street and North 2nd Street on June 5, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

(d) Retroactively approve the Dumpster Day held on South 2nd Street on June 11, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

(e) Retroactively approve the Dumpster Day held on Macredes Avenue and Illinois Avenue on June 12, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

(f) 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. (Peralez)

[Rules Committee referral 6/23/2021 - Item G.1.a]

Action: The City Council Sponsored Special Events were retroactively approved. (11-0.)

2.35 21-1639

Retroactive Approval of Multiple Special Events 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 June 23, 2021:

- (a) Retroactively approve the Dumpster Day held at Windmill Springs Elementary scheduled on May 8, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Retroactively approve the Los Lagos Movie Night held at Los Lagos Golf Course scheduled on May 14, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (c) Retroactively approve the Dumpster Day held at Dahl Elementary scheduled on May 15, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (d) Retroactively approve the Franklin Movie Night held at Franklin Elementary School scheduled on May 21, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (e) Retroactively approve the Dumpster Day held at Rock Springs Park scheduled on June 5, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (f) Retroactively approve the Lairon Movie Night held at Daniel Lairon School scheduled on June 11, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (g) Retroactively approve the Lone Bluff Neighborhood Barbeque at Lone Bluff Park scheduled on June 19, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (h) Retroactively approve the Dumpster Day on Roberts Avenue scheduled on June 26, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
- (i) 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. (Esparza)
[Rules Committee referral 6/23/2021- Item G.1.b]

Action: The City Council Sponsored Special Events were retroactively approved. (11-0.)

2.36 21-1640

Board and Commissions Appointment.

Approve the following Boards and Commissions appointments:

- (a) Airport Commission:
 - (1) District 1 Seat: Appoint Ken Pyle for a term of July 1, 2021 to June 30, 2025.
 - (2) District 2 Seat: Appoint Lisa Marie Smith for a term of July 1, 2021 to June 30, 2023.
 - (3) District 7 Seat: Appoint Nick Patel for a term of July 1, 2021 to June 30, 2025.

(Item Continued on the Next Page)

2.36 (Cont'd.)

- (a) (4) District 9 Seat: Appoint Catherine Hendrix for a term of July 1, 2021 to June 30, 2025.
- (5) Citywide Seat: Appoint Joseph Head for a term of July 1, 2021 to June 30, 2025.
- (b) Downtown Parking Board:
 - (1) Downtown Resident Representative: Appoint Wolfram Schneider for a term of July 1, 2021 to June 30, 2025.
 - (2) Downtown Events Representative: Appoint Chris Patterson-Simmons for a term of July 1, 2021 to June 30, 2025.
 - (3) San José State University Representative: Appoint Charles Faas for a term of July 1, 2021 to June 30, 2025.
- (c) Housing and Community Development Commission:
 - (1) District 1 Seat: Appoint Roma Dawson for a term of July 1, 2021 to June 30, 2025.
- (d) Library and Education Commission:
 - (1) District 2 Seat: Appoint Aaron Zisser for a term of July 1, 2021 to June 30, 2023.
 - (2) District 3 Seat: Appoint Jose Magaña for a term of July 1, 2021 to June 30, 2025.
 - (3) District 7 Seat: Appoint Wendi Mahaney-Gurahoo for a term of July 1, 2021 to June 30, 2025.
 - (4) Citywide Seat: Appoint Elena Jolly for a term of July 1, 2021 to June 30, 2025.
- (e) Neighborhoods Commission:
 - (1) District 1 Seat: Appoint Helen Kassa for a term of July 1, 2021 to June 30, 2022.
 - (2) District 2a Seat: Appoint Lalbabu Prasad for a term of July 1, 2021 to June 30, 2024.
 - (3) District 2b Seat: Appoint Allie Hughes for a term of July 1, 2021 to June 30, 2024.
 - (4) District 3b Seat: Appoint Jacqueline Vasquez for a term of July 1, 2021 to June 30, 2022.
 - (5) District 4a Seat: Appoint Anthony Rossello for a term of July 1, 2021 to June 30, 2024.
 - (6) District 4b Seat: Appoint Theresa Do for a term of July 1, 2021 to June 30, 2024.
 - (e) (7) District 6a Seat: Appoint James Carter for a term of July 1, 2021 to June 30, 2024.
 - (8) District 6b Seat: Appoint Olivia Navarro for a term of July 1, 2021 to June 30, 2024.
 - (9) District 7a Seat: Appoint Bruce Victorine for a term of July 1, 2021 to June 30, 2022.
 - (10) District 7b Seat: Appoint Tasha Tenturier for a term of July 1, 2021 to June 30, 2022.

(Item Continued on the Next Page)

2.36 (Cont'd.)

(f) Parks and Recreation Commission:

(1) District 1 Seat: Appoint Daphna Woolfe for a term of July 1, 2021 to June 30, 2025.

(2) District 3 Seat: Appoint Lawrence Ames for a term of July 1, 2021 to June 30, 2025.

(3) District 5 Seat: Appoint Daisy Barocio for a term of July 1, 2021 to June 30, 2025.

(4) District 7 Seat: Appoint Giavanna Vega for a term of July 1, 2021 to June 30, 2025.

(5) Citywide Seat: Appoint Jose Villareal for a term of July 1, 2021 to June 30, 2025.

(g) Redistricting Commission:

(1) District 4 Seat: Appoint Gloria Collins.

(h) Senior Citizens Commission:

(1) District 1 Seat: Appoint Jelili Apalara for a term of July 1, 2021 to June 30, 2025.

(2) District 2 Seat: Appoint Gina Gates for a term of July 1, 2021 to June 30, 2023.

(3) District 3 Seat: Appoint Marcia Cohen-Zakai for a term of July 1, 2021 to June 30, 2025.

(4) District 7 Seat: Appoint Debora Ow for a term of July 1, 2021 to June 30, 2025.

(5) District 9 Seat: Appoint Gabrielle Antolovich for a term of July 1, 2021 to June 30, 2025.

(6) Citywide Seat: Appoint May Miller for a term of July 1, 2021 to June 30, 2025

(i) Youth Commission:

(1) District 7 Seat: Appoint Ananya Sriram for a term of July 1, 2021 to May 31, 2023.

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 6/23/2021 - Item A.1.a]

Action: The Board and Commissions Appointments were approved. (11-0.)

3. STRATEGIC SUPPORT

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

The Mayor, Vice Mayor and Councilmembers offered their good wishes to City Manager, David Sykes, thanked him for his service, his patience, his heart for public service, and wished him a great retirement.

Mayor Sam Liccardo called for a recess at 12:03 p.m. and reconvened at 1:30 p.m. with all Councilmembers present.

3.3 21-1543 Appeals Hearing Board Interviews.

Interview applicants for appointment to the Appeals Hearing Board:
(a) Appoint one (1) applicant to the Public Member Seat on the Appeals Hearing Board for a term beginning July 7, 2021 and ending December 31, 2021;
(b) Appoint applicant to the Public Member Seat on the Appeals Hearing Board for an additional term ending December 31, 2025, and
(c) If any vacancy remains, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration within 90 days.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

As the candidate, Brett Williamson could not attend the interview, he was appointed without an interview to the term ending December 31, 2021. The term ending December 31, 2025 is to be determined at a later date.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Pam Foley and carried unanimously, (a) Brett Williamson was appointed to the Appeals Hearing Board for a term beginning July 7, 2021 and ending December 31, 2021. (b) The appointment for the term ending December 31, 2025 to be determined at a later date. (11-0.)

3.4 21-1563 Hybrid Meetings.

Approve transition plan for Hybrid meetings:
(a) Approve August 3, 2021 as the first public City Council meeting held in the hybrid environment;
(b) Approve Council Committees remaining fully virtual in August 2021, and if possible resume these meetings as soon as September 2021 to the hybrid model in the Council Chambers space with adequate staffing and technology; and
(c) Approve Boards and Commissions remaining fully virtual until October 2021 after which they will return to fully in person per the Governor’s Executive Orders on the Brown Act, and approve Boards and Commissions move to the hybrid model in late 2022.
[Rules Committee referral 5/12/2021 - Item G.4]
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: Offering comments were Tessa Woodmansee, Blair Beekman, Paul Soto, Ingrid Granados, Veronica, Martha O’Connell, Caller “5140”, Glenna Howcroft, Brenda Zendejas and Maria Bedolla.

(Item Continued on the Next Page)

3.4 (Cont'd.)

Chief of Staff, Office of the City Manager, Lee Wilcox, responded to questions whether commission members may participate virtually, indicating an Intergovernmental Relations update will be provided in August. City Clerk Toni J. Taber, responded to questions regarding making changes to the Brown Act, and Deputy City Manager, Civic Innovation and Digital Strategy, Kip Harkness responded to questions regarding technological analyses. Walter Lin Public Works Deputy Director spoke to bids for this project.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis and carried unanimously, the transition plan for Hybrid meetings was approved. (11-0.)

