



City Council Meeting Amended Agenda

Tuesday, June 9, 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 iLegislate 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://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, Call to Order

1) By phone (888) 475-4499. Webinar ID is: 957 2717 1874 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>]

[20-029](#) Closed Session Agenda

Attachments [Closed Session Agenda](#)

11:00 a.m.- Regular Session

6:00 p.m.- Evening Session

The previously scheduled evening session has been cancelled.

- **Invocation (District 6)**

Rev. Dr. Bryan James Franzen, Pastor Westminster Presbyterian 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.

* SEE NEW ITEM 3.6, "Discussion and Actions Related to Police Use of Force and Crowd Control Measures" 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 THE COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION AND THE NEED TO TAKE ACTION AROSE AFTER THE POSTING OF THE AGENDA. Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.1.F.1.b; Council's Rules of Conduct, Resolution No. 79367, Rule 3(d). Placement of Council Agenda Items After Rules, Resolution No. 79485.

ITEM 3.6 TO BE HEARD FIRST, BEFORE 3.1, 3.3 AND CONSENT

* SEE NEW ITEM 3.7, " Ratification of the Declaration of the Director of Emergency Services Suspending Enforcement of Certain Provisions in Land Use Requirements in the San José Municipal Code." 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 THE COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION AND THE NEED TO TAKE ACTION AROSE AFTER THE POSTING OF THE AGENDA. Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.1.F.1.b; Council's Rules of Conduct, Resolution No. 79367, Rule 3(d); Placement of Council Agenda Items After Rules, Resolution No. 79485.

- **Adjournment**

This meeting will be in memory of William James "Bill" Del Biaggio Jr., a business leader, philanthropist, and community leader. Living in San José his entire life, Bill continually worked to improve his community through the Guadalupe River Park & Gardens, Via Services, History San José, and many more. Bill was a pillar of the community and his passing is a loss for all of San José.

- **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.

[20-638](#) **Approval of City Council Minutes.**

Recommendation: (a) Regular City Council Meeting Minutes of March 10, 2020.
(b) Regular City Council Meeting Minutes of April 21, 2020.
(c) Regular City Council Meeting Minutes of May 5, 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.

Attachments [\(a\) 3/10/2020 CC Draft Minutes](#)
[\(b\) 4/21/2020 CC Draft Minutes](#)
[\(c\) 5/5/2020 CC Draft Minutes](#)

2.2 Final Adoption of Ordinances.**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 [20-615](#) **Amendment to the Agreement with David J. Powers & Associates Inc. for Airport Environmental Services.**

Recommendation: Approve a Second Amendment to the Master Consultant Services Agreement with David J. Powers & Associates Inc. for Airport environmental analysis services, increasing maximum compensation from \$1,250,000 to \$1,850,000, and extending the term from June 30, 2020 to June 30, 2023.
CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Airport)

Attachments [Memorandum](#)
[Agreement](#)

2.8 [20-616](#) **Set a Public Hearing on the Levy of the Proposed Downtown Business Improvement District Assessments. - DEFERRED**

Recommendation: Preliminarily approve the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by Council, and adopt a resolution of intention to levy the annual assessment for Fiscal Year 2020-2021, to suspend collection of the Downtown Business Improvement District assessments for businesses that qualify for the business tax financial hardship exemption under the City's general business tax ordinance and set Tuesday, June 30, 2020 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

CEQA: Review for Exemption, File No. PP08-048, CEQA Guidelines Section 15061(b), Review for Exemption. (Economic Development)
DEFERRED TO 6/16/20 PER ADMINISTRATION

Attachments [Resolution](#)

2.9 [20-617](#) **Set a Public Hearing on the Levy of the Proposed Japantown Business Improvement District Assessments. - DEFERRED**

Recommendation: Preliminarily approve the report as filed by the Japantown Business Improvement District Advisory Board, or as modified by Council, and adopt a resolution of intention to levy the annual assessment for Fiscal Year 2020-2021 and set Tuesday, June 30, 2020 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

CEQA: Review for Exemption, File No. PP08-048, CEQA Guidelines Section 15061(b), Review for Exemption. (Economic Development)
DEFERRED TO 6/16/20 PER ADMINISTRATION

Attachments [Resolution](#)

2.10 [20-618](#) **Proposed Extension of Natural Gas Infrastructure Prohibition Ordinance and Amendments to Title 24 of the San José Municipal Code Related to Mixed Fuel Buildings.**

Recommendation:

