



City Council Meeting MINUTES

Tuesday, May 17, 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, 80400, and 80445, Councilmembers may be teleconferencing from remote locations.

• Call to Order and Roll Call

9:30 a.m. - Closed Session

22-691 Closed Session: [See Page 19 for Closed Session Minutes](#)

Absent: Carrasco, Jimenez

1:34 p.m. -Afternoon Session

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

Absent: Councilmembers - Carrasco, Jimenez

• Pledge of Allegiance

Mayor Sam Liccardo led the Pledge of Allegiance.

• Invocation (District 5)

Director of Development and Communications of the Indian Health Center of Santa Clara Valley, Gerardo Loera and Trustee for Alum Rock Union Elementary School District, Corina Herrera-Loera lead the Invocation through a ritual and ceremony of Inclusion.

• Orders of the Day

Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Maya Esparza and carried unanimously, the Orders of the Day and the Amended Agenda were approved with a bifurcation of Item 3.5 (d)1. and 2. to be heard May 17, 2022 and deferral of the rest of Item 3.5, to be brought back before the end of the fiscal year. (9-0-2. Absent: Carrasco, Jimenez.)

Public Comment: Blair Beekman offered public comment.

- Closed Session Report

None

1. CEREMONIAL ITEMS

- 1.1 Councilmember Esparza, on behalf of Councilmember Carrasco declared May 2022 as Melanoma Awareness Month and presented a proclamation to the California Skin Institute's Vice President of Marketing, Olga Taber. Both Councilmember Esparza and Olga Taber stressed the importance of protecting your skin from skin cancer. (Carrasco)
- 1.2 Councilmember Sylvia Arenas declared May 29-June 4, 2022 as Queer and Transgender Asian Pacific Islander Awareness Week and presented a proclamation to Asian Americans for Community Involvement (AACI), Director of Advocacy, Vaughn Villaverde. Councilmember Arenas also recognized the work of the GLBTQ+ Asian Pacific Alliance, Parivar Bay Area, Silicon Valley Pride, and South Bay Queer and Asian. (Arenas)
- 1.3 Mayor Sam Liccardo declared May 15th to May 21st, 2022 as National Public Works Week, recognizing it as the 62nd annual National Public Works week and invited City of San Jose's Director of Public Works Matt Cano to speak and accept the proclamation alongside other members of Public Works staff. (Mayor)

2. CONSENT CALENDAR

Upon motion by Councilmember Matt Mahan, seconded by Councilmember David Cohen and carried unanimously, all of the items of the Consent Calendar except for Item 2.8(a) and Item 2.17 were approved and the below listed actions were taken as indicated. (9-0-2. Absent: Carrasco, Jimenez.)

Public Comments: Blair Beekman and Bryan Darby offered public comments.

Upon motion by Councilmember David Cohen, seconded by Councilmember Maya Esparza and carried unanimously, Item 2.8(a) and Item 2.17 were approved. (9-0-3. Absent: Arenas, Carrasco, Jimenez.)

2.1 Approval of City Council Minutes.

- | | | |
|------------|---------------|---|
| 2.2 | 22-730 | Final Adoption of Ordinances.
(a) Ordinance No. 30764 - An Uncodified Ordinance of the City of San José Extending the Term of the Great Oaks Water Company Nonexclusive Franchise Until July 1, 2032, with No Change in Any Other Terms and Conditions of the Franchise. [Passed for Publication on 5/3/2022 - Item 3.3(b) (22-609)] (b) Ordinance No. 30765 - An Ordinance of the City of San José Amending Section 15.08.500 of Chapter 15.08; Sections 15.10.030, 15.10.040, 15.10.290, 15.10.300 of Chapter |
|------------|---------------|---|

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2.2 (Cont'd.)

15.10; Chapter 15.11 of Title 15; and Sections 17.72.530, 17.72.535 and 17.72.560 of Chapter 17.72 of Title 17 of the San José Municipal Code to Modify the Water Efficient Landscape Standards for New and Rehabilitated Landscaping and to Clarify Potable Water Conservation Standards. [Passed for Publication on 5/3/2022 - Item 6.1(b) (22-611)] (c) Ordinance No. 30768 - An Ordinance of the City of San José Amending Chapter 12.06 of the San José Municipal Code to Extend the Campaign Contribution Period for Councilmember and Mayor Elections to 210 Days before the Primary Election and to 60 Days after the Date of the Primary and Runoff Elections, and Specify that Funds Raised During the 60- Day Contribution Period after the Primary and Runoff Election may Only be Used to Retire Campaign-Related Debts and Liabilities and that Any Solicitation for Such Contributions by a Candidate or Candidate-Controlled Committee must Indicate that All Contributions Received During this Period will be Used for this Purpose. [Passed for Publication on 5/10/2022 - Item No. 2.13 (22-666)]

Action: **Ordinance No. 30764, Ordinance No. 30765, and Ordinance No. 30768** were adopted. (9-0-2. Absent: Carrasco, Jimenez.)