3.5 21-1570 **Compensation and Benefit Changes for Executive Management and Professional Employees in Unit 99 and Other Unrepresented Employees (Units 81/82) for Fiscal Years 2021-2022, 2022-2023, and 2023-2024.**

Adopt a resolution to:

(a) Approve compensation and benefit changes for executive management and professional employees in Unit 99 and other unrepresented employees (Units 81/82), for Fiscal Years 2021-2022, 2022-2023, and 2023-2024.

(b) Amend the City of San Jose Pay Plan effective June 27, 2021, to roll the pensionable Peace Officer Standards and Training (POST) pay into the base pay, for the classification of Deputy Chief of Police U (2219), which increases the salary range to \$221,400.00 - \$264,800.00, with no other increase to compensation in Fiscal Year 2021-2022.

(c) Approve a 3.75% Crisis Intervention Training (CIT) premium pay and 4.00% ongoing non-pensionable retention premium pay for the classification of Deputy Chief of Police U (2219) classification, effective June 27, 2021.

(d) Amend the City of San Jose Pay Plan effective June 27, 2021, to provide a special pensionable wage adjustment of approximately two percent (2.00%) the Assistant Police Chief U (2225) classification. This action, in addition to the recommended general wage increase for classifications designated to Unit 99 effective June 27, 2021, will increase the Assistant Police Chief U (2225) salary range to approximately \$170,387.813 - \$265,595.339.

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

Public Comments: Tessa Woodmansee, Blair Beekman, Speaker “5140”, and Melanie Helmke offered comments.

Action: Upon motion by Councilmember Maya Esparza, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 80150** approving compensation and benefit changes for executive management and professional employees in Unit 99 and other unrepresented employees (Units 81/82) was adopted. (11-0.)

3.6 21-1545 Public Hearing on the Downtown Business Improvement District Budget Report and Assessments for Fiscal Year 2021-2022

Conduct a public hearing and adopt a resolution to:
(a) Approve the Downtown Business Improvement District budget report for Fiscal Year 2021-2022 as filed or modified by Council;
(b) Levy the Downtown Business Improvement District assessments for Fiscal Year 2021-2022; and
(c) Suspend collection of the Downtown Business Improvement District assessments for businesses that qualify for a Business Tax financial hardship exemption under the City’s General Business Tax Ordinance.
CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates & Fares without changes to or expansion of services and PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Economic Development)

The public hearing for items 3.6 and 3.7 were heard and voted on together.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Tessa Woodmansee, Blair Beekman and Paul Soto offered comments to Items 3.6 and 3.7.

Mayor Sam Liccardo closed the public hearing.

Action: The public hearing was held, and upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, **Resolution No. 80151** approving the Downtown Business Improvement District Budget Report and Assessments for Fiscal Year 2021-2022 was adopted. (11-0.)

3.7 21-1546 Public Hearing on the Japantown Business Improvement District Budget Report and Assessments For Fiscal Year 2021-2022.

Conduct a public hearing and adopt a resolution to:
(a) Approve the 2021-2022 Budget Report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council; and
(b) Levy the annual Japantown Business Improvement District assessments for Fiscal Year 2021-2022.
CEQA: Not a Project, File No. PP17-005, Adjustment to Fees, Rates & Fares without changes to or expansion of services and PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Economic Development)

Action: The public hearing was held, and upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously **Resolution No. 80152** approving the Japantown Business Improvement District Budget Report and Assessments for Fiscal Year 2021-2022 was adopted. (11-0.)

3.8 21-1547 San José Hotel Business Improvement District Annual Report for Fiscal Year 2021-2022.

Adopt a resolution:

(a) Approving the San José Hotel Business Improvement District Annual Report prepared by San José Hotels, Inc. for Fiscal Year 2021-22, as filed or modified by Council; and

(b) Confirming the San José Hotel Business Improvement District assessments as proposed by San José Hotels, Inc. or as modified by Council.

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

Public Comments: Tessa Woodmansee, Blair Beekman and Paul Soto offered comments.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Maya Esparza and carried unanimously, **Resolution No. 80153** approving the San José Hotel Business Improvement District Annual Report for Fiscal Year 2021-2022 was adopted. (11-0.)

3.9 21-1611 Actions Related to the Agreements Between the City of San José and the East Side Union High School District for Community Wireless Network.

(a) Adopt a resolution authorizing the City Manager to:

(1) Negotiate and execute the Third Amendment to the Funding Agreement between the City of San José and East Side Union High School District Relating to Installation of a Community Wireless Network in the District to increase funding by \$478,974 for a revised total funding amount of \$3,619,468 for deployment, maintenance, support, and operations costs at the James Lick, William C. Overfelt, and Yerba Buena High School attendance areas for the term ending December 31, 2021, subject to the appropriation of funds;

(2) Negotiate and execute a Funding Agreement between the City of San José and East Side Union High School District Relating to Maintenance and Technology Refresh of the Community Wireless Network at the James Lick, William C. Overfelt, and Yerba Buena High School attendance areas for a maximum District funding amount of \$2,281,965 for a five-year term beginning January 1, 2022 through December 31, 2026, subject to the appropriation of funds;

(3) Negotiate and execute the Third Amendment to the Agreement for East Side Union High School District Community Wi-Fi Deployment between the City of San José and SmartWAVE Technologies LLC (Alpharetta, GA) to (i) reflect final deployment costs for the William C. Overfelt and Yerba Buena High School attendance areas, (ii) decrease compensation by \$98,725 for a revised maximum compensation of \$3,208,265 for the initial term ending December 31, 2021, and (iii) add scope of work and estimated costs for technology refreshes and maintenance and support at the James Lick, William C. Overfelt and

3.9 (Cont'd.)

Yerba Buena High School attendance areas during agreement option terms through December 31, 2026, subject to the appropriation of funds; and

(4) Negotiate and execute, subject to the appropriation of funds, a Funding Agreement between the City of San José and East Side Union High School District Relating to Installation of a Community Wireless Network in the District to design, build, and/or maintain a Community Wireless Network in the District for a term of five years through 2026, with the City's contribution amount not to exceed \$3,900,000 to fund the implementation, maintain services and replacement of technology for five attendance areas: Independence, Andrew P. Hill, Oak Grove, Mt. Pleasant, and Silver Creek.

(b) Adopt the following 2021-2022 Appropriation Ordinance and Funding Source Resolution amendments in the General Fund:

(1) Increase the East Side Union High School District Community Wireless Network Project appropriation to the Public Works Department by \$170,906; and

(2) Increase the estimate for Revenue from Local Agencies by \$170,906.

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

(Library/Finance/City Manager)

[Deferred from 6/15/2021 - Item 3.13 (21-1405), 6/22/2021 - Item 3.9 (21-1458)]

Library Director Jill Bourne and Ann Grabowski, Library Chief of Staff, offered a presentation. They and Chief Information Officer Rob Lloyd responded to questions

Public Comments: Blair Beekman, Tessa Woodmansee and Paul Soto provided comments.

Motion: Councilmember Sylvia Arenas moved her memorandum dated June 28, 2021. Councilmember Maya Esparza seconded the motion.

Action: On a call for the question, (a) **Resolution No. 80154** regarding actions related to the Agreements Between the City of San José and the East Side Union High School District for Community Wireless Network; and

(b) Appropriation **Ordinance No. 30641** and Funding Sources **Resolution No. 80155** were adopted, and Councilmember Sylvia Arenas memorandum dated June 28, 2021 was included, to:

1. Approve staff recommendations.
2. Direct staff to move expeditiously toward completing the "fiber pull" for Mt. Pleasant and Silver Creek High Schools. Advance these two project sites quickly, with as small a gap as possible behind the other project sites.
3. Direct Staff to develop both digital and printed multilingual collateral to help school districts, non-profits, neighborhood groups, Council offices, Project Hope and Digital Inclusion Fund grantees outreach for the program.
4. Direct staff to bring forward a community adoption strategy for SJ Access as part of their next report on digital inclusion to the Neighborhood Services and Education Committee.
5. Direct the City Manager to work with CETF to align efforts so that focused technical assistance can be targeted to residents within the SJ Access network areas. Include an update on this effort in the Digital Inclusion Year One Final Report. (11-0.)

3.10 21-1623 Merit Increases and Additional Executive Leave for Council Appointees.

Adopt a resolution:

- (a) Approving a 2.5% merit increase for the City Manager and City Clerk effective July 1, 2020, and amend the City of San Jose Pay Plan if necessary;
- (b) Approving a 2.5% merit increase for the City Manager, City Attorney, and City Clerk effective July 1, 2021, and amend the City of San Jose Pay Plan if necessary;
- (c) Granting an additional forty (40) hours of executive leave to the City Manager and City Clerk for the payroll calendar year 2021; and
- (d) Granting an additional forty (40) hours of executive leave to the City Attorney and City Clerk for the payroll calendar year 2022.

