



City Council Meeting Amended Agenda

Tuesday, May 19, 2020

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
LAN DIEP, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, 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.
- **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.sanjose.legistar.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. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

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 the California Governor’s Executive Order No. N-29-20, Resolution No. 79485 from the City of San José and the Santa Clara County Health Officer’s March 16, 2020 Shelter in Place Order, the City Council meeting will not be physically open to the public and the City Council will 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 ilegislare application used by City Council and staff.
- 2) By email to city.clerk@sanjoseca.gov by 12:00 p.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:

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: 915 6205 3469 Click *9 to raise a hand to speak.
- 2) By online <https://sanjoseca.zoom.us/j/91562053469>.
 - 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.

• Call to Order and Roll Call

9:30 a.m.- Closed Session

1) By phone (888) 475-4499. Webinar ID is 986 7124 6025 Click *9 to raise a hand to speak.

2) By online: <https://sanjoseca.zoom.us/j/91562053469>

CLOSED SESSION ONLY. For open session, please see [<https://zoom.us/j/91562053469>]

[20-027](#) Closed Session Agenda

Attachments [Closed Session Agenda](#)

11:00 a.m.- Regular Session, Council Chambers, City Hall

- Invocation (District 5)
- 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.

SEE AMENDED ITEM 3.4, “REPORT ON DIGITAL ACCESS AND INCLUSION AND AMENDMENT TO THE AGREEMENT WITH CALIFORNIA EMERGING TECHNOLOGY FUND FOR THE DIGITAL INCLUSION FUND” TO BE ADDED UNDER ORDERS OF THE DAY, REQUIRES A DETERMINATION BY A TWO-THIRDS (2/3) VOTE OF THE MEMBERS OF THE COUNCIL PRESENT AT THE MEETING, OR, IF LESS THAN TWO-THIRDS (2/3) OF THE MEMBERS OF TH COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION. Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.1.E.3; Council’s Rules of Conduct, Resolution No. 79367, Rule 3(d).

- Closed Session Report

1. CEREMONIAL ITEMS

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.

[20-574](#)

Final Adoption of Ordinances.

Recommendation:

Ord No. 30416 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 9.3 Gross Acres Situated at the Northeasterly Corner of Trinidad Drive and Akio Way (6835 Trinidad Drive) (APN: 701-07-016) from the R-1-5 Single-Family Residence Zoning District to the Public/Quasi-Public Zoning District.
[Passed for Publication on 5/12/2020 - Item 10.1(b) (20-528)]

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 [20-541](#)

Report on Bids and Award of Contract for the 9115 - Administration Building Roof Replacement Project at the San José-Santa Clara Regional Wastewater Facility.

Recommendation:

(a) Report on bids and award of a construction contract for 9115-Administration Building Roof Replacement Project to the low bidder, Stronger Building Services, in the amount of \$590,000.

(b) Approve a 20 percent construction contingency in the amount of \$118,000.

CEQA: Categorically Exempt, File No. PP19-074, CEQA Guidelines Section 15301, Existing Facilities. (Environmental Services)

Attachments

[Memorandum](#)

[Supplemental Memorandum, 5/14/2020](#)

2.8 [20-559](#) **Investment Report for the Quarter Ended March 31, 2020.****Recommendation:**

Accept the Third Quarter (period ending March 31, 2020) Investment Report for Fiscal Year 2019-2020.

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

Attachments

[Memorandum](#)

[Supplemental](#)

[Memorandum from Arenas, Esparza, Jimenez, 5/15/2020](#)

[Letters from the Public](#)

2.9 [20-543](#) **Amendment to the Vendor Agreement with P&A Administrative Services, Inc. for Flexible Spending Benefits, Commuter Benefit, and Cobra Administration for City Employees and their Dependents. - DEFERRED****Recommendation:**

Adopt a resolution authorizing the City Manager to negotiate and execute an Amendment to the Vendor Agreement with P&A Administrative Services, Inc. for flexible spending benefits and Internal Revenue Code Section 125 plan administration services for City employees and their dependents to add the scope of services from the existing agreement with P&A Administrative Services, Inc. for Commuter and Consolidated Omnibus Budget Reconciliation Act (COBRA) administration, to extend the term of the Agreement from December 31, 2020 to December 31, 2023, and to increase the not to exceed amount from \$283,500 to a revised total not to exceed amount of \$489,000.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Human Resources)

DEFERRED TO 6/2/2020 PER ADMINISTRATION

2.10 [20-542](#) **Report on Bids and Award of Contract for the 9105 - Cast Iron Sewer Replacement Fiscal Year 2019-2020 Package I.****Recommendation:**

(a) Report on bids and award of contract for the 9105 - Cast Iron Sewer Replacement FY 2019-2020 Package I to the low bidder, Bay Pacific Pipelines, Inc., for the base bid in the amount of \$1,233,040.