2.3 Approval of Council Committee Minutes.

- 2.4 22-762 Mayor and Council Excused Absence Requests**
Request for an excused absence for Councilmember Foley from the Regular Meeting for the Smart Cities and Service Improvements Committee on May 5, 2022 due to illness. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Foley) [Rules Committee referral 5/11/2022 - Item A.1.a]

Action: The request for excused absence was approved. (9-0-2. Absent: Carrasco, Jimenez.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

- 2.7 22-692 Settlement of Santa Clara Unified School District v. City of San José.**
(a) Approve the settlement of a lawsuit brought by Plaintiff Santa Clara Unified School District whereby the City of San José will retain \$1,500,000 in traffic mitigation fees previously paid by Santa Clara Unified School District and return \$3,366,432 plus interest in the amount of \$50,957 and authorize the City Attorney to execute a settlement agreement. (b) Adopt the following 2021-2022 Appropriation

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2.7 (Cont'd.)

Ordinance amendments in the Construction Excise Tax Fund: (1) Decrease the North San Jose Traffic Impact Fees Reserve appropriation by \$3,417,389; and (2) Establish the North San Jose Traffic Impact Fee Settlement appropriation to the Transportation Department in the amount of \$3,417,389. CEQA: Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney/City Manager)

Councilmember Cohen spoke to this item and thanked Santa Clara Unified and the Council for helping with this settlement and expressed that this is good news for projects in North San Jose.

Action: The settlement of a lawsuit brought by Plaintiff Santa Clara Unified School District was approved and the 2021-2022 **Appropriation Ordinance No. 30771** was adopted. (9-0-2. Absent: Carrasco, Jimenez.)

2.8 22-693 **Terms of Side Letter Agreements between the City of San José, the International Union of Operating Engineers, Local No. 3, Municipal Employees' Federation, and the City Association of Management Personnel and Amending the Pay Plan.**

Adopt a resolution to: (a) Approve the terms of a Side Letter Agreement with the International Union of Operating Engineers, Local No. 3 (OE#3) to: (1) Provide employees in the Automation Engineer I (1361) classification with an approximate 5.00% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (2) Provide employees in the Automation Engineer II (1363) classification with an approximate 5.00% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (3) Provide employees in the Automation Engineer III (1364) classification with an approximate 5.00% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (b) Approve the terms of a Side Letter Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) to: (1) Provide employees in the Senior Automation Engineer I (1367) classification with an approximate 5.00% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (2) Provide employees in the Senior Automation Engineer II (1368) classification with an approximate 5.00% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (c) Approve the terms of a Side Letter Agreement with the City Association of Management Personnel, IFPTE, Local 21 (CAMP) to provide employees in the Automation Engineer Supervisor (1365) classification with an approximate 5.00% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; and (d) Amend the City of San José Pay Plan as follows: (1) Increase the annual salary range of the

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2.8 (Cont'd.)

classification of Automation Engineer I (1361) to \$74,048.00 - \$90,084.80, effective May 29, 2022; (2) Increase the annual salary range of the classification of Automation Printed on 5/13/2022 City of San José Page 9 City Council Amended Agenda May 17, 2022 Engineer II (1363) to \$90,084.80 - \$109,491.20, effective May 29, 2022; (3) Increase the annual salary range of the classification of Automation Engineer III (1364) to \$99,715.20 - \$121,284.80, effective May 29, 2022; (4) Increase the annual salary range of the classification of Senior Automation Engineer I (1367) to \$106,600.00 - \$129,833.60, effective May 29, 2022; (5) Increase the annual salary range of the classification of Senior Automation Engineer II (1368) to \$117,187.20 - \$142,812.80, effective May 29, 2022; (6) Increase the annual salary range of the classification of Automation Engineer Supervisor (1365) to \$128,918.40 - \$157,081.60, effective May 29, 2022. 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. 80496** was adopted. (9-0-2. Absent: Carrasco, Jimenez.)

- 2.9 22-729 Terms of Side Letter Agreement Between the City of San Jose and the Municipal Employees' Federation, AFSCME, Local 101 (MEF) and Amending the Pay Plan.**
- Adopt a resolution to: (a) Approve the terms of a Side Letter Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) to provide the following: (1) Provide employees in the Latent Fingerprint Examiner I (2241) classification with an approximate 15.92% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (2) Provide employees in the Latent Fingerprint Examiner II (2242) classification with an approximate 14.31% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; and (3) Provide employees in the Latent Fingerprint Examiner III (2246) classification with an approximate 1.27% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council. (b) Amend the City of San Jose Pay Plan as follows: (1) Amend the City of San Jose Pay Plan to increase the annual salary range of the classification of Latent Fingerprint Examiner I (2241) to \$72,508.80 - \$88,129.60, effective May 29, 2022; (2) Amend the City of San Jose Pay Plan to increase the annual salary range of the classification of Latent Fingerprint Examiner II (2242) to \$81,120.00 - \$98,675.20, effective May 29, 2022; and (3) Amend the City of San Jose Pay Plan to increase the annual salary range of the classification of Latent Fingerprint Examiner III (2246) to \$100,796.80 - \$122,470.40, effective May 29, 2022. 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. 80497** was adopted. (9-0-2. Absent: Carrasco, Jimenez.)

