



# **City Council Meeting MINUTES**

**Tuesday, March 15, 2022**

**1:30 PM**

**Hybrid Meeting – Council Chambers and Virtually –  
<https://sanjoseca.zoom.us/j/99346843938>**

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



## **\* COVID-19 NOTICE \***

*Consistent with AB 361 and City of San Jose Resolution Nos. 79485, 80237, 80266, 80290, 80323, 80343, 80363, and 80400, Councilmembers may be teleconferencing from remote locations.*

### **• Call to Order and Roll Call**

9:30 a.m. - Closed Session

**22-296** Closed Session: [See Page 17 for Closed Session Minutes](#)

All Present (Jones 10:00 a.m.)

1:34 p.m. -Afternoon Session

Present: Councilmembers - Carrasco (via Zoom), Mahan, Jimenez (via Zoom), Jones (via Zoom), Cohen, Esparza, Peralez (via Zoom), Arenas (via Zoom), Foley; Liccardo.

Absent: Councilmembers - Davis.

### **• Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

### **• Invocation (District 3)**

Azariah Cole-Shepard, Head of San Jose State University's Campus Committee of Diversity, Equity, and Inclusion provided the Invocation through spoken poetry.

### **• Orders of the Day**

The Orders of the Day and the Amended Agenda were approved.

### **• Closed Session Report**

The City Attorney reported out from Closed Session authority to file a suit today against Cal Engineering and Geology Inc. for breach of contract.

# **1. CEREMONIAL ITEMS**

- 1.1 Councilmember Maya Esparza presented a commendation to Esther Mota and recognized her outstanding 26 years of service with the city of San José and work in youth and violence intervention programs and the Mayor's Gang Prevention Task Force. (Esparza)
- 1.2 Councilmember Raul Peralez presented a commendation to the San José Public Library Foundation in honor of their 35-year anniversary and continued work creating an educated, equitable, and engaged community and welcomed Rebecca Lee, Vice Chair Board of Directors. (Peralez)

# **2. CONSENT CALENDAR**

Upon motion by Councilmember Maya Esparza, seconded by Councilmember Pam Foley and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1 Absent: Davis.)

Public Comments: Blair Beekman and Senior Vice President, SAP Center and Sharks Ice, Jon Gustafson offered public comments.

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

None provided.

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

None provided.

- 2.3            22-366            Approval of Council Committee Minutes.**  
(a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of February 16, 2022. (b) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of February 23, 2022. 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: Council Committee Minutes were accepted. (10-0-1 Absent: Davis.)

- 2.4            22-367            Mayor and Council Excused Absence Requests**  
(a) Councilmember Esparza from the Regular Meeting for the City Council on March 8, 2022 due to illness; and (b) Councilmember Cohen from the Regular Meeting for the Neighborhood Services & Education Committee on March 10, 2022 due to authorized City Business. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Esparza & Cohen)

Action: Excused absence requests were accepted. (10-0-1 Absent: Davis.)

## 2.5 City Council Travel Reports.

None provided.

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

None provided.

### 2.7        22-297        **Amendment to Master Services Agreement with Logik Systems, Inc. for Hosted E-Discovery and Document Management.**

Adopt a resolution authorizing the City Attorney to negotiate and execute a Seventh Amendment to the Master Services Agreement with Logik Systems, Inc. for hosted e-discovery and document management, increasing the maximum amount of compensation by \$22,812, for a total compensation amount of \$388,986, and extending the term beginning September 28, 2017 through June 27, 2022. CEQA: Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

Action: **Resolution No. 80408** was adopted. (10-0-1 Absent: Davis.)

### 2.8        22-298        **Actions Related to Purchase Order for Digester Cleaning and Equipment Services.**

Adopt a resolution authorizing the City Manager to: (a) Execute a purchase order with Pipe and Plant Solutions, Inc. (Oakland, CA) for digester cleaning and equipment services for an initial 12-month period, starting on or about March 9, 2022 and ending on or about March 8, 2023 for a not to exceed amount of \$937,500; and (b) Exercise up to four additional one-year options to extend the initial term of the purchase order with the last option year ending on or about March 8, 2027, subject to the annual appropriation of funds. CEQA: Categorically Exempt, File No. PP16-020, CEQA Guidelines Section 15301, Existing Facilities. (Finance)

Action: **Resolution No. 80409** was adopted. (10-0-1 Absent: Davis.)

