



City Council Meeting Amended Agenda

Tuesday, April 10, 2018

SAM LICCARDO, MAYOR
CHAPPIE JONES, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
LAN DIEP, DISTRICT 4
MAGDALENA CARRASCO, VICE MAYOR, DISTRICT 5
DEV DAVIS, DISTRICT 6
TAM NGUYEN, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
DONALD ROCHA, DISTRICT 9
JOHNNY KHAMIS, 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.
- **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.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **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.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

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. 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 <http://www.sanjoseca.gov/index.aspx?NID=3549>. 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. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

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

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

- Call to Order and Roll Call

Closed Session, Call to Order in Council Chambers

Open Session, Labor Negotiations Update (See Item 3.2)

Adjourn to Closed Session in Council Chambers Conference Room, W133

See Separate Agenda

[18-511](#)

See separate agenda.

Attachments [Closed Session Agenda](#)

Regular Session, Council Chambers, City Hall

Public Hearings, Council Chambers, City Hall

- Invocation (District 4)

Pastor Andy Wood, Echo Church

- Pledge of Allegiance

- Orders of the Day

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

- Closed Session Report

1. CEREMONIAL ITEMS

1.1 Presentation of a proclamation recognizing the week of April 8 - 14, 2018 as "National Public Safety Telecommunicators Week" in the City of San José honoring the San José Police and Fire Public Safety Dispatchers for their vital contributions that help protect the people of our community. (Davis)

1.2 Presentation of a proclamation recognizing April 2018 as Sexual Assault Awareness Month in the City of San José. (Carrasco)

1.3 Presentation of a proclamation recognizing April as "Black April Remembrance Month" in the City of San José. (Nguyen)

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.

[18-473](#) **Approval of City Council Minutes.**

Recommendation: Regular Council Meeting Minutes of October 24, 2017.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

Attachments [Regular Council Meeting Minutes of the October 24, 2017](#)

2.2 Final Adoption of Ordinances.

[18-479](#) **Final Adoption of Ordinances.**

Recommendation: (a) ORD. NO. 30082 - An ordinance of the City of San José rezoning certain real property of approximately 0.30 gross acre situated at the northwest corner of South Baywood Avenue and Hemlock Avenue (375 and 383 South Baywood) from the CG Commercial General Zoning District to the CP Commercial Pedestrian Zoning District.
CEQA: Determination of Consistency with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), Supplemental EIR to the Envision San José 2040 General Plan EIR (Resolution No. 77571), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C18-001- Council District 6

(b) ORD. NO. 30083 - An ordinance of the City of San José rezoning certain real property of approximately 2.3 gross acres situated on the west side of Race Street, approximately 300 feet southerly of Park Avenue (237-253 Race Street & 216-280 Grand Avenue) from the A(PD) Planned Development Zoning District to the R-M(PD) Planned Development Zoning District.
CEQA: Initial Study/Mitigated Negative Declaration and Environmental Assessment for the Race and Grand Residential Project. Planning Commission recommends approval (6-0-1, Ballard absent), (Planning, Building and Code Enforcement)
PDC17-019-Council District 6

2.3 Approval of Council Committee Minutes.**2.4 Mayor and Council Excused Absence Requests.****18-455 Mayor and Council Excused Absence Requests.**

Recommendation: Request for an excused absence for Councilmember Sylvia Arenas from the Regular meeting of Ad Hoc Committee Meeting and the Regular meeting of the Study Session, Public Life in San Jose, on March 22, 2018 due to illness.

CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no changes to the physical environment. (Arenas)

[Rules Committee referral 4/4/18 - Item A.1.a]

Attachments [Memorandum](#)

2.5 City Council Travel Reports.**2.6 Report from the Council Liaison to the Retirement Boards.****2.7 18-474 Actions Related to Councilmember Diep's Travel to Phoenix, AZ.**

Recommendation: Authorize travel for Councilmember Lan Diep to Phoenix, AZ from May 5-6, 2018 to attend a media training for the minority elected officials organized by the New American Leaders. Source of Funds: The Fund for the City of New York and District 4 Funds.

CEQA: Not a Project, File No, PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Diep)

Attachments [Memorandum](#)

2.8 18-478 Neighborhoods Commission Caucus Process.

Recommendation: Approve the 2018 Caucus Process recommended by the Neighborhoods Commission to select Neighborhood Commissioners in Districts 1, 3, 5, 7, and 9.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. Council Districts 1,3,5,7, and 9. (City Manager)

Attachments [Memorandum](#)

2.9 [18-477](#) Approval of City Hall Facility Free Use on Saturday, April 14, 2018, for Civic Leaders Academy Graduation.

Recommendation: Adopt a resolution authorizing “Free Use” for events and activities held at City Hall on Saturday, April 14, 2018 for the two Citywide Civic Leaders Academies graduation.
CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates & Fares without changes to or expansion of services. (City Manager)

Attachments [Memorandum](#)
 [Resolution](#)

2.10 [18-471](#) Approval of City Hall Facility Free Use on Saturday, April 28, 2018, for Earth Ride.

Recommendation: Adopt a resolution authorizing “Free Use” for events and activities held at City Hall on Saturday, April 28, 2018 for Earth Ride.
CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates & Fares without changes to or expansion of services.
(Environmental Services)

Attachments [Memorandum](#)
 [Resolution](#)

2.11 [18-484](#) Approval of Lake Cunningham Bike Park Grand Opening Ceremony 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.

