



CITY COUNCIL MEETING

Amended Agenda

Tuesday, March 12, 2024
1:30 PM

LOCATION:
Council Chambers - 200 E. Santa Clara Street

Attachments and related materials can be viewed [HERE](#)

Interpretation is available in Spanish and Vietnamese. In your webinar controls, select “Interpretation.” Click the language you would like to hear. (Zoom only)

Se dispone de interpretación en español y vietnamita. En los controles de su seminario web, seleccione "Interpretation" (Interpretación). (Zoom solo)

Thông dịch có sẵn bằng tiếng Tây Ban Nha và tiếng Việt. Trong các điều khiển hội thảo trên web của bạn, hãy chọn “Interpretation” (Phiên dịch). (Zoom chỉ một)

Public Comment in Person Only

MATT MAHAN, MAYOR
ROSEMARY KAMEL, 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

Please scroll to the end for information about the City Council Agenda and for the Rules of Conduct of the meeting.

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.

- Adaptaciones para discapacitados serán proporcionadas a pedido. Mande correo electrónico ADA@sanjoseca.gov; Llame (408) 535-8430
- Nhu cầu cho người khuyết tật được cung cấp theo yêu cầu. Email ADA@sanjoseca.gov; Gọi (408) 535-8430
- 應要求提供殘疾人便利設施。電子郵件 ADA@sanjoseca.gov; 致電 (408) 535-8430

THE LEVINE ACT

The Levine Act requires a Party in a Proceeding before the City of San José that involves any action related to their contract, license, permit, or use entitlement to disclose any campaign contributions to City elected or appointed officials totaling more than \$250 within the 12 months prior to the City decision. A Participant to a Proceeding may voluntarily report a campaign contribution. Please visit <https://sanjoseca.gov/your-government/appointees/city-clerk/levine-act> for updated forms and information.

How to observe the Meeting (no public comment):

- 1) Cable Channel 26.
- 2) <https://sanjoseca.gov/news-stories/watch-a-meeting>.
- 3) <https://youtube.com/CityofSanJoseCalifornia>
- 4) By Phone: (888) 475 4499. Webinar ID is 94558095100. Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free).
- 5) Online at: <https://sanjoseca.zoom.us/j/94558095100>
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.

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

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 provide spoken Public Comment during the City Council Meeting:

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. 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.

Each speaker generally has two minutes to speak per item. The total amount of time allocated for public testimony for each public speakers or for an agenda item may be limited at the Mayor's discretion, depending on the number of speakers or the length of the agenda. (California Government Code Section 54954.3; Council Policy 0-37)

Fill out a Yellow Speaker's Card and submit it to boxes at the bottom of the Chambers. Do this before the meeting or before the item is heard. This will ensure that the name on the card is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants by calling speakers in an orderly manner. You may remain anonymous, but please fill out a card so we may call you. You can put "anonymous speaker" or "no name" on the card. 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. 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.

• Call to Order and Roll Call

9:30 a.m. - 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
1:30 p.m. - Regular Session, Council Chambers, City Hall
6:00 p.m. - Evening Session, Council Chambers, City Hall – Cancelled
*The previously scheduled Evening Session has been cancelled

• Pledge of Allegiance

• Invocation (District 3)

Mateo Gonzalez, a local San José artist

• 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.

• Adjournment

• Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

1.1 Presentation of a commendation to the San José 311 Team to celebrate the planned implementation of Phase I of the new vehicle blight system and to share a higher customer satisfaction rate. (Batra)

1.2 Presentation of a proclamation declaring March 12, 2024 as Mexica New Year to celebrate the contributions of indigenous peoples from across the Americas in San José. (Ortiz)

1.3 Presentation of a commendation to Animal Care Center Business Champions who are driven by animal welfare and advocacy working with the same goal of ensuring the safety, welfare, and quality of life for all the animals in the City of San José. (Doan)

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 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.**

Recommendation:

(a) Ordinance No. 31041 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.79 Gross Acre, Situated on the Northeast Corner of Blossom River Drive and Blossom Hill Road (1009 Blossom Hill Road) (APN 458-14-023) from the A(PD) Planned Development Zoning District to the CG Commercial General Zoning District.

[Passed for Publication on 2/27/2024 - Item 10.1(b) (24-73480)]

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 **Application to the California Department of Housing and Community Development for a Funding Award through the Prohousing Incentive Program.**

Recommendation:

Adopt a resolution authorizing the City Manager or her designee to apply for and execute documents required for receipt of a funding award of up to \$2 million through California's Prohousing Incentive Program.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Housing)

2.8 2022-2023 Annual Development in-Lieu Fee Report.

Recommendation:

Adopt a resolution:

(a) Accepting the Fiscal Year 2022-2023 Annual and five-year Development In-Lieu Fee Report prepared in accordance with the Mitigation Fee Act (Government Code Section 66000 et seq.) on the status of the in-lieu fees collected by the City of San José from developers in lieu of construction of public improvements; and

(b) Making certain findings as required by Government Code Section 66001(d)(1).