### 2.9        22-302        **Second Quarter Financial Reports for Fiscal Year 2021-2022.**

As recommended by the Public Safety, Finance and Strategic Support Committee on February 17, 2022, accept the Second Quarter (period ending December 31, 2021) Financial Reports for Fiscal Year 2021-2022 for the following programs: (a) Debt Management; (b) Investment Management; (c) Revenue Management; and (d) Purchasing and Risk Management. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance) [Public Safety, Finance and Strategic Support Committee referral 2/17/2022 - Item (d)2]

Action: The Second Quarter Financial Reports for Fiscal Year 2021-2022 was accepted. (10-0-1 Absent: Davis.)

- 2.10      22-306      City of San José Investment Policy Annual Review.**  
As recommended by the Public Safety, Finance and Strategic Support Committee on February 17, 2022, adopt a resolution approving revisions to Council Policy 1-12 "City of San José Investment Policy". CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance) [Public Safety, Finance and Strategic Support Committee referral 2/17/2022 - Item (d)3]

Action: **Resolution No. 80410** was adopted. (10-0-1 Absent: Davis.)

- 2.11      22-307      Amendment to the Agreement with Off the Grid, LLC for Food and Necessities Services.**  
Adopt a resolution authorizing the City Manager to negotiate and execute amendments and extensions for food and necessities services with Off the Grid, LLC to increase maximum compensation by \$1,746,000 from April 1, 2022, through June 30, 2022, for aggregate compensation of \$21,956,716. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Parks, Recreation and Neighborhood Services).

Action: **Resolution No. 80411** was adopted. (10-0-1 Absent: Davis.)

- 2.12      22-308      Actions Related to the 2021 Bureau of Justice Assistance Fiscal Year 2021 National Sexual Assault Kit Initiative Grant.**  
(a) Adopt a resolution accepting the 2021 Bureau of Justice Assistance National Sexual Assault Kit Initiative Grant in the amount of \$1,425,000 and authorizing the City Manager to execute the Grant Agreement, additional amendments and all related documents, including online certifications at time of reimbursement requests, without further City Council action. (b) Adopt the following 2021-2022 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund: (1) Establish a City-Wide Expenses appropriation to the Police Department for the Bureau of Justice FY 2021 National Sexual Assault Kit Initiative in the amount of \$462,947; and (2) Increase the estimate for Revenue from Federal Government by \$462,947. 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. (Police/City Manager)

Action: (a) **Resolution No. 80412**, (b) **Appropriation Ordinance No. 30736** and Funding Sources **Resolution No. 80413** were adopted. (10-0-1 Absent: Davis.)

- 2.13      22-309      Master Agreement with PGAdesign, Inc. for Landscape Architectural Design Services for Various City Facility Projects.**  
Approve the Third Amendment to the Master Agreement with PGAdesign, Inc. (CPMS Contract No. 8069) extending the term from June 30, 2022, to June 30, 2023, with no increase to the maximum compensation, for the sole purpose of allowing the consultant to continue providing consulting services through completion of Rotary PlayGarden Expansion Project. CEQA: Categorical Exempt, File No. PP19- 002, CEQA Guidelines Section 15301 Existing Facilities. (Public Works)

Action: The Third Amendment to the Master Agreement with PGAdesign Inc. was approved. (10-0-1 Absent: Davis.)

- 2.14      22-370      Actions Related to the Naming Rights of the Competition Arena at the Ice Centre of San José.**  
Adopt a resolution: (a) Approving the sale by Sharks Ice, LLC of the naming rights to the Competition Arena at the Ice Centre of San José, and consenting to the official naming of the Competition Arena as “Tech CU Arena at Sharks Ice at San José” and to the use of the shorter version of the name “Tech CU Arena” when use of the full official name is not reasonably practical for the term of the sponsorship agreement; (b) Authorizing the City Manager, or her designee, to approve the location, design, size, and appearance of new exterior signage at the Competition Arena at the Ice Centre of San José to portray the new name and logo; (c) Authorizing the City Manager to require “San José” be placed on exterior signage at the San José Ice Centre in any future naming rights agreements for the San José Ice Centre; and (d) Clarifying the Parties’ intent not to amend the existing lease or sponsorship agreements. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. Council District 7. (Economic Development and Cultural Affairs) [Deferred from 3/1/2022 - Item 2.7 (22-212) and 3/8/2022 - Item 2.15 (22-333)]

Action: **Resolution No. 80414** was adopted. (10-0-1 Absent: Davis.)

- 2.15      22-368      Retroactive Request for Travel Authorization for Vice Mayor Jones.**  
Retroactively authorize travel for Vice Mayor Jones to attend the National League of Cities Congressional Conference in Washington, D.C. from March 11-15, 2022. Source of Funds: Mayor/Council Travel Budget. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Jones) [Rules Committee referral 3/9/2022 - Item A.1.a]

Action: The retroactive request for Travel Authorization for Vice Mayor Jones was approved. (10-0-1 Absent: Davis.)