(b) Approve a contingency in the amount of \$123,304.

CEQA: Categorically Exempt, File No. PP17-031, CEQA Guidelines Section 15301, Existing Facilities. Council Districts 2 and 10. (Public Works)

Attachments

[Memorandum](#)

2.11 [20-545](#) **Summary Vacation of a Portion of South 6th Street with the Reservation of Public Service Easements Within the Area Being Vacated Between East Virginia Street and Interstate 280.**

Recommendation:

Adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a portion of South 6th Street between East Virginia Street and Interstate 280 (“Subject Portion”) with the reservation of public service easements over a portion of the area being vacated;
 - (b) Summarily vacating the Subject Portion, which has been impassible for vehicular travel and for which the City has not expended any public money for maintenance for a period of five years; and
 - (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.
- CEQA: Mitigated Negative Declaration for Virginia Studios Project, File No. H17-019. Council District 3. (Public Works)

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

2.12 [20-546](#) **Report on Bids and Award of Contract for the 9238 - Sanitary Sewer Repairs FY 2018-2019 Package IV.**

Recommendation:

Report on bids and award of contract for the 9238 - Sanitary Sewer Repairs FY 2018-2019 Package IV project to the low bidder, Ranger Pipelines, Inc., in the amount of \$1,298,550 and approval of a contingency in the amount of \$129,855.
CEQA: Categorically Exempt, File No. PP17-029, CEQA Guidelines Section 15301, Existing Facilities 15302, Replacement or Reconstruction. Council Districts 3 and 6. (Public Works)

Attachments [Memorandum](#)

2.13 [20-547](#) **Report on Bids and Award of contract for the 9338 - Cast Iron Sewer Replacement FY 2019-2020 Package IV.**

Recommendation:

Report on bids and award of contract for the 9338 - Cast Iron Sewer Replacement FY 2019-2020 Package IV project to the low bidder, Casey Construction, Inc., in the amount of \$1,665,708 and approval of a contingency in the amount of \$166,571.
CEQA: Categorically Exempt, File No. PP17-031, CEQA Guidelines Section 15301, Existing Facilities. Council Districts 2 and 8. (Public Works)

Attachments [Memorandum](#)

2.14 [20-549](#) **2020 Local Streets Microsurfacing Project.****Recommendation:**

(a) Approve award of a construction contract for the 2020 Local Streets Microsurfacing Project, to the low bidder, Graham Contractors, Inc., in the amount of \$3,100,886.

(b) Approve an approximate ten percent contingency in the amount of \$310,000.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

Attachments [Memorandum](#)

2.15 [20-550](#) **2020 Major Streets Sealing Project.****Recommendation:**

(a) Approve award of a construction contract for the 2020 Major Streets Sealing Project, to the low bidder, VSS International, Inc. in the amount of \$2,781,120.

(b) Approve an approximate five percent contingency in the amount of \$139,100.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 2, 3, 5, 7, 8, 10. (Transportation)

Attachments [Memorandum](#)

2.16 [20-551](#) **Bicycle and Pedestrian Project Grants for Fiscal Year 2020-2021 Transportation Development Act.****Recommendation:**

Adopt a resolution:

(a) Authorizing the City Manager or designee to submit a request to the Metropolitan Transportation Commission (“MTC”) for the allocation of Fiscal Year 2020-2021 Transportation Development Act, Article 3 (“TDA3”) State grant funding in the amount of \$1,058,096 for bicycle and pedestrian projects;

(b) Making the certifications and assurances required under the TDA3 grant; and

(c) Authorizing the City Manager or designee to accept TDA3 grant funding awarded from MTC, and to negotiate and execute any grant documents to effectuate the grant.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301, Existing Facilities. (Transportation)

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

2.17 [20-577](#) **VEBA Advisory Committee Appointment.****Recommendation:**

As recommended by the Rules and Open Government Committee on May 13, 2020, approve the appointment of Benjamin Lam, nominated by the Police Officers' Association as the Police Officers' Association active employee member, to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee for a term beginning June 1, 2020 and ending May 31, 2024.