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Public Works)

2.9 Master Agreements with Towill, Inc. and HMH Engineers for Land Surveying and Mapping Consultant Services.

Recommendation:

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute master agreements with Towill, Inc. and HMH Engineers for Citywide land surveying and mapping consultant services from the date of execution through March 31, 2027, in an amount not to exceed \$2,000,000 for each agreement.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Public Works)

2.10 Approval of Dumpster Day 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.

Recommendation:

As recommended by the Rules and Open Government Committee on February 28, 2024:

(a) Approve the Dumpster Day scheduled on March 30, 2024 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 2/28/2024 - Item B.2]

2.11 Amendment to Agreement with Stradling Yocca Carlson & Rauth Related to *City of San José v. Howard Jarvis Taxpayers Association, et al.*

Recommendation:

Adopt a resolution authorizing the City Attorney to negotiate and execute a Fourth Amendment to the Agreement with Stradling Yocca Carlson & Rauth for bond counsel services related to *City of San José v. Howard Jarvis Taxpayers Association, et al.*, to increase the amount of compensation by \$400,000, for a total amount of compensation not to exceed \$750,000, and extend the term of the Agreement beginning May 1, 2021 through June 30, 2026, subject to the appropriation of funds.

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 3/6/2024 - Item A.1]

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 Annual Summary of Upcoming Labor Negotiations.

Recommendation:

Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations.

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)

3.4 Amendment to Title 12 (City Gift Ordinance) of the San José Municipal Code.

Recommendation:

Approve an ordinance amending Section 12.08.110 of Part 2 of Chapter 12.08 of Title 12 of the San José Municipal Code to align the annual gift limit City officers and designated employees can accept from restricted sources with the Political Reform Act's gift limit.

Approval of this item requires 8 or more affirmative votes (2/3) (City Charter Section 607).

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

[Deferred from 2/27/2024 – Item 3.4 (24-73470)]

3.5 Review of Retirement Plans' Pension and Postemployment Healthcare Plans' Actuarial Valuations as of June 30, 2023.

Recommendation:

Review the following actuarial valuation reports:

- (a) Federated City Employees' Retirement System Actuarial Valuation as of June 30, 2023;
- (b) Federated City Employees' Retirement System Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2023;
- (c) Police and Fire Department Retirement Plan Actuarial Valuation as of June 30, 2023;
- and
- (d) Police and Fire Department Postemployment Healthcare Plan Actuarial Valuation as of June 30, 2023.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Retirement Services)

4. PUBLIC SAFETY

**4.1 Cannabis Business Regulations and Annual Operating Fee Comparisons.
– DEFERRED**

Recommendation:

As recommended by the Public Safety, Finance and Strategic Support Committee on February 15, 2024, accept the report on how San José's cannabis regulations compare to State of California regulations and how San José's cannabis business annual operating fee compares to other jurisdictions.

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

[Public Safety, Finance and Strategic Support Committee 2/15/2024 – Item (d)5]

DEFERRED TO 3/19/2024 PER RULES AND OPEN GOVERNMENT COMMITTEE

5. TRANSPORTATION & AVIATION SERVICES

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 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) **H17-004 & ER20-262 – Site Development Permit on Certain Real Property Located at 439-451 South 4th Street. – TO BE HEARD IMMEDIATELY AFTER CONSENT**

Recommendation:

(1) Adopt a resolution certifying the South Fourth Street Environmental Impact Report, and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a statement of overriding considerations and a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA).
(2) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the demolition of an existing single-family residence and 30-unit multifamily apartment building totaling approximately 21,792 square feet and the removal of 10 trees (3 ordinance-size, 7 non-ordinance-size, 11 replacement trees) for the construction of a 25-story, 210-unit multifamily residential building with a 20% parking reduction and an alternative parking arrangement (mechanical lifts) on an approximately 0.52-gross-acre site.

CEQA: South Fourth Street Project Supplemental Environmental Impact Report (File No. H17-004/ER20-262). Council District 3. Planning Commission recommends approval (11-0-0) (Item 5.b on the 2/14/2024 Planning Commission agenda). (Planning, Building and Code Enforcement)

TO BE HEARD IMMEDIATELY AFTER CONSENT

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

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 online at <https://sanjoseca.primegov.com/public/portal?fromiframe=1> or 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.

ABOUT THE AGENDA

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.

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://sanjoseca.primegov.com/public/portal?fromiframe=1>. Council Meetings are televised live and rebroadcast on Channel 26.

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.

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 total amount of time allocated for public testimony for each public speaker or for an agenda item is in the discretion of the Chair of the meeting and may be limited when appropriate.

(California Government Code Section 54954.3; Council Policy 0-37) 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 only the agenda item when called to speak for that item, and only topics related to City business when called to speak during open forum 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.