- 2.16      22-375      Approval of Majestic Way Dumpster Day Sponsored by Council District 4 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**  
As recommended by the Rules and Open Government Committee on March 9, 2022:  
(a) Approve the Majestic Way Dumpster Day scheduled on March 19, 2022 as a City Council sponsored Special Event and approve the expenditure of funds; and (b) Approve and accept donations from various individuals, businesses or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Cohen) [Rules Committee referral 3/9/2022 - Item B.3]

Action: The City Council Sponsored Special Event was approved. (10-0-1 Absent: Davis.)

- 2.17      22-379      Retroactive Approval of Eastridge Lunar New Year Celebration Community Event Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**  
As recommended by the Rules and Open Government Committee on March 9, 2022:  
(a) Retroactively approve the Eastridge Lunar New Year Celebration scheduled on February 12, 2022 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. (Arenas) [Rules Committee referral 3/9/2022 - Item B.4]

Action: The City Council Sponsored Special Event was approved. (10-0-1 Absent: Davis.)

- 2.18      22-382      Approval of Assyrian New Year Flag Raising Sponsored by Council District 10 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 March 9, 2022:  
(a) Approve the Assyrian Flag Raising scheduled on April 1, 2022 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. (Mahan) [Rules Committee referral 3/9/2022 - Item B.5]

Action: The City Council Sponsored Special Event was approved. (10-0-1 Absent: Davis.)

### **3. STRATEGIC SUPPORT**

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

None Provided

### 3.2 Labor Negotiations Update.

None provided.

- 3.3        22-310        Approval of the Fiscal Year 2022-2023 Mayor's March Budget Message**  
Conduct a Public Hearing on the FY 2022-2023 Mayor's March Budget Message. (b)  
Approve the FY 2022-2023 Mayor's March Budget Message. CEQA: Not a Project,  
File No. PP17-010, City Organization and Administrative Activities resulting in no  
changes to the physical environment. (Mayor)

Public Comments: Mayor Sam Liccardo opened the Public Hearing. Sixty-Seven speakers offered public comments. Mayor Sam Liccardo closed the Public Hearing.

Motion: Councilmember David Cohen moved to adopt the Mayor's Budget Message; Councilmember Cohen's March 14, 2022 memorandum; the March 11, 2022 joint memorandum from Councilmembers Arenas, Esparza, and Carrasco; Items 1-3 from the March 15, 2022 memorandum authored by Councilmember Peralez; the March 14, 2022 memorandum authored by Councilmember Mahan with the modifications as written below in Action; the March 15, 2022 memorandum authored by Councilmember Davis with the modifications as written below in Action; and created an MBA to evaluate waiving parking permit fees for the Muwekma Ohlone Tribe. Councilmember Pam Foley seconded this motion.

Friendly Amendments: Councilmember Matt Mahan requested a friendly amendment to have a discussion before May 12<sup>th</sup>, 2022 and requested the maker of the motion to reconsider including the start of exploration on how the City will connect performance to future raises for elected officials and senior staff.

The amendments were not accepted.

Friendly Amendment: Councilmember Esparza requested to expand the definition of bollards and other physical barriers.

The amendment was accepted.

Friendly Amendment: Councilmember Peralez requested an MBA to identify the use of CBDG dollars or whether the dollars should come from elsewhere to offset the costs of Sacred Heart Community Services and to request 2 million dollars of CBDG funds to go to Sacred Heart Community Services.

The amendment was accepted.

Friendly Amendment: Councilmember Esparza requested a friendly amendment to have an MBA for Fire Department staffing needs.

The amendment was accepted.

*(Item continued on next page)*



### 3.3 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, approving the Mayor's Budget Message and the following:

Councilmember David Cohen's March 14, 2022 memorandum:

1. Direct the City Manager to prepare a Manager's Budget Addendum with analysis and recommendations for restoring San José Public Library's city-wide operations to pre-pandemic levels, including Sunday hours.

