



City Council Meeting Amended Agenda

Tuesday, November 2, 2021

1:30 PM

**Hybrid Meeting - Council Chambers and Virtually -
<https://sanjoseca.zoom.us/j/93052835954>**

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



The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support** - The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.
- **Transportation & Aviation Services** - A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Community & Economic Development** - Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- o When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.

- o Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- o To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <https://www.sanjoselegistar.com/Calendar.aspx>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov.

American Disability Act: To request an alternative format agenda under the Americans with Disabilities Act for City-sponsored meetings, events or printer materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

Accommodations: Any member of the public who needs accommodations should email the ADA Coordinator at ADA@sanjoseca.gov or by calling (408) 535-8430. The ADA Coordinator will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

On occasion the City Council may consider agenda items out of order.

*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution No. 79485 and Resolution No. 80237, Councilmembers may be teleconferencing from remote locations.

How to observe the Meeting (no public comment):

- 1) Cable Channel 26,
- 2) <https://www.sanjoseca.gov/news-stories/watch-a-meeting>, or
- 3) <https://www.youtube.com/CityofSanJoseCalifornia>

How to submit written Public Comment before the City Council Meeting:

- 1) Use the eComment tab located on the City Council Agenda page. eComments are also directly sent to the legislate application used by City Council and staff.
- 2) By email to city.clerk@sanjoseca.gov by 10:00 a.m. the day of the meeting. Those emails will be attached to the Council Item under “Letters from the Public.” Please identify the Agenda Item Number in the subject line of your email.

How to submit written Public Comment during the City Council Meeting:

- 1) Email during the meeting to councilmeeting@sanjoseca.gov, identifying the Agenda Item Number in the email subject line. Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

How to provide spoken Public Comment during the City Council Meeting:

- 1) By Phone: (888) 475 4499. Webinar ID is 930 5283 5954. Click *9 to raise a hand to speak. Click *6 to unmute when called.
Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)
- 2) Online at: <https://sanjoseca.zoom.us/j/93052835954>
 - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
 - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
 - c. When the Mayor calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
 - d. When called, please limit your remarks to the time limit allotted.

For Closed Captions, please visit the City’s YouTube channel:

<https://www.youtube.com/CityofSanJoseCalifornia>, or website livestream
<https://www.sanjoseca.gov/news-stories/watch-a-meeting>.

- **Call to Order and Roll Call**

9:30 a.m.- Closed Session

[21-2294](#)

Closed Session Agenda

1:30 p.m.- Regular Session

- Pledge of Allegiance
- Invocation (District 10)

Father Gerald "Jerry" T. Wade, Chancellor of Bellarmine College Preparatory.

- Orders of the Day

To be heard after Ceremonial Items

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

1.1 Presentation of a Proclamation declaring National Adoption Month. (Davis).

1.2 Presentation of a Proclamation recognizing Sikh American Awareness & Appreciation Month. (Arenas)

1.3 Presentation of a Commendation to Salvador (Chava) Bustamante for his lifelong dedication to East Side San Jose, through his services he has assisted many working families to achieve a better life through community empowerment, civic participation, and leadership development. (Carrasco)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

[21-2321](#) **Final Adoption of Ordinances.**

Recommendation: (a) Ordinance No. 30679 - An Ordinance of the City of San José Amending Section 11.04.040 Of Chapter 11.04 of Title 11 of the San José Municipal Code to Revise City Holidays.
[Passed for Publication on 10/19/2021 - Item 2.8 (b) (21-2229)]

2.3 Approval of Council Committee Minutes.

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [21-2314](#) Conditional Summary Vacation, Declaration of Surplus, and Sale of a Portion of North Almaden Boulevard.

Recommendation: (a) Adopt a resolution:

(1) Approving the report of the Director of Public Works setting forth the facts justifying the conditional summary vacation of an approximately 1,381 square foot portion of North Almaden Boulevard located northeast of the North Almaden Boulevard and East Santa Clara Street intersection (“Subject Property”);

(2) Conditionally vacating the Subject Property, which after the satisfaction of the condition, will be superseded by relocation;

(3) After satisfaction of the condition, directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara; and

(4) Declaring the Subject Property “exempt surplus land” to the needs of the City.

(b) Adopt a resolution authorizing the City Manager, or their designee, to negotiate and execute:

(1) Purchase and Sale Agreement with the adjacent property owners Kenneth S. Tersini and the Kenneth S. Tersini Living Trust for the sale of approximately 674 square feet of conditionally vacated City-owned “exempt surplus property” on a portion of Almaden Boulevard, between N. Almaden Boulevard and W. Santa Clara Street, in accordance with Cal Gov. §54221(f)(1)(B) and San José Municipal Code §4.20.070(A), in exchange for the conditionally vacated 674 square feet and Assessor’s Parcel Number 259-35-055 being voluntarily annexed to the Convention Center Facilities District;

(2) Purchase and Sale Agreement with adjacent property owner, which is the vested owners of the units of the Axis Condominium project, as tenants in common, which property is managed by Axis Homeowners Association, a California nonprofit mutual benefit corporation for the sale of approximately 707 square feet of conditionally vacated City-owned “exempt surplus property” on a portion of Almaden Boulevard, between N. Almaden Boulevard and W. Santa Clara Street, in accordance with to Cal Gov. §54221(f)(1)(B) and San José Municipal Code §4.20.070 in the amount of \$1; and

(3) All other documents necessary to complete the transactions.

