



City Council Meeting Minutes

Tuesday, August 16, 2022

1:30 PM

**Hybrid Meeting - Council Chambers and Virtually -
<https://sanjoseca.zoom.us/j/88957084529>**

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 No. 80628, Councilmembers may be teleconferencing from remote locations.

- **Call to Order and Roll Call**

9:00 a.m.- Closed Session. 22-1174: *See pages 9-10 for Closed Session Minutes.*
Councilmembers Absent: All present virtually.

1:32 p.m.- Regular Session.
Councilmembers Absent: All present virtually and in Council Chambers.

6:00 p.m.- No Evening Session.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 7)**

The Khmer Krom Buddhist Monks of the Khemara Rangsey Temple offered a traditional blessing on good health, success, and peace.

- **Orders of the Day**

None provided.

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

1.1 Councilmember Magdalena Carrasco declared August 21, 2022 as National Senior Citizens Day to recognize the achievements of the more mature representatives of our nation and show our appreciation for their dedication, accomplishments, and services they give throughout their lives and spoke on the importance of this proclamation. The proclamation was presented to residents of the Villa De Guadalupe facility Latino Club and “Kat”.

2. CONSENT CALENDAR

Public Comments: Blair Beekman spoke to the items on the Consent Calendar as a whole.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Chappie Jones, and carried unanimously, the Consent Calendar was approved, and the below listed actions were taken as indicated. (8-0-3. Absent: Jimenez, Cohen, Foley.)

2.1 Approval of City Council Minutes.

None provided.

2.2 22-1247 Final Adoption of Ordinances.

(a) Ordinance No. 30808 - An Ordinance of the City of San José Pre-zoning Certain Real Property of Approximately 18.13- Gross Acres, Situated on the Southeast Corner of Union Avenue and Camden Avenue (APNS 419-08-012 and 419-08-012) from Unincorporated Territory within the County of Santa Clara County to the CP(PD) Planned Development Zoning District [Passed for Publication on 8/9/2022 - Item 10.4(b) (22-1146)]

Action: **Ordinance No. 30808** was adopted. (8-0-3. Absent: Jimenez, Cohen, Foley.)

2.3 22-1264 Approval of Council Committee Minutes.

(a) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of August 3, 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: The Council Committee Minutes were approved. (8-0-3. Absent: Jimenez, Cohen, Foley.)

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 22-1175

Actions Related to the 9112 - All Inclusive Rotary Playgarden Project.

Approve a \$71,500 increase in the construction contingency for the 9112 - All-Inclusive Rotary PlayGarden Project from \$169,800 to \$241,300 for three additional Bid Alternate items. CEQA: Categorically Exempt, File No. PP19-002, CEQA Guidelines Section 15301 Existing Facilities. Council District 6. (Public Works)

Action: Actions Related to the 9112 All Inclusive Rotary Playgarden Project were approved. (8-0-3. Absent: Jimenez, Cohen, Foley.)

2.8 22-1176

Resolution of Local Support for Caltrans Sustainable Transportation Planning Grants.

Adopt a “Resolution of Local Support” to receive grant funds from the Caltrans Sustainable Transportation Planning Grant that indicates the City will:

- (a) Follow all grant program requirements.
- (b) Authorize the City Manager or designee to negotiate and execute grant agreements and all documents necessary to effectuate the grant agreements with the Metropolitan Transportation Commission that are administered by the California Department of Transportation, in an amount not to exceed \$674,451 for reimbursement for the following two projects: (1) San José Decision Support System, in an amount not to exceed \$265,000, and (2) North San José Multimodal Transportation Improvement Plan, in an amount not to exceed \$409,451. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Transportation)

Action: **Resolution No. 80650** was adopted. (8-0-3. Absent: Jimenez, Cohen, Foley.)

2.9 22-1221

Retroactive Purchase of Raffle Prizes.

As recommended by the Rules and Open Government Committee on August 3, 2022, retroactively approve the purchase of AirPods for the National Night Out’s raffle giveaway. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative activities resulting in no changes to the physical environment. (Carrasco) [Rules Committee referral 8/3/2022 - Item B.13]

Action: The retroactive purchase of raffle prizes was approved. (8-0-3. Absent: Jimenez, Cohen, Foley.)