[Rules Committee referral 6/16/2021 - Item A.1.a]

[Deferred from 6/22/2021 - Item 3.10 (21-1582)]

Public Comments: Blair Beekman and Tessa Woodmansee provided comments.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember David Cohen and carried unanimously, **Resolution No. 80156** approving Merit Increases and Additional Executive Leave for Council Appointees was adopted. (11-0.)

3.11 21-1624 City Auditor Appointment, Merit Increases, Additional Executive Leave and Amending the City of San José Pay Plan.

Adopt a resolution:

- (a) Reappointing Joe Rois as City Auditor and approving compensation for services as City Auditor for a term beginning July 1, 2021 and ending June 30, 2025;
- (b) Approving a 2.5% merit increase for the City Auditor effective July 1, 2020, and amending the City of San José Pay Plan, if necessary;
- (c) Granting an additional forty (40) hours of executive leave to the City Auditor for the payroll calendar year 2021;
- (d) Approving a salary adjustment increase to an annual salary of \$210,000 for the City Auditor effective July 1, 2021, and amending the City of San Jose Pay Plan, if necessary. In addition to this salary, the City Auditor will receive an approximate five percent (5%) ongoing non-pensionable pay for a total annual salary of approximately \$220,500, effective July 1, 2021;
- (e) Granting an additional forty (40) hours of executive leave to the City Auditor for the payroll calendar year 2022; and
- (f) Amending the City of San Jose Pay Plan to increase the salary range for the position of City Auditor to \$145,117 to \$240,000 annually, effective July 1, 2021.

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 6/16/2021 - Item A.1.a]

[Deferred from 6/22/2021 - Item 3.11 (21-1583)]

(Item Continued on the Next Page)

3.11 (Cont'd.)

Public Comments: Blair Beekman, Caller “5140” and Tessa Woodmansee provided comments.

City Auditor Joe Rois responded to questions from Council.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley and carried unanimously, **Resolution No. 80157** approving City Auditor Appointment, Merit Increases, Additional Executive Leave and Amending the City of San José Pay Plan was adopted. (11-0.)

3.12 21-1625 **Independent Police Auditor Appointment, Merit Increases, Additional Executive Leave and Amending the City of San José Pay Plan.**

Adopt a resolution:

- (a) Reappointing Shivaun Nurre as Independent Police Auditor (IPA) and approving compensation for services as Independent Police Auditor for a term beginning January 1, 2021 and ending December 31, 2024;
- (b) Approving a 2.5% merit increase for the Independent Police Auditor effective July 1, 2020, and amending the City of San Jose Pay Plan, if necessary;
- (c) Approving a 2.5% merit increase for the Independent Police Auditor effective July 1, 2021, and amending the City of San Jose Pay Plan, if necessary;
- (d) Granting an additional forty (40) hours of executive leave to the Independent Police Auditor for the payroll calendar year 2021;
- (e) Granting an additional forty (40) hours of executive leave to the Independent Police Auditor for the payroll calendar year 2022; and
- (f) Amending the City of San José Pay Plan to increase the salary range for the position of Independent Police Auditor to \$145,117 to \$263,000 annually, effective July 1, 2021.

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 6/16/2021 - Item A.1.a]

[Deferred from 6/22/2021 - Item 3.12 (21-1584)]

Public Comments: Blair Beekman, Paul Soto and Tessa Woodmansee provided comments.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Raul Peralez and carried unanimously, **Resolution No. 80158** approving Independent Police Auditor Appointment, Merit Increases, Additional Executive Leave and Amending the City of San José Pay Plan was adopted. (11-0.)

3.13 21-1641 Interim City Manager Compensation.

Adopt a resolution approving compensation and benefits for Interim City Manager Jennifer Maguire, effective July 25, 2021, as outlined in the memo from Mayor Liccardo.

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 6/23/2021 - Item A.1.a]

City Manager Jennifer Maguire was thanked for stepping up to the task.

Public Comments: Blair Beekman, Caller “5140”, Paul Soto and Tessa Woodmansee provided comments.

Action: **Resolution No. 80159** approving Interim City Manager Compensation was adopted. (11-0.)

4. PUBLIC SAFETY SERVICES

4.1 21-1579 Reducing Gun Harm, and the Public Burdens of Gun Violence.

As referred by the Rules and Open Government Committee on June 16, 2021:

(a) Reducing Gun Harm, and the Public Burdens of Gun Violence: Direct the City Attorney to return to Council in September with an ordinance for Council approval that would require every gun owner residing in the City of San José—with exceptions delimited below—to obtain and maintain a City-issued document evincing (i) payment of an annual fee, and (ii) attestation of insurance coverage for unintentional firearm-related death, injury, or property damage.

(1) Compliance:

(i) The gun owner shall sign and complete the insurance attestation, describing her specific policy number and issuer, and sign it under penalty of perjury. Acceptable coverage may include any homeowner's or renter's policy providing a minimum coverage amount.

(ii) The document (or signed waiver) shall be kept wherever guns are stored or transported with the owner (in-home gun safe, in car, etc.).

(2) Exemptions and waivers:

(i) A written, discretionary waiver of the fee requirement and the insurance coverage will be permitted for all low-income individuals who qualify under Cal. Govt. Code §68632. However, the owner must store and maintain the waiver document with the gun.

(ii) An exemption from these requirements will exist for sworn law enforcement.

(iii) An exemption from these requirements will exist for holders of a concealed carry weapon (CCW) permits, if the City Attorney deems it

(Item Continued on the Next Page)

4.1 (Cont'd.)

necessary to do so to avoid conflicts with state preemption over CCW regulation.

(3) Penalties: Failure to comply shall constitute a civil violation subjecting the owner to the temporary or permanent seizure of the gun, and under specified circumstances, a fine. Subsequent failure to yield firearms upon the lawful demand of a law enforcement official under this ordinance would constitute a misdemeanor.

(4) Legal issues:

(i) To minimize financial risk against the City, the City Manager is directed to retain fee revenue in a segregated account until the conclusion of active litigation seeking to overturn the ordinance.

(ii) The City Attorney shall evaluate the legal feasibility of applying these requirements upon all persons possessing a firearm in the City of San Jose, whether they reside here or not.

(iii) The City Attorney shall evaluate the constitutionality of permanent seizure of the firearm as a consequence of noncompliance.

(5) Fee Calculation and Revenue:

(i) Pursuant to state law, fee revenue may only be utilized to fund city services provided specifically to respond to gun harm, including police officer response, fire/emergency medical response, and any City assistance to victims and their families.

(ii) Return in September with the final report from the Pacific Institute for Research and Evaluation (PIRE) detailing the financial burden carried by City taxpayers for the use of firearms in the City, pursuant to Proposition 26. Calculate a fee substantially below each gun owner's pro-rata share of that cost, to ensure clear legal satisfaction of Proposition 26's dictates. As Proposition 26 allows, the fee should provide full cost recovery for the City's cost of processing the fee application.

(iii) Should the County of Santa Clara indicate a willingness to participate in and enforce a fee mandate, fee revenue would be shared with the County to fund such services as emergency room treatment, victim assistance, jail, criminal prosecution, and mental health services within the constraints of Prop 26.

(6) Ghost Guns: ensure that the definition of "firearm" under the ordinance includes unfinished frames and receivers commonly sold as do-it-yourself guns and/or assembled after downloading and 3D printing.

(b) Gun Violence Restraining Orders (GVRO): Direct the City Manager to return to Council in the Fall to identify ways to increase access and use of GVRO's, including:

(1) Better inform residents in multiple languages about accessing GVROs, such as by:

(i) Requiring protocols in our gang prevention outreach by employees of PRNS and affiliated non-profits to clients and family members;

(Item Continued on the Next Page)

4.1 (Cont'd.)

(ii) Reviewing and revising SJPd protocols and training about proactively informing reporting parties of domestic violence about the availability of GVRO's (rather than doing so only upon their affirmative disclosure of the existence of a firearm in the home);

(iii) Publicly displaying information in our police lobbies, on our city website, and other prominent locations;

(iv) Communicating to key HR/risk officers among employers and school districts; and

(v) Participating in a convening of stakeholders by the District Attorney's Office to explore other options for enhancing public awareness.

(2) Update training protocols for officers regarding recent changes in state law that enable police officers to complete DVRO's on behalf of residents afraid or otherwise constrained from doing so.