Councilmembers Sylvia Arenas, Maya Esparza, and Magdalena Carrasco March 11, 2022 joint memorandum:

1. Accept the Fiscal Year 2022-2023 Mayor's March Message.
2. Direct the City Manager to produce a Manager's Budget Addendum to:
  - a. Add sufficient sworn officer positions necessary to establish and maintain permanent foot patrols across every police division citywide, utilizing a data driven approach to prioritize walking beats for high-crime areas to maximize impact.
  - b. Review challenges and presenting strategies to alleviate staffing vacancies, including both potential investments in the Human Resources Department as well as strategies to enable Departments to more effectively recruit, hire, and retain workers. Include information regarding updates to minimum qualifications and reducing steps in the hiring process.
  - c. Develop plans to:
    - i. Restart the backlogged Council Policy Priority #16: Wage Theft Prevention Policy, including a funding option that doesn't require removing an existing item off the City's roadmap.
    - ii. Report on the current staffing levels in the Office of Equality Assurance, and the additional staff that would be necessary to adequately implement current and upcoming Project Labor Agreements and enforce OEA wage theft enforcement responsibilities.
    - iii. Develop a pilot program between the Office of Equality Assurance and the County's Office of Labor Standards Enforcement to provide outreach, education, and support to workers and businesses in an industry segment critically impacted by wage theft.
  - d. Propose technical changes to align PRNS's recreation services' budget policies with Budget Balancing Strategy Guideline #2's and citywide equity policy goals, while de-emphasizing strict cost recovery policies for child care, afterschool care, and aquatics programs. Align these changes with ongoing policy work, as presented to the Neighborhood Services and Education Committee, as well as the Child and Youth Master Plan.
  - e. Provide costs associated with plans to invest in Capital Improvements of facilities located in underserved communities.

Also including Items #1-3 from the March 15, 2022 memorandum authored by Councilmember Raul Peralez:

1. Provide an MBA on the items listed in my March 4th Transportation & Environment Committee (T&E) memo regarding the Vision Zero Status Report
2. Include an updated cost estimate for a City Sanctioned Encampment
3. Prepare an MBA regarding a strategy for our public safety employees and first responders to access mental health resources.

*(Item continued on next page)*

### 3.3 (Cont'd.)

Including the March 14, 2022 memorandum authored by Councilmember Matt Mahan with the additional modifications:

1. The Mayor and Council identify one objective measure of success for each of the six overarching priorities outlined in the Mayor's Budget Message that will help the public evaluate the effectiveness of our spending allocations for the coming year. Direct the City Manager to address the identification development of objective measures through the City Roadmap exercise in May.
3. The City Manager and City Attorney return to Council in the first quarter of the 20222023 fiscal year with a review of policy options for tying future raises and bonuses for Councilmembers and relevant Senior Staff to actual performance measured against the targets set through the budget process.

As well as the March 15, 2022 memorandum by Councilmember Dev Davis with the additional modifications:

1. Direct the City Manager to return to council with an MBA detailing a strategy for Traffic Enforcement Unit recruitment and filling of current vacancies when considering our direction for gradual increases for sworn staff.

Additional direction was given to:

1. Create an MBA to evaluate waiving parking permit fees for the Muwekma Ohlone Tribe.
2. Expand the definition of bollards and other physical barriers.
3. Create an MBA to identify the use of CBDG dollars or whether the dollars should come from elsewhere to offset the costs of Sacred Heart Community Services and to request 2 million dollars of CBDG funds to go to Sacred Heart Community Services.
4. Create an MBA for Fire Department staffing needs. (10-0-1. Absent: Davis.)

## **4. PUBLIC SAFETY SERVICES**

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

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

### **6.1          22-313          Revisions to the City of San José's Water Efficient Landscape Ordinance. – DEFERRED**

As recommended by the Transportation and Environment Committee on March 7, 2022: (a) Accept the report on Water Efficient Landscape Ordinance. (b) Approve an ordinance amending the San José Municipal Code, Sections 15.08.500, 15.10.030, 15.10.040, 15.10.290, 15.10.300, and Chapter 15.11 of Title 15 and Sections 17.72.535 and 17.72.560 of Chapter 17.72 of Title 17 to modify the Water Efficient Landscape Standards for New and Rehabilitated Landscaping and to clarify potable water conservation standards. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action; and File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Environmental Services/Planning, Building and Code Enforcement) [Transportation and Environment Committee referral 3/7/2022 - Item (d)1]

**DEFERRED TO 04/12/2022 PER TRANSPORTATION AND ENVIRONMENT COMMITTEE**

## **7. NEIGHBORHOOD SERVICES**

### **7.1            22-314            Municipal Golf Courses Update.**

(a) Accept the report on the City's municipal golf courses, including plans to initiate a Request for Proposals (RFP) for long-term golf course lease agreements. (b) Adopt a resolution authorizing the City Manager to negotiate, execute and amend any and all lease agreements for operations of the City's golf courses resulting from the upcoming 2022 RFP, subject to the appropriation of funds. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Parks, Recreation and Neighborhood Services)

Parks, Recreation & Neighborhood Services Director Jon Cicirelli, Deputy Director Avi Yotam, Parks Manager Troy Trede provided the presentation and answered questions.

Public Comments: President, Touchstone Golf, Mark Luthman offered public comment.