2.10 22-1228

Approval of Canoas Garden Dumpster Day Event Sponsored by 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 August 3, 2022:

- (a) Approve the Canoas Garden Dumpster Day Event scheduled on August 20, 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. (Foley) [Rules Committee referral 8/3/2022 - Item B.5]

Action: The City Council Sponsored Special Event was approved. (8-0-3. Absent: Jimenez, Cohen, Foley.)

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 22-1177 Agreement with Concern: Assistance Program and Critical Incident Response Program.

Adopt a resolution authorizing the City Manager to negotiate and execute an agreement between the City and Concern: Employee Assistance Program for an Employee Assistance Program and Critical Incident Response Program for a four-year term for the period of January 1, 2023, through December 31, 2026, with an option to extend an additional two years, for a total cost not to exceed \$3,481,561, 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. (Human Resources)

Director of Human Resources and Employee Relations, Jennifer Schembri offered the presentation and responded to questions.

Public Comment: Paul Soto offered public testimony regarding the item.

Councilmember Pam Foley addressed her concerns with the counseling services offered to retirees regarding mental health issues and PTSD.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Dev Davis, and carried unanimously, **Resolution No. 80651** was adopted. (11-0.)

3.4 22-1178 Actions Related to the 9739-Payne Avenue Park Project.

Report on bids and award of contract for the 9739 - Payne Avenue Park to the low bidder, Azul Works, Inc. for the base bid in the amount of \$3,904,774 and approve a five percent contingency in the amount of \$195,239. CEQA: Categorically Exempt, File No. ER19-082, CEQA Guidelines Section 15332, In-Fill Development Projects. Council District 1. (Public Works/Parks, Recreation and Neighborhood Services)

Director of Public Works, Matt Cano and Director, Parks, Recreation, & Neighborhood Services, Jon Cicirelli offered the presentation and responded to questions.

Public Comment: Paul Soto offered public testimony regarding the item.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Maya Esparza, and carried unanimously, the actions related to the 9739-Payne Avenue Park Project were accepted. (11-0.)

4. PUBLIC SAFETY SERVICES

- 4.1 22-1179 Independent Police Auditor 2021 Year End Report. - DEFERRED**
Accept the 2021 Independent Police Auditor Year End Report.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Independent Police Auditor)
[Deferred from 6/28/2022 - Item 4.2 (22-1047)]

DEFERRED TO 08/30/2022 PER ADMINISTRATION.

- 4.2 22-1180 San José Police Department Internal Affairs Unit - 2021 Department Initiated Investigations Report.**
Accept the San José Police Department's Internal Affairs Unit report on Department Initiated Investigations for calendar year 2021. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Police) [Deferred from 6/28/2022 - Item 4.3 (22-1048)]

DEFERRED TO 08/30/2022 PER ADMINISTRATION.

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 22-1265 Community Stabilization and Opportunity Pathways Fund Commission.**
Approve an ordinance amending Chapter 2.08 of Title 2 of the San José Municipal Code to: (a) Amend Section 2.08.080 authorizing the Community Stabilization and Opportunity Pathways Fund Commission to establish its own procedural rules and regulations; and (b) Add a new Part 50 establishing the Community Stabilization and Opportunity Pathways Fund Commission. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Economic Development and Cultural Affairs) [Deferred from 8/9/2022 - Item 8.1 (22-1137)]

Assistant Director of Economic Development, Director of Real Estate, Nanci Klein; Assistant to the City Manager, Lori Severino; and Deputy City Manager, Rosalynn Hughey offered the presentation and responded to questions.

Public Comment: Mary Helen Dougherty, Paul Soto, Perry, Huascar Castro, Letty Alvarez (Sacred Heart), Alex Shoor (Catalyze SV) offered public testimony regarding the item.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Raul Peralez, and carried unanimously, the staff memorandum and supplemental memorandum were accepted. **Ordinance No. 30809** was passed for publication. Including acceptance of the memorandum from Councilmember Magdalena Carrasco dated August 08, 2022, recommending: Approving the ordinance as recommended by staff with one amendment (additions in bold): “3. The Fund Manager will coordinate with the Commission to prepare a Five-Year Strategic Plan for the Fund (“Strategic Plan”) and to update the Strategic Plan every five years. The Strategic Plan Updates will be reviewed by the Commission, then presented to the City Council for approval. (11-0.)