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

[Rules Committee referral 5/13/2020 - Item F.1]

Attachments [Memorandum](#)

2.18 [20-579](#) **Approval of Affordable Housing Month 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 May 13, 2020:

(a) Approve Affordable Housing Month scheduled on Tuesday, May 19, 2020 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 5/13/20 - Item G.1.a]

Attachments [Memorandum](#)

2.19 [20-583](#) **Approval of Mental Health Awareness Month 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:**

(a) Approve the Mental Health Awareness Month scheduled on Tuesday, May 19, 2020 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 5/13/20 - Item A.1.a]

Attachments [Memorandum](#)

3. STRATEGIC SUPPORT

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

- [20-544](#) (a) City Manager's COVID-19 Update (Verbal Report)
(b) City Manager's Report on Other City Matters (Verbal Report)
TO BE HEARD BEFORE CONSENT

Attachments [Presentation](#)

3.2 Labor Negotiations Update.

- 3.3** [20-584](#) **Agreement with Santa Clara County for Cost of Distribution of Food and Necessities.**

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Santa Clara County to reimburse the City for the loaded cost of food and necessities distributed to residents of the unincorporated County through December 31, 2020.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)
[Rules Committee referral 5/13/20 - Item A.1.a]

Attachments [Memorandum](#)

3.4 [20-576](#) **Report on Digital Access and Inclusion and Resolution Authorizing City Manager to Negotiate and Execute an Amendment to the Contract with the California Emerging Technology Fund. - RENUMBERED FROM ITEM 7.1**

Recommendation:

- (a) Accept the staff and partner agency report on digital access and inclusion, in response to City Council direction from May 5, 2020, including updates on specified topics,
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement with California Emerging Technology Fund (CETF) to allow for special handling and distribution of funds donated to the Digital Inclusion Fund for the purpose of relieving digital connectivity impacts caused by COVID-19.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

(Library)

[Council referral 5/5/2020 - Item 3.4 (20-499)]

[RENUMBERED FROM ITEM 7.1 (20-562)]

Attachments

[Memorandum](#)

[Presentation](#)

[Memorandum from 5/4/20](#)

[Memorandum from Mayor, Carrasco, Esparza, Arenas, Foley, 5/1](#)

[Letters from the Public](#)

3.5 [20-581](#)**San José Al Fresco - Allowing Local Businesses to Operate Outdoors.****Recommendation:**

As recommended by the Rules and Open Government Committee on May 13, 2020, direct the City Manager and City Attorney to return to Council with recommendations for an ordinance that anticipates future revisions of County health guidelines to provide local businesses-particularly restaurants- access to public space and private adjacent property for open air operations, with the following considerations:

1. Allow businesses and business districts to apply for temporary use of streets, surface lots, public parking spaces, public recreation space, and adjacent parcels for outdoor dining, exercise classes, and other outdoor business operations that will enable compliance with public health dictates for physical separation.

a. To eliminate financial burden and fees on strapped small businesses, consider:

i. use of federal reimbursement or funding to cover application costs, or

ii. “by right” permit in designated geographic locations that will not require additional processing.

b. Waive sidewalk café permits/fees to allow restaurants and other appropriate businesses to operate outside seating and service for customers who comply with the county health guidelines.

c. Work with San Jose SPUR to identify ideal geographic locations for use of private parking lots, public parks, alleys, plazas, and streets for outdoor business activities, including outdoor cafes, gyms, yoga studios, and retail. Ensure collaboration with Vice Mayor Jones’ Small Business Advisory Task Force, our ethnic Chambers of Commerce, SJDA, the Silicon Valley Recovery Roundtable, the SVO, and neighborhood business districts.

2. Explore ways to permit low-cost infrastructure to designate service areas (e.g. 3D-printed barriers, paint, potted plants, tape, etc.), particularly for legal alcoholic beverage consumption outside of restaurants in accordance with state law.

CEQA: Not a Project, PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Mayor) [Rules and Open Government referral 5/13/20 - Item G.4]

Attachments [Memorandum from Mayor and Davis](#)
[Letters from the Public](#)

3.6 [20-582](#) **Urgency Ordinance and Companion Ordinance to Require Fabric Face Coverings.**

Recommendation: As recommended by the Rules and Open Government Committee on May 13, 2020:

(a) Adopt an urgency ordinance adding Chapter 9.61 to Title 9 of the San José Municipal Code that:

(1) Invokes the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health, or safety; and

(2) Mandates the wearing of fabric face coverings across the City of San José when outside of one's home, with specific exceptions, as an additional measure to the County's guidance to stop the spread of COVID-19.

PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)

(b) Approve a companion ordinance adding Chapter 9.61 to Title 9 of the San José Municipal Code that mandates the wearing of fabric face coverings across the City of San José when outside of one's home, with specific exceptions, as an additional measure to the County's guidance to stop the spread of COVID-19.

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

(Jones)

[Rules Committee referral 5/13/20 - Item G.6]

Attachments [Memorandum from Jones and Jimenez](#)

[Attachment](#)

[\(a\) Ordinance](#)

[\(b\) Ordinance](#)

[Letters from the Public 1 of 2](#)

[Letters from the Public 2 of 2](#)

4. PUBLIC SAFETY SERVICES

4.1 [20-548](#) **Actions Related to the Berryessa/North San José BART Station Law Enforcement Services.**

Recommendation: Adopt a resolution authorizing the City Manager to:

(a) Negotiate and execute an agreement for Supplemental Law Enforcement Support Services with the Santa Clara Valley Transportation Authority in the amount of \$4,345,697 for an initial 2-year term (on or about July 1, 2020 to June 30, 2022); and

(b) Exercise up to 4 one-year extensions for a total not-to-exceed amount of \$13,159,156, 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. (Police)

Attachments [Memorandum](#)
[Presentation](#)

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 [20-552](#) **Commercial Solid Waste Customer Service Rates.**

Recommendation: (a) Hold a Public Hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services.

(b) Adopt a resolution increasing the Maximum Commercial Solid Waste Services Rates in the City of San José by 4.90 percent pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organics processing services.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Environmental Services)

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

7. NEIGHBORHOOD SERVICES

7.1 [20-562](#) **Report on Digital Access and Inclusion and Resolution Authorizing City Manager to Negotiate and Execute an Amendment to the Contract with the California Emerging Technology Fund. - RENUMBERED TO ITEM 3.4**

Recommendation: (a) Accept the staff and partner agency report on digital access and inclusion, in response to City Council direction from May 5, 2020, including updates on specified topics,
(b) Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the Agreement with California Emerging Technology Fund (CETF) to allow for special handling and distribution of funds donated to the Digital Inclusion Fund for the purpose of relieving digital connectivity impacts caused by COVID-19.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Library)
[Council referral 5/5/2020 - Item 3.4 (20-499)]
[RENUMBERED TO ITEM 3.4 (20-576)]

Attachments [Memorandum](#)
[Presentation](#)
[Memorandum from Mayor, Carrasco, Esparza, Arenas, Foley, 5/1](#)
[Letters from the Public](#)

7.2 [20-553](#) **Actions Related to the Digital Literacy Program Quality Standards.**

Recommendation: (a) Accept the staff report on the development of digital literacy quality standards for all City-sponsored programs that serve all ages, as specified by the Education and Digital Literacy Strategy.
(b) Accept the report on the status of the progress of the current cohort of grantees through the San José Digital Inclusion Fund.
(c) Adopt the Digital Literacy Quality Standards Citywide.
(d) Direct staff to return to the Neighborhood Services and Education Committee in spring 2021 to report on progress implementing the Digital Literacy Quality Standards.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Library)

Attachments [Memorandum](#)
[Presentation](#)

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1** [20-555](#) **TEFRA Hearing on the Issuance of Tax-Exempt Multifamily Revenue Bonds
for the Markham Plaza II Apartments Located at 2010 Monterey Road.**

Recommendation:

(a) Hold a Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") public hearing for the issuance of not to exceed \$25,000,000 in tax-exempt private-activity bonds by City to finance the acquisition by Markham Plaza II, LP and rehabilitation of the Markham Plaza II Apartments, formerly Tully Gardens II Apartments, a 152-unit apartment complex located at 2010 Monterey Road in San José (the "Development").

(b) Adopt a resolution approving the issuance of Revenue Bonds by the City in an aggregate principal amount not to exceed \$25,000,000 to finance the acquisition and rehabilitation of a 152-unit multifamily rental housing facility for the benefit of Markham Plaza II, LP, a California limited partnership, or an entity to be created by Core Affordable Housing, LLC (or an affiliate), and certain other matters relating thereto.