(3) Return to Council during the time for identifying City-sponsored legislation, and add for Council consideration a bill that would strengthen the effectiveness of GVRO's, including

(i) Broadening authority to search the subject's residence to ensure compliance;

(ii) Enhancing sanction for violating a GVRO from a misdemeanor to a wobbler/felony;

(iii) Enabling District Attorney's offices to submit GVRO's on behalf of concerned witnesses and victims.

(c) Assault Weapons Ban: Direct the City Attorney to file an amicus curia or to join other cities and counties throughout the state in jointly filing to appeal the June 4, 2021, District Court decision in *Miller v. Bonta* that overturned California's three-decade ban on assault weapons.

(d) Ghost Guns: Direct the City Attorney to craft a prohibition on the possession, assembly, and manufacturing of any untraceable gun lacking a serial number, in collaboration with partner organizations such as Brady United and Gifford Law Center, to cover gaps in California state prohibitions, most of which do not take effect until July 2022.

(e) Straw Purchasing and Suicide Prevention: Direct the City Attorney to bring to Council this June the final ordinance of the measures upon which Council had already voted in 2019, to regulate gun sale transactions to counter "straw purchasing"-such as by videotaping transactions and training gun store staff-and to post suicide prevention information prominently at the point of sale. Gun store staff training should include vigilance for circumstances of the purchase of guns by domestic violence victims for their disqualified abusers.

(f) Ammunition Checks: If pending federal litigation overturns the 2016 California mandate for background checks on all ammunition purchasers, return to Council to consider several options, including (a) assessing the legality of an SJPd-issued permit for ammunition purchases, and (b) evaluate whether to mandate fingerprinting on all ammunition purchases within the City of San José, modeled on the successful efforts of sixteen other cities.

(Item Continued on the Next Page)

4.1 (Cont'd.)

(g) "Looking out for One Another": Convene with County leaders to discuss how we can create a public campaign to encourage appropriate notification to mental health or law enforcement authorities of implied or explicit threats of violence, planning or preparatory steps to commit violence, or apparent fascination with prior acts of violence.

(h) Gun Buy-Back programs: Direct the City Manager to return to Council to discuss how the City could more frequently host gun buy-backs and strengthen partnerships for buy-back programs with Santa Clara County and other public, private, and non-profit organizations.

(i) Leveraging Federal Information for Early Intervention: Direct the City Manager to work with the Santa Clara County District Attorney to enhance communication between the San José Police Department and other local law enforcement with key Federal agencies- specifically the Special Agents in Charge (SAC) for local Federal Bureau of Investigations, Bureau of Alcohol, Tobacco, and Firearms, DEA, DHS, and U.S. Customs and Border Control-to improve protocols that will enable local law enforcement access to critical information about high-risk individuals in San José. Report back to Council the findings from such efforts.

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

(Liccardo, Jones, Peralez, Cohen, Carrasco)

[Rules Committee referral 6/16/2021 - Item G.2]

Public Comments: Twenty-two speakers provided comments, eight against the proposal and fourteen in favor.

Item 4.1 was bifurcated to allow a separate vote for Item (a)(2) "Exemptions and waivers - (ii) *An exemption from these requirements will exist for sworn law enforcement*", allowing for a recusal by Councilmember Raul Peralez as a Reserve Officer with the San José Police Department.

Action: excluding Item (a)(2) – Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Raul Peralez and carried unanimously, action regarding Reducing Gun Harm, and the Public Burdens of Gun Violence were approved. (11-0.)

Action for Item (a)(2): Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, "Exemptions and Waivers" pertaining to actions regarding Reducing Gun Harm, and the Public Burdens of Gun Violence were approved. (10-0-0-1. Recused: Peralez.)

4.2 21-1642 Ordinance Prohibiting Encouraging Spectators to Gather at Street Races and Reckless Driving Exhibitions.

Approve an ordinance adding Section 10.50.025 to Chapter 10.50 of Title 10 of the San José Municipal Code that would prohibit encouraging spectators to gather at street races and reckless driving exhibitions.

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

[Rules Committee referral 6/23/2021 - Item A.1.a]

Police Captain Todd Trayer provided a presentation.

Public Comments: Blair Beekman, Paul Soto and Chris provided comments.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Dev Davis and carried unanimously, **Ordinance No. 30642** Prohibiting Encouraging Spectators to Gather at Street Races and Reckless Driving Exhibitions was passed for publication. (11-0.)

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 21-1552 Amendment to the Lease for the Police Vehicle and Evidence Warehouse.

Adopt a resolution authorizing the City Manager, or his designee, to negotiate and execute a Third Amendment to the lease dated May 12, 2003 between Sun Garden Center 3, LLC, as Landlord, and the City of San José, as Tenant, extending the lease for an additional five-year period (expiring July 31, 2026) for the continued use and operation of ± 30,015 square feet of warehouse space for the Police Evidence Warehouse Unit, and an additional 18 months (expiring December 31, 2023), for a cost of \$1,127,132 for the first year, \$729,249 for the second year, and \$341,307 for each of the third, fourth, and fifth years for a total rental cost of \$2,880,302 for the initial term, with one option to extend for an additional three and a half years, for the continued use and operation of ±69,804 square feet of warehouse space for the Police Vehicle Warehouse unit, totaling ±99,819 square feet of warehouse space located at 1598 Monterey Road in San José, for an additional cost of \$238,730 for the second year, and an additional cost of \$636,612 for each of the third, fourth, and fifth years, for a total rental cost of

(Item Continued on the Next Page)

8.1 (Cont'd.)

\$5,008,988 for the full term of the lease including the option period, and all other necessary documents.

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

Public Comments: Blair Beekman, Caller “5140” and Tessa Woodmansee provided comments.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember David Cohen and carried unanimously, **Resolution No. 80160** approving an amendment to the Lease for the Police Vehicle and Evidence Warehouse was adopted. (11-0.)

8.2 21-1572 **Actions Related to the Emergency Rental Assistance Fund Grant for Rental Assistance.**

Adopt a resolution:

(a) Accepting \$14,511,155 in Emergency Rental Assistance 2 funds from the U.S. Department of the Treasury and ratifying the City Manager’s signing of the award terms; and

(b) Authorizing the City Manager to negotiate and execute the following agreements, including any amendments and revisions to said agreements and any necessary documents to effectuate the grant, to use Emergency Rental Assistance 2 Funds to provide assistance to San José tenants and landlords who have been negatively impacted by the COVID-19 pandemic:

(1) With Sacred Heart Community Service, a grant agreement in an amount not to exceed \$3,265,010 to provide rental assistance, utility relief, and other eligible housing assistance to San José residents, as well as to fund case management and outreach efforts to connect San José residents with rental assistance, utility relief, and other housing assistance.

(2) With the County of Santa Clara, a grant agreement in an amount not to exceed \$9,795,030 to administer payments for rental assistance, utility relief, and other eligible housing assistance to San José residents being served by the Santa Clara County Homelessness Prevention System community and grassroots partners.

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

Public Comments: Blair Beekman, Caller “5140” and Paul Soto provided comments.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Maya Esparza and carried unanimously, **Resolution No. 80161** regarding actions related to the Emergency Rental Assistance Fund Grant for Rental Assistance was adopted. (11-0.)

8.3 21-1555 Amendment to the Existing Home Investment Partnerships Program (HOME) Agreement with Sacred Heart Community Services to Continue Administering the COVID-19 Related Tenant Based Rental Assistance Program.

(a) Adopt a resolution authorizing the Director of Housing to negotiate and execute an amendment to an existing grant agreement with Sacred Heart Community Service to increase the HOME funded COVID-19 related Tenant Based Rental Assistance program grant amount by \$3,000,000 for a total contract amount not to exceed \$7,250,000 with the term of the agreement to remain through September 30, 2021.

(b) Adopt the following Fiscal Year 2020-2021 Appropriation Ordinance Amendments in the Home Investment Partnership Program Fund:

- (1) Decrease the Unrestricted Ending Fund Balance by \$747,765; and
- (2) Increase the Tenant Based Rental Assistance appropriation to the Housing Department by \$747,765.

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

Public Comments: Blair Beekman, Tessa Woodmansee, Caller “5140” and Paul Soto provided comments.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Maya Esparza and carried unanimously, (a) **Resolution No. 80162** regarding an amendment to the Existing Home Investment Partnerships Program (HOME) Agreement with Sacred Heart Community Services, and (b) Appropriation **Ordinance No. 30643** were adopted. (11-0.)

8.4 21-1561 Community Priorities for the Alum Rock Corridor Report.

As recommended by the Rules and Open Government Committee on June 2, 2021, accept the “Community Priorities for the Alum Rock Corridor” Report, prepared by students at San José State University’s Department of Urban and Regional Planning, which lists community-identified priorities that can guide community leaders, City staff, and elected officials in further discussions about future development along the Alum Rock Avenue corridor.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Planning, Building and Code Enforcement)
[Rules Committee referral 6/2/2021- Item G.2]

Jared Hart, Division Manager, PBCE provided a presentation.