Motion: Councilmember Maya Esparza moved the March 11, 2022 joint memorandum co-authored by Councilmembers Esparza, Peralez, Cohen, and Carrasco. Councilmember Pam Foley seconded this motion.

Friendly Amendment: Councilmember Magdalena Carrasco made a friendly amendment to Item #2 of the joint memorandum to include a detailed plan on outreach and recruitment upon return to Council. Councilmember Carrasco addressed that when considering the data of the Rancho municipal golf course location, they would like to see that outreach is geared toward increasing participation by the Latino population.

Parks, Recreation, and Neighborhood Services Director Jon Cicirelli clarified that community benefit and outreach are already included in the intended RFP evaluation process to the operator and will be included upon the return to the full Council. The friendly amendment was not pursued.

Action: On a call to the question, the March 11, 2022 joint memorandum co-authored by Councilmembers Peralez, Cohen, Carrasco, and Esparza was approved to:

1. Accept staff recommendations, including plans to initiate an RFP for long-term golf course lease agreements and authority for the City Manager to negotiate, execute, and amend resulting lease agreements, and,
  - a. Direct staff to require that the RFP stipulates the awardee will include First Tee Silicon Valley (FTSV) as part of Rancho Del Pueblo's programming and to that effect, negotiate and execute a new use agreement.
2. Return to Council as part of the development of the long term lease agreements with a report on community use of our city-owned golf courses, including details on how that is being ensured and expanded in the new agreements for approval by Council prior to final execution of the agreements
3. Encourage operators to use practices that accord with the goals of Climate Smart San José by, among other things, maximizing use of recycled water wherever possible and employing environmentally sustainable maintenance procedures that consider sensitive habitats and riparian corridors. (9-0-2. Absent: Davis, Jones.)

Per Staff recommendations, (b) **Resolution No. 80415**, authorizing the City Manager to negotiate, execute and amend any and all lease agreements for operations of the City's golf courses resulting from the upcoming 2022 RFP, subject to the appropriation of funds was adopted. (9-0-2. Absent: Davis, Jones.)

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

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

## **10. LAND USE**

### **10.1 Land Use on Consent Calendar**

None Provided

### **10 Land Use – Regular Agenda**

- 10.2          22-316          H21-049 - Administrative Appeals Hearing on the Initial Study/Mitigated Negative Declaration and the Site Development Permit for the 1436 State Street Corporation Yard Project.**
- (a) Conduct an Administrative Hearing to consider the following appeals of the Planning Director's: (1) Adoption of the Mitigated Negative Declaration for the 1436 State Street Project in accordance with the California Environmental Quality Act (CEQA); and (2) Approval of Site Development Permit File No. H21-049 for the State Street Corporation Yard Project to allow the reconfiguration of an existing vacant building to warehouse and incidental office use, the addition of an outdoor materials storage pad, a propane tank, and a utility building with staff locker rooms and a trash enclosure, for a new corporation yard on an approximately 0.97-gross acre site located at 1436 State Street. (b) Adopt a resolution denying the environmental appeal and adopting the 1436 State Street Project Mitigated Negative Declaration, for which an Initial Study was prepared, and the associated Mitigation Monitoring and Reporting Program, in accordance with CEQA, as amended and finding that: (1) The City Council has read and considered the Initial Study/Mitigated Negative Declaration (IS/MND) for the 1436 State Street Project and related administrative record in connection with Site Development Permit No. H21-049; (2) The 1436 State Street Project IS/MND was prepared in full compliance with the California Environmental Quality Act (CEQA) of 1970, as amended, together with State and local implementation guidelines; (3) Adoption of the 1436 State Street Project MND reflects the independent judgement and analysis of the City of San José; and (4) Preparation of a new environmental document is not required because the IS/MND thoroughly and adequately analyzed the project, and the environmental appeal does not raise any new significant impacts that have not already been analyzed or addressed in the IS/MND in accordance with Public Resources Code (PRC) Section 21083 or CEQA Guidelines Sections 15073 and 15185. (c) Adopt a resolution denying the permit appeal and approving, subject to conditions, a Site Development Permit to allow the reconfiguration of an existing vacant building to warehouse and incidental office use, the addition of an outdoor materials storage pad, a propane tank, and a utility building with staff locker rooms and a trash enclosure,

*(Item continued on next page.)*

## 10.2 (Cont'd.)

for a corporation yard on an approximately 0.97-gross acre site located on the north side of State Street, approximately 290 feet easterly of Essex Street (1436 State Street; APNs: 015-11-056, 015-11-085, and Printed on 3/15/2022 City of San José Page 19 City Council Amended Agenda March 15, 2022 015-11-094). CEQA: 1436 State Street Project Initial Study/Mitigated Negative Declaration. Council District 4. (Planning, Building and Code Enforcement)

Planning, Building and Code Enforcement's Director Christopher Burton provided a presentation and responded to questions.