- (a) Accept the update on staff analysis as to whether or not the City should require electrification for buildings over three stories.
- (b) Direct City Manager to return to Council in September 2020 with a natural gas prohibition ordinance amendment to be implemented on June 1, 2021 and covering all building types:
 - (1) Including mid-rise and high-rise multifamily buildings, as supported by cost effectiveness studies, and
 - (2) Exempting restaurants, hospitals, industrial, and manufacturing facilities.
- (c) Approve an ordinance amending Section 24.12.300 of Chapter 24.12 of Title 24 of the San José Municipal Code Related to the Reach Code Requirements for Mixed Fuel Buildings to make clerical amendments.
- (d) Authorize the City Manager to submit an amended reach code submittal package to the California Energy Commission for its approval as required by law.

CEQA: Categorically Exempt, File No. PP19-067, CEQA Guidelines Section 15307 Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services/Planning, Building and Code Enforcement)

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

2.11 [20-619](#) **Amendment to the Agreement with Turbo Data Systems, Inc. for Parking Citation Processing/Collection System and Customer Service Center.**

Recommendation: Adopt a resolution authorizing the City Manager to execute the Fifth Amendment to the Agreement with Turbo Data Systems, Inc. (Tustin, CA) for Parking Citation Processing/Collection System and Customer Service Center to extend services for up to two additional one-year option terms through June 30, 2022 under the same terms and conditions for a maximum compensation of \$896,465 for July 1, 2020 through June 30, 2021, subject to the annual appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Attachments [Memorandum](#)
[Agreement](#)

2.12 [20-620](#) **Willow Glen Community Benefit and Improvement District Annual Report for Fiscal Year 2020-2021.**

Recommendation: Adopt a resolution:
(a) Approving the Willow Glen Community Benefit and Improvement District Annual Report for Fiscal Year 2020-2021 as filed or modified by Council;
(b) Confirming the individual assessments as proposed, or modified by Council; and
(c) Directing the Director of Public Works to deliver the assessment role to the County for collection with the property taxes.
CEQA: Categorically Exempt, File No. PP18-060, Existing Facilities. Council District 6. (Public Works)

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

2.13 [20-621](#) **Maintenance District Annual Budget Reports for Fiscal Year 2020-2021.**

Recommendation: Adopt resolutions approving and confirming the Annual Budget Reports for Fiscal Year 2020-2021 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21, and 22 and levying the assessments therein.

CEQA: Categorically Exempt, File No. PP18-060, Existing Facilities.
Council Districts 2, 3, 4, and 8. (Public Works)

Attachments [Memorandum](#)
[Resolution MD1](#)
[Resolution MD2](#)
[Resolution MD5](#)
[Resolution MD8](#)
[Resolution MD9](#)
[Resolution MD11](#)
[Resolution MD13](#)
[Resolution MD15](#)
[Resolution MD18](#)
[Resolution MD19](#)
[Resolution MD20](#)
[Resolution MD21](#)
[Resolution MD22](#)

2.14 [20-622](#) **Downtown San José Property-Based Business Improvement District Annual Report for Fiscal Year 2020-2021.**

Recommendation:

Adopt a resolution:

(a) Approving the Downtown San José Property-Based Improvement District Annual Report prepared by the Downtown San José Property Owners' Association for Fiscal Year 2020-2021, as filed or modified by Council;

(b) Confirming the individual assessments as proposed by the Downtown San José Property Owners Association, or as modified by Council; and

(c) Directing the Director of Public Works to deliver the assessment roll to the County for collection with the property taxes.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. Council District 3. (Transportation/Public Works)

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

2.15 [20-623](#) **2020 Local Streets Resurfacing #3 Project.**

Recommendation:

(a) Approve award of a construction contract for the 2020 Local Streets Resurfacing #3 Project, to the low bidder, DeSilva Gates Construction LP, in the amount of \$7,434,000.

