



City Council Meeting Minutes

Tuesday, February 1, 2022

Virtual Meeting - <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, and 80343, Councilmembers will be teleconferencing from remote locations.

- **Call to Order and Roll Call**

9:30 a.m.- Closed Session. 22-081: *See pages 10-15 for Closed Session Minutes.*

Councilmembers Absent: Arenas.

1:30 p.m.- Regular Session.

Councilmembers Present: All present virtually.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 2)**

Founder and Executive Director of Saved by Nature, Richard Tejeda offered the invocation.

- **Orders of the Day**

Public Comment: Paul Soto and Blair Beekman spoke to the Orders of the Day.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Pam Foley, and carried unanimously, the Orders of the Day were approved, with Item 8.1 deferred. (11-0.)

- **Closed Session Report**

None provided.

1. CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing Heart Month. (Davis)

Councilmember Dev Davis introduced Dionisio Palencia from the American Heart Association and spoke on the importance of this Proclamation. A commendation was issued to Senior Community Impact Director, Health Care Systems, from the American Heart Association, Dionisio Palencia.

1.2 Presentation of a proclamation recognizing Lunar New Year. (Arenas)

Councilmember Sylvia Arenas introduced representatives from the Vietnamese Cultural Tet Committee and spoke on the importance of this Proclamation. A commendation was issued to the Vietnamese Cultural Tet Committee on behalf of Lillian H. Dang, who sits on the committee organizing the Lunar New Year festival in San José.

2. CONSENT CALENDAR

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

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Maya Esparza, and carried unanimously, the Consent Calendar was approved as a whole, and the below listed actions were taken as indicated. (11-0.)

2.1 22-105 Approval of City Council Minutes.

(a) City Council Regular Meeting Minutes of February 9, 2021. (b) City Council Special Meeting - City Roadmap from COVID to Recovery Minutes of February 25, 2021. (c) City Council Regular Meeting Minutes of March 2, 2021. (d) City Council Study Session - Pension Obligation Financing Options of April 23, 2021. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, and Annual Reports, and Informational Memos that involve no approvals of any City action.

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

2.2 Final Adoption of Ordinances.

None provided.

2.3 Approval of Council Committee Minutes.

None provided.

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 22-082 **Master Consultant Agreement with Woodard and Curran, Inc. to Provide Engineering Analysis, Design, Construction Management, and Environmental Consulting Services for Various Storm and Sanitary Sewer System Improvement Projects.**

Approve the First Amendment to the Master Consultant Agreement with Woodard and Curran, Inc. for engineering analysis, design, construction management and environmental consulting services for various storm and sanitary sewer system improvement projects, extending the term of the agreement from January 31, 2022 to January 31, 2025, with no increase to the maximum compensation. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: The First Amendment to the Master Consultant Agreement with Woodard and Curran, Inc. was approved. (11-0.)

2.8 22-083 **Master Consultant Agreement with HDR Engineering, Inc. to Provide Engineering Analysis, Design, Construction Management, and Environmental Consulting Services for Various Storm and Sanitary Sewer System Improvement Projects.**

Approve the First Amendment to the Master Consultant Agreement with HDR Engineering, Inc. for engineering analysis, design, construction management and environmental consulting services for various storm and sanitary sewer system improvement projects, extending the term of the agreement from January 31, 2022 to January 31, 2025, with no increase to the maximum compensation. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: The First Amendment to the Master Consultant Agreement with HDR Engineering, Inc. was approved. (11-0.)

2.9 22-084 **Master Consultant Agreement with GHD, Inc. to Provide Environmental Consultant Services for Various Types of City Capital Improvement Projects, such as Storm and Sanitary Sewer System. Landscape Architecture, City Facility, and Roadway Improvement Projects.**

Approve the First Amendment to the Master Consultant Agreement with GHD, Inc. for environmental consulting services for various types of City capital improvement projects, storm and sanitary system, landscape architecture, City facility, and roadway improvement projects, extending the term of the agreement from January 31, 2022 to January 31, 2025, with no increase to the maximum compensation. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action; and File No. PP17-003,

Agreements/ Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: The First Amendment to the Master Consultant Agreement with GHD, Inc. was approved. (11-0.)

