



City Council Meeting **SYNOPSIS**

Tuesday, October 5, 2021
<https://sanjoseca.zoom.us/j/93052835954>

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



- **Call to Order and Roll Call**

9:30 a.m. - Closed Session, Call to Order.
Councilmembers Absent: All present.

1:30 p.m. - Regular Session
Councilmembers Absent: All present.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 7)**

Both Lead Pastor of Lincoln Glen Church, Tyler Cole and Rabbi Joshua Burkenwald of Congregation Sinai offered the invocation.

- **Orders of the Day**

The Orders of the Day were approved.

- **Closed Session Report**

None presented.

1. CEREMONIAL ITEMS

1.1 Presentation of a Proclamation recognizing Bullying Prevention Month. (Arenas)

Councilmember Sylvia Arenas introduced representatives from the Evergreen Elementary School District and spoke on the importance of this Proclamation. A commendation was issued to Principal Kevin Armstrong from Katherine Smith School, Evergreen School District Superintendent Emy Flores, and Linda Bautista.

1.2 Presentation of a Proclamation recognizing Domestic Violence Awareness. (Carrasco)

Councilmember Magdalena Carrasco introduced representatives from Next Door Solutions to Domestic Violence and spoke on the importance of this Proclamation and the “Walk to End Domestic Violence” on October 8, 2021. A commendation was issued to representatives from Next Door Solutions to Domestic Violence.

1.3 Presentation of a Commendation for the West Evergreen Neighborhood Association and O.B. Whaley Elementary School for their joint effort in providing rent relief and vaccinations in the West Evergreen Neighborhood. (Esparza)

Councilmember Maya Esparza introduced representatives from the West Evergreen Neighborhood Association and O.B Whaley Elementary School and spoke on the importance of this Proclamation. A commendation was issued to both the West Evergreen Neighborhood Association and O.B Whaley Elementary School.

2. CONSENT CALENDAR

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

2.3 Approval of Council Committee Minutes.

2.4 21-2185 Mayor and Council Excused Absence Requests.

Request for an excused absence for Councilmember Davis from the Regular Meeting for the City Council on September 21, 2021 due to illness. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Davis) [Rules Committee referral 9/29/2021 - Item A.1.a]

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

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 21-2152 Approving Updated Campaign Contribution Limits.

Adopt a resolution approving the updated campaign contribution limits in accordance with San José Municipal Code Section 12.06.210.D. CEQA: Not a Project, File No. PP17-010, City Organization and Administrative Activities resulting in no change to the physical environment. (City Clerk)

Action: **Resolution No. 80244** was adopted. (11-0.)

2.8 21-2131

San José Clean Energy Elect to Administer Energy Efficiency Programs Implementation.

(a) Adopt a resolution authorizing the Director of the Community Energy Department to negotiate and execute Agreement(s) between the City of San José and third-party implementer(s) to implement the Elect to Administer (ETA) energy efficiency programs approved by the California Public Utilities Commission and City Council. (b) Adopt the following 2021-2022 Funding Sources Resolution and Appropriation Ordinance Amendments in the San José Clean Energy Fund: (1) Increase the estimate for Revenue from State of California in the amount of \$1,700,000; and (2) Establish the Energy Efficiency Programs appropriation to the Community Energy Department in the amount of \$1,700,000.

Action: (a) **Resolution No. 80245**, (b) Funding Sources **Resolution No. 80246**, and (b) Appropriation **Ordinance No. 30678** were adopted. (11-0.)

2.9 21-2132

Amendment to Master Agreement with Ten Over Studio, Inc. for Architectural Services for Various Essential City Facility Projects.

Approve the Second Amendment to the Master Agreement with Ten Over Studio, Inc. for Architectural Services to: (a) Increase the total compensation by \$1,900,000, for a total Agreement amount not to exceed \$5,900,000; and (b) Extend the term of the Agreement from December 31, 2024 to December 31, 2025 for the exclusive purpose of allowing the Consultant to complete work on the new Fire Training Center and Emergency Operations Center Relocation project and the Police Department-Air Support Unit Hangar 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 Second Amendment to the Master Agreement with Ten Over Studio, Inc. for Architectural Services was approved. (11-0.)