(b) Approve an approximate 10% contingency in the amount of \$743,400.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301(c), Existing Facilities. Council Districts 1 and 6. (Transportation)

Attachments [Memorandum](#)

2.16 [20-662](#) **Approval of Philippine Independence 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.**

Recommendation: As recommended by the Rules and Open Government Committee on June 3, 2020:

(a) Approve recognition of Philippine Independence Day scheduled on Friday, June 12, 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 6/3/20 - Item G.1.a]

Attachments [Memorandum from Arenas](#)

2.17 [20-663](#) **Retroactive Approval of Shop Local Spotlight Community Event 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) Retroactively approve the Shop Local Spotlight scheduled from Thursday, May 28, 2020 through the month of June 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 6/3/20 - Item A.1.a]

Attachments [Memorandum](#)

2.18 [20-664](#) **Approval of Pride Month Sponsored by Council District 6 and 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: (a) Approve Pride Month to be recognized by the City Council on Tuesday, June 9, 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. (Davis and Foley)

[Rules Committee referral 6/3/20 - Item A.1.a]

Attachments [Memorandum](#)

2.19 [20-665](#) **Summary Vacation of the 25-Foot and 12.5-Foot Setback Easements Within Tract No. 2026.**

Recommendation:

Adopt a resolution:

(a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of the 25-foot and 12.5-foot public easements for light and air (“Setback Easements”) located within Tract No. 2026;

(b) Summarily vacating the Setback Easements, which are excess; 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: Categorically Exempt, File No. ER20-093, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations. Council District 6. (Public Works)

[Rules Committee referral 6/3/20 - Item A.1.a]

Attachments

[Memorandum](#)

[Resolution](#)

[Letters from the Public](#)

2.20 [20-666](#) **Ratification of the Declaration of the Director of Emergency Services Altering Enforcement of the Construction Hours in the San José Municipal Code.**

Recommendation:

Adopt a resolution confirming and ratifying the Declaration issued by the Director of Emergency Services altering enforcement of the construction hours ordinance in the San José Municipal Code.

CEQA: Statutorily Exempt, Section 15269, Emergency Projects Undertaken for specific actions necessary to prevent or mitigate an emergency. (Planning, Building and Code Enforcement)

[Rules Committee referral 6/3/20 - Item A.1.a]

Attachments

[Memorandum](#)

[Resolution](#)

3. STRATEGIC SUPPORT

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

[20-624](#)

(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 [20-625](#) **Preliminary Review of Controls to Document COVID-19 Recovery Costs.**

Recommendation: Accept the Preliminary Review of Controls to Document COVID-19 Recovery Costs.
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 Auditor)
TO BE HEARD IMMEDIATELY FOLLOWING ITEM 3.1

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

3.4 [20-667](#) **Update on the Agreement with Santa Clara County for Cost of Distribution of Food and Necessities.**

Recommendation: Provide an update on the status of the Santa Clara County Food Reimbursement Agreement negotiation and recommended next steps.
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 6/3/20 - Item A.1.a]

3.5 [20-668](#) **Public Member Appointment to the Board of Administration for Police and Fire Department Retirement Plan.**

Recommendation: (a) Interview two applicants for appointment to the Public Member Seat; and
(b) Appoint one applicant as a Public Member on the Board of Administration for the Police and Fire Department Retirement Plan to a term ending November 30, 2022.
CEQA: Not a Project, File No. PP17-010, City Administrative Activities, resulting in no changes to the physical environment. (City Clerk)
[Rules Committee referral 6/3/20 - Item A.1.a]

Attachments [Memorandum](#)
[Conflict of Interest Memorandum](#)
[Applications](#)

3.6 [20-673](#) **Discussion and Actions Related to Police Use of Force and Crowd Control Measures.**

Recommendation:

Per the current state of emergency for civil unrest and under Emergency Orders, seek 2/3 approval from council to place the following item on the Council agenda, to direct the City Manager-through the Chief of Police and other staff-and Independent Police Auditor to:

(a) Describe in detail which requisite conditions- of violence or destructive conduct-the SJPD duty manual authorizes for the deployment the following methods or uses of force for what is commonly referred to as “crowd control”:

(1) Officers in significant numbers (eg: two dozen or more) in “riot gear”.

(2) Tear gas.

(3) Kinetic impact projectiles (KIPs) such as rubber or foam bullets.

(4) “Flash-bang” devices.

(5) Use of batons and/or physical contact.

(b) For each of the days/ episodes in which any of these approaches were deployed during the recent protests, describe in specific detail the circumstances that gave rise to the decision to uses of any of these methods or uses of force since May 29.

(c) In light of recent experience, indicate what changes to the Duty Manual the Department should or will consider to any of these policies or protocols for crowd control.