Public Comments: Tessa Woodmansee, Paul Soto, Elma Arredondo (Alum Rock Urban Village Advocates) (ARUVA) and Imelda (CUC support), and Caller “5140” provided comments.

Action: Upon motion by Councilmember Magdalena Carrasco, seconded by Councilmember Maya Esparza and carried unanimously, the Community Priorities for the Alum Rock Corridor Report was accepted. (11-0.)

8.5 21-1573 Approval of the Affordable Housing Siting Policy. - DROP

(a) Accept the staff report regarding the proposed City of San José's Affordable Housing Siting Policy authorizing a plan to allocate Housing Department development funding as follows:

(1) In Phase One (initial three-year period), 30 percent of affordable housing development located in Category 1 neighborhoods, 50 percent in Category 2 neighborhoods, and 20 percent in Category 3 neighborhoods as shown in the Siting Policy Map;

(2) In Phase Two (after initial three-year period), 60 percent of affordable housing development located Category 1 neighborhoods, 30 percent in Category 2 neighborhoods, and 10 percent in Category 3 neighborhoods; and

(3) Limit funding in high-impacted census block groups where 50 percent or more of existing homes are deed-restricted and the block group contains 200 or more affordable homes.

(b) Adopt a resolution approving the Affordable Housing Siting Policy and the Siting Policy Map.

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

(Housing)

[Deferred from 6/22/2021 Item 8.2 (21-1476)]

DROPPED

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

(a) 21-1556 C21-003 - Conforming Rezoning on Property Located at 5000 Mitty Way.

Approve an ordinance rezoning an approximately 27-gross acre site, located at the southeast corner of Mitty Way and Doyle Road (5000 Mitty Way), from the R-1-8 Single-Family Residence Zoning District to the Public/Quasi-Public Zoning District.

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 1. (Planning, Building and Code Enforcement)

Public Comments: Blair Beekman, Tessa Woodmansee and Paul Soto provided comments.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Dev Davis and carried unanimously, **Ordinance No. 30644** regarding C21-003 - Conforming Rezoning on Property Located at 5000 Mitty Way was passed for publication. (11-0.)

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

(b) 21-1630 C19-016 & CP18-027 - Conforming Rezoning and Site Development Permit for Property Located on the northeast corner of Story Road and South Jackson Avenue.

(1) Adopt a resolution adopting the Initial Study/Mitigated Negative Declaration for the Rotten Robbie on Story Road project and the associated Mitigation Monitoring and Reporting Plan, all in accordance with the California Environmental Quality Act (CEQA).

(2) Approve an ordinance rezoning the approximately 0.53-gross acre site located on the northeast corner of Story Road and South Jackson Avenue from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District on an approximately 0.53-gross acre site.

(3) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the demolition of an existing approximately 1,500-square foot convenience store for the construction of an approximately 3,200-square foot convenience store and a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale alcohol (Type 20 ABC License - Beer and Wine only) with late night use (hours of operation 5:00 am to 11:00 pm) on an approximately 0.53-gross acre site.

CEQA: Initial Study/Mitigated Negative Declaration (IS/MND) for the Rotten Robbie on Story Road. Council District 5. (Planning, Building and Code Enforcement)

[Continued from 6/22/2021 - Item 10.1(b) (21-1478)]

Mayor Sam Liccardo pulled 10.1(b) for discussion.

Councilmember Magdalena Carrasco expressed issues with the application as it stands. Chris Burton Deputy Director, Office of Economic Development, responded to questions. Applicant, Tom Robinson spoke to night use hours of serving. Extensive discussion and debate ensued.

Public Comments: Tessa Woodmansee, Paul Soto and Brenda Zendejas offered comments.

Discussion and public comment heard. Deferred to August 3, 2021 to allow time for further consideration.

Upon motion by Councilmember David Cohen, seconded by Councilmember Maya Esparza and carried unanimously, this item was deferred to August 3, 2021. (11-0.)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 21-1557 **PP21-005 - City-Initiated Zoning Ordinance Amendment to Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code.**

Approve an ordinance of the City of San José amending sections of Title 20 (Zoning Ordinance or Zoning Code) to amend Chapter 20.80 Specific Use Regulations including Section 20.80.11.50 to add criteria for issuing a Conditional Use Permit for pawnshops and pawnbrokers that meet certain distance criteria from sensitive uses, and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. Planning Commission recommends denial (7-0). (Planning, Building and Code Enforcement)

[Deferred from 6/8/2021 - Item 10.1(a) (21-1332)]

Jared Hart, Division Manager, PBCE provided a report. He and Alexander Hughes, Planning and Deputy Director, Office of Economic Development, Chris Burton responded to questions.

Public Comments: Blair Beekman, Paul Soto, Tessa Woodmansee, Robert Aguirre and Brenda Zendejas provided comments.

Motion: Councilmember Maya Esparza moved approval, and the motion was seconded by Vice Mayor Chappie Jones.

Councilmember Dev Davis offered support to the Planning Commission's approach to deny approval. The Mayor and Councilmembers Jimenez, Cohen, Foley and Mahan also expressed reservations.

Lieutenant Jason Kidwell spoke to the correlation between pawnshops and crime.

Action: The motion failed. Actions related to the City-Initiated Zoning Ordinance Amendment to Title 20 were not approved. (4-6-1. Noes: Jimenez, Cohen, Davis, Foley, Mahan, Liccardo. Absent: Carrasco.)

CONTINUE GENERAL PLAN HEARING (2021 FIRST CYCLE) FROM 6/22/2021

10.3 21-1558 GP19-008 & H20-004 - GP19-008 & H20-004 - General Plan Amendment and Site Development Permit for Property Located at 276 Woz Way.

(a) Adopt a resolution certifying the Supplemental Environmental Impact Report (SCH No. 2003042127) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942), and making certain findings concerning significant impacts, mitigation measures, alternatives, Statement of Overriding Considerations, and adopting a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA).

(b) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Public/Quasi-Public to Downtown on an approximately 3.08-gross acre site.

(c) Adopt a resolution approving, subject to conditions, a Site Development Permit, to allow the construction of two 20-story office towers with a total of approximately 1.85 million square feet, including 10,107 gross square feet of ground floor retail space and 1,226,600 gross square feet of commercial office space with four levels of below-grade garage parking and four levels of above grade garage parking, and to allow the demolition of 16 single-family residences and 5 associated detached garages and the removal of 30 ordinance-sized trees and 21 non-ordinance-sized trees on 2.93 gross acres within the 3.08-acre site.

CEQA: Woz Way Office Supplemental Environmental Impact Report (SCH No. 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 Director, Office of Economic Development, Chris Burton and Robert Manford offered a presentation.

Applicant Mark Tersini expressed merits of the project and Tim Boylan from CHK Architects offered a presentation

Public Comments: Tessa Woodmansee, Blair Beekman, Robert Aguirre, Roland LeBrun, Brenda Zendejas and Paul Soto provided comments.

Action: Upon motion by Councilmember Raul Peralez seconded by Councilmember Dev Davis and carried unanimously, (a) **Resolution No. 80163** certifying the Supplemental Environmental Impact Report; (b) **Resolution No. 80164** amending the Envision San José 2040 General Plan Land Use/Transportation Diagram designation; and (c) **Resolution No. 80165** approving, subject to conditions, a Site Development Permit, were adopted. (10-0-1. Absent: Esparza.)

10.4 21-1626

GP20-008 & C21-001 - City-Initiated General Plan Amendment and Conforming Rezoning for the Berryessa BART Urban Village Plan. Heard Concurrently with Item 10.5

(a) Adopt a resolution adopting the Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution 77617) and Addenda thereto in accordance with CEQA.

(b) Adopt a resolution approving the following:

(1) General Plan Amendment (GP20-008) to the Envision San José 2040 General Plan to amend the “Planned Job Capacity and Housing Growth Areas by Horizon” table in Appendix 5 and make changes to the Land Use/Transportation Diagram for properties within the boundaries of the Urban Village planning area as shown on the Berryessa BART Urban Village Land Use Diagram; and

(2) Adoption of the Berryessa BART Urban Village Plan as the guiding policy document for new development and identified public improvements within the urban village area.