2.10 22-101

Retroactive Approval of Job Fair 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 January 19, 2022: (a) Retroactively approve the Job Fair scheduled on January 15, 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 1/19/2022 - Item G.1.a]

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

3. STRATEGIC SUPPORT

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

City Manager, Jennifer Maguire recognized Products-Projects Manager, Information Technology Department, Sudheer Vangati for his Wireless Connectivity Hero Award presented by Cambium Networks. The City Manager also collectively thanked the supporting staff of the Information Technology Department for their collaborative work on high speed implementations of Wi-Fi in Downtown San José.

3.2 Labor Negotiations Update.

None provided.

3.3 22-085

Conditional Vacation of a 10-foot wide Public Utility Easement at 1420 University Avenue.

Conduct a public hearing and adopt a resolution: (a) Approving the report of the Director of Public Works setting forth the facts justifying the conditional vacation of a 10-foot-wide public utility easement at 1420 University Avenue (“Subject Property”); (b) Conditionally vacating the Subject Property, which contains in-place utility facilities that are in use; and (c) After the satisfaction of the conditions to the vacation, directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara. CEQA: Categorically Exempt, File No. ER21-308, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations. Council District 6. (Public Works)

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Chappie Jones, and carried unanimously, **Resolution No. 80361** was adopted. (11-0.)

3.4 22-129

Definition of Racial Equity.

Adopt a resolution accepting the proposed definition of racial equity: "Both a process and an outcome, racial equity is designed to center anti-racism, eliminate systemic racial inequities, and rooted in the acknowledgement of the City of San Jose's historical and existing practices that have led to discrimination and injustices to Black, Indigenous, Latino/a/x, Asian, and Pacific Islander communities. The racial equity process is an explicit, intentional, and continual practice of prioritizing psychologically safe spaces and a sense of belonging for racial groups that have been most negatively impacted in policies and practices. It is action that prioritizes liberation and measurable change, and centers lived experiences of all impacted racial groups. As an outcome, racial equity is achieved when race can no longer be used to predict life outcomes, and everyone can prosper and thrive." CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Manager) [Deferred from 1/25/2022 - Item 3.5 (22-037)]

Director, Office of Racial Equity, Zulma Maciel; Diversity, Equity, and Inclusion Consultant, Office of Racial Equity, Dr. Andre Lockett; and Deputy City Manager, Angel Rios offered the presentation and responded to questions.

Public Comment: Paul Soto, Sandra, Blair Beekman, Jeff Cristina, and Brian offered public testimony regarding the item.

Mayor Sam Liccardo expressed his concerns with Racial Equity being labeled as a definition, and stated that resources and energy should be focused on the work and not the words. He requested that staff look into holding a Joint Meeting for the Rules and Open Government Committee and Committee as a Whole (ROGC) Study Session for further discussion.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sylvia Arenas, and carried unanimously, **Resolution No. 80362** was adopted. (11-0.)

3.5 22-134

Boards and Commissions Appointment.

Approve the following Boards and Commissions appointment: (a) Civil Service Commission: (1) Interview applicant and consider appointment to fill one (1) Member-at-Large seat with term ending November 30, 2023. (2) If any vacancies remain, direct the City Clerk to continue recruitment efforts and bring forward additional applicants for consideration. 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 1/26/2022 - Item A.1.a]

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

Action: Upon motion by Councilmember Matt Mahan, seconded by Councilmember Pam Foley, and carried unanimously, The Boards and Commissions appointments were approved. (11-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 22-087

Addendum to the Amendment to the Norman Y. Mineta San José International Airport Master Plan Environmental Impact Report for the Outdoor Advertising Digital Billboards.

(a) Adopt a resolution approving the Addendum to the Amendment to the Norman Y. Mineta San José International Airport Master Plan Environmental Impact Report (EIR) (SCH# 2018102020), certified by the San José City Council on April 18, 2020 (Resolution No. 79497), in accordance with the California Environmental Quality Act. (b) Conduct a Public Hearing regarding the Project Plan for two Outdoor Advertising Digital Billboards under the “Norman Y. Mineta San José International Airport City of San José Advertising Concession Agreement by and between the City of San José and Clear Channel Outdoors Inc. with estimated annual revenue to the Airport of \$490,000 and reaffirm the project plan. CEQA: US 101 Electronic Signs Addendum, File No. ER21-015. Council District 3. (Airport) [Deferred from 11/30/2021 - Item 5.2 (21-2486)]

DEFERRED TO 2/15/2022 PER ADMINISTRATION.

5.2 22-089

Charcot Avenue Extension.