(d) Either at today’s meeting or at the earliest possible opportunity, indicate why Council should not prohibit the use within dense crowds of kinetic impact projectiles (KIP), i.e., rubber of foams bullets, either by directing the City Manager to amend the SJPD Duty Manual, or alternatively directing the City Attorney to amend San José Municipal Code Section 10.32. Specifically:

(1) Reveal whether the safety of KIP design or composition has substantially improved since the time of the studies referenced in this memorandum, below;

(2) Describe the approximate number of rounds discharged in crowds over the past week;

(3) Explicitly evaluate the relative imprecision of this tool, and its likelihood of striking persons other than its intended targets; and

(4) Compare options, including (a) other less-than-lethal tools, other than a batonstrike;

(b) substantially reducing the frequency of their use by raising the threshold justifying discharge, and (c) an assessment of whether any alternative KIP composition will reduce the risk of harm to members of the public.

- (e) To provide greater transparency to the public and accountability:
- (1) For the approximately half-dozen video clips that have raised substantial public concern on social media regarding potential SJPD misconduct or possible unlawful use of force, release to the public any videos in possession or readily available to SJPD that provide a fuller picture of the incident, such as longer duration (particularly the period prior to the video clip in question), alternative view angles, etc., within two weeks, so long as consistent with what is allowable under California state law.
- i. Those videos should include, at a minimum,
- the incident involving the collision between the police motorcycle and the running pedestrian, and
 - the incident involving a physical altercation between police and a male who is pulled back behind the police line by multiple officers, and subjected to repeated blows by police, and
 - the incident involving an officer responding to a protester with expletives
- (2) At the earliest opportunity for public hearing--whether at our upcoming Independent Police Auditor use of force review or for the after-action report-- public hearing, present to the Council and public the IPA and SJPD findings relating to investigations and investigation reviews of each of those clips.
- (f) Establish a process, consistent with that advocated by the Obama Foundation's My Brother's Keeper Alliance Mayoral Action Pledge, to review our "use of force" policies, engage our community, seek the feedback of our community on the findings, and reform those policies consistent with the best thinking nationally. The process should engage the entire community, including faith leaders, social justice advocates, leadership within our communities of color, criminal justice experts, the police union, the police rank-and-file, the Chief of Police, and the Independent Police Auditor.
- (g) Return to Council by the first week of August with ballot language articulating the expansion of authority for the Independent Police Auditor. This language should provide a higher level of transparency and accountability over "use of force" investigations and access to police records, including body worn camera footage, as achieved through negotiation with the Police Officers' Association. Further explore additional expansion of IPA authority within the legal parameters mandated by the California Supreme Court's decision in Seal Beach Peace Officers Association v. Seal Beach. This can include language to allow for future expansion of authority through a meet and

confer process that doesn't require a Charter Amendment.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Mayor, Jones, Peralez, Diep, Carrasco)
TO BE HEARD FIRST, BEFORE 3.1, 3.3 AND CONSENT, PER ORDERS OF THE DAY

Attachments [Memorandum](#)
[Memorandum from Foley, 6/9/2020](#)
[Letters from the Public 1 of 6](#)
[Letters from the Public 2 of 6](#)
[Letters from the Public 3 of 6](#)
[Letters from the Public 4 of 6](#)
[Letters from the Public 5 of 6](#)
[Letters from the Public 6 of 6](#)

3.7 [20-674](#) **Ratification of the Declaration of the Director of Emergency Services Suspending Enforcement of Certain Provisions in Land Use Requirements in the San José Municipal Code.**

Recommendation: Adopt a resolution confirming and ratifying the Declaration of the Director of Emergency Services of the City of San José suspending enforcement of certain provisions in land use permits and approvals and zoning and encroachment requirements in the San José Municipal Code issued June 4, 2020 ("Emergency Order").
CEQA: Categorically Exempt, File No. ER20-114, CEQA Section 15304(e) Minor Alterations to Land. (Economic Development)

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

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

5.1 [20-626](#) **Actions Related to the Design and Construction of the Charcot Avenue Extension from Paragon Drive to Oakland Road and I-880 Overcrossing Project.**

Recommendation: (a) Adopt a resolution certifying the Charcot Avenue Extension Project Environmental Impact Report (EIR) (SCH # 2018042084) and making certain findings concerning significant impacts, mitigation measures, and alternatives, adopting a Statement of Overriding Considerations, and adopting the related Mitigation Monitoring and Reporting Program all in accordance with the California Environmental Quality Act (CEQA), and (b) Approve the full Charcot Avenue Extension as depicted in the Site Plan and described in the project's EIR to construct a two-lane extension of Charcot Avenue from Paragon Drive on the west to Oakland Road on the east, a distance of approximately 0.6 mile. The Project includes construction of an overcrossing across O'Toole Avenue and I-880 and improvements to Silk Wood Lane. The Project would also construct bicycle/pedestrian facilities on Charcot Avenue, including sidewalks and separated (Class IV) bikeways, between Paragon Drive and Oakland Road.

