



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

Nora Frimann, City Attorney

Gloria Schmanek, City Manager's Office

Henry Smith, Mayor's Office

Ruth Krantz, City Clerk's Office

Wednesday, October 28, 2020

2:00 PM

Virtual Meeting
<https://sanjoseca.zoom.us/j/93828586066>

*** 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 Committee meeting will not be physically open to the public and the Committee Members 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:

- 1) By email to city.clerk@sanjoseca.gov by 9:00 a.m. the day of the meeting.

How to provide spoken Public Comment during the City Council Meeting:

1) By phone 888 475 4499. 938 2858 6066 Click *9 to raise a hand to speak. Press *6 to unmute.
Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)

2) By online <https://sanjoseca.zoom.us/j/93828586066>

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 Committee Chair 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](#)
[20-465](#)

Review November 3, 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 [Amended Agenda](#)

2. Review Draft Agenda

[ROGC](#)
[20-466](#)

Review November 10, 2020 Draft Agenda

a. Add New Items to Draft Agenda

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

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

Attachments [Agenda](#)

B. Review of Upcoming Special Meeting Agenda(s)

C. Legislative Update

1. State

2. Federal

D. Meeting Schedules

E. The Public Record

F. Boards, Commissions and Committees

1. Appointments

2. Work Plans & Annual Reports

G. Rules Committee Reviews, Recommendations and Approvals

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

1. Consent Calendar

- a. [ROGC 20-470](#) Approval of the Dumpster Day at Fischer Middle School Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Carrasco)

- Recommendation:**
1. Approve the Dumpster Day at Fischer Middle School scheduled on November 14, 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 November 3, 2020 Council Agenda for action.

Attachments [Memorandum from Carrasco](#)

- b. [ROGC 20-471](#) Approval of the Dia De Los Muertos Community Event Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Carrasco)

Recommendation:

1. Approve the Dia De Los Muertos Community Event scheduled on October 30, 2020 to October 31, 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 November 3, 2020 Council Agenda for action.

Attachments [Memorandum from Carrasco](#)

- c. [ROGC 20-475](#) Approval of National Prematurity Awareness Month 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. (Arenas)

Recommendation:

1. Approve the National Prematurity Awareness Month to be recognized by the City Council on Tuesday, November 17, 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 November 17, 2020 Council Agenda for action.

Attachments [Memorandum from Arenas](#)

END OF CONSENT

2. [ROGC](#) Medical Marijuana Business Tax Exemption. (Khamis & Foley)
[20-484](#)

Recommendation: Direct Staff to explore, analyze, and report back to City Council on an option to exempt medical marijuana card holders from paying the City Marijuana Business Tax (MBT).

The report to Council shall include a comparison of the projected financial impacts to MBT revenue collection between the following alternatives:

1. If all medical marijuana card holders were exempted.
2. If all medical marijuana card holders who can prove San José residency are exempted.

Attachments [Memorandum from Khamis & Foley](#)
[Early Consideration - Medical Cannabis Tax Exempt](#)

3. [ROGC](#) Authorizing Membership in the California Community Housing
[20-488](#) Agency (Calcha) to Prevent Displacement and Increase Housing
Affordability. (Khamis and Diep)

Recommendation: Direct Staff to draft a Resolution authorizing the City's participation in an innovative financing model to fund the acquisition and/or development of regulated affordable housing for middle-income households that will require the City to:

1. Become an Additional Member of the California Community Housing Agency (CalCHA) for which the sample resolution is attached as Exhibit A;
2. Support CalCHA's issuance of tax-exempt bonds for the production, preservation, and protection of essential middle-income rental housing; and,
3. Authorize the City Manager or designee to execute purchase option agreements - sample attached as Exhibit B - to accept all public benefit creation and financial upside through direct acquisition or assignment of CalCHA's middle-income housing.

Attachments [Memorandum from Khamis & Diep](#)
[Attachments](#)
[Early Consideration - Moderate Housing](#)
[Letters from the Public](#)

4. [ROGC](#)
[20-496](#) Funding Off-Duty SJPC Officers to Patrol Suncrest and Sierra.
(Diep)

Recommendation: Approve using \$20,000 in District 4 funds to pay for off-duty SJPD officers to deter and stop a recent rise in illegal activities up along the Berryessa foothills at Suncrest Avenue and Sierra Road in District 4 over a period of six to nine months.

