



City Council Meeting Minutes

**Tuesday, June 18, 2024
11:00 AM**

MATT MAHAN, MAYOR
ROSEMARY KAMEI, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
OMAR TORRES, DISTRICT 3
DAVID COHEN, DISTRICT 4
PETER ORTIZ, DISTRICT 5
DEV DAVIS, DISTRICT 6
BIEN DOAN, DISTRICT 7
DOMINGO CANDELAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
ARJUN BATRA, DISTRICT 10

8.2 Downtown Residential High-Rise Incentive Program Extension.

(a) Adopt a resolution authorizing an extension of the Downtown Residential High-Rise Program applicable to projects located in the Downtown Planned Growth Area as described in the Envision San José 2040 General Plan, that are ten or more floors or stories in height (not including any nonresidential uses) where the highest occupied floor has a floor level elevation that is at least 150 feet above street level, and reducing the in lieu fees due for those projects under the Inclusionary Housing Ordinance to the amount of \$0 for up to 4,078 units that obtain a building permit by December 31, 2026 and pass first inspection within 12 months of obtaining a building permit.

(b) Approve an ordinance waiving the Building and Structure Construction Tax and the Commercial-Residential-Mobile home Park Building Tax for up to 1,000 units in qualified residential high-rise projects located within the Downtown Planned Growth Area that obtain a building permit by December 31, 2025 and pass first inspection within 12 months of obtain a building permit and providing a 50% reduction of the Building and Structure Construction Tax and the Commercial-Residential-Mobile home Park Building Tax for up to 3,078 units in qualified residential high-rise projects that obtain a building permit between January 1, 2026 and December 31, 2026 and pass first inspection within 12 months of obtaining a building permit.

(c) Adopt a resolution providing a 50% reduction in the Parkland In-Lieu Fee for up to 1,000 units in qualified residential high-rise projects located within the Downtown Planned Growth Area that obtain building permits by December 31, 2025 and pass first inspection within 12 months of obtaining a building permit and providing a 30% reduction in the Parkland In-Lieu Fee for up to 3,078 units in qualified residential high-rise projects that obtain building permits between January 1, 2026 and December 31, 2026.

(d) Direct staff to analyze options and study potential impacts of a temporary multifamily residential fee reduction program to support housing production outside of Downtown and return to City Council by December 2024 with the analysis and recommendations for Council consideration, including public financing mechanisms for public infrastructure.

(e) Adopt a resolution amending the 2024-2025 Schedule of Fees and Charges (Resolution No. 72737, as amended) to revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High-Rise Rental Developments, pursuant to Resolution No. 80766 as amended by the resolution proposed under part (a) of the staff memorandum.

(f) Approve an uncodified ordinance amending the 2024-2025 Schedule of Fees and Charges to revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High-Rise Rental Developments, as specified in the resolution.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. Council District 3. (Economic Development and Cultural Affairs/Parks, Recreation, and Neighborhood Services/Planning, Building, and Code Enforcement/Housing/Transportation)

[Deferred from 6/11/2024 – Item 8.1 (24-120632)]

[Rules Committee referral 6/12/2024 - Item A.1.c]

Blage Zelalich, Deputy Director, Office of Economic Development and Cultural Affairs, Jon Cicirelli, Director, Parks, Recreation, & Neighborhood Services; and Nanci Klein, Director, Economic Development and Cultural Affairs Department offered the presentation and responded to questions.

Public Comment: Larry Ames (SJ Parks and Rec. Commission), Michael Bertram (River Oaks Neighborhood Association), Bill Rankin, Alex Stettinski (SJDA), Jean Dresden, Morgan Cheek (Hanover), Josh Burroughs, Paul Ring, Doug Bloch (Silicon Valley MEPS), Danny Mangan (Local 483), Dominic Torrealano (SMW 104), Will Smith (IBEW 332), Mathew Reed, Forrest Peterson, and Blair Beekman provided public testimony regarding the item.

Motion: Councilmember Torres moved approval of the memorandum authored by Councilmember Davis, dated June 18, 2024. Councilmember Doan seconded the motion.

Vice Mayor Kamei requested information regarding prevailing wages and its applicability. City Attorney, Nora Frimann responded.

Councilmember Candelas expressed his concerns raised regarding fee waivers being considered a payment on public funds and thus triggering public works requirements, and stakeholder engagements. City Attorney, Nora Frimann responded.

Friendly Amendment: Councilmember Candelas requested Staff direction to engage with the Cities partners in the building trades and labor, and report back to Council at the first meeting in September. The friendly amendment was accepted by the maker of the motion and seconder.

Friendly Amendment: Councilmember Foley requested to include the following timeline: The first segment of construction or incentive would be for a five year period, and the second level of incentive would be for a two year period, for a total of seven years. The friendly amendment was accepted by the maker of the motion and seconder.

Mayor Mahan clarified the friendly amendment.