CEQA: Charcot Avenue Extension Environmental Impact Report (SCH # 2018042084). File No. PP18-044. Council District 4.
(Transportation/Planning, Building and Code Enforcement)
NOT TO BE HEARD BEFORE 5:00 P.M.

Attachments [Memorandum](#)
[Supplemental Memorandum, 6/9/2020](#)
[Presentation](#)
[\(a\) Resolution](#)
[Letter from Supervisor Cortese](#)
[Letter from Assemblymember Chu](#)
[Letters from the Public 1 of 6](#)
[Letters from the Public 2 of 6](#)
[Letters from the Public 3 of 6](#)
[Letters from the Public 4 of 6](#)
[Letters from the Public 5 of 6](#)
[Letters from the Public 6 of 6](#)

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 [20-627](#) **San José Municipal Water System 2020-2021 Water Rates and Charges.****Recommendation:**

- (a) Hold a Public Hearing on proposed San José Municipal Water System 2020-2021 potable and recycled water rates and charges.
- (b) Adopt resolutions maintaining San José Municipal Water System potable and recycled water rates and charges at current 2019-2020 amounts, effective July 1, 2020.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273 Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates and Fares without changes to or expansion of services. Council Districts 2, 4, 7 and 8. (Environmental Services)

Attachments

[Memorandum](#)
[Supplemental Memorandum, 6/8/2020](#)
[\(b1\) Resolution](#)
[\(b2\) Resolution](#)

6.2 [20-628](#) **Recycle Plus Rates for Single Family and Multi-Family Residential Solid Waste Services.****Recommendation:**

Adopt a resolution to amend the current Recycle Plus rate resolution effective July 1, 2020, as follows:

- (a) Increase residential solid waste service rates for single-family households by nine percent; and
- (b) Increase residential solid waste service rates for multi-family households by five percent.

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273 Adjustment to Fees, Rates & Fares without changes to or expansion of services. (Environmental Services)
NOT TO BE HEARD BEFORE 6:00 P.M.

Attachments

[Memorandum](#)
[Supplemental Memorandum, 6/5/2020](#)
[Resolution](#)
[Letters from the Public](#)

6.3 [20-629](#) **Sewer Service and Use Charges and Storm Sewer Service Charges for 2020-2021.**

Recommendation:

- (a) Adopt a resolution setting the following Sewer Service and Use Charge rates for 2020-2021:
- (1) Single-Family Residential: \$41.64 (Monthly Rate)
 - (2) Multi-Family Residential: \$27.90 per unit (Monthly Rate)
 - (3) Mobile Home: \$31.43 per unit (Monthly Rate)
 - (4) Non-Monitored Commercial and Industrial: See Attachment A to staff memorandum
 - (5) Monitored Industrial: See Attachment A to staff memorandum
- (b) Adopt a resolution setting the following Storm Sewer Service Charge rates for 2020-2021:
- (1) Single-Family Residential and Duplex: \$7.87 (Monthly Rate)
 - (2) Mobile Home: \$3.94 per unit (Monthly Rate)
 - (3) Residential Condominium: \$4.30 per unit (Monthly Rate)
 - (4) Large Multi-Family Residential (5 or more units): \$4.30 per unit (Monthly Rate)
 - (5) Small Multi-Family Residential (3-4 units): \$14.95 (Monthly Rate)
 - (6) Commercial, Institutional and Industrial: See Attachment B to staff memorandum
- CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273 Adjustment to Fees, Rates & Fares without changes to or expansion of services. (Environmental Services)

Attachments [Memorandum](#)
[\(a\) Resolution](#)
[\(b\) Resolution](#)
[Letters from the Public](#)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 [20-630](#) **Economic Recovery Temporary Cap on New or Increased Infrastructure Fees for Development. - RECOMMEND DEFERRAL**

Recommendation: Adopt a resolution approving a temporary cap on (i) any future new fees on new development citywide for public infrastructure (excluding affordable housing); and (ii) future increases to the existing Diridon Basic Infrastructure Impact Fee. The temporary maximum rates in the recommendation would apply to building permits issued before January 1, 2023 as follows:

(a) Retail/Industrial: \$8.16 per square foot

(b) Office/R&D: \$12.20 per square foot

(c) Hotel: \$5,962.00 per room

(d) Residential: \$5,470.00 per unit

CEQA: Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273 Rates, Tolls, Fares, and Charges, Adjustment to Fees, Rates and Fares without changes to or expansion of services.