2.10 21-2133

Amendment to Chapter 4.10 of the San José Municipal Code Related to the Debarment of Contractors.

(a) Approve an ordinance amending Chapter 4.10 of the San José Municipal Code to consolidate, streamline, update and clarify the manner in which the City will conduct contractor debarments. (b) Adopt a resolution repealing Resolution No. 70592, which established procedures for administrative debarment hearings that have been incorporated into Chapter 4.10, as amended, and are therefore no longer needed. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Public Works/Finance)

DEFERRED.

2.11 21-2196

Hewlett Packard Ground Lease Termination.

(a) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Third Amendment to the Ground Lease of Parcel W-9 Agreement with Hewlett Packard Enterprise Company to terminate the agreement early, effective upon

execution by the City with a payment to Hewlett Packard Enterprise Company of \$1,500,000. (b) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Airport Renewal and Replacement Fund: (1) Establish the Hewlett Packard Enterprise Lease Buyout appropriation to the Airport Department in the amount of \$1,500,000; and (2) Decrease the Ending Fund Balance in the amount of \$1,500,000. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport/City Manager) [Deferred from 9/21/2021 - Item 2.10 (21-2043) and 9/28/2021 - Item 2.13 (21-2149)]

DROPPED.

2.12 21-2195

Approval of Domestic Violence Awareness Event, Tower, and Rotunda Lighting and Community Event Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

As recommended by the Rules and Open Government Committee on September 29, 2021 (a) Approve the Domestic Violence Awareness Event scheduled on October 8-15, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses, or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco) [Rules Committee referral 9/29/2021 - Item G.1.a]

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

3. STRATEGIC SUPPORT

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

None provided.

3.2 Labor Negotiations Update.

3.3 21-2134

Code Enforcement Management Controls Audit Report.

As recommended by the Neighborhood Services and Education Committee on September 9, 2021, accept a report on the Code Enforcement Management Controls Audit. CEQA: Not a Project, File No. PP17 009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Auditor) [Neighborhood Services and Education Committee referral 9/9/2021 - Item (d)1] [Deferred from 9/28/2021 - Item 3.3 (21-2104)]

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3.3 (Cont'd.)

Action: The report on the Code Enforcement Management Controls Audit was accepted.

Including the joint memorandum from Councilmember Sylvia Arenas, Councilmember Magdalena Carrasco , and Mayor Sam Liccardo, dated October 1, 2021, recommending: (1) Accept the Code Enforcement Management Controls Audit Report and; (2) Direct the City Manager to consult with an external human services agency and other County and/or City agencies nearby that perform similar functions to develop a training workplan, for both Planning, Building, and Code Enforcement and Police Departments, as part of the Massage Program Procedures that are currently being developed and referenced in the Administration response for Recommendation #7 to include: (a) Human trafficking shifting trends and patterns (b) Trauma informed approach (c) Red flags and protocol for referrals and reporting suspected abuse (3) Direct the City Manager to reflect any procedural changes produced through Massage Program Procedures to amend the Police Department Duty Manual and align the open recommendations of the Code Enforcement Management Controls Audit Report with the action items in the Gender Based Violence Response and Strategy Workplan, where appropriate. (4) Direct the City Manager to strengthen the City's existing partnerships with community advocate agencies, such as, Asian Americans for Community Involvement's Asian Women's Home, Community Solutions, Next Door Solutions to Domestic Violence, and YWCA by developing or expanding MOUs for referral and joint response services to improve the response and strategy to protect survivors of human/sex trafficking. (5) Decline to hire a consultant to revise the Code Enforcement Officers ethics training. (6) Direct the City Manager to return to Council, either through an Information Memo or report to a Council Committee with: (a) A report out on any cross-training that can be introduced among inspectors and supervisors to help close the backlog of inspections as noted on Page 50 of the audit.