As recommended by the Rules and Open Government Committee on January 5, 2022: (a) Direct the City Manager to no longer move forward with the construction of the Charcot Avenue Extension project and take any steps necessary to cease progress on the project. (b) Direct the City Manager to divert the remaining \$3.9 million in budgeted CIP funds initially reserved for the Charcot Avenue Extension project to either the Mabury/Berryessa/101 project or the Zanker Road/101 project. CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Mayor, Cohen, Peralez, Foley) [Rules Committee referral 1/5/2022 - Item G.2]

Public Comment: Stephanie Hill (Orchard School District President) Paul Soto, Lynn D. Limquenco (Orchard School District Member), Susan Butler-Graham (Mothers Out Front member), Erin McCarthy (Orchard School District Teacher), Dick Scott, Robin Roemer, Monica Galindo (Orchard School District PTA President), Monica Mallon, and Hoai-An Troung (Mothers Out Front) offered public testimony regarding the item.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Pam Foley, and carried unanimously, the direction to no longer move forward with the construction of the Charcot Avenue Extension project was approved. (11-0.)

5.3 22-131

Community Forest Management Plan.

Adopt a resolution approving the Community Forest Management Plan. 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) [Deferred from 12/14/2021 - Item 5.1 (21-2567), 1/25/2022 - Item 5.2 (22-041)]

DEFERRED TO 2/8/2022 PER ADMINISTRATION.

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 22-132 Approval of a Downtown High-Rise Residential Tax and Fee Waiver for the Carlyle at 51 Notre Dame Street.**
Conduct a public hearing to approve an economic development tax and fee waiver in connection with a reduction in construction taxes and the Affordable Housing Impact Fee for a downtown residential high-rise at 51 Notre Dame Street in the amount of \$4,390,599 pursuant to California Government Code Section 53083 and Open Government Resolution No. 77135 Section 2.3.2.6.C. CEQA: Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and addenda thereto, Planning File No. SP20-020. Council District 3. (Economic Development and Cultural Affairs/Housing) [Deferred from 1/25/2022 - Item 8.1 (22-042)]

DEFERRED PER ADMINISTRATION.

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

• Notice of City Engineer's Pending Decision on Final Maps

FOR APPROVAL:

Tract: 10496

Location: East side of South 22nd Street approximately 250 feet southerly of East Santa Clara Street

District: 3

Lots/Units: 1/6

Type: SFA

Proposed Decision: Approved

Developer: 1153 San Rafael, LLC

• Open Forum

1. Kirk Vartan addressed his concerns with the Gun Harm Reduction Ordinance passed at last week's Council Meeting.
2. Paul Soto thanked Councilmember Dev Davis for her humility at today's meeting and thanked staff for the conversations and facilitation of today's meeting.
3. Blair Beekman spoke to the Gun Harm Reduction Ordinance and thanked the staff for the work they do in regard to natural disaster preparedness.
4. Jill Borders spoke to the concept of "racial healing".

• Adjournment

The Council of the City of San José adjourned at 4:32 p.m.

Minutes Recorded, Prepared, and Respectfully Submitted by,



Yasmin Johnson
Deputy City Clerk, City of San José

Approved at Council on:

of Actions: 6

Attest By:



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

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 1, 2022

The Council of the City of San José convened into Closed Session at 9:30 a.m.
The meeting was held virtually, Councilmembers teleconferenced from remote locations.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Esparza, Foley
Jimenez, Khamis, Peralez, Jones, 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: J. Welch
Name(s) of Parties(s)
Court: Workers Compensation Appeals Court
Case No: ADJ13490289
Amount of Money or Benefits
Other Relief Sought:

2. Case Name: City of San Jose v. All Persons Interested in
the Matter of the Issuance and sale of Pension
Obligation Bonds, etc.
Name(s) of Parties(s) CITY OF SAN JOSE, ALL PERSONS
INTERESTED IN THE MATTER OF THE
ISSUANCE AND SALE OF PENSION
OBLIGATION BONDS FOR THE PURPOSE
OF REFUNDING CERTAIN PENSION
OBLIGATIONS OWED BY THE CITY OF
SAN JOSE TO AND ALL PROCEEDINGS
LEADING THERETO, INCLUDING THE
ADOPTION OF A RESOLUTION THAT
AUTHORIZES ISSUANCE OF PENSION
OBLIGATION BONDS, THE EXECUTION
AND DELIVERY OF A TRUST
AGREEMENT AND BOND PURCHASE
AGREEMENT, AND THE SALE OF SUCH
BONDS
Court: Superior Court, County of Santa Clara
Case No: 21CV391517
Amount of Money or Validation of legislative action authorizing
Other Relief Sought: issuance of bonds for the purpose of
refinancing City pension obligations