(c) Approve an ordinance rezoning certain real property of approximately 28.9 gross acres (C21-001) located in the East District area of the Berryessa BART Urban Village Plan area generally bounded by Berryessa Road to the north; Penitencia Creek, Salamoni Court and Berryessa Station Way to the east; Mabury Road to the south; and Santa Clara Valley Transportation Authority right-of-way to the west from the A(PD) Planned Development zoning district and IP Industrial Park zoning district to the PQP Public/Quasi-Public zoning district (APNs 254-17-008 and 254-17-110), from the A(PD) Planned Development zoning district to the CP Commercial Pedestrian zoning district (APN 254-17-111), from the IP Industrial Park zoning district to the PQP Public/Quasi-Public zoning district (APN: 254-17- 083), and from the IP Industrial Park zoning district to the CP Commercial Pedestrian zoning district (APNs 254-17-112 and 254-17-113). CEQA: Initial Study/Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto. Planning Commission recommends approval (5-1-1; Garcia opposed, Caballero absent). Council District 4. (Planning, Building and Code Enforcement) [Deferred from 6/8/2021 - Item 10.2 (21-1335), Continued from 6/23/2021 - Item 10.3 (21-1480)]

Continued from the 6/22/21 & 6/23/21 Council Meeting.

Heard concurrently with Item 10.5

(Item Continued on the Next Page)

10.4 (Cont'd.)

Councilmember Esparza had moved continuing the 6/22/21 hearing to 9 a.m., 6/23/2021. The motion was seconded by Councilmember David Cohen. (11-0).

At the continued hearing on 6/23/2021, the 6/22/2021 motion (see Item 10.5) was amended with the consent of Councilmember Cohen, the maker of the motion, and Councilmember Jimenez, seconder of the motion.

On 6/23/21 Councilmember Carrasco made a substitute motion to continue the hearing for one week, to 6/29/202. The motion was seconded by Councilmember Peralez. (6-5. Noes: Cohen Davis, Foley, Mahan Liccardo.)

Actions including recommendations and as moved by Councilmember David Cohen and seconded by Councilmember Sergio Jimenez on June 29, 2021:

Item 10.4(a) **Resolution No. 80166** adopting the Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report.

Item 10.4(b) **Resolution No. 80167** approving the General Plan Amendment (GP20008) to the Envision San José 2040 General Plan and the Berryessa BART Urban Village (BBUV) Plan was adopted with the following amendment: “Expand the term “interim” in the Berryessa/BART Urban Village Policy LU-2.6 to allow the Flea Market as an interim use anywhere on the Flea Market Property, including the areas planned for residential, in the event that temporary on-site relocation is needed. This should not impede overall efforts to explore on- or off-site permanent relocation of the Flea Market.”

Item 10.4(c) **Ordinance No. 30645** rezoning certain real property of approximately 28.9 gross acres (C21-001) located in the East District area of the Berryessa BART Urban Village Plan area was passed for publication. (11-0.)

See summary of action/recommendations/amendments under Item 10.5.

10.5 21-1627 PDC17-051 - Planned Development Rezoning for Real Property Located at 1590 Berryessa Road.

Heard Concurrently with Item 10.5

(a) Adopt a resolution certifying the San José Flea Market Southside Rezoning Environmental Impact Report and make certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a Statement of Overriding Considerations and a related Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act.

(b) Approve an ordinance rezoning certain real property an approximately 61.5-gross acre site located at 1590 Berryessa Road (Assessor Parcel Numbers 254-17-052, 053, 007, 084, 095) from the A(PD) Planned Development Zoning District to CP(PD) Planned Development Zoning District to allow up to 3,450 residential units and up to 3.4 million square feet for commercial uses.

(c) Approve an ordinance repealing Section 14.30.035 of Chapter 14.30 of Title 14 of the San José Municipal Code to apply the US-101/Oakland/Mabury Traffic Impact Fee to the current project.

(d) Adopt a resolution amending the US-101/Oakland/Mabury Transportation Development Policy to provide a credit to the current project's Traffic Impact Fee obligation.

CEQA: The San José Flea Market Southside Rezoning EIR.

Planning Commission recommends approval (5-1-1; Garcia opposed, Caballero absent. Council District 4. (Planning, Building and Code Enforcement)

[Deferred from 6/8/2021 - Item 10.3 (21-1336), Continued from 6/23/2021 - Item 10.4 (21-1481)]

Continued from the 6/22/21 & 6/23/21 Council Meeting.

Heard concurrently with Item 10.4

The 6/22/2021 motion by Council Member Cohen on Items 10.3 and 10.4 (renumbered as Items 10.4 and 10.5 respectively on the 6/29/2021 Council agenda), seconded by Council Member Jimenez, was to approve the recommendations in the following memoranda, which are all included in the redlined approval below:

1. Staff memorandum and Planning Commission recommendation;
2. Supplemental staff memorandum;
3. 6/22/2021 memorandum from Mayor Liccardo and Council Members Cohen and Jimenez;
4. Vice Mayor Jones' 6/21/2021 memo;
5. Recommendations 1 and 2 in Council Member Carrasco's 6/22/21 memorandum; and
6. Recommendations 1.d, 1.e, and 4 from Council Member Peralez's 6/21/2021 memo.

Council Member Esparza made a motion to continue the hearing to 6/23/2021 at 9 am; seconded by Council Member Cohen. The motion to continue was approved. (11-0.)

(Item Continued on the Next Page)

10.4 & 10.5 (Cont'd.)

At the continued hearing on 6/23/2021, the 6/22/2021 motion was amended with the consent of Council Member Cohen, the maker of the motion, and Council Member Jimenez, seconder of the motion, to include the following changes, which are also included in the redlined approval below:

1. Add that the Flea Market Advisory Group will include a supermajority of vendors, and
2. Clarify that the conditions of approval of the Flea Market rezoning ordinance shall apply to successors in interest of the property.

Council Member Carrasco made a substitute motion to continue the hearing for one week, to 6/29/2021; seconded by Council Member Peralez. Substitute Motion to continue approved (6-5. Noes: Cohen Davis, Foley, Mahan Liccardo.).

At the continued hearing on 6/29/2021, the 6/22/2021 motion with the 6/23/2021 amendments was further amended by a motion by Councilmember Cohen, and seconded by Councilmember Jimenez, to include the following changes to Items 10.4 and 10.5, which are all included in the redlined approval below:

1. The changes indicated in Sections 1.g, 1.g(2), 1.g(3), and 1.l of Councilmember Cohen's 6/28/2021 memorandum;
2. Mayor Liccardo's 6/29/2021 memorandum;
3. Recommendation 1.a from Councilmember Peralez' 6/22/21 memorandum;
4. The change to Section 1.e recommended in Section 2 of Councilmember Carrasco's 6/29/2021 memorandum; and
5. The changes indicated in Sections 1.h and 17.d below.

At the continued hearing on 6/29/2021, the motion was also clarified with regard to Item 10.5(a) that the San Jose Flea Market Southside Rezoning EIR CEQA resolution to be certified and adopted is the version posted as "(a) Resolution (2)" with the following changes to Section C.6:

1. Include a reference to the Property Owner's 6/28/2021 revised offer letter, and
2. Change the reference to the \$2.5 million funding from the Property Owner to \$5 million.

Approved. (11-0.)

On 6/29/2021, Councilmember Cohen also made a motion for reconsideration of Item 10.5, seconded by Councilmember Arenas to change the date upon which the Flea Market rezoning ordinance will be considered for final adoption by Council from July 13, 2021 to August 3, 2021 subject to consent of the property owner to extend the property owner's June 28, 2021 offer to August 3, 2021 (which written consent was received from the Property Owner's General Counsel Loren Vaccarezza on behalf of the property owner on June 30, 2021).

Approved. (11-0.)

Actions: At the continued hearing on 6/29/2021, the 6/22/2021 motion with the 6/23/2021 amendments was further amended by a motion by Council Member Cohen, and seconded by Council Member Jimenez, to include the following changes to Items 10.4(b) and 10.5(b), which are all included in the redlined approval below:

Item 10.5(a) **Resolution No. 80168** certifying the San José Flea Market Southside Rezoning Environmental Impact Report was adopted as the version posted as "(a) Resolution (2)" with the following changes to Section C.6:

1. Include a reference to the Property Owner's 6/28/2021 revised offer letter, and
2. Change the reference to the \$2.5 million funding from the Property Owner to \$5 million. (11-0)

(Item Continued on the Next Page)

10.4 & 10.5 (Cont'd.)

Item 10.5(b) Approval of **Ordinance No. 30646** rezoning certain real property approximately 61.5-gross acre site located at 1590 Berryessa Road with the changes specified below.

Item 10.5(c) Approval of **Ordinance No. 30647** repealing Section 14.30.035 of Chapter 14.30 of Title 14 of the San José Municipal Code to apply the US-101/Oakland/Mabury Traffic Impact Fee to the current project were passed for publication.

Item 10.5(d) Adoption of **Resolution No. 80169** amending the US-101/Oakland/Mabury Transportation Development Policy was adopted. (11-0.)