CEQA: Supplemental Environmental Impact Report for the Almaden Corner Hotel Project, H18-038. Council District 3. (Economic Development and Cultural Affairs/Public Works)

[Deferred from 8/31/2021 - Item 2.8 (21-1886), 9/14/2021 - Item 2.10 (21-1978), 9/21/2021 - Item 2.12 (21-2045), 9/28/2021 - Item 2.9 (21-2096) and 10/19/2021 - Item 2.9 (21-2214)]

2.8 [21-2295](#) **Proposed Amendments to Chapter 9.10 of Title 9 of the San José Municipal Code (Solid Waste Management) and Administrative Citation Schedule of Fines.**

Recommendation: (a) Approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to implement the requirements of SB 1383, California's Short-Lived Climate Pollutant Reduction Strategy Regulations, and to more efficiently implement residential, commercial, and enforcement of solid waste programs.
(b) Adopt a resolution amending the Administrative Citation Schedule of Fines to reduce fines for the placement of solid waste containers outside of side or rear yard and add fines for SB 1383 enforcement as required by law.

CEQA: Not a project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Environmental Services)

2.9 [21-2315](#) **Grant Application for California Department of Parks and Recreation Proposition 68: General Per Capita Program and Santa Clara Valley Open Space Authority for Park Development Located at the Southeast Corner of Midfield Avenue and Havana Way.**

Recommendation: Adopt resolutions authorizing the City Manager to:
(a) Submit a grant application and, if awarded, negotiate and execute a grant agreement, amendments and related documents with the California Department of Parks and Recreation for the Proposition 68: General Per Capita Grant Program for an amount up to \$177,952, for park development at the southeast corner of Midfield Avenue and Havana Way; and
(b) Submit a grant application and, if awarded, negotiate and execute grant agreements with Santa Clara Valley Open Space Authority for an amount up to \$550,000, for park development at the southeast corner of Midfield Avenue and Havana Way.

CEQA: Categorically Exempt, File No. ER20-200, CEQA Guidelines Section 15332, Infill Development Projects. Council District 7. (Parks, Recreation and Neighborhood Services)

2.10 [21-2296](#) Amendment to Chapter 4.10 of the San José Municipal Code Related to the Debarment of Contractors. - DROP

Recommendation: (a) Approve an ordinance amending Chapter 4.10 of Title 4 of the San José Municipal Code to consolidate, streamline, update and clarify the manner in which the City will conduct contractor debarments.
(b) Adopt a resolution repealing Resolution No. 70592, which established procedures for administrative debarment hearings that have been incorporated into Chapter 4.10, as amended, and are therefore no longer needed.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Public Works/Finance)

[Deferred from 10/5/2021 - Item 2.10 (21-2133) and 10/19/2021 - Item 2.14 (21-2264)]

DROP

2.11 [21-2305](#) Approval of the World AIDS Day Tower and Rotunda Lighting Sponsored by Council District 3 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

Recommendation: As recommended by the Rules and Open Government Committee on October 20, 2021:

(a) Approve the World AIDS Day Tower and Rotunda Lighting scheduled from November 30 to December 6, 2021 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. (Perez)

[Rules Committee referral 10/20/2021 - Item G.1.b]

3. STRATEGIC SUPPORT

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

3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.

TO BE HEARD AT 9:30 A.M.

**3.3 [21-2297](#) COVID-19 Pandemic Response and Community and Economic Recovery
Budget Adjustments.**

Recommendation: (a) Accept the report on recommended adjustments to the City's COVID-19 pandemic response and community and economic recovery budget.
(b) Approve the position additions for various City Departments in support of pandemic response and recovery efforts as described in Attachment B to the staff memorandum.
(c) Adopt 2021-2022 Appropriation Ordinance and Funding Sources Resolution amendments in the American Rescue Plan Fund, the Emergency Reserve Fund, and the General Fund as described in Attachment C to the staff memorandum.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(City Manager)

3.4 [21-2320](#) Federal Immigration Reform.

Recommendation: As recommended by the Rules and Open Government Committee on October 20, 2021, adopt a resolution calling on Congress to preserve funding for Pro-Immigrant Policies, including a path to citizenship, in the federal budget resolution, and urging Congress and the President to pass a path to citizenship policy.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Esparza)
[Rules Committee referral 10/20/2021 - Item G.3]

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 [21-2298](#) Actions Related to Temporary Financial Relief and Amendments to Agreements for Aeronautical and Non-Aeronautical Tenants at the Norman Y. Mineta San José International Airport.

Recommendation: Adopt a resolution to:

(a) Authorize the City Manager or designee to negotiate and execute amendments to concessionaires, airlines, tenant leases, and permits at the Norman Y. Mineta San José International Airport to provide continued financial relief to the Airport's aeronautical and non-aeronautical tenants due to the ongoing impacts of the COVID-19 pandemic using Coronavirus Response and Relief Supplemental Appropriation Act and American Rescue Plan Act Grant Funds or other grants or Airport funds through December 31, 2023, as deemed necessary. Use of funds and delegated authority may include but is not limited to:

- (1) Amend Minimum Annual Guarantee Abatement language;
 - (2) Continued suspension of Minimum Annual Guarantee Rent, and charge only percentage rent;
 - (3) Modify the Pricing Policies;
 - (4) Offset invoices for tenants that are unable to pay rents and fees due to tenant operations that were suspended at SJC due to COVID;
 - (5) Deferral of fixed rents; and
 - (6) Adjust tenant improvement construction schedules.
- (b) Authorize the City Manager or designee to extend non-aeronautical tenant agreements by up to four years to offset revenue losses due to low enplanements, and increased labor and construction costs as a result of the COVID-19 pandemic.
- CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Airport)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

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**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- **Adjournment**

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting.
This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Council, Committee, Board or Commission.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.