The Appellants, Mark Espinoza Alviso and Marcos Espinoza, representing appellant Manuel Martinez, expressed opposition to the project due to environmental and infrastructure impacts.

The Applicant, Clay Laucella, spoke to the merits of the project.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Matt Mahan and carried unanimously, (b) **Resolution No. 80416**, denying the environmental appeal and adopting the 1436 State Street Project Mitigated Negative Declaration and (b) **Resolution No. 80417**, denying the permit appeal and approving, subject to conditions, a Site Development Permit to allow the reconfiguration of an existing vacant building to warehouse and incidental office use, the addition of an outdoor materials storage pad, a propane tank, and a utility building with staff locker rooms and a trash enclosure, for a corporation yard on an approximately 0.97-gross acre site located on the north side of State Street, approximately 290 feet easterly of Essex Street, were adopted. (9-0-2 Absent: Davis, Jones.)

- 10.3      22-317      H20-041 - Administrative Appeal Hearing on the Initial Study/Mitigated Negative Declaration for the 1660 Old Bayshore Highway Industrial Project.**
- (a) Conduct an Administrative Hearing to consider the Appeal of the Planning Director's adoption of the Initial Study and Mitigated Negative Declaration for the 1660 Old Bayshore Highway Industrial Project in accordance with the California Environmental Quality Act (CEQA) prepared for the Site Development Permit File No. H20-041 to re-purpose the existing 24,486 square foot warehouse building as a "last mile" e-commerce distribution center, construct a new adjoining 3,000 square foot office addition and a new 17,700 square foot canopy-covered loading area on the south side of the building on 6.07-acre project site located at 1660, 1720, and 1736 Old Bayshore Highway. (b) Adopt a resolution denying the environmental appeal and upholding the Planning Director's adoption of the 1660 Old Bayshore Highway Industrial Project Mitigated Negative Declaration, associated Mitigation Monitoring and Reporting Program, and Site Development Permit, and finding that: (1) The City Council has read and considered the Initial Study and Mitigated Negative Declaration (IS/MND) for the 1660 Old Bayshore Highway Industrial Project and related administrative record related to Site Development Permit File No. H20-041; and (2) The IS/MND for the 1660 Old Bayshore Highway Industrial Project was prepared

*(Item continued on next page.)*

### 10.3 (Cont'd.)

and completed in full compliance with the California Environmental Quality Act of 1970, as amended, together with State and local implementation guidelines; and (3) Adoption of the IS/MND reflects the independent judgment and analysis of the City of San José; and (4) Preparation of a new environmental document is not required because IS/MND thoroughly and adequately analyzed the project, and the environmental appeal does not raise any new significant impacts that have not already been analyzed or addressed in the IS/MND in accordance with Public Resources Code Section 21083 and CEQA Guidelines sections 15073 and 15185. CEQA: 1660 Old Bayshore Highway Industrial Project Focused Initial Study and Mitigated Negative Declaration. (Planning, Building and Code Enforcement)

Planning, Building and Code Enforcement's Director Christopher Burton provided a presentation and responded to questions.

The Appellant, Johnny Gallegos expressed opposition to the project due to environmental impacts and lack of review on environmental and infrastructure impacts.

Bill Rose, the Applicant, spoke to the merits of the project.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pam Foley and carried unanimously, (b) **Resolution No. 80418** was adopted, denying the environmental appeal and upholding the Planning Director's adoption of the 1660 Old Bayshore Highway Industrial Project Mitigated Negative Declaration. (9-0-2. Absent: Davis; Jones)

- 10.4      22-318      GP21-016, GP21-017, C21-041, C21-042 & PP21-014 - General Plan Amendments, Rezoning, and Municipal Code Changes for the North First Street Local Transit Village. - DEFERRED**
- (a) Adopt a resolution approving the following: (1) General Plan Amendment to modify the North 1st Street Local Transit Village boundary and change the General Plan Land Use Designations on the Land Use/Transportation diagram on specified properties within the boundary of the Urban Village Plan area; and (2) Adoption of the North 1st Street Local Transit Village Plan as the guiding policy document for new development and identified public improvements within the urban village area. (b) Adopt a resolution approving a General Plan Amendment changing the General Plan Land Use Designation on the land use/transportation diagram on specified properties located adjacent to the North 1st Street Local Transit Village boundary. (c) Approve an ordinance amending the regulation of maximum height limitations in San José Municipal Code Section 20.85.020. (d) Approve an ordinance rezoning specified properties within the North 1st Street Local Transit Village as follows: (1) Twenty-four properties from the CO Commercial Office and CN Commercial Neighborhood zoning districts to the CP Commercial Pedestrian zoning district; (2) One property from the CN Commercial Neighborhood zoning district to the R-1- 8 Single-Family Residence zoning district; (3) Thirty-two properties from the CO