The Council's modifications to the resolution in Item 10.4(b) and the ordinance in Item 10.5(b) are indicated in red-line as follows:

The 6/22/21 memorandum by Mayor Liccardo and Council Members Cohen and Jimenez with the following 6/23/21 and 6/29/21 redlined amendments was unanimously approved:

FOR ITEM 10.5(b):

1. Accept applicant's amendment of its rezoning application to include various measures to assist the approximately 430 all vendors operating on the subject property and the applicant's revised offer dated June 28, 2021 that updates sections g and l from its June 18 offer as highlighted below:
[Cohen 6/28/21, Peralez 6/21/21, Property Owner at 6/29/21 Council hearing]
 - a. The property owner shall provide at least one-year advance written notice to all vendors of any planned closure, gap in operation, or relocation of The Flea Market onsite, some other market location, or any other location in San Jose. The notice would not be initiated prior to July 1, 2023.
 - b. Commencing September 1, 2021, the owner shall submit a written quarterly status report to the Director of PBCE and the Community and Economic Development Committee that summarizes all construction planning and permitting activities (soil remediation, utilities, infrastructure, grading, building construction) that may result in construction impacts to the existing Flea Market operations. The Report must include estimated dates of when the earliest construction impact may occur, if known. The report will also specify whether any vendors have been displaced, relocated, or terminated. This report shall be provided to the City no later than 30 days following the end of the quarter for which it is due. The Community and Economic Development will consider the Owner's reports twice each year. [6/29/21 amendment]
 - c. The approximately five-acre Urban Market area designated in the Berryessa BART Urban Village Plan as the publicly accessible plazas of the new development is intended to provide the existing Flea Market vendors an opportunity to relocate within the new development on the subject property.
 - d. The property owner shall provide Flea Market vendors with a current month to monthspace rental agreement the first opportunity to move to the Urban Market area.
 - e. The property owner shall set rents in the Urban Market area in an amount comparable to other open-air markets in the Bay Area such as any open air market in the Bay Area such as including, but not limited to, the Capitol Flea Market, De Anza Flea Market, and Laney College Flea Market ~~The Capitol Flea Market and any other similar markets in existence at the time of the offer of relocation from the property owner to the vendors.~~ [Carrasco 6/29/21, Property Owner at 6/29/21 Council hearing]

10.4 & 10.5 (Cont'd.)

- f. A Vendor Business Transition Fund will be established and managed by the City or its designee. The general purpose of this fund is to mitigate direct expenses the vendors may experience when moving to any temporary site and/or Urban Market area on site, some other market location, or any other retail location in San Jose.
- g. The property owner shall endow the Vendor Business Transition fund with ~~\$2.5~~ \$5.0 million, in accordance with the following schedule: [Cohen 6/28/21]
- (1) Within 120 calendar days of the effective date of the Planned Development Zoning File No. PDC17-051, the property owner shall transfer \$500,000 to the City in early funding to support the initiation of the Flea Market Advisory Group and Vendor Business Transition fund, and
 - (2) On the date that the property owner issues the one-year notice to the vendors in accordance with Section (a) above, the property owner shall transfer \$2 million to the City's Vendor Business Transition Fund. [Cohen 6/28/21]
 - (3) On the date that the existing Flea Market ceases operation on-site, the property owner shall transfer an additional \$2.5 million to the City's Vendor Business Transition Fund. [Cohen 6/28/21]
- h. A Flea Market Advisory Group consisting of representatives of the property owner/developer, ~~the Flea Market vendors, and the City,~~ and a supermajority of Flea Market vendors including members from any vendors' association will be created, in accordance with item i, with the intention of ensuring Flea Market vendors have a meaningful voice and role in determining the use of the transition funds and guiding the development of the urban market concept by providing the following: [6/23/21 and 6/29/21 amendments]
- (1) Recommendations to the property owner and City on the design, operation, and associated parking of the Urban Market area;
 - (2) Funding decisions for the Vendor Business Transition Fund including the general purposes of the fund described in item f), and additional resources the vendors may require including but not limited to data, relevant existing models of public/private markets, and examples of self-sustaining operational methods in order to inform the recommendations outlined above.
 - (3) Regular communication with all of the Flea Market vendors on the status and progress of the Flea Market transition, decisions, and recommendations made by the Flea Market Advisory Group, as well as the opportunity for Flea Market vendors who are not part of the Advisory group to provide feedback to the Advisory Group.
 - (4) Establishing protocols for determining how Flea Market vendors with a month-to-month rental agreement will be offered the opportunity to relocate to the new Urban Market.
- The composition of the Flea Market Advisory Group shall be determined by the City Council in accordance with Section 1.i below. [6/29/21 amendment]
- i. Upon receipt of the first contribution to the City by the property owner, the City or its designee will form a Flea Market Advisory Group by drafting a charter that shall include at a minimum the purpose of the group, the number of members of the group, the composition of the group, and which members shall have voting rights. The City or its designee shall convene an initial group of vendors and stakeholders, including the property owner, to draft and approve the Flea Market Advisory Group charter.

(Item Continued on the Next Page)

10.4 & 10.5 (Cont'd.)

- j. The property owner shall introduce the City to any successor in interest to the Urban Market site at least 60 calendar days prior to the close of escrow in order to engage in a conversation about the Urban Market project.
 - k. The property owner shall ensure that all affordable housing units required by the City's Inclusionary Housing Ordinance (San Jose Municipal Code Chapter 5.08) are constructed on the subject property in the manner required by that ordinance.
 - l. The property owner agrees that all vendors who follow the rules and terms in their Rent Agreement shall continue to have their Rent Agreement renewed and shall not be evicted from The Flea Market prior to the planned closure or relocation of the market. [Cohen 6/28/21]
 - m. The conditions of approval of the Flea Market rezoning ordinance shall apply to successors in interest of the property. [6/23/21 amendment]
2. Add the following conditions of approval to the ordinance rezoning the subject property:
- ~~a. Include a provision that any future Planned Development Permit that specifically authorizes the detailed architectural design of a future urban market and the actual vendor stalls shall be considered for approval by the City Council.~~ [Revised by Jones 6/21/21 – See Section 17.d below]
 - a. Prior to submittal of an application for the PD permit referenced in ~~2.a.17.d~~, Property owner shall make and complete a reasonable evaluation of the financial feasibility of a denser/multi-level urban market and associated parking. The evaluation should study all scenarios including comparable cities that have successfully implemented a similar market model. [Peralez 6/22/21]
3. The City and the property owner may explore:
- a. The potential utilization of public and private streets for expanded market operations.
 - b. Creative partnership models for the Urban Market site.
4. Direct City staff from the Office of Economic Development to work with the property owner to assess the flea market vendor community and the job retention and creation potential that will inform the design of a future market. The Office of Economic Development should consider a consultant/community partner to assist in this effort and fund the study with the funds from the first contribution to the City by the property owner and only after that contribution is received by the City. [Peralez 6/22/21]
5. Direct staff from the Office of Economic Development to assist in linking resources that can support the vendor's current operations as well as support future operations as the market evolves. Additionally, staff from the Office of Economic Development shall utilize the early funding provided by the applicant to coordinate the initiation of the Flea Market Advisory Group and Vendor Business Transition Fund.
6. Direct staff to work with the applicant to ensure that the Phase 1 Turnkey park improvements submittal, as defined in the Berryessa BART Urban Village Parks Master Plan, are approved by August 2, 2021 so that the construction of Mercado and Bruzzone Parks can be completed by Q1 2022.
7. Direct staff to explore financial tools to complete development of the new five-acre Urban Market on the project site, including public funding options should gap financing be required. [6/21/21 Supplemental Staff Memo]
8. Direct staff to explore potential partnerships with BART and potential off-site market options. [6/21/21 Supplemental Staff Memo]
9. Direct staff to work with the Flea Market Advisory Group to allocate the \$2.5 \$5 million dollars in the Vendor Business Transition Fund to direct vendor support and to consultant services and non-profit, as needed. [6/21/21 Supplemental Staff Memo, Cohen 6/28/21]
10. Subject to the limitations in Subsection 15.b(1) below, direct the City Manager to match the \$2.5 million dollars Vendor Business Transition fund by allocating money from the American Rescue Plan reserve. [Carrasco 6/22/21; Cohen 6/28/21; Liccardo 6/29/21]

10.4 & 10.5 (Cont'd.)

11. Direct the Office of Economic Development to expand opportunities for continued viability and survivability for vendors facing displacement from the flea market by exploring the following:

- a. Explore policies that can help in the transition by addressing opportunities and obstacles currently in practice.
- b. Find alternative locations for pop-up shops, farmer markets and brick and mortar.
- c. Expand Eastside Business Manager from part-time to full-time to assist vendors.
- d. Direct staff to identify additional City, State, Federal or philanthropic resources to support the Berryessa Flea Market Vendors Association or its designated partners, in capacity building, including technical and legal assistance and developing new partnerships. [Carrasco 6/22/21]

12. Acknowledge the following agreement the applicant is offering to Flea Market Vendors:

The Flea Market, Inc. will allow any existing vendor of record on July 1st, 2021 to opt-in to a 6-month license agreement. The “6-month” term will be fixed blocks of time from July 1st to December 31st and January 1st to June 30th each year.