2.10 22-695 Terms of Side Letter Agreements between the City of San José, the Municipal Employees' Federation, and the City Association of Management Personnel and Amending the Pay Plan.

Adopt a resolution to: (a) Approve the terms of a Side Letter Agreement with the Municipal Employees' Federation, AFSCME, Local 101 (MEF) to: (1) Provide employees in the Code Enforcement Inspector I (3938) classification with an approximate 4.60% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (2) Provide employees in the Code Enforcement Inspector II (3939) classification with an approximate 4.60% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; and (b) Approve the terms of a Side Letter Agreement with the City Association of Management Personnel, IFPTE, Local 21 (CAMP) to provide employees in the Code Enforcement Supervisor (3940) classification with an approximate 4.60% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; and (c) Amend the City of San José Pay Plan as follows: (1) Increase the annual salary range of the classification of Code Enforcement Inspector (3938) to \$72,617.31 - \$87,658.15, effective May 29, 2022; (2) Increase the annual salary range of the classification of Code Enforcement Inspector II (3939) to \$83,589.63 - \$101,604.26, effective May 29, 2022; and (3) Increase the annual salary range of the classification of Code Enforcement Supervisor (3940) to \$94,642.08 - \$115,398.07, effective May 29, 2022. 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. 80498** was adopted. (9-0-2. Absent: Carrasco, Jimenez.)

2.11 22-696 Ordinance Amending Chapter 9.10 of Title 9 of the San José Municipal Code (Solid Waste Management) Related to Local Enforcement of Statewide Limits on Single-Use Foodware Accessories and Condiments.

Approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to implement the requirements of Assembly Bill 1276 related to local enforcement of statewide limits on single-use foodware accessories and condiments. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Environmental Services)

Action: **Ordinance No. 30772** was approved. (9-0-2. Absent: Carrasco, Jimenez.)

2.12 22-697 Actions Related to the Purchase Order for Citywide Graphic Design Services.

Adopt a resolution authorizing the City Manager to: (a) Execute purchase orders with Ani & Cat LLC (San José, CA), Articulate Solutions, Inc. (Gilroy, CA), Cartwright Design Studio (Montara, CA), Eric Gouldsberry Art Direction (San José, CA),

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2.12 (Cont'd.)

Global Urban Strategies, Inc. (Alhambra, CA), Jill McCoy Design (San José, CA), Kooltura Marketing LLC (San José, CA), Pernsteiner Creative Group, Inc. (San Francisco, CA), Right Angle Design, Inc. (El Dorado Hills, CA), and We The Creative (San Juan Capistrano, CA), for Citywide graphic design services for an initial 12-month period, starting on or about May 20, 2022 and ending on or about May 19, 2023 for a total cumulative compensation amount not-to-exceed \$1,200,000; and (b) Exercise up to six additional one-year options to extend the initial term of the purchase order with the last option year ending on or about May 19, 2029, 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)

Councilmember Mahan pulled this item and asked for a cost analysis on hiring services versus hiring staff to complete these services.

Action: **Resolution No. 80499** was approved. (9-0-2. Absent: Carrasco, Jimenez.)

2.13 22-698 **Report on Bids and Award of Contract for the 9090-Bundled Park Playground Replacement Project.**

Report on bids and award of contract for the 9090 - Bundled Park Playground Replacement project to the low bidder, Goodland Landscape Construction, Inc., for the base bid in the amount of \$3,551,952, and approve a ten percent contingency in the amount of \$355,195. CEQA: Categorically Exempt, File No. ER21-036, CEQA Guidelines Section 15301, Existing Facilities and Section 15302 Replacement or Reconstruction. Council Districts 1, 2, 3, 5, 7 and 8. (Public Works)

Action: The report on bids and contract with related contingency was accepted. (9-0-2. Absent: Carrasco, Jimenez.)

2.14 22-699 **Report on Bids and Award of Contract for the 9509-Newbury Park Project.**

(a) Report on bids and award of contract for the 9509 - Newbury Park Project to the low bidder, Stockbridge General Contracting, Inc., for the base bid and bid alternate No. 1 in the amount of \$1,303,900 and approve a five percent contingency in the amount of \$65,195. (b) Adopt the following 2021-2022 Appropriation Ordinance amendments in the Subdivision Park Trust Fund: (1) Increase the Newbury Park Development appropriation to the Parks, Recreation and Neighborhood Services Department by \$121,000. (2) Decrease the Future Parkland Dedication Ordinance/Parkland Impact Ordinance Projects Reserve by \$121,000. CEQA: Addendum to the King and Dobbin Transit Village and US 101-Oakland/Mabury Transportation Development Policy Final Environmental Impact Report, and addenda there to for the Newbury Park Project, File No. PP19-055 (Resolution No. 79533). Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

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2.14 (Cont'd.)