Also including the memorandum from Councilmember Raul Peralez, dated, October 1, 2021, recommending: To accept the Code Enforcement Management Controls Audit and direct the City Manager to return back to the Public Safety, Finance and Strategic Services (PSFSS) committee by November with a work plan to complete audit recommendation #3 per the administration response and any incomplete items from the 2017-2019 Personal Care Business Compliance Initiative. (11-0.)

3.4 21-2135 **Actions Related to Pension Obligation Bonds Issuance and Court Validation Proceedings.**

Adopt a resolution authorizing the issuance of bonds to refund and repay certain pension obligations of the City of San José, approving the form and authorizing the execution of a Trust Agreement and Bond Purchase Agreement; authorizing judicial validation proceedings relating to the issuance of such bonds and approving additional actions related thereto. 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. (City Manager/City Attorney) [Deferred from 9/21/2021 - Item 3.4 (21-2053)]

Action: **Resolution No. 80248** was adopted.

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3.4 (Cont'd.)

Including the joint memorandum from Councilmember David Cohen and Councilmember Raul Peralez, dated October 1, 2021, recommending: (1) To accept the recommendations in staff's September 1, 2021 memorandum. (9-2. Noes: Davis, Mahan)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 **21-2136** **Measure E Real Property Transfer Tax Refund Pilot Program for Qualifying Nonprofit Real Property Transfer.**
Approve an ordinance adding a new Section 4.59.230 to Chapter 4.59 of Title 4 of the San José Municipal Code to provide a refund under certain circumstances to: (a) Charitable organizations that use the proceeds from the conveyance of real property subject to the real property transfer tax for a charitable community purpose, focused on education, health, housing, or human services, that targets extremely low-income persons, a majority of which are San José residents; or (b) Charitable organizations, or limited partnerships with a general partner charitable organization, who purchase a qualifying affordable housing site and satisfy certain other requirements. 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. (Housing)

DROPPED.

- 8.2 **21-2150** **Application for the California Department of Housing and Community Development Notice of Funding Availability for the Homekey Program.**
Adopt a resolution authorizing the City Manager, or designee, to apply for grants and submit all required documentation for California Department of Housing and Community Development's Homekey Program to address housing needs of individuals and families experiencing homelessness or at risk of experiencing homelessness, and who are, thereby, inherently impacted by or at increased risk for medical diseases or conditions due to the COVID-19 pandemic for sites including the Pacific Motor Inn, Arena Hotel, Pavilion Inn, Residence Inn, and city-owned property located at the intersection of Branham Lane and Monterey Road.

Action: **Resolution No. 80249** was adopted.

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8.2 (Cont'd.)

Including the joint memorandum from Mayor Sam Liccardo, Councilmember Sergio Jimenez, Councilmember Raul Peralez, Councilmember Dev Davis, and Councilmember Matt Mahan, dated October 1, 2021 recommending: (1) Accept staff recommendations authorizing the City Manager, or designee, to apply for grants and submit all required documentation for the State's Homekey Program. (2) Direct City Staff to thoroughly outline Homekey's regulatory requirements, whether in a report to a Council Committee or an informational memorandum, with attention on addressing hotel acquisition and conversion to permanent housing and if necessary the process for transitioning any existing residents prior to acquisition. (3) Direct City Staff to partner with Councilmembers who would like to create and convene a neighborhood advisory group for each Homekey site. (4) Direct City Staff, regarding the proposed Branham Monterey Emergency Interim Housing Community (EIHC), to increase quality of life in surrounding neighborhoods for both unhoused and housed neighbors by: (a) Working with the Continuum of Care to prioritize geographical proximity in the tenant selection for the Branham Monterey EIHC to ensure that nearby encamped residents are prioritized for placement. Advise Council how this might inform tenant selection at existing and future EIHCs and Bridge Housing Communities (BHCs). (b) Applying the past practice of robust outreach and services to residents of encampments near this site so that these unhoused residents can be identified and prioritized for placement into the future EIHC. (11-0.)