*(Item continued on next page.)*

## 10.4 (Cont'd.)

Commercial Office, CP Commercial Pedestrian, R-2 Two-Family Residence, and R-M Multiple Residence zoning districts to the TR Transit Residential zoning district; (4) Twelve properties from the CO Commercial Office, CP Commercial Pedestrian, and R-2 Two-Family Residence zoning districts to the UR Urban Residential zoning district; and (5) Nine properties from the CO Commercial Office, CG Commercial General, and CN Commercial Neighborhood zoning districts to the UVC Urban Village Commercial zoning district. (e) Approve an ordinance rezoning specified properties in the vicinity of the North 1st Street Local Transit Village as follows: (1) Forty-four properties from the CO Commercial Office, CN Commercial Neighborhood, R-2 Two-Family Residence, R-M Multiple Residence, and A(PD) Planned Development zoning districts to the CP Commercial Pedestrian zoning district; (2) Two properties from the R-1-8 Single-Family Residence zoning district to the MUC Mixed-Use Commercial zoning district; (3) Three properties from the R-1-8 Single-Family Residence and CO Commercial Office Zoning District to the OS Open Space Zoning District; (4) Four properties from the CO Commercial Office, R-1-8 Single-Family Residence, and LI Light Industrial zoning districts to the PQP Public/Quasi Public zoning district; (5) Forty-three properties from R-2 Two-Family, R-M Multiple Residence, CO Commercial Office, CP Commercial Pedestrian, and A(PD) Planned Development zoning districts to the R-1-8 Single-Family Residence zoning district; (6) Six properties from CO Commercial Office, LI Light Industrial, and R-1-8 Single-Family Residence zoning districts to the TR Transit Residential zoning districts; and (7) Eleven properties from the CO Commercial Office and LI Light Industrial zoning districts to the UR Urban Residential 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. Planning Commission recommends approval with the following addition: Add the North 1st Street Local Transit Village to the same pilot program for small business displacement as the Alum Rock and Five Wounds Urban Villages (9-2; Garcia and Oliverio opposed). (Planning, Building and Code Enforcement)

**DEFERRED TO 3/22/2022 PER RULES AND OPEN GOVERNMENT COMMITTEE**

## • Open Forum

No Public Speakers

- **Adjournment**

The Council of the City of San José adjourned at 6:58 p.m. in memory of Lawrence Fan, who spent 42 years as the beloved Sports Information Director at San José State University and was the first Chinese American enshrined in the CoSIDA Hall of Fame. Lawrence's dedication and passion for SJSU and his profession was unmatched as he celebrated his 500th consecutive Spartan Football game in attendance just last year. While Lawrence had an incredible impact on the world of sports information, he had a larger impact on the thousands of student athletes, colleagues, and friends who had the pleasure of knowing him.

Minutes Recorded, Prepared, and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk



## SAN JOSÉ CITY COUNCIL CLOSED SESSION

**MARCH 15, 2022**

The Council of the City of San José convened into Closed Session at 9:30 a.m.

This meeting was teleconferenced from remote locations.

Present: Councilmembers - Arenas, Carrasco, Cohen, Davis, Esparza, Foley, Jimenez, Jones  
(10:00 a.m.), Mahan, Peralez; Liccardo.

Absent: Councilmembers - All Present.

Closed Session Item(s) discussed:

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

1. Case Name: In re Rafael Nieves  
Name(s) of Partie(s)  
Involved:  
Court: Workers Compensation Appeals Court  
  
Case No.: ADJ10842819, ADJ10842989, ADJ10842990,  
ADJ12396658  
  
Amount of Money or Benefits  
Other Relief Sought:
2. Case Name: In re Martin Lomeli  
Name(s) of Partie(s)  
Involved:  
Court: Workers Compensation Appeals Court  
  
Case No.: ADJ12841598  
  
Amount of Money or Benefits  
Other Relief Sought:
3. Case Name: Brown, Preana, et al., v. City of San Jose, et al.,  
Name(s) of Partie(s)  
Involved:

PREANA BROWN; TERRANCE ADAMS, CITY OF SAN JOSE; SAN JOSE POLICE DEPARTMENT; LUCAS GAARDE, and DOES 1-50, inclusive,  
Court: Santa Clara County Superior Court