Action: The report on bids and contract with related contingency was accepted, and (b) **Appropriation Ordinance No. 30773** was adopted. (9-0-2. Absent: Carrasco, Jimenez.)

- 2.15 22-700 2022 Major Streets Sealing Project.**
(a) Approve award of a construction contract for the 2022 Major Streets Sealing Project, to the low bidder, VSS International, Inc., in the amount of \$3,155,120. (b) Approve an approximate 10% contingency in the amount of \$315,500. CEQA: Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

Action: Construction Contract for the 2022 Major Streets Sealing Project and approximate 10% contingency was approved (9-0-2. Absent: Carrasco, Jimenez.)

- 2.16 22-701 Stevens Creek Boulevard Vision Study.**
Adopt a resolution: (a) Approving participation in the Stevens Creek Boulevard Vision Study, at a cost of \$238,006, to create a cohesive vision for Stevens Creek Boulevard, including potential transit; and (b) Authorizing the City Manager, or designee to negotiate and execute funding agreements with the City of Santa Clara, City of Cupertino, County of Santa Clara, and the Santa Clara Valley Transportation Authority (VTA) to develop the Vision Study. (c) Authorizing the City Manager, or designee to negotiate and execute the first amendment to the Master City of San José Consultant Agreement with Iteris, Inc. to complete the Vision Study, increasing the maximum total compensation by \$794,400 from \$290,000 to \$1,084,400, and extending the agreement term by 18 months from December 31, 2022 to June 30, 2024. CEQA: Statutorily Exempt, File No. PP17-001, CEQA Guidelines Section 15262, Feasibility and Planning Studies with no commitment to future actions. Council Districts 1 and 6. (Transportation)

Action: **Resolution No. 80500** was adopted. (9-0-2. Absent: Carrasco, Jimenez.)

- 2.17 22-766 Terms of a Side Letter Agreement between the City of San José, the International Union of Operating Engineers, Local No. 3 (OE#3) and Amending the Pay Plan. - RENUMBERED FROM ITEM 3.4.**
Adopt a resolution to: (a) Approve the terms of a Side Letter Agreement with the International Union of Operating Engineers, Local No. 3 (OE#3) to: (1) Provide employees in the Maintenance Assistant FT/PT (3108/3109) classification with an approximate 3.60% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (2) Provide employees in the Maintenance Worker I FT/PT (3113/3112) classification with an approximate 14.60% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council;

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2.17 (Cont'd.)

(3) Provide employees in the Maintenance Worker II (3114) classification with an approximate 14.30% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; (4) Provide employees in the Senior Maintenance Worker (3115) classification with an approximate 9.15% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; and (5) Effective June 26, 2022, Council Policy 3-3 Living Wage Policy will no longer apply to employees represented by OE#3. (b) Amend the City of San José Pay Plan as follows: (1) Increase the annual salary range of the classification of Maintenance Assistant FT/PT (3108/3109) to \$47,819.20 - \$60,985.60, effective May 29, 2022; (2) Increase the annual salary range of the classification of Maintenance Worker I FT/PT (3113/3112) to \$60,028.80 - \$73,008.00, effective May 29, 2022; (3) Increase the annual salary range of the classification of Maintenance Worker II (3114) to \$66,664.00 - \$81,078.40, effective May 29, 2022; and (4) Increase the annual salary range of the classification of Senior Maintenance Worker (3115) to \$78,644.80 - \$95,680.00, effective May 29, 2022. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager) [RENUMBERED FROM ITEM 3.4 (22-694)]

Action: **Resolution No. 80501** was adopted. (9-0-2. Absent: Carrasco, Jimenez.)

- 2.18 22-764 Boards and Commissions Appointment.**
Approve the following Boards and Commissions appointment: (a) Historic Landmarks Commission: (1) Appoint Harriet Arnold for a term of July 1, 2022 to June 30, 2026. (2) Appoint Paul Boehm for a term of July 1, 2022 to June 30, 2026. (3) Appoint Rachel Royer for a term of July 1, 2022 to June 30, 2026. (4) Appoint Adriana Ayala for a term of August 1, 2022 to June 30, 2025. (5) Appoint Lawrence Camuso for a term of August 1, 2022 to June 30, 2023. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk) [Rules Committee referral 5/11/2022 - Item A.1.a]

Action: The Historic Landmarks Commission Appointments were approved. (9-0-2. Absent: Carrasco, Jimenez.)

- 2.19 22-770 Approval of Pride and Transgender Flag Raisings and Lighting for Pride Month Sponsored by Council District 6 and Council District 9 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 May 11, 2022: (a) Approve the Pride and Transgender Flag Raisings and Lighting for Pride Month scheduled on June 7, 2022 as a City Council sponsored Special Event and approve

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2.19 (Cont'd.)

