



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, December 9, 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](#)
[20-612](#)

Review December 15, 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 December 15, 2020](#)
[Add Sheet](#)

2. Review Draft Agenda

[ROGC](#)
[20-613](#)

Review December 22, 2020 Draft Agenda - Cancelled

B. Review of Upcoming Special Meeting Agenda(s)

C. Legislative Update

1. State

2. Federal

D. Meeting Schedules

1. [ROGC](#) [20-647](#) **Public Hearing Schedule on the Proposed Modifications to the Spending Plan for Measure E Tax Revenues for FY 2020-2021 Pursuant to Council Policy 1-18. (Housing)**

Recommendation: Approve the public hearing schedule on February 2, 2021 and February 16, 2021 regarding the proposed modifications to the spending plan for Measure E tax revenues for FY 2020-2021 pursuant to Council Policy 1-18.

Attachments [Memorandum-Replacement](#)

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](#) [20-619](#) **Approval of Community Awards-Virtual Celebration and the Free Sock/Glove Giveaway Sponsored by Council District 2 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Jimenez)**

Recommendation:

1. Approve the Community Awards-Virtual Celebration scheduled on December 18, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.
2. Approve the expenditure of District 2 office budget funds to purchase gift cards as a thank you and recognition for awardees for their community contributions not to exceed \$50.
3. Approve the Free Sock and Glove giveaway scheduled for December 21, 2020 as a City Council sponsored Special Event and approve the expenditure of funds.
4. Approve and accept donations from various individuals, businesses or community groups to support the event.
5. Place the item on the December 15, 2020 Council Agenda for action.

Attachments [Memorandum from Jimenez](#)

- b. [ROGC](#) [20-638](#) **Retroactive Approval of the Park Pleasant Dumpster Day 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. Retroactively approve the Park Pleasant Dumpster Day scheduled on November 28, 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 December 15, 2020 Council Agenda for action.

Attachments [Memorandum from Carrasco](#)

END OF CONSENT

2. [ROGC](#) [20-615](#) **Monthly Report of Activities for November 2020. (City Auditor)**

Recommendation: Approve the Auditor's Office Monthly Report of Activities for the month of November 2020.

Attachments [Memorandum](#)

3. [ROGC](#)
[20-623](#) **Offering Wage Advances and Micro Loans to City Employees Through Fintech Services. (Diep)**

Recommendation: Direct Staff to explore the menu of services offered by fintech firms such as PayActiv and Salary Finance and report back to Council on whether it is feasible and beneficial to partner with them to extend the following benefits to City of San José employees who may need them:

1. Advancing wages that employees have already accrued but haven't yet received in between pay periods;
2. Offering loans (through partnerships with fintech firms, not from the City funds) that will be repaid by drawing from the employee's paycheck.

Attachments [Memorandum from Diep](#)
[Early Consideration Form](#)

4. [ROGC](#) **Inter-Department Transfer of District 4 Council Funds to Other**
[20-630](#) **Departments. (Diep)**

Recommendation:

Adopt the following 2020-2021 Appropriation Ordinance Amendments in the General Fund:

1. Decrease the appropriation to the Council District 4 (July-December) by \$440,000 for the purpose of advancing the underfunded and unmet needs identified herein:
2. Increase the Non-Personal/Equipment appropriation to the Department of Planning, Building, and Code Enforcement in the amount of \$200,000:
 - a. \$100,000 to hire consultants to speed up the work unilaterally aligning our General Plan and zoning designations, as mandated by the State of California.
 - b. \$100,000 to hire consultants to hire consultants to further the historical preservation work in San José; identifying sites that merit preservation so that development can proceed without fights over what is and isn't historic.
3. Increase the Non-Personal/Equipment appropriation to the Department of Information Technology in the amount of \$115,000:
 - a. \$30,000 towards the improvement of Vietnamese Language Translation Services in our San José 311 website and mobile channels.
 - b. \$25,000 to reinitiate the Purchasing Innovation project so that the Finance and Civic Innovation team can improve procurement speeds, shorten timelines, and increase flexibility. Specifically, the work should focus on identifying advances in purchasing rules and processes for elected officials, technology, and use of small software-as-a-service offerings.
 - c. \$60,000 to enhance digital signage in the public areas of City Hall and Police Headquarters to adaptively direct the public where to go as space uses change, provide instructions and direction in multiple languages, and display culturally-relevant imagery to make public spaces more welcoming and informative.
4. Increase the Non-Personal/Equipment appropriation to the Office of Economic Development in the amount of \$100,000:
 - a. To support the creation of a Citywide Small Business Retention Program within OED's Business Development Division to provide assistance to our local small businesses and entrepreneurs with fewer than 35 employees, which represent a third of the jobs in our city, to help them deal with increased risk of displacement as redevelopment efforts in our General Plan bring new challenges for small businesses.