Attachments [Memorandum from Diep](#)

5. [ROGC](#)
[20-492](#) Pawnbroker Ordinance. (Jones & Esparza)

Recommendation:

1. Direct Staff to update the conditional use process and requirements for Pawnbrokers to mirror the process and requirements set forth in the off-sale of alcohol beverage establishments including but not limited to:
 - a. Proposed locations within five hundred feet of existing pawnbrokers, within or outside the City, must not result in a total of three pawnbrokers within a thousand-foot radius.
 - b. If a proposed location results in more than three pawnbrokers within a thousand-foot radius, the resulting concentration of such uses will not:
 - i. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or
 - ii. Impair the utility or value of property of other persons located in the vicinity of the area; or
 - iii. Be detrimental to public health, safety or general welfare.
 - c. For such location within five hundred feet from any child care center; public park; social service agency; residential care facility; residential service facility; elementary school; secondary school; college or university; neighborhood revitalization area designated by the city for targeted neighborhood enhancement services or programs; parolee/probationer home; emergency shelter; supportive housing; transitional housing and transitional housing development; located within an area in which the chief of police has determined based upon quantifiable information that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area; or (b) would increase the severity of existing law enforcement or public nuisance problems in the area; or one hundred fifty feet from any residentially zoned property, the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect the locations listed.
 - d. Planning Commission's decision to be appealable to Council.

Attachments [Memorandum from Jones & Esparza](#)
[Early Consideration - Pawnbroker Ordinance](#)

6. [ROGC](#) Consideration of Renaming a Public Area or Facility in Memoriam
[20-500](#) of Richard Doyle - City of San José City Attorney. (Perez)

Recommendation: Direct the City Manager and staff to work with the family of Richard “Rick” Doyle to identify an appropriate public facility to be named in his memory for 29 years of public service as City Attorney for the City of San José.

Attachments [Memorandum from Perez](#)
[Early Consideration - Rick Doyle Facility Renaming](#)

7. [ROGC](#) Receive Staff Update on Recommendation to Establish Encampment
[20-501](#) Blight and Brush Removal Agreements. (City Manager’s Office)

Recommendation: Receive Staff Update on Recommendation to Direct Staff to coordinate and draft a preliminary agreement with Caltrans for the purpose of enabling the City of San Jose to arrange for blight and brush removal at homeless encampments on Caltrans-owned property within City limits in exchange for cost reimbursement.

Attachments [Memorandum from Khamis, Perez, Davis, Esparza & Foley, 8/](#)
[Presentation](#)

8. [ROGC](#) City Attorney Appointment and Compensation Package. (Mayor)

[20-505](#)

Recommendation:

1. Adopt a resolution appointing Nora Frimann as City Attorney and approving compensation for services as City Attorney effective beginning November 1, 2020 consistent with the following terms and the attachment in this memo.

a. Salary: Your starting salary will be \$309,915.41 annually. In addition to this starting salary, you will receive an approximate five percent (5%) ongoing non-pensionable pay for a total annual salary of approximately \$325,411.18.

b. Executive Management Benefits: As executive management, the Appointee will receive the benefits that are included in the Executive Management and Professional Employees (Unit 99) Benefit and Compensation Summary (attached). The Appointee will also receive a \$350.00 monthly automobile allowance in accordance with the current City policy and an option to receive payments in-lieu of health care coverage. The Appointee will also receive a monthly cell phone and data stipend, which is currently \$35 for cell phone use and/or \$40 for data plan use. However, the Appointee has waived this stipend as she currently has a City-issued cell phone.

c. Vacation and Executive Leave: The Appointee will accrue vacation and receive executive leave in accordance with Executive Management and Professional Employees (Unit 99) Benefit and Compensation Summary. The Appointee has sixty-four hours remaining of executive leave in the 2020 calendar year and will not be eligible for additional executive leave in 2020. Executive Leave cannot be cashed out or carried over into the next calendar year under any circumstances. Vacation can continue to accrue up to twice the annual accrual rate.

d. Outside Employment: The Appointee will not engage in outside employment without City Council approval.

2. Place the item on the November 3, 2020 Council agenda for action.

Attachments [Memorandum from Mayor](#)
[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.