3. Case Name: National Association for Gun Rights, Inc., et al. v. City of San Jose, et al.,
Name(s) of Parties(s) National Association for Gun Rights, Inc., Mark Sikes, City of San Jose, Jennifer Maguire, in her official capacity as City Manager of the City of San Jose, and the City of San Jose City Council
Court: U.S. Dist. Court for the Northern District of California
Case No: 5:22-cv-00501-VKD
Amount of Money or Other Relief Sought: Declaratory and Injunctive Remedy

4. Case Name: Arata , et al. v. Sara Cody, et al.,
Name(s) of Parties(s) Barry Arata, Jim Schulte, Lucia Rios, Mike Miranda, and American Frontline Workers 4 Freedom, a California 501(c)(3) non-profit corporation, Sara Cody, in her official capacity as the Health Officer of Santa Clara County, County of Santa Clara, City of San Jose and Does 1 through 10, inclusive
Court: Superior Court for Santa Clara County
Case No: 22CV393700
Amount of Money or Other Relief Sought: Declaratory and Injunctive Remedy

5. Case Name: South Bay Piping Industry Labor Management Trust v. City of San Jose
Name(s) of Parties(s) South Bay Piping Industry Labor Management Trust, City of San Jose and Does 1 through 50
Court: Superior Court for Santa Clara County
Case No: 21CV388550
Amount of Money or Other Relief Sought: Writ of Mandate

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

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

Number of matter(s) to be discussed: 1

C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and 54956.9(e)(3) of the Government Code:

1. Claimants(s): In re Claim of International Federation of Professional & Technical Engineers, Local 21

City Department: HR/OER

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

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

1. Organization or Name and Title of Unrepresented Employees: **Association of 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: Nature of negotiations:	City Association of Management Personnel Agreement (CAMP) wages/salaries, hours, working conditions, etc.
	Name of Existing Contract or MOA:	Benefit & Compensation Summary — City of San José and City Association of Management Personnel Agreement
	How to Obtain a copy of Existing Contract or MOA:	Web: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
5.	Organization or Name and Title of Unrepresented Employees: Nature of negotiations:	International Association of Firefighters (IAFF), Local 230 (IAFF#230) 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: http://www.sanjoseca.gov/index.aspx?NID=508 Telephone – Employee Relations: (408) 535-8150
6.	Organization or Name and Title of Unrepresented Employees: Nature of negotiations:	International Brotherhood of Electrical Workers, Local 332 (IBEW) 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:	<p>Web: http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p>
7.	<p>Organization or Name and Title of Unrepresented Employees:</p> <p>Nature of negotiations:</p>	<p>Municipal Employees’ Federation, AFSCME Local 101, AFL-CIO (MEF)</p> <p>wages/salaries, hours, working conditions, etc.</p>
	<p>Name of Existing Contract or MOA:</p> <p>How to Obtain a copy of Existing Contract or MOA:</p>	<p>Memorandum of Agreement — City of San José and Municipal Employees’ Federation, AFSCME Local 101, AFL-CIO</p> <p>Web: http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p>
8.	<p>Organization or Name and Title of Unrepresented Employees:</p> <p>Nature of negotiations:</p>	<p>International Union of Operating Engineers, Local No. 3 (OE#3)</p> <p>wages/salaries, hours, working conditions, etc.</p>
	<p>Name of Existing Contract or MOA:</p> <p>How to Obtain a copy of Existing Contract or MOA:</p>	<p>Memorandum of Agreement Between City of San José and International Union of Operating Engineers, Local No. 3 (OE#3)</p> <p>Web: http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p>
9.	<p>Organization or Name and Title of Unrepresented Employees:</p> <p>Nature of negotiations:</p>	<p>Peace Officer Park Ranger Association (POPRA)</p> <p>wages/salaries, hours, working conditions, etc.</p>
	<p>Name of Existing Contract or MOA:</p> <p>How to Obtain a copy of Existing Contract or MOA:</p>	<p>Memorandum of Agreement — City of San José and Peace Officer Park Ranger Association</p> <p>Web: http://www.sanjoseca.gov/index.aspx?NID=508</p>

