



City of San José

City of San José
200 East Santa Clara Street
San Jose, CA 95113

Agenda

Joint Meeting for the Rules and Open Government Committee and Committee of the Whole

Committee Members

Sam Liccardo, Chair

Chappie Jones, Vice Chair

Sylvia Arenas, Member

Dev Davis, Member

Johnny Khamis, Member

Committee Staff

Dave Sykes, City Manager

Toni Taber, City Clerk

Richard Doyle, City Attorney

Gloria Schmanek, City Manager's Office

Mackenzie Mossing, Mayor's Office

Louis Osemwegie, City Clerk's Office

Wednesday, June 5, 2019

2:00 PM

Wing Rooms W118-120

A. City Council (City Clerk)

1. Review Final Agenda

[ROGC
19-174](#)

Review June 11, 2019 Final Agenda

a. Add New Items to Final Agenda

b. Assign "Time Certain" to Agenda Items (if needed)

c. Review of Notice of Waiver Requirements for Agenda Items or Documents (if needed)

Attachments [June 11, 2019 Agenda
Add Sheet](#)

2. Review Draft Agenda

- [ROGC
19-175](#) Review June 18, 2019 Draft Agenda
- a. Add New Items to Draft Agenda
 - b. Assign "Time Certain" to Agenda Items (if needed)
 - c. Review of Notice of Waiver Requirements for Agenda Items or Documents (if needed)

Attachments [June 18, 2019 Agenda](#)

B. Review of Upcoming Special Meeting Agenda(s)

- [ROGC
19-172](#) Joint Meeting of the Public Safety, Finance and Strategic Support
Committee and Committee of the Whole. (City Manager)

Recommendation: Review June 20, 2019 Final Agenda

Attachments [PSFSS Joint Meeting Agenda](#)

C. Legislative Update

1. State
2. Federal

D. Meeting Schedules

E. The Public Record

F. Boards, Commissions and Committees

1. Appointments
2. Work Plans & Annual Reports

G. Rules Committee Reviews, Recommendations and Approvals

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

1. Consent Calendar

- (a) [ROGC
19-170](#) Retroactive Approval of the Meadowfair Dumpster Day 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. (Arenas)

- Recommendation:**
1. Retroactively approve the Meadowfair Dumpster Day scheduled on April 6, 2019 as a City Council sponsored Special Event and approve the expenditure of funds.
 2. Approve and accept donations from various individuals, businesses or community groups to support the event.
 3. Place the item on the June 18, 2019 Council Agenda for action.

Attachments [Memorandum](#)

- (b) [ROGC
19-171](#) Retroactive Approval of the Cadwallader Dumpster Day 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. (Arenas)

- Recommendation:**
1. Retroactively approve the Cadwallader Dumpster Day scheduled on March 30, 2019 as a City Council sponsored Special Event and approve the expenditure of funds.
 2. Approve and accept donations from various individuals, businesses or community groups to support the event.
 3. Place the item on the June 18, 2019 Council Agenda for action.

Attachments [Memorandum](#)

END OF CONSENT

2. [ROGC
19-173](#) AB 59 (Kalra) - Elections: Polling Places: College and University Campuses. (City Manager)

- Recommendation:**
- (a) Adopt a position of support for AB 59 (Kalra) – Elections: polling places: college and university campuses.
 - (b) Recommend this item be agendaized for the June 11, 2019 City Council Meeting so that the City’s Legislative Representative can advocate the City’s support for AB 59.

Attachments [Memorandum](#)

3. [ROGC](#)
[19-169](#) Response to Rise in Sexual Assaults in San José (Arenas, Carrasco, Davis, Esparza, Foley)

Recommendation:

- 1) Agendize a series of public hearings on the rise in reports of sexual and relationship based violence in San José and the City Administration's work to respond to it, including:
 - (a) Making the June 20, 2019 Public Safety, Finance and Strategic Support Committee meeting also a Committee of the Whole meeting to allow all interested members of the City Council the opportunity to hear the Administration's review and response to the recommendations of the joint meeting between Public Safety, Finance and Strategic Support Committee and Santa Clara County Board of Supervisors' Children, Seniors and Families Committee, held on April 15, 2019.
 - b. Schedule a City Council Study Session in September 2019 to inform the whole City Council and Mayor of sexual assault patterns and statistics.
 - c. Plan an additional joint meeting with the Santa Clara County Board of Supervisors' Children, Seniors and Families Committee to assist in continued coordination between the City and County agencies.
- 2) Request the Administration's response and strategy to the rise of sexual assaults be reported to Council as an info memo this summer, for early review before the Study Session. This report should include process improvements to address intersectional issues of domestic violence and human trafficking when possible, including strangulation evidence, collection and other key improvements that were brought forward at the joint meeting.
- 3) Formalize a Sexual Assault working group between the City Administration and the County Executive, as well as any other relevant agencies.

Attachments

[Memorandum](#)

[Council Policy Early Consideration: Response Form](#)

4. [ROGC](#)
[19-176](#) Citywide Anti-Displacement Strategy Study. (Carrasco)

Recommendation:

1. Set a study session on the City of San José Anti-Displacement Strategies for Thursday, August 29, 2019, from 9:00 a.m. to 12:00 p.m.
2. Direct the City Manager to organize an agenda and presentation.

Attachments

[Memorandum](#)

[Council Policy Early Consideration: Response Form](#)

5. [ROGC](#) Union Pacific Property. (Mayor, Jimenez, Peralez, Davis, Esparza)
[19-177](#)

Recommendation:

A. Direct the City Attorney to explore the following legal avenues for action against Union Pacific Railroad (UPRR), and report back to Council in closed session. The Council should be presented with options relating to potential lawsuits or claims-filed in a court of appropriate jurisdiction, or before the federal Surface Transportation Board-alleging:

1. Nuisance, or other state-law claims relating to laws of general applicability, against UPRR, for:
 - a. Its failure to prevent trespass on the UPRR property, which would obviate the need to use train horns when utilizing the tracks at nighttime; and
 - b. Its failure to properly maintain the UP property free from blight, trash, and graffiti.
2. Violations of NEPA or other federal environmental laws relating to night-time operations or lack of basic maintenance, or failure to maintain the UPRR property free from blight, trash, and graffiti;
3. Unfair business practices, nuisance, and other state law claims against every customer of UPRR that benefits from operations along the corridor (cf *Hi-Tech Transportation v. NJ*, 382 F.3d 295 (3rd Cir. 1994); *SEA3, Inc. Petition for Declaratory Order*, FD 35853 STB, served March 17, 2015 (both finding that federal preemption does not apply to lawsuits against customers of a federally regulated rail company));
4. Determination of whether UPRR has a franchise or easement to use every public street that intersects with its line for crossing, utilizing searches of historic title records. In particular, there may be historic basis for the belief that some City streets located near Diridon station do not have any recorded easement or franchise for UPRR's use;
5. UPRR's failure to abide by federal Constitutional and state law requiring prior notification of homeless residents & offers of relocation to housing prior to encampment abatement on Bassett Street on May 9, 2019, among other occasions; and
6. Any other viable legal theories or actions that the City Attorney's Office might unearth in its legal research.

B. Direct the City Manager to bring to Council for the next available hearing of General Plan amendments a proposal to change the land use designation of the UPRR corridor to public open space for purposes of future rail-to-trail conversion. Such a change could facilitate a recreational trail connecting the Guadalupe River Park

with Downtown neighborhoods.

Attachments [Memorandum](#)

H. Review of additions to Council Committee Agendas/Workplans

1. Community and Economic Development Committee
2. Neighborhood Services and Education Committee
3. Transportation and Environment Committee
4. Public Safety, Finance and Strategic Support Committee
5. Joint Meeting of the Rules and Open Government Committee and Committee of the Whole
6. Smart Cities and Service Improvement Committee

I. Open Government

J. 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.

K. Adjournment

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

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 San José City Hall, Office of the City Clerk, 200 E. Santa Clara Street, 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To request an accommodation or alternative format for City-sponsored meetings, events or printed materials, please call the Office of the City Clerk 408-535-1260 as soon as possible, but at least three business days before the meeting/event.

Access the video, the agenda and related reports for this meeting by visiting the City's website.