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. (Davis and Foley) [Rules Committee referral 5/11/2022 - Item B.2]

Action: The City Council Sponsored Special Event was approved. (9-0-2. Absent: Carrasco, Jimenez.)

- 2.20 22-773 Approval of Shasta-Hanchett Park Dumpster Day Sponsored by Council District 6 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 May 11, 2022: (a) Approve the Shasta-Hanchett Park Dumpster Day scheduled on May 21, 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. (Davis) [Rules Committee referral 5/11/2022 - Item B.3]

Action: The City Council Sponsored Special Events were approved. (9-0-2. Absent: Carrasco, Jimenez.)

- 2.21 22-777 Retroactive Approval of D. J. Meyer Elementary Egg Hunt and Resource Fair 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 May 11, 2022: (a) Retroactively approve the D. J. Meyer Elementary Egg Hunt and Resource Fair scheduled on April 16, 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 5/11/2022 - Item B.4]

Action: The City Council Sponsored Special Events were retroactively approved. (9-0-2. Absent: Carrasco, Jimenez.)

- 2.22 22-781 **Retroactive Approval of Senior Zumba and Cafecito 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 May 11, 2022: (a) Retroactively approve the Senior Zumba and Cafecito series scheduled on March 3, March 11, March 17, and April 7, 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. (Carrasco) [Rules Committee referral 5/11/2022 - Item B.6]

Action: The City Council Sponsored Special Events were retroactively approved. (9-0-2. Absent: Carrasco, Jimenez.)

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 22-702 **Public Hearing on the 2022-2023 Proposed Operating and Capital Budgets and the 2022-2023 Proposed Fees and Charges for the City of San José.**
Conduct a Public Hearing on the Proposed Operating and Capital Budgets for the Fiscal Year July 1, 2022 to June 30, 2023, the Proposed Five-Year Capital Improvement Program for 2023-2027, and the Proposed Fees and Charges Report for the Fiscal Year 2022-2023. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Manager)

Mayor Sam Liccardo opened the public hearing.

Public Comments: Diana; Director St. Francis Animal Society Kim McIntyre; Kate Amber; Vanessa; Allie Hewitt; Dancing Cat, Co-Founder, Ann Chaplin; Cole Cameron; Mitra Elie; Alec Woodard; Brahms/Edgeview Neighborhood Association, Andres Solomonoff; Drywall Local 9144, Luke Vratny; Sheet Metal Workers 104 Dominic Torrealano; Leila Correa; South Bay Labor Council, Krista De La Torre; UFCW Local 5, Zack Gilman; Jill Borders; Working Partnerships, Louise Auerhahn; Blair Beekman; Business Representative, Local 104, Keith Sylva; SEIU-USWW, Araceli Rueda; SEIU-USWW, Jose L. Pavon; Every Pet's Dream, Dawn Piazza; Carpenters Union, Joseph Lopez offered public comments.

Mayor Sam Liccardo closed the public hearing.

- 3.4 22-694 **Terms of a Side Letter Agreement between the City of San José, the International Union of Operating Engineers, Local No. 3 (OE#3) and Amending the Pay Plan. - RENUMBERED TO ITEM 2.17.**
[RENUMBERED TO ITEM 2.17 (22-766)]
- 3.5 22-703 **Actions Related to the Measure T Status Report on the Workplan and Implementation Updates.**
(a) Accept the status report on the workplan and implementation updates for projects included in approved 2018 Measure T Bond measure. (b) Accept the Measure T Community Oversight Committee’s annual report, as identified in Attachment A to the staff memorandum, on the Measure T - The Disaster Preparedness, Public Safety and Infrastructure General Obligation Bond Program proceeds and allocations for Fiscal Year 2020-2021. (c) Approve the proposed site at the intersection of Capitol Expressway and Tuers Road for the construction of new Fire Station 36. (d) Adopt the following 2021-2022 Appropriation Ordinance amendments in the Public Safety and Infrastructure Bond Fund: (1) Increase the Measure T - Police Headquarters Infrastructure Upgrades appropriation to the Public Works Department by \$250,000; and (2) Decrease the Measure T - Program Reserve (Public Safety) appropriation by \$250,000. (e) Provide staff direction on a policy decision in regards to funding of projects identified in Tables 2 and 4 of the Public Safety Program Reserve section of the report. (f) Approve the proposed City Land South of Phelan site as a project to be funded by the Clean Water Program. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Public Works/City Manager)

Director, Public Works, Matt Cano; Deputy Director, Public Works, Katherine Brown; and Measure T Community Oversight Committee, Chair, Arjun Batra provided the presentation and responded to questions.