Recommendation: As recommended by the Rules and Open Government Committee on March 28, 2018:
(a) Approve the Lake Cunningham Bike Park Grand Opening Ceremony scheduled on April 14, 2018 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 3/28/18 - Item G.1.b]

Attachments [Memorandum](#)

2.12 [18-532](#) Retroactive Approval of Silicon Valley Comic Con Flag Raising Sponsored By Council District 6.

Recommendation: Retroactive approval of the Silicon Valley Comic Con Flag flying over City Hall from April 6-8, 2018.
CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Davis)
[Rules Committee referral 4/4/18 - Item A.1.a]

Attachments [Memorandum](#)

2.13 [18-533](#) Approval of Agreement Related to the Voluntary Employee Beneficiary Association (VEBA).

Recommendation: Approval of an Indemnity and Defense Agreement with the Board of the Federated City Employees' Retirement System and the Board of the San José Police and Fire Department Retirement Plan in connection with the transfer of funds out of the Section 115 Health Care Trusts to the Voluntary Employee Beneficiary Association (VEBA). CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)
[Rules Committee referral 4/4/18 - Item A.1.a]

Attachments [Agreement](#)

2.14 [18-535](#) SB 959 (Beall) Water Corporation: Advice Letters.

Recommendation: As recommended by the Rules and Open Government Committee on April 4, 2018, re-affirm a support position for SB 959 (Beall).
CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no changes to the physical environment. (Environmental Services)
[Rules Committee referral 4/4/18 - Item G.2]

Attachments [Memorandum](#)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, David Sykes (Verbal Report)

3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.

TO BE HEARD AT 9:30 A.M.

4. COMMUNITY & ECONOMIC DEVELOPMENT

5. NEIGHBORHOOD SERVICES

5.1 [18-453](#) Actions Related to the Request for Qualifications for the PRNS Comprehensive Capital Improvement Program Consultant Services.

Recommendation: (a) Accept the report on the Request for Qualifications for comprehensive Capital Improvement Program consultant services.
(b) Adopt a resolution authorizing the City Manager to negotiate and execute Agreements with Verde Design (Santa Clara, CA); Callander Associates (San José, CA); Sasaki, Walker, and Associates Group (San José, CA); Moore, Iacofano, Goltsman, Inc. (San José, CA); and LPA, Inc. (San José, CA) for Capital Improvement Program consultant services for a five-year term commencing on or about May 1, 2018 and ending on or about April 30, 2023, with maximum compensation not to exceed \$3,750,000.
CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Parks, Recreation and Neighborhood Services)

Attachments [Memorandum](#)

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY

9. REDEVELOPMENT – SUCCESSOR AGENCY

• 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.

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

- (a) [18-450](#) **Conforming Rezoning (C17-053) for Real Property Located at 951 Saratoga Avenue.**

Recommendation: Consideration of an ordinance of the City of San José rezoning an approximately 0.84-gross acre site, located at the southwest corner of Saratoga Avenue and Borina Drive (951 Saratoga Avenue) from the A(PD) Planned Development Zoning District and the R-1-8 Residential Zoning District to the CP Commercial Pedestrian Zoning District (Morningstar Education Group LLC, Owner).
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report adopted by City Council Resolution No. 76041 on November 1, 2011; and the Envision San José 2040 General Plan Supplemental Environmental Impact Report adopted by City Council Resolution No. 77617 on December 15, 2015; and addenda thereto.
DEFERRED FROM 4/10/18 ITEM 10.1(a) TO 4/17/18 PER
ADMINISTRATION

Attachments [Memorandum](#)
 [Ordinance](#)

- (b) [18-449](#) **Planned Development Rezoning (PDC15-027) for Real Property Located at 1705 Berryessa Road.**

Recommendation:

(a) Adopt a resolution adopting the 1705 Berryessa Gas Station Project Mitigated Negative Declaration, for which an Initial Study was prepared, in accordance with the California Environmental Quality Act, as amended, and adopting a related mitigation monitoring and reporting program.

(b) Consideration of an ordinance of the City of San José rezoning a 1.04-gross acre site, located at the northwest corner of Berryessa Road and Lundy Avenue (1705 Berryessa Road) from the A(PD) Planned Development Zoning District to the CP(PD) Commercial Neighborhood Planned Development Zoning District to facilitate a future permit for the demolition of the existing kiosk, carwash building and the construction of an approximately 3,212-square foot new convenience store, 2,490-square foot retail/deli building, and 1,086 carwash tunnel (AU Energy, LLC Nick Goyal, Owner).

CEQA: Mitigated Negative Declaration for the 1705 Berryessa Gas Station Project. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC15-027 - Council District 4

DEFERRED FROM 4/10/18 ITEM 10.1(b) TO 4/17/18 PER ADMINISTRATION

Attachments [Memorandum](#)
[Resolution](#)
[Ordinance](#)

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**

- **Notice of City Engineer's Pending Decision on Final Maps**

[18-542](#)**Notice of City Engineer's Pending Decision on Final Maps.****Recommendation:**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

Tract	Location	Council District	Lots/ Units	Type
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Proposed
Decision

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

Tract	Location	Council District	Lots/Units
10466	Raleigh Rd/Great Oaks Blvd. (north of Hwy 85)	2	70 lots/60 units

Developer	Type
Pulte Group	Residential

This notice is to be posted with the City Council's regular agenda for 4/10/18.

**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.
- 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.