



City of San José

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

Agenda

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

Committee Members

Sam Liccardo, Chair

Chappie Jones, Vice Chair

Sylvia Arenas, Member

Dev Davis, Member

Johnny Khamis, Member

Committee Staff

Dave Sykes, City Manager

Toni Taber, City Clerk

Richard Doyle, City Attorney

Gloria Schmanek, City Manager's Office

Henry Smith, Mayor's Office

Louis Osemwegie, City Clerk's Office

Wednesday, May 13, 2020

2:00 PM

Virtual Meeting

* 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:

- 1) 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: 788 988 479. Click *9 to raise a hand to speak.
- 2) By online <https://zoom.us/j/788988479>.
 - 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.

A. City Council (City Clerk)

1. Review Final Agenda

[ROGC
20-183](#)

Review May 19, 2020 Final Agenda

- a. Add New Items to Final Agenda
- b. Assign "Time Certain" to Agenda Items (if needed)
- c. Review of Notice of Waiver Requirements for Agenda Items or Documents (if needed)

Attachments [Agenda](#)
[Add Sheet](#)

2. Review Draft Agenda

[ROGC
20-184](#)

Review May 26, 2020 Draft Agenda - Cancelled

B. Review of Upcoming Special Meeting Agenda(s)

C. Legislative Update

1. State
2. Federal

D. Meeting Schedules

1. [ROGC
20-197](#) Set a Regular City Council meeting for Tuesday, August 4, 2020. (City Attorney/City Manager/City Clerk)

Recommendation: (a) Approve addition of this new item to the Rules Agenda because there is a need to take immediate action and the need to take action arose after the posting of the Agenda.
REQUIRES A DETERMINATION BY A TWO-THIRDS VOTE OF THE RULES COMMITTEE, OF IF LESS THAN TWO-THIRDS OF THE MEMBERS ARE PRESENT, A UNANIMOUS VOTE OF THOSE PRESENT. Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.2.D.1.b
(b) Set a Regular City Council meeting for Tuesday, August 4, 2020, commencing at 9:30 a.m. for closed session, and 1:30 p.m. for open session, in the City Council Chambers, or virtual teleconference.

Attachments [Memorandum](#)

E. The Public Record

[ROGC
20-186](#)

The Public Record for May 1, 2020 - May 7, 2020. (City Clerk)

Recommendation: Receive and file the Public Record for May 1, 2020 to May 7, 2020

Attachments [The Public Record](#)

F. Boards, Commissions and Committees

1. Appointments

[ROGC](#)
[20-187](#)

VEBA Advisory Committee Appointment. (City Manager)

- Recommendation:**
- (a) 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.
 - (b) Place the item on the May 19, 2020 City Council Agenda for action.

Attachments [Memorandum](#)

2. Work Plans & Annual Reports

G. Rules Committee Reviews, Recommendations and Approvals

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

1. Consent Calendar

- (a) [ROGC](#)
[20-177](#)
- 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. (Peralez)

- Recommendation:**
- 1. Approve Affordable Housing Month to be recognized by the City Council on Tuesday, May 19, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.
 - 2. Approve and accept donations from various individuals, businesses, or community groups to support the event.
 - 3. Place the item on the May 19, 2020 Council Agenda for action.

Attachments [Memorandum from Peralez](#)

END OF CONSENT

2. [ROGC](#)
[20-181](#) Zoning Code Amendments to Title 20 (Jimenez)

Recommendation:

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:
 - a. 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.
 - b. Allow additional beds in existing, legal non-conforming shelters in industrial Zoning Districts as long as a physical expansion of the shelter is not necessary. Additionally, evaluate and recommend criteria to allow reasonable physical expansions of existing, legal non-conforming shelters in industrial districts.
 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.
- [Referred from 5/12/2020 City Council - Item 10.1(d) (20-535)]

Attachments [Memorandum from Jimenez](#)
[Council Policy Prioritization:Early Consideration Response Form](#)
[Letters from the Public](#)

3. [ROGC
20-182](#) Fee Cap on Food Delivery Services. (Diep)

Recommendation:

Direct staff to draft and enact an urgency ordinance that:

1. Limit fees third-party food-delivery services operating in San José may charge on restaurants to:

a. 10% where food-delivery companies do not make personal protective equipment available to the employees or independent contractors who make deliveries; and

b. 15% where food-delivery companies establish that personal protective equipment is provided at no cost to the employees or independent contractors making deliveries;

2. Sunsets the 15% cap on fees once restaurants in Santa Clara County may offer unrestricted dine-in service;

3. Grants food-delivery companies 14 days per incident to refund any fees taken in excess of these limits; and

4. Imposes a sliding scale of fines for repeated instances of exceeding the fee limits.

[Deferred from 5/6/2020 - Item G.2 (ROGC 20-175)]

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

4. [ROGC
20-191](#) San José Al Fresco - Allowing Local Businesses to Operate
Outdoors. (Mayor)

Recommendation:

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-to 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 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.

Attachments [Memorandum from Mayor and Davis](#)

5. [ROGC
20-192](#) Monthly Report of Activities for April 2020. (City Auditor)

Recommendation:

Approve the Auditor's Office Monthly Report of Activities for the month of April 2020.

Attachments [Memorandum](#)

6. [ROGC
20-196](#) Emergency Mandate of Fabric Face Coverings (Jones)

Recommendation: Direct the City Manager to explore and issue an emergency order that mandates the wearing of fabric face coverings across the City of San Jose when interacting with individuals outside of one's home, with specific exceptions, as an additional measure to the County's guidance to stop the spread of COVID-19.

Attachments [Memorandum from Jones and Jimenez
Attachment](#)

H. Review of additions to Council Committee Agendas/Workplans

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

I. Open Government

J. Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

K. Adjournment

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

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at San José City Hall, Office of the City Clerk, 200 E. Santa Clara Street, 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

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

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