8.3 21-2151 City's COVID-19 Response and Recovery: Emergency Rental Assistance Program.

(a) Adopt a resolution to: (1) Authorize the City of San José's participation in the State of California's Emergency Rental Assistance Program Round Two ("ERA2") using U.S. Treasury Emergency Rental Assistance funds, including making any necessary arrangements to effectuate the Department of Housing and Community Development (the "Department") receipt of the City's ERA2 allocation for the purpose of administering it for and on behalf of the City; (2) Authorize the City Manager to negotiate and execute Standard Agreement with the State for the City's participation in the State ERA2 Program, including any amendments and revisions to said agreements and any necessary documents to effectuate the agreement, whether under State or Federal law, to govern the administration of the City's ERA2 allocation for and on behalf of the City; (3) Authorize the City Manager to accept a grant from the Department in the amount of \$1,088,336 of ERA2 Funds (not to exceed 3% of City's ERA2 award) from the State to fund the City's administrative and program outreach costs; and (4) Authorize the City Manager to submit an application to Local Initiatives Support Corporation ("LISC"), the State's ERA program contracted implementer, to become a local partner network for the State's ERA Program in order to receive funding to continue local outreach and assistance. (b) Adopt the following Funding Sources Resolution and Appropriation Ordinance amendment in the Emergency Reserve Fund: (1) Decrease the estimate for Revenue from Federal Government by \$13,422,819; and (2) Decrease the Resident Relief - Housing Stabilization appropriation by \$13,422,819. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Housing/City Manager)

Action: (a) **Resolution No. 80250**, (b) Funding Sources **Resolution No. 80251**, and (b) Appropriation **Ordinance No. 30680** were adopted. (10-0-1. Absent: Cohen)

8.4 21-2137 Construction of the Emergency Interim Housing at the Police Administration Building Parking Lot E.

(a) Adopt a resolution that does the following: (1) Determines the City can award a construction contract to Devcon Construction, Inc. to construct the emergency interim housing at the Police Administration Building Parking E Lot (“Project”) without a competitive procurement under the “idle act” exception in Section 1217(i)(6) of the City of San José Charter; (2) Authorizes the City Manager to negotiate and execute a construction agreement not to exceed \$6,000,000 with Devcon Construction, Inc. to construct the Project consistent with the requirements of the staff memorandum to Council and Chapter 5.09 of the San José Municipal Code; (3) Authorizes establishing a construction contingency for the Project equal to five percent (5%) of the construction contract amount not to exceed \$300,000; (4) Authorizes the City Manager to negotiate and execute an agreement with Destination: HOME to accept a \$1,000,000 grant to be used for the construction of the Project; and (5) Reaffirms its April 7, 2020 emergency order and declaration of a continued shelter crisis in the City of San José, pursuant to and in accordance with the provisions of California Government Code Sections 8634 and 8698 et seq. (b) Adopt the following 2021- 2022 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund: (1) Increase the estimate for Other Revenue in the amount of \$1,000,000; (2) Establish an Emergency Shelters appropriation to the Housing Department in the amount of \$3,000,000; (3) Increase the Bridge Housing Communities appropriation to the Housing Department in the amount of \$1,000,00; and (4) Decrease the City Housing Authority Reserve in the amount of \$3,000,000. CEQA: Addendum to the Bridge Housing Communities Project Negative Declaration (Resolution No. 78926), File No. PP18-081, for the Lot E Site, File No. ER21-088. Council District 3. (Public Works/Housing/City Manager)

Action: (a) **Resolution No. 80252**, (b) Appropriation **Ordinance No. 30681**, and (b) Funding Sources **Resolution No. 80253** were adopted. (10-0-1. Absent: Cohen)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on the Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

- **Notice of City Engineer's Pending Decision on Final Maps**

FOR APPROVAL:

Tract: 10563

Location: 3235 Union Ave

District: 9

Lots/Units: 45/40

Type: SFD

Proposed Decision: Approved

Developer: Robson Homes

- **Open Forum**

1. Robin Roemer spoke on the transit systems, traffic analysis, and traffic volumes regarding congestion.
2. Krishna Panikkasseril spoke on the importance of having neighborhood engagement regarding the locations for homeless encampments.
3. Alma Goldchain spoke to an incident involving an individual residing in the homeless encampment near her home and her concerns with the congestion of cars in her neighborhood due to the encampment site.
4. Sowmya Mruthyunjaya spoke concerns of families in her neighborhood having to take their kids to parks further away from the encampment site due to safety.
5. Sheena M. spoke to the hazards such as needles found near the encampment site close to her home and an incident involving an individual from the encampment site breaking into an RV which resulted in the individual being evicted from the site.
6. Tessa Woodmansee spoke to the environment and the current climate crisis.
7. Caller '5140' spoke to the homelessness encampments, the need to fix roads in the City, and police response times.
8. Scott Largent, who mentioned he was previously homeless, stated he walked by the 71 Vista Montana Rd. encampment site and was shocked that it wasn't set up and constructed properly in his opinion.
9. Blair Beekman spoke to parking issues, green sustainability, and the importance of data collection technology being incorporated into parking discussions.
10. Ofelia Hernandez spoke to the security guard working the 71 Vista Montana Rd. encampment site and her concerns with an individual breaking into a R.V that was placed at that site near her home.
11. Raja spoke to his concerns of the planning and execution of an encampment site near his home and the screening process.

- **Adjournment**

The Council of the City of San José adjourned at 7:26 p.m.

JOINT CITY OF SAN JOSE CITY COUNCIL / FINANCING AUTHORITY AGENDA

1:30 p.m.

October 5, 2021

Hybrid Meeting

- **Call to Order and Roll Call**

1. **21-2056** **Approval of the Sale and Issuance of Bonds and Related Bond Documents for City of San José Financing Authority Lease Revenue Bonds, Series 2021A (Fire Department Training Center and Central Service Yard Projects). - HEARD AFTER ITEM 3.4**
(a) City Council take the following actions: (1) Conduct a Public Hearing for the approval of the issuance by the City of San José Financing Authority Lease Revenue Bonds, Series 2021A (Fire Department Training Center and Central Service Yard Projects) (the “2021A Bonds”), to finance the acquisition and construction of the public improvements of the City of San José consisting of the Fire Department Training Center and Central Service Yard Projects and consider a finding of significant public benefit accruing from such financing. (2) Adopt a resolution approving and authorizing the execution of documents and approving related actions in connection with the issuance by the City of San José Financing Authority Lease Revenue Bonds, Series 2021A (Fire Department Training Center and Central Service Yard Projects), in the principal amount not to exceed \$30,000,000 and amending Resolution No. 80125 relating to the City of San José Financing Authority Lease Revenue Commercial Paper Notes. (b) City of San José Financing Authority Board adopt a resolution authorizing the issuance by the City of San José Financing Authority of the 2021A Bonds in the principal amount not to exceed \$30,000,000, and approving and authorizing the execution of documents and approving related actions in connection with the issuance, and amending Resolution No. 152 relating to the City of San José Financing Authority Lease Revenue Commercial Paper Notes. **UNDER BOTH THE DEBT MANAGEMENT POLICY AND SAN JOSE MUNICIPAL CODE SECTION 4.34.200, APPROVAL OF THE ISSUANCE OF THE LEASE REVENUE BONDS REQUIRES AFFIRMATIVE VOTES OF EIGHT MEMBERS (2/3) OF THE CITY COUNCIL. CEQA: Mitigated Negative Declaration for Fire Training Station and Emergency Operations Relocation Project, File No. ER20 180 (City Council Resolution No. 79804). (Finance/Public Works)**

Action: (a)(1) A Public Hearing for the approval of the issuance by the City of San José Financing Authority Lease Revenue Bonds was conducted; (a)(2) **Resolution No. 80254** and (b) City of San José Financing Authority Board **Resolution No. SJFA154** were adopted. (11-0.)