(c) Adopt a resolution authorizing:

(1) A change in the existing affordability restriction for Markham Plaza II Apartments (formerly Tully Gardens II Apartments) to allow a change from 151 units affordable to extremely low-income ("ELI") households at up to 30% of Area Median Income ("AMI") and one unrestricted manager's unit to 76 units affordable to ELI households at up to 30% of AMI and 75 units to be restricted affordable to very low-income households for new or over income tenants only at up to 35% of AMI;

(2) An increase to rents and income up to 60% AMI (low-income) for all units in the event of foreclosure or for subsidized units in the event of the expiration or involuntary termination of subsidy contracts, provided the City has determined the increase is needed for feasibility of the Development and allowed by other funds;

(3) The extension of the existing City's loan term by an additional 17 years, until the 55th anniversary of the closing of the bond financing, and a decrease in the City's loan interest rate from 4.77% fixed, compounded annually to 3% fixed, compounded annually;

(4) The subordination of the City's Deeds of Trust to a County option to purchase the land, provided that the City shall have a right of first refusal to purchase the land; and

(5) The Director of Housing to negotiate and execute any City loan documents, grant documents, amendments, and all other documents related to these actions.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

Council District 7. (Housing/Finance)

Attachments [Memorandum](#)
[Supplemental Memorandum, 5/18/2020](#)
[\(b\) Resolution](#)
[\(c\) Resolution](#)

8.2 [20-554](#) **Actions Related to the Refinancing Conditions for El Paseo Apartments.**

Recommendation: Adopt a resolution:

- (a) Consenting to the refinancing and subordination of the existing City loan and the City grant for the El Paseo Apartments, a 98- single room efficiency unit affordable apartment development (Project) located at 4980 Hamilton Avenue (Property) to a new Fannie Mae-backed senior loan in the amount of approximately \$6,500,000, including the withdrawal of no more than \$2,282,170 in refinancing proceeds by the Property's owner, El Paseo Apartments, L.P. (Owner), an affiliate of the San José-based nonprofit developer First Community Housing (Sponsor);
- (b) Allowing the Owner to receive half of the refinancing proceeds in the amount of \$1,141,355; and
- (c) Authorizing the Director of Housing to negotiate and execute amendments to the City's existing loan documents on the Project, in order to enable refinancing of the Project's senior loan and partial repayment of the City loan in the amount of \$1,141,355.

CEQA: Not a Project, File No. PP17-008, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
Council District 1. (Housing)

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

8.3 [20-568](#) **Amendments to the Eviction Moratorium Ordinance and Extension of
Moratorium.**

Recommendation:

(a) Adopt an Urgency Ordinance amending the provisions of the COVID-19 Eviction Moratorium Ordinance, Ordinance No. 30382, to include the following:

- (1) Invoke the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health or safety, to include additional provisions protecting against eviction of a tenant for nonpayment of rent, if that tenant meets the criteria listed in the ordinance regarding COVID-19;
- (2) Extending the time for the tenant to notify their landlord of their status as an Affected Tenant to seven days after the notice of termination is served;
- (3) Prohibiting retaliation against Affected Tenants;
- (4) Prohibiting a Landlord from serving a notice in bad faith, or influencing or attempting to influence an Affected Tenant to vacate a Rental Unit through fraud, intimidation or coercion;
- (5) Including in the definition of Affected Tenant those who lost income due to being infected with COVID-19 or caring for someone in the household who was infected;
- (6) Prohibiting late fees, interest, or penalties charged against an Affected Tenant during the moratorium; and
- (7) Establishing a repayment period until December 31, 2020 for Affected Tenants to repay their past due rent accruing during the moratorium and extend the Ordinance effective date to correspond with this deadline.

PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)

(b) Approve a Companion Ordinance amending the provisions of the COVID-19 Eviction Moratorium Ordinance, Ordinance No. 30382, to include the following:

- (1) Extending the time for the tenant to notify their landlord of their status as an Affected Tenant to seven days after the notice of termination is served;
- (2) Prohibiting retaliation against Affected Tenants;
- (3) Prohibiting a Landlord from serving a notice in bad faith, or influencing or attempting to influence an Affected Tenant to vacate a Rental Unit through fraud, intimidation or coercion;
- (4) Including in the definition of Affected Tenant those who lost income due to being infected with COVID-19 or caring for someone in the household who was infected;
- (5) Prohibiting late fees, interest, or penalties charged against an Affected Tenant during the moratorium; and

(6) Establishing a repayment period until December 31, 2020 for Affected Tenants to repay their past due rent accruing during the moratorium and extend the Ordinance effective date to correspond with this deadline.