Case No.: 21CV376914

Amount of Money or Other Relief Sought: Monetary damages in excess of \$25K

4. Case Name: Preservation of Benefit Plan Retirees Association, et al. v. City of San José, et al.  
Name(s) of Partie(s) Involved: PRESERVATION OF BENEFIT PLAN RETIREES ASSOCIATION, JOSEPH BASS, DAVID BOGGINI, LAWRENCE JAY CASTELLANO, RICHARD COCO, LESLYE CORSIGLIA, HARRY FREITAS, MICHAEL GUISTI, LINDA HORWEDEL (THE BENEFICIARY OF DECEASED CITY RETIREE JOSEPH HORWEDEL), WILLIAM HUGHES, DANNY JORDAN, EVET LOEWEN, DAVID MAAS, BARRY NG, ANITA PHAGAN, GEORGE RIOS, GARY SCHOENNAUER, KEN TANASE, WAYNE TANDA, NINA TOBIN, RANDAL TURNER, STEVEN TURNER, ROBERT WILSON, CITY OF SAN JOSÉ, BOARD OF THE ADMINISTRATION OF THE FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM; NORBERTO DUEÑAS, IN HIS OFFICIAL CAPACITY AS THE CITY MANAGER OF THE CITY OF SAN JOSÉ, AND DOES 1-50  
Court: Santa Clara County Superior Court

Case No.: 17CV312610

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

## **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 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 Building, Mechanical and Electrical Inspectors (ABMEI)**

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 Building, Mechanical and Electrical Inspectors (ABMEI)

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 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
3. 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
4. Organization or Name and Title of Unrepresented Employees: **City Association of Management Personnel Agreement (CAMP)**

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

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|    | Name of Existing Contract or MOA:                          | Benefits & Compensation Summary – City of San José and City Association of Management Personnel Agreement (CAMP)   |
|    | How to Obtain a copy of Existing Contract or MOA:          | Web: <a href="http://www.sanjoseca.gov/index.aspx?NID=508">http://www.sanjoseca.gov/index.aspx?NID=508</a>   |
| 5. | Organization or Name and Title of Unrepresented Employees: | <b>International Association of Firefighters (IAFF), Local 230</b> (IAFF#230)  |
|    | 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 Association of Firefighters (IAFF), Local 230   |
|    | How to Obtain a copy of Existing Contract or MOA:          | Web: <a href="http://www.sanjoseca.gov/index.aspx?NID=508">http://www.sanjoseca.gov/index.aspx?NID=508</a><br>Telephone – Employee Relations: (408) 535-8150 |
| 6. | Organization or Name and Title of Unrepresented Employees: | <b>International Brotherhood of Electrical Workers, Local 332</b> (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: <a href="http://www.sanjoseca.gov/index.aspx?NID=508">http://www.sanjoseca.gov/index.aspx?NID=508</a><br>Telephone – Employee Relations: (408) 535-8150 |
| 7. | Organization or Name and Title of Unrepresented Employees: | <b>Municipal Employees’ Federation, AFSCME Local 101, AFL-CIO</b> (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 (MEF)  |
|    | How to Obtain a copy of Existing Contract or MOA:          | Web: <a href="http://www.sanjoseca.gov/index.aspx?NID=508">http://www.sanjoseca.gov/index.aspx?NID=508</a>   |
| 8. | Organization or Name and Title of Unrepresented Employees: | <b>International Union of Operating Engineers, Local No. 3</b> (OE#3)  |
|    | 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 Union of Operating Engineers, Local No. 3 (OE#3)  |

- How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjooseca.gov/index.aspx?NID=508>  
Telephone – Employee Relations: (408) 535-8150
9. Organization or Name and Title of Unrepresented Employees: **Peace Officer Park Ranger Association (POPRA)**  
Nature of negotiations: wages/salaries, hours, working conditions, etc.  
Name of Existing Contract or MOA: Memorandum of Agreement – City of San José and Peace Officer Park Ranger Association  
How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjooseca.gov/index.aspx?NID=508>  
Telephone – Employee Relations: (408) 535-8150
10. Organization or Name and Title of Unrepresented Employees: **San José Police Officers' Association (SJPOA)**  
Nature of negotiations: wages/salaries, hours, working conditions, etc.  
Name of Existing Contract or MOA: Memorandum of Agreement – City of San José and San José Police Officers' Association  
How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjooseca.gov/index.aspx?NID=508>  
Telephone – Employee Relations: (408) 535-8150
11. Organization or Name and Title of Unrepresented Employees: **Association of Legal Professionals of San José (ALP)**  
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 Legal Professionals of San José  
How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjooseca.gov/index.aspx?NID=508>  
Telephone – Employee Relations: (408) 535-8150

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