13. Recognize that City staff from the Office of Economic Development looks forward to engaging the Berryessa Flea Market Vendor Association (BFVA) and other interested vendors as the future of the urban market takes shape, as well as activating business support services for vendors. Contracts for consultant services will follow City procurement requirements, with opportunities for vendor participation in RFP review panels.

14. Upon approval of Planned Development Zoning File No. PDC17-051, direct the City Manager’s Office to schedule a ~~special~~ City Council meeting for the purpose of final adoption of the Zoning Ordinance to occur no later than ~~July 13, 2021~~ August 3, 2021. [6/29/21 Council approval of motion for reconsideration (11-0) and Property Owner’s 6/30/21 consent to extend 6/28/21 offer to 8/3/21] 15. The City Manager will:

- a. Communicate to the Valley Transportation Authority (VTA) the intention of the City of San Jose, and of each of the participating board members, to formally request that VTA (and if necessary, BART) evaluate and negotiate to offer a lease or easement of VTA- owned areas in and around the BART station to dramatically expand the footprint of the Flea Market on Saturdays and Sundays. After VTA staff has analyzed the options, the matter should be brought to the full VTA Board for discussion.
- b. Return in the Fall for Council action after exploration of sources for additional funding from the City, and the County, to assist Berryessa Flea Market Vendors in any transition that they might need to make in 2024 or thereafter. Potential sources could include, but are not limited to:

- American Rescue Plan (ARP) dollars, if eligible based on pending federal regulations, so long as any ARP contribution would be decided no later than December 31, 2021;
- Taxes and fees emanating from the development on the Berryessa site, which might be advanced from City accounts upon the issuance of a building permit; and
- Economic Development grants, such as those recently received by the City, that assist small businesses in recovery, and support filling vacant storefronts. [Liccardo 6/29/21]

16. City staff will:

- a. Work with the vendor community to:
 - Identify financial tools including gap financing options if needed, and
 - Explore vacant retail space opportunities for vendors. [Jones 6/21/21]

10.4 & 10.5 (Cont'd.)

- b. Direct City Staff to identify potential public land that could serve as a new Flea Marketspace, including County owned sites, and report back to Council with these findings. [Jones 6/21/21]
- c. Allow for the full-~~2~~, 5 million dollars to be used to explore non-profit and other community partners to assist in Flea Market transition as needed, with support from the vendors. [Jones 6/21/21, Cohen 6/28/21]
- d. Require that any Planned Development (PD) Permit that includes market-rate dwelling units to be approved only after, or at the same time, that a Planned Development Permit that includes the new market space is brought to Council. [Jones 6/21/21] If the Flea Market finds an alternative location, then the other elements as appropriate are no longer needed, and all appropriate language changes shall be made to the ordinance and resolutions. [6/29/21 amendment]
- 17. Include clarifying language in the ordinance and resolution that the conditions of approval remain in effect in the event the property is transferred. [Perales 6/21/21]

FOR ITEM 10.4(b):

- 18. Expand the term “interim” in the Berryessa/BART Urban Village Policy LU-2.6 to allow the Flea Market as an interim use anywhere on the Flea Market Property, including the areas planned for residential, in the event that temporary on-site relocation is needed. This should not impede overall efforts to explore on- or off-site permanent relocation of the Flea Market. [Perales 6/21/21]

- 10.6 21-1631 C21-010 - City Initiated Conforming Rezoning for Properties Located at 0 Sierra Road, 0 Miracle Mountain Drive and 0 Casa Loma Road.**
 Approve an ordinance rezoning certain real properties of six parcels totaling approximately 2,029-gross acres located in various locations east and south of the Urban Service Area boundary, including the East Foothills of San José on Sierra Road, on Miracle Mountain Drive north of the Boulder Ridge Golf Club, and in South San José on Casa Loma Road, from the R-1-1 Zoning District to the OS Open Space Zoning District.
 CEQA: Initial Study/Addendum (File No. ER20-187) to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto. Council District 4. (Planning, Building and Code Enforcement)
 [Deferred from 6/8/2021 - Item 10.4 (21-1334), 6/22/2021 - Item 10.5 (21-1482)]

Public Comments: Tessa Woodmansee and Paul Soto provided comments.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Matt Mahan and carried unanimously, **Ordinance No. 30648** rezoning certain real properties of six parcels totaling approximately 2,029-gross acres located in various locations east and south of the Urban Service Area boundary, including the East Foothills of San José on Sierra Road, on Miracle Mountain Drive north of the Boulder Ridge Golf Club, and in South San José on Casa Loma Road, from the R-1-1 Zoning District to the OS Open Space Zoning District was passed for publication. (11-0.)

CLOSE THE GENERAL PLAN HEARING (2021 FIRST CYCLE)

OPEN FORUM

1. Tessa Woodmansee spoke on relocation of homes and a model for resiliency going forward.
2. Paul Soto thanked Dave Sykes and expressed his grief and frustration due to the loss of the lands of his ancestors.
3. Blair Beekman asked for yearly reports on gaming, offered words of appreciation to David Sykes and urged open public policies.
4. Roland LeBrun addressed the Charter Review commission meeting last night, indicating the Clerk’s Office needs more resources to staff subcommittee meetings.
5. Robert Aguirre urged allowing members of the unhoused community to lend their voice by involvement in a special commission, indicating they are being pushed out.
6. Andrea Case indicated City workers deserve more competitive pay raises.
7. Brenda Zendejas noted that City workers have kept essential services going and should be paid accordingly. She spoke on the displacement of Flea Market vendors and against gentrification.

Vice Mayor Magdalena Carrasco addressed Paul Soto’s words and spoke to his pain, adding that the pandemic has allowed us to see injustices more clearly. She asked that we work collectively.

ADJOURNMENT

This meeting was adjourned at 11:40 p.m. in memory of Nicholas Cochran, who passed away at the age of 28 on June 4, 2021. It is an honor to recognize Nicholas for his service to our Fire Department and our City.

Developer: Pulte Group

Minutes Recorded, Prepared and Respectfully Submitted by,

Ruth Krantz
Ruth Krantz, CMC
Deputy City Clerk, City of San Jose

Approved at Council May 9, 2023

Attest:



Toni J. Taber, CMC
City Clerk

rmk/06-29-2021 MIN



SAN JOSÉ CITY COUNCIL CLOSED SESSION

JUNE 29, 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, Carrasco (9:30), Davis, Esparza, Mahan, Jimenez, Jones, Cohen, Peralez, Foley; Liccardo.

Absent: Councilmembers - All present.

Closed Session Item(s) discussed:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(1) of the Government Code:

Number of matter(s) to be discussed: 1

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Initiation of litigation pursuant to Section 54956.9(d)(4) of the Government Code:

Number of matter(s) to be discussed: 2

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

1. Case Name: Hogue, et al., v. City
Name(s) of Parties(s) Involved: FATEMEH HOGUE, CITY OF SAN JOSE; IRANIAN FEDERATED WOMEN’S CLUB; FARIBA NEJAT, and DOES 1-50, inclusive
Court: Superior Court of California; County of Santa Clara
Case No.: 19CV344282
Amount of Money or Other Relief Sought: Damages according to proof

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

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or Name and Title of Unrepresented Employees: **Association of Engineers & Architects (AEA)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Association of Engineers & Architects (AEA)

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

2. Organization or Name and Title of Unrepresented Employees: **Association of Maintenance Supervisory Personnel (AMSP)**

Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: City of San José - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

3. Organization or Name and Title of Unrepresented Employees: **City Association of Management Personnel Agreement (CAMP)**
- Nature of negotiations: wages/salaries, hours, working conditions, etc.
- Name of Existing Contract or MOA: Benefit & Compensation Summary — City of San José and City Association of Management Personnel Agreement
- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
4. Organization or Name and Title of Unrepresented Employees: **International Brotherhood of Electrical Workers, Local 332 (IBEW)**
- Nature of negotiations: wages/salaries, hours, working conditions, etc.
- Name of Existing Contract or MOA: Memorandum of Agreement Between City of San José and International Brotherhood of Electrical Workers, Local 332 (IBEW)
- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150
5. Organization or Name and Title of Unrepresented Employees: **Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF)**
- Nature of negotiations: wages/salaries, hours, working conditions, etc.

Name of Existing Contract or MOA: Memorandum of Agreement — City of San José and Municipal Employees' Federation, AFSCME Local 101, AFL-CIO

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

By unanimous consent, Council recessed from the Closed Session at 9:01 a.m. to reconvene in Regular Open Session at 11 a.m. in the Council Chambers.