Public Comments: Blair Beekman offered public comment.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Pam Foley, and carried unanimously, **Appropriation Ordinance No. 30774** was approved. (8-0-3. Absent: Carrasco, Jimenez, Davis.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

- 6.1 22-704 **Actions Related to Long-Duration Storage and Wholesale Energy Services.**
Adopt a resolution: (a) Authorizing the Director of the Community Energy Department to execute the following two agreements for the procurement of up to 20 megawatts from the Goal Line BESS 1, LLC long-duration storage battery project,

with any non-material modifications developed, as appropriate, in consultation with the City Attorney, and subject to the annual appropriation of funds, in an amount not

(Item Continued on Next Page)

6.1 (Cont'd.)

to exceed \$4,400,000 annually and \$66,000,000 in aggregate in Calendar Years 2025 through 2040 for both agreements: (1) Project Participation Share Agreement between California Community Power (CC Power), the City of San José, Sonoma Clean Power, CleanPower San Francisco, Redwood Coast Energy Authority, Silicon Valley Clean Energy, and Valley Clean Energy; and (2) Buyer Liability Pass Through Agreement between CC Power, Goal Line BESS 1, LLC (or its affiliate), and the City of San José. (b) Authorizing the Director of Community Energy Department to negotiate and execute, in consultation with the City Attorney, a Coordinated Operations Agreement between CC Power, the City of San José, Sonoma Clean Power, CleanPower San Francisco, Redwood Coast Energy Authority, Silicon Valley Clean Energy, and Valley Clean Energy addressing operation by CC Power of the Goal Line BESS 1, LLC long-duration storage battery project. (c) Authorizing the City Manager, or her authorized designee, to negotiate and execute a Wholesale Energy Services Agreement, including Scheduling Agent Services, with Northern California Power Agency for an initial period of three years from the date of execution in an amount not to exceed \$2,267,070 for the first three years and up to three two-year extension options for an additional \$1,627,001 for the first two-year option; \$1,726,085 for the second two-year option; and \$1,831,203 for the third two-year option for a total contract amount not to exceed \$7,451,359, 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. (Community Energy)

Director, Community Energy, Lori Mitchell and Deputy Director, Power Resources, Jeanne M. Solé provided the presentation and responded to questions.

Public Comments: Blair Beekman and Working Partnerships, Louise Auerhahn offered public comments.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Vice Mayor Chappie Jones and carried unanimously, **Resolution No. 80502** was adopted. (8-0-3. Absent: Carrasco, Jimenez, Davis.)

6.2 22-705 Republic Services Commercial Solid Waste Customer Service Rates.

(a) Conduct a Public Hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services. (b) Adopt a resolution increasing the Maximum Commercial Solid Waste Services Rates in the City of San José by 7.80 percent pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organics processing services. CEQA: Not a

(Item Continued on Next Page)

6.2 (Cont'd.)

Mayor Sam Liccardo opened the public hearing.

Public Comments: Blair Beekman offered public comment.

Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Maya Esparza and carried unanimously **Resolution No. 80503** was adopted. (8-0-3. Absent: Carrasco, Jimenez, Davis.)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 22-706 Proposed Spending Plan for Measure E Real Property Transfer Tax Revenue for Fiscal Year 2022-2023 and Amendments to the Spending Plan for Measure E Real Property Transfer Tax for Fiscal Year 2020-2021 and Fiscal Year 2021-2022.

Adopt a resolution: (a) Approving the proposed spending plan of Measure E Real Property Transfer Tax revenues for fiscal year 2022-2023; (b) Approving the proposed amendments to the spending plan of Measure E Real Property Transfer Tax revenues for fiscal year 2020-2021; (c) Approving the proposed amendments to the spending plan of Measure E Real Property Transfer Tax revenues for fiscal year 2021-2022; and (d) Authorizing the Director of Housing or Director's designee to negotiate and execute agreements with grantees for the activities identified in the fiscal year 2022-2023 Measure E Spending Plan, amended fiscal year 2020-2021 Measure E Spending Plan, and the amended fiscal year 2021-2022 Measure E Spending Plan and all related contract amendments, extensions, and changes. 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 no changes to the physical environment. (Housing)

City of San José Housing Department's Director Jacky Morales-Ferrand and Deputy Director Rachel VanderVeen provided the presentation and responded to questions.

Public Comments: Catalyze SV, Alex Shoor; President, Affordable Housing Network, Sandy Perry; Blair Beekman; Jill Borders; Working Partnerships, Huascar Castro; Community Organizer and Policy Manager, SOMOS Mayfair, Andreas Portillo offered public comments.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Maya Esparza and carried unanimously, the Council adopted **Resolution No. 80504**, including that proposed spending plan changes do not have to return to council for approval if the changes occur within the percentages allocated. (9-0-2. Absent: Carrasco, Jimenez.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

None Provided

10 Land Use – Regular Agenda

- 10.2 22-707 City Roadmap - North San José Strategy: Settlement Agreement with City of Santa Clara and GPT21-003, PP21-008 & C21-018 - Amendment to the General Plan and North San José Area Development Policy; Amendment to Title 20 (Zoning Ordinance); and Amendment to Title 14, Chapter 14.29 (North San José Traffic Impact Fee Requirements). - TO BE HEARD IMMEDIATELY AFTER CONSENT).**