5. Increase the Non-Personal/Equipment appropriation to the Office of Cultural Affairs the amount of \$25,000:

a. To provide grants to artists or fund art projects, supporting the art community through this difficult time when our transit occupancy taxes revenues have fallen, adversely affecting funding for the arts.

Attachments [Memorandum from Diep](#)

5. [ROGC](#) **Fee Cap on Food Delivery Services. (Mayor and Diep)**
 [20-641](#)

Recommendation: Direct the City Manager to draft and enact an urgency ordinance that:

- 1.Caps the delivery fee that third-party food delivery platforms can charge member establishments at 15% of the purchase price of an online order; and
- 2.Caps the total fee amount for the use of all services-including the delivery and processing fees- that third-party food delivery platforms can charge at 18% of the purchase price of an online order; and
- 3.Allows member establishments to agree to pay a third-party food delivery platform a fee that exceeds the limits in sections 1 and 2 to obtain optional products or services,including, but not limited to, advertising, marketing, or access to customer subscription programs, in addition to delivery or pickup service; and
- 4.Prohibits the reduction of compensation to food delivery drivers, including the reduction of any amount of tips provided to delivery drivers that results from the restrictions on commission or delivery fees as set forth in this order; and
- 5.Exempts chain restaurants, with the exception of those franchisees who own and operate only three restaurants or fewer; and
- 6.Grants food-delivery companies 14 days per incident to refund any fees taken in excess of these limits; and
- 7.Remains in effect through June 2021, at which point the City Council may choose to extend or suspend the fee cap based on the extent of indoor restaurant capacity (e.g. 50%)and the availability of a COVID-19 vaccine for essential workers.

Attachments [Memorandum from Mayor and Diep](#)

6. [ROGC](#)
[20-634](#) Procurement Programs for Minority-Owned and Other Businesses. (Jones and Arenas)

Recommendation:

1. Present to Council at the December 15, 2020 Council Meeting the Report on Small/Local Business Contract Participation in FY 2019-20 as accepted by the Community & Economic Development (CED) Committee on November 23, 2020.
2. Accept Recommendations outlined in the letter submitted to the CED Committee from the San Jose Small Business Advisory Task Force and integrate into the workplan.
3. Explore options for implementing a Disparity Study to evaluate and potentially determine the need for new procurement policies that facilitate participation of Minority, Women, and Other owned Business Enterprises (MWOBE) as appropriate.
4. Return to Council in Spring 2021 with proposal, cost estimate, and scope of study to be considered in the annual budget process.

Attachments [Memorandum from Jones and Arenas](#)
[Early Consideration Form](#)

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

[ROGC](#)
[20-640](#)

Public Safety, Finance and Strategic Support Committee Work Plan. (Mayor and Peralez)

Recommendation:

Approval of the Public Safety, Finance, and Strategic Support Committee Work Plan for the period January through June 2021 and setting its meeting schedule on the third Thursday of each month at 1:30 p.m. by virtual meeting due to the COVID-19 pandemic restrictions, until further notice.

Attachments [Memorandum](#)

5. Joint Meeting of the Rules and Open Government Committee and Committee of the Whole

6. Smart Cities and Service Improvement Committee

[ROGC](#)
[20-639](#)

Smart Cities and Service Improvements Committee Work Plan. (Mayor and Diep)

Recommendation:

Approval of the Smart Cities and Service Improvements Committee Work Plan for the period January through June 2021, setting its meeting schedule on the first Thursday of each month at 1:30 p.m. by virtual meeting due to the COVID-19 pandemic restrictions, until further notice.

Attachments [Memorandum](#)

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.