(c) Adopt a resolution extending the moratorium on evictions to June 30, 2020.

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

[Rules Committee referral 5/6/20 - Item A.1.a]

Attachments [Memorandum](#)
[Presentation](#)
[Supplemental Memorandum, 5/15/2020](#)
[\(a\) Ordinance](#)
[\(b\) Ordinance](#)
[Resolution](#)
[Memorandum from the Mayor, 5/19/2020](#)
[Letters from the Public](#)

8.4 [20-575](#) **Amendment to the Apartment Rent Ordinance Due to COVID-19 Pandemic to Allow a Temporary Reduction of Rent.**

Recommendation: Approve an Ordinance amending the Apartment Rent Ordinance, Chapter 17.23 of Title 17 of the San José Municipal Code to provide the following:

(a) Landlords who enter into reduced rent agreements with their tenants pursuant to the COVID-19 Rent Increase Moratorium Ordinance, Ordinance No. 30405, may base their Annual General Increase upon the previously charged contract rent and not on the monthly rent charged under those reduced rent agreements executed pursuant to the COVID-19 Rent Increase Moratorium; and

(b) This amendment will be effective for twelve months after expiration of the COVID-19 Rent Increase Moratorium.

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

[Rules Committee referral 5/6/2020 - Item A.1.a]

[Deferred from 5/12/2020 - Item 8.3 (20-564)]

Attachments [Memorandum](#)
[Ordinance](#)
[Letters from the Public](#)

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

- (a) [20-567](#) PP20-009 - Amendment to Title 20 (The Zoning Ordinance).

Recommendation:

(a) Approve an ordinance of the City of San José amending Chapter 20.190 of Title 20 of the San José Municipal Code to extend the applicability of City density bonus development incentives and to update the City's density bonus ordinance in conformance with state law; amending Chapter 20.30, Chapter 20.40, Chapter 20.70, Chapter 20.75 and Chapter 20.200 to enumerate and add a definition for Permanent Supportive Housing and Low Barrier Navigation Center; adding Chapter 20.195 to implement ministerial approvals required by California Government Code Section 65650 et. seq., 65660 et. seq., and 65913.4; and to make other technical, non-substantive, or formatting changes within those sections of Title 20 of the San José Municipal Code.

(b) As recommended by the Rules and Open Government Committee on May 13, 2020:

(1) Direct staff to investigate whether additional amendments to the Zoning Code are necessary to clarify the intent behind AB 101 and AB 2162. Specifically:

a. Determine whether AB 2162 applies more broadly to zones where multi-family residential is allowed as a conditional or special use, including mixed-use residential/commercial as a conditional or special use.

b. Determine whether AB 101 requires Low Barrier Navigation Center as a by-right use in residential zones where multifamily uses are permitted.

c. Return to Council with these amendments, or the results of this investigation, before the summer recess.

(2) Direct staff to return to Council with the following additional modifications to the Zoning Code before the end of the year to be more explicitly consistent with Senate Bill 2 (2007), add Transitional Housing, as defined in Ordinance No. 28680, to the land use tables for all residential and mixed-use Zoning Districts. Transitional Housing should remain a permitted use in all residential zones, as required by Ordinance No. 28680, and be allowed as a conditional or special use in appropriate non-residential zoning districts, as determined by staff.

(3) Direct staff to identify any obstacles to the establishment of emergency shelter, transitional housing, and permanent supportive housing in the Zoning Code or in other City regulations and return to Council with recommendations for modifications intended to streamline and facilitate the establishment of emergency shelter, including the addition of beds to existing shelters, and the creation of transitional and permanent supportive housing.

CEQA: Determination of Consistency with the Envision San José 2040

General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)

[Deferred from 4/14/2020 - Item 10.1(c) (20-432); 4/28/2020 - Item 10.1(b) (20-480); 5/12/2020 - Item 10.1(d) (20-535)]

[Rules and Open Government referral 5/13/20 - Item G.2 (2(a)(b)(c), 3(a), 4)]

TO BE HEARD IMMEDIATELY AFTER CONSENT

Attachments [Memorandum](#)
[Memorandum, 4/13/2020](#)
[Supplemental Memorandum](#)
[Ordinance](#)
[Memorandum from Jimenez, 4/24/2020](#)

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.