(a) Approve an Amended Settlement Agreement between the City of Santa Clara and the City of San José related to the North San José Traffic Impact Fees and authorize the City Manager and City Attorney to execute the Amended Settlement Agreement to amend Section 1.2 of the existing Settlement Agreement dated November 16, 2006, whereby San José agrees to a total value of \$28 million of traffic improvements in lieu of constructing the Trimble Flyover as originally contemplated in the existing Settlement Agreement. PART (a) REQUIRES A SEPARATE VOTE FROM THE CITY COUNCIL PRIOR TO TAKING ACTION ON REMAINING ITEMS (b) Accept the February 18, 2022 North San José Traffic Impact Fee Plan Update. (c) Adopt a resolution adopting the Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report amending the Envision San José 2040 General Plan and the North San José Area Development Policy (ADP) to: (1) Remove or modify references to the North San José ADP which will no longer apply to future development in North San José; (2) Increase the minimum density within the Transit Employment Residential Overlay (TERO) General Plan land use designation from 55 dwelling units per acre to 75 dwelling units per acre and remove the minimum floor area ratio requirement; and (3) Limit the application of the North San José ADP to

projects that received an approved entitlement (general plan amendment and/or zoning amendment) and/or a land use permit from the effective date of the North San José ADP to the effective date of the resolution making such changes, and making the North San José Traffic Impact Fee inapplicable to future North San José development projects. (d) Adopt a resolution amending the Envision San Jose 2040 General Plan pursuant to Title 18 of the San José Municipal Code to make modifications and clarifying revisions to remove references to the North San José Area Development Policy and amend the General Plan to raise the minimum density within the TERO Transit Employment Residential Overlay designation. (e) Approve an ordinance amending San José Municipal Code Title 20 (Zoning Ordinance) to add

(Item Continued on Next Page)

10.2 (Cont'd.)

Chapter 20.65 “Overlay Districts” including the “TERO Transit Employment Residential Overlay District,” and amending the Zoning District Map to include the “TERO Transit Employment Residential Overlay District”. (f) Approve an ordinance amending San José Municipal Code Title 14, Chapter 14.29 (North San José Traffic Impact Fee Requirements) to limit the application of Chapter 14.29 to projects that received an approved entitlement (general plan amendment and/or zoning amendment) and/or a land use permit from the effective date of the ADP to the effective date of the resolution making such changes, and making the North San José Traffic Impact Fee inapplicable to future North San José development project. CEQA: Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617). Planning Commission recommends approval (9-1-1; Oliverio oppose; Terrens absent). Council Districts 3 and 4. (Planning, Building and Code Enforcement) [Deferred from 5/3/2022 - Item 10.2 (22-614)] [Rules Committee referral 5/11/2022 - Item A.1.a for item 10.2(a)]

HEARD IMMEDIATELY AFTER CONSENT

Department of Planning, Building & Code Enforcement’s Director Chris Burton, Deputy Director Michael Brilliot, Principal Planner David Keyon and Office of Economic Development & Cultural Affairs’ Director Nanci Klein provided a presentation and responded to questions.

Public Comments (a): Lead Deputy County Counsel, Christopher Cheleden; Blair Beekman; Silicon Valley at Home, Matthew Reed; Silicon Valley Leadership Group, Vice President of Housing & Community Development, Vince Rocha; Housing Action Coalition, Ali Sapirman; SPUR, Planning Policy Manager, Erika Pinto; Catalyze SC, Executive Director, Alex Shoor; EAH Housing, Executive Chair of the Board, Mary Murtagh; Hanover Company, Scott Udal; Jill Borders; Erik Schoennauer offered public comments.

Action (a): Upon motion by Councilmember David Cohen, seconded by Councilmember Matt Mahan and carried unanimously, the Settlement Agreement as summarized in the May 13, 2022 supplemental memo was approved. (9-0-2. Absent: Carrasco, Jimenez.)

Public Comments (b): Lead Deputy County Counsel, Christopher Cheleden and Blair Beekman offered public comments.

Action: (b) Upon motion by Councilmember David Cohen, seconded by Councilmember Raul Perez and carried unanimously, the Traffic Impact Fee Plan Update was accepted; (c) Resolution No. 80505 and (d) Resolution No. 80506 were adopted, and (e) Ordinance No. 30775 and (f) Ordinance No. 30776 were passed for publication.

The motion included approval of the joint memorandum dated May 12, 2022 and authored by Mayor Luccardo and Councilmembers Cohen and Perez: 1. Accept the recommendations outlined in the staff memorandum. 2. Direct staff to return to Council as part of the Report on the Cost of Development with recommendations for increasing minimum density for the Transit Employment Residential Overlay (TERO) General Plan land use designation, including but not limited to: a.

(Item Continued on Next Page)

10.2 (Cont'd.)