(Economic Development)

RECOMMEND DEFERRAL TO 6/16/2020 PER ADMINISTRATION

Attachments [Memorandum](#)

[Resolution](#)

[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) [20-631](#) **HLA86-031-01 and MA19-004 - Historic Landmark Designation and Historical Property Contract for the “Smith House” Located at 3556 San Felipe Road.**

Recommendation:

Adopt resolutions:

(1) Amending the designation of the City Landmark (Smith House) with a reduced legal boundary for the “Smith House” on a 0.44-gross acre site located at 3556 San Felipe Road (APN: 659-04-056).

(2) Approving the Historical Property Contract (California Mills Act Contract) between the City of San José and property owner, Oakmont of Evergreen, LLC.

CEQA: Categorically Exempt, CEQA Guidelines Section 15331 for Historical Resource Restoration/Rehabilitation. Historic Landmarks Commission recommends approval. Council District 8. (Planning, Building and Code Enforcement)

TO BE HEARD IN THE AFTERNOON AFTER CONSENT

Attachments [Memorandum 10.1\(a\)\(1\)](#)

[Memorandum 10.1\(a\)\(2\)](#)

[\(1\) Resolution](#)

[\(2\) Resolution](#)

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 [20-632](#) **PDC18-025 - Planned Development Rezoning for Real Property Located at 1197 Lick Avenue.**

Recommendation:

(a) Adopt a resolution adopting the Tamien Station Transit-Oriented Development Mitigated Negative Declaration, for which an Initial Study was prepared, and adopting an associated Mitigation Monitoring and Reporting Plan, all in accordance with the California Environmental Quality Act (CEQA), as amended.

(b) Approve an ordinance rezoning an approximately 6.96- gross acre site on certain real property located on the westerly side of Lick Avenue approximately 470 feet northerly of West Alma Avenue (1197 Lick Avenue) from the A(PD) Planned Development Zoning District to the R-M(PD) Planned Development Zoning District.

CEQA: Mitigated Negative Declaration for the Tamien Station Transit-Oriented Development. Planning Commission recommends approval (5-0-1; Bonilla absent). File No. PDC18-025. Council District 3. (Planning, Building and Code Enforcement)

TO BE HEARD IN THE AFTERNOON

Attachments [Memorandum](#)
[Presentation](#)
[\(a\) Resolution](#)
[\(b\) Ordinance](#)

10.3 [20-633](#) **H19-016 - Site Development Permit for Certain Real Property Located at the Northeast Corner of South Almaden Boulevard and Park Avenue (150 S. Almaden Boulevard).**

Recommendation: (a) Adopt a resolution certifying the City View Plaza Project Tower Supplemental Environmental Impact Report (SCH#2018022032) and making certain findings concerning significant impacts, mitigation measures, and alternatives, adopting a Statement of Overriding Considerations, and adopting the related Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act (CEQA); and

(b) Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the demolition of nine existing on-site buildings (including candidate City Landmarks), the removal of 14 ordinance size trees, and the construction of an approximately 3.79 million square foot development comprised of 24,000 square feet of ground floor retail and 3,640,033 square feet of office space and including a request for 24-hour construction and Downtown Design Guidelines exceptions on an approximately 8.1-gross acre site on certain real property located at the northeast corner of South Almaden Boulevard and Park Avenue.

CEQA: City View Plaza Project Tower Supplemental Environmental Impact Report to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). Planning Commission recommends approval (6-0). File No. H19-016. Council District 3. (Planning, Building and Code Enforcement)

[Deferred from 6/2/2020 - Item 10.2 (20-608)]

TO BE HEARD IN THE AFTERNOON

Attachments [Memorandum](#)

[\(a\) Resolution](#)

[\(b\) Resolution](#)

[Memorandum from Mayor and Peralez, 6/5/2020](#)

[Letters from the Public](#)

- **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**

This meeting will be in memory of William James “Bill” Del Biaggio Jr., a business leader, philanthropist, and community leader. Living in San José his entire life, Bill continually worked to improve his community through the Guadalupe River Park & Gardens, Via Services, History San José, and many more. Bill was a pillar of the community and his passing is a loss for all of San José.

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.