8.2 22-1266

Master Agreements for Community Engagement Consultants.

Adopt a resolution authorizing the City Manager or designee to:

- (a) Negotiate and execute up to nine master agreements for on-call community engagement consultants for a total maximum compensation of up to \$4,000,000. The initial terms of the master agreements will be from July 1, 2022 to June 30, 2025 with City options to extend for two additional years for total contract terms of up to five years;
- (b) Exercise options to extend the master agreements for up to an additional two years under the same terms and conditions; and
- (c) Negotiate and execute amendments to the master agreements to shift funding between the master agreements provided the total maximum compensation does not exceed \$4,000,000, subject to appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

(Economic Development and Cultural Affairs)

[Deferred from 6/28/2022 - Item 8.2 (22-1027); 8/9/2022 - Item 8.2 (22-1140)]

Assistant Director of Economic Development, Director of Real Estate, Nanci Klein; Assistant to the City Manager, Lori Severino; and Deputy City Manager, Rosalynn Hughey offered the presentation and responded to questions.

Public Comment: Karla (Local Color), Paul Soto, Rosia M. (Catalyze SV), Claire Kennedy, and Giovanni Medina offered public testimony regarding the item.

Assistant to the City Manager, Lee Wilcox stated the item would come back to the Council in October.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember David Cohen, and carried unanimously, **Resolution No. 80652** was adopted. (11-0.)

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

• Open Forum

1. Chris Bang addressed the safety concerns of bicycle lanes on Branham Lane.
2. Perry spoke to grant writers for high school, community college, and students in general that can benefit from the consultants.
3. Paul Soto stated his opinion that the Land Use Items discriminate people of color, spoke to systemic racism, his asset to the community, and the removal of Thomas Fallon Equestrian Monument.
4. Blair Beekman spoke to community safety, 5G issues, the digital divide, and the importance of having an open democracy.
5. Amy addressed her concerns and requested an update of a specific EIH site/project.
6. Giovanni Medina spoke to gun safety, how it effects responsible gun owners, and constitutional rights.

• Adjournment

The Council of the City of San José adjourned at 3:55 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,



Yasmin Johnson
Deputy City Clerk, City of San José

Approved at Council on: 3/26/24

of Actions: 5

Attest By:



Toni J. Taber, CMC
City Clerk, City of San José

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 16, 2022

The Council of the City of San José convened into Closed Session at 9:32 a.m.
The meeting was held in Council Chambers Conference Room, W133.

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

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: Dominguez, Jessica et al., v City of San Jose et al.,
Name(s) of Parties(s) JESSICA DOMINGUEZ
Involved: INDIVIDUALLY AND JESSICA DOMINGUEZ AS GUARDIAN AD LITEM FOR JAD (1), JAD (2) AND JAD (3) v
CITY OF SAN JOSE, SAN JOSE POLICE DEPARTMENT, MICHAEL PINA, AND DOE POLICE OFFICERS 2 through 5
Court: United States District Court Northern District of California San Jose Division
Case No.: 5:18-cv-04826 BLF
Amount of Money or Damages according to proof.
Other Relief Sought:

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

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or San José Police Officers' Association
Name and Title (SJPOA)
of
Unrepresented
Employees:
Nature of wages/salaries, hours, working conditions, etc.
negotiations:

Name of Existing Contract or MOA:	Memorandum of Agreement — City of San José and San José Police's Association
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

C. PUBLIC EMPLOYMENT/PUBLIC EMPLOYEE APPOINTMENT PURSUANT TO GOVERNMENT CODE SECTION 54957:

Department or Agency:	City Auditor
Title:	City Auditor
Name:	Joe Rois

By unanimous consent, Council recessed from the Closed Session at 11:18 a.m.; to reconvene in Regular Open Session at 1:32 p.m. in Council Chambers.