Identifying areas that can sustain minimum densities of up to 100 dwelling units per acre net b. Creating incentives to build beyond the minimum density requirements 3. Direct the City Manager to implement prior Council direction that 20% of all housing built in North San José must be rent-restricted affordable housing and return to Council by Fall 2022 with recommended strategies for meeting this goal. Recommendations should incorporate policies and North San José sites identified in the City's submitted Housing Element Draft. The scope of consideration should include: a. Studying the feasibility of modifications to the Inclusionary Housing Ordinance to provide flexibility and incentivize on-site development of affordable units b. Increasing the per-unit affordable housing subsidy in North San José where construction costs necessitate a need for a larger subsidy c. Identification of sites in North San José that are best suited for an affordable housing overlay, with emphasis on site proximity to amenities and input from staff to ensure preservation/balance of key employment sites d. Evaluating and reconsidering fee levels in North San José that may negatively impact housing development.

The motion also included language from the May 17, 2022 Memo authored by Matt Mahan to direct the City Manager and the City Attorney to request a meeting with the County Executive and County Counsel for the purpose of resolving the County's stated objections to the Amended Settlement Agreement between the City of Santa Clara and the City of San Jose.. (9-0-2. Absent: Carrasco, Jimenez.)

• Open Forum

1. Blair Beekman spoke to the possibilities in the next year for the future of Community Energy and the benefits of guidance and openness in the public process. Blair also spoke on ideas of peace and war.

- **Adjournment**

The Council of the City of San José adjourned at 5:50 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

SAN JOSÉ CITY COUNCIL CLOSED SESSION

MAY 17, 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, Davis, Mahan, Jones, Esparza, Cohen, Peralez, Foley;
Liccardo.

Absent: Councilmembers - Carrasco, Jimenez

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: Claim of Garcia
Name(s) of Partie(s)
Involved:
Court: Workers Compensation Appeals Court

Case No.: ADJ13745744

Amount of Money or Benefits
Other Relief Sought:

**B. CONFERENCE REGARDING POTENTIAL THREAT TO PUBLIC SERVICES OR
FACILITIES PURSUANT TO GOVERNMENT CODE SECTION 54957(a):**

1. Case Name: NAACP of San Jose Silicon Valley et. Al., v. City, er al.,
Name(s) of Partie(s) NAACP OF SAN JOSÉ/ SILICON VALLEY; SAN JOSÉ
Involved: PEACE AND JUSTICE CENTER; M. MICHAEL
ACOSTA, AS AN INDIVIDUAL; AND JOSEPH CAÑAS;
LESLIE VASQUEZ; PETER ALLEN; SHAUNN
CARTWRIGHT; YESSICA RILES; JOSÉ GUSTAVO
FLORES RODRIGUEZ; ALEX LEE; JOSÉPH
MALDONADO; CINDY CUELLAR; MAHMOUDREZA
NAEMEH; AND MEGAN SWIFT, ON BEHALF OF
THEMSELVES AND ALL OTHERS SIMILARLY
SITUATED, CITY OF SAN JOSÉ; SAM LICCARDO;
EDGARDO GARCIA; DAVID SYKES; JASON DWYER;
RONNIE LOPEZ, LEE TASSIO, JARED YUEN; SEAN

MICHAEL CURRY, OFFICER FNU DELGADO, and
DOES 1-100
Court: U.S. District Court; District of Northern California
Case No.: 4:21-cv-01705-PJH
Amount of Money or Damages according to proof
Other Relief Sought:

3. Case Name: Harper, Timoth v. City of San Jose, et al.
Name(s) of Partie(s) TIMOTHY HARPER; CITY OF SAN JOSE, EDGARDO
Involved: "EDDIE" GARCIA, JASON DWYER, CHRISTOPHER
SCIBA, JARED YUEN
Court: U.S. District Court; District of Northern California
Case No.: 5:21-cv-00519-BLF
Amount of Money or Damages according to proof
Other Relief Sought:

**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 **Association of Engineers & Architects (AEA)**
and Title of
Unrepresented
Employees:
Nature of negotiations: wages/salaries, hours, working conditions, etc.
Name of Existing Memorandum of Agreement – City of San José and
Contract or MOA: Association of Engineers & Architects (AEA)
How to Obtain a copy of Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Existing Contract or Telephone – Employee Relations: (408) 535-8150
MOA:
2. Organization or Name **Association of Maintenance Supervisory Personnel**
and Title of (AMSP)
Unrepresented
Employees:
Nature of negotiations: wages/salaries, hours, working conditions, etc.
Name of Existing City of San José - Association of Maintenance Supervisory
Contract or MOA: 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: 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: <http://www.sanjoseca.gov/index.aspx?NID=508>
4. 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 (MEF)
How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
5. Organization or Name and Title of Unrepresented Employees: **International Union of Operating Engineers, Local No. 3 (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.sanjoseca.gov/index.aspx?NID=508>

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