Action: On a call to question, the motion carried unanimously, (a) **Resolution No. RES2024-275**, (c) **Resolution No. RES2024-276**, and (e) **Resolution No. RES2024-277** were adopted, regarding the Downtown Residential High-Rise Incentive Program Extension; and (b) **Ordinance No. 31106** and (f) Uncodified **Ordinance No. 31107** were passed for publication. *Including Staff direction to engage with the Cities partners in the building trades and labor as part of the process to create genuine engagement and participation, with Staff to report back at the first meeting in September. Also including the following timeline: The first segment of construction or incentive would be for a five year period, and the second level of incentive would be for a two year period, for a total of seven years.*

Also including acceptance of the memorandum authored by Councilmember Davis, dated June 18, 2024 recommending the following:

- 1.) Approve the 06/14/2024 memorandum from the Mayor, Vice Mayor Kamei, and Councilmembers Torres, Davis, and Candelas.
- 2.) Approve the 06/14/2024 memorandum from Councilmembers Cohen and Jimenez, amending recommendations 4b and 4c to the following:
 - a.) 4b: Return to the City Council with a preliminary assessment of high-impact

modifications to the City’s regulatory framework that increase the financial feasibility of residential development “within Envision San Jose General Plan Growth Areas.”

- b.) 4c: “Review and propose a transparent method to calculate park impact fees and provide a report to the City Council.”
- 3.) Approve the 06/17/2024 supplemental memorandum from the City Attorney.

Also including acceptance of the joint memorandum co-authored by Mayor Mahan, Vice Mayor Kamei, Councilmember Torres, Councilmember Davis, and Councilmember Candelas, dated June 14, 2024 recommending the following:

Accept staff’s recommendation with the following modifications:

- 1.) Remove fixed timelines from the program’s phasing and extend the Downtown High-Rise Fee Waiver program to the next 10,000 units that receive building permits and pass first inspection within 12 months of obtaining a building permit within the following framework (as outlined in Attachment A below):
 - a.) Phase 1: Provide a 100% reduction of construction taxes and a 50% reduction in parks fees for the first 2,000 units.
 - b.) Phase 2: Provide a 50% reduction of construction taxes and a 30% reduction in parks fees for the next 2,000 units.
 - c.) Phase 3: Provide a 50% reduction of construction taxes for the final 6,000 units.
 - d.) Study the potential inclusion of a local hire plan with a good faith effort of hiring 25% local workers within the Greater Bay Area for future phases of the Downtown High-Rise Fee Waiver Program and return to CED with findings.
- 2.) Continue to identify and implement additional administrative and environmental measures to streamline the approval and construction processes for high-rise residential projects downtown

Also including acceptance of the joint memorandum, *with amendments to Items 4b and 4c*, co-authored by Councilmember Cohen and Councilmember Jimenez, dated June 18, 2024 recommending the following :

In lieu of recommendation (d), take the following actions:

- 1.) Direct the City Manager to explore changes to the Parkland In-Lieu Fees for Multiple Listing Service District 7B (North San Jose), as listed in Attachment A of Resolution #78733, and return to Council no later than Q1 2025 with potential incentives for multi-family development for Council consideration.
- 2.) Direct the City Manager to explore the following and return to the City Council with recommendations:
 - a.) Modifications to the Private Recreation Credits available to projects subject to the PIO/PDO in North San José;
 - b.) Additional credits for the provision of affordable housing (inclusionary and stand-alone) towards the parkland obligation of projects subject to the PIO/PDO in North San José;
 - c.) Reduction or elimination of parkland obligations for 100% affordable housing projects in North San José; and
 - d.) Additional credits for the provision of alternatives to the dedication of parkland, such as privately-owned publicly accessible open space, for projects subject to the PIO/PDO in North San José.
- 3.) Direct the City Manager to collaborate with the Council District 4 Office and take the following actions: a. Consider input from stakeholders, including the development community, regarding regulations that reduce the financial feasibility of development in North San José. b. Return to the City Council with recommendations to improve near-term financial feasibility of development in North San José.

- 4.) Direct the City Manager to take the following actions:
- a.) Complete recommendation 5 of the green-lighted memo, dated October 25, 2023, from Councilmembers Jimenez and Davis to the Rules and Open Government Committee, which reads: “Assess the cost implications of the City’s regulatory framework (e.g. Building Code, Design Guidelines, etc.) and incorporate findings into future studies of the cost of development.”
 - b.) ~~Return to the City Council with a preliminary assessment of high-impact modifications to the City’s regulatory framework that increase the financial feasibility of residential development Citywide.~~ *Return to the City Council with a preliminary assessment of high-impact modifications to the City’s regulatory framework that increase the financial feasibility of residential development “within Envision San Jose General Plan Growth Areas.*
 - c.) ~~Reactivate the Park Fee Study Task Force, which includes Council-appointed representatives from each Council District, to review and propose a transparent method to calculate park impact fees, and provide a report to the City Council.~~ *Review and propose a transparent method to calculate park impact fees and provide a report to the City Council.*

Also including acceptance of the supplemental memorandum authored by Nora Frimann, City Attorney, dated, June 17, 2024 recommending the following:

This Supplemental Memorandum is intended to explain the two additional recommendations (e) and (f), listed below, added by the City Attorney’s Office and approved by the Rules Committee on June 12, 2024.

(e) Adopt a resolution amending the 2024-2025 Schedule of Fees and Charges (Resolution No. 72737, as amended) to revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High-Rise Rental Developments, pursuant to Resolution No. 80766 as amended by the resolution proposed under part (a) of the staff memorandum.

(f) Approve an uncodified ordinance amending the 2024-2025 Schedule of Fees and Charges to revise the Rental Inclusionary In-Lieu Fee for Qualifying Downtown High-Rise Rental Developments, as specified in the resolution.

(9-0-2; Absent: Jimenez, Davis)