



City Council Meeting Amended Agenda

Tuesday, September 28, 2021

1:30 PM

Hybrid Meeting - Council Chambers and Virtually -

<https://sanjoseca.zoom.us/j/93052835954>

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
DAVID COHEN, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
MATT MAHAN, 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.sanjoselegistar.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. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov.

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.

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 legislate application used by City Council and staff.
- 2) By email to city.clerk@sanjoseca.gov by 10:00 a.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 is 930 5283 5954. Click *9 to raise a hand to speak. Click *6 to unmute when called.
Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)
- 2) Online at: <https://sanjoseca.zoom.us/j/93052835954>
 - 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.

For Closed Captions, please visit the City’s YouTube channel:

<https://www.youtube.com/CityofSanJoseCalifornia>, or website livestream
<https://www.sanjoseca.gov/news-stories/watch-a-meeting>.

• Call to Order and Roll Call

9:30 a.m. - Closed Session

[21-2093](#) Closed Session Agenda

Attachments [Closed Session Agenda](#)

1:30 p.m. - Regular Session

6:00 p.m. - Evening Session – Cancelled

*The previously scheduled Evening Session has been cancelled.

- Pledge of Allegiance
- Invocation (District 8)

Pastor Theodoris Young, Light of the World Church

- Orders of the Day

To be heard after Ceremonial Items

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

* SEE NEW ITEM 2.17, "Request for Travel for Mayor Liccardo" 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. Consolidated Open Government and Ethics Resolution No. 77135, Section 2.3.2.1.E.3; Council's Rules of Conduct, Resolution No. 79367, Rule 3(d); Council Agenda Items' Placement After Rules During Social Distancing Period Resolution No. 79485.

- Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

1.1 Presentation of a Proclamation for National Preparedness Month encouraging community awareness of the importance of being prepared in case of a disaster. (Carrasco)

1.2 Presentation of a Commendation to the Health Trust for their efforts to increase health services to our most vulnerable communities during the pandemic, and for the past 25 years. (Davis)

1.3 Presentation of a Commendation to the Project Hope Youth Ambassadors for successful completion of the ambassador program and their contributions to the Roundtable neighborhood. (Jimenez)

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.

[21-2116](#)

Final Adoption of Ordinances.

Recommendation:

(a) Ordinance No. 30663 - An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.78 Gross Acres Situated on the East Side of Seaboard Avenue, Approximately 200 Feet Southeast of West Trimble Road (2586 Seaboard Avenue; APN: 101-01-010) from the Li Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District.

[Passed for Publication on 9/14//2021 - Item 10.1(a) (21-1987)]

2.3 Approval of Council Committee Minutes.

[21-2118](#)**Approval of Council Committee Minutes.****Recommendation:**

- (a) Regular Community and Economic Development Committee Meeting Minutes of June 28, 2021.
 - (b) Regular Community and Economic Development Committee Meeting Minutes of August 23, 2021.
 - (c) Regular Smart Cities and Service Improvements Committee Meeting Minutes of August 5, 2021.
 - (d) Regular Smart Cities and Service Improvements Committee Meeting Minutes of September 2, 2021.
 - (e) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of August 11, 2021.
 - (f) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of August 18, 2021.
 - (g) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of August 25, 2021.
 - (h) Regular Joint Meeting for the Rules and Open Government Committee and Committee of the Whole Meeting Minutes of September 1, 2021.
 - (i) Regular Neighborhood Services and Education Committee Meeting Minutes of August 12, 2021.
 - (j) Regular Public Safety, Finance and Strategic Support Committee Meeting Minutes of August 19, 2021.
 - (k) Special Transportation and Environment Committee Meeting Minutes of August 30, 2021.
- 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**
- [\(a\) 6/28/2021 CED Minutes](#)
 - [\(b\) 8/23/2021 CED Minutes](#)
 - [\(c\) 8/5/2021 Smart Cities Minutes](#)
 - [\(d\) 9/2/2021 Smart Cities Minutes](#)
 - [\(e\) 8/11/2021 ROGC Minutes](#)
 - [\(f\) 8/18/2021 ROGC Minutes](#)
 - [\(g\) 8/25/2021 ROGC Minutes](#)
 - [\(h\) 9/1/2021 ROGC Minutes](#)
 - [\(i\) 8/12/2021 NSE Minutes](#)
 - [\(j\) 8/19/2021 PSFSS Minutes](#)
 - [\(k\) 8/30/2021 T&E 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 [21-2095](#) Settlement of Faz v. City of San José.

Recommendation: Approve a settlement in the case of Faz v. City of San José in the amount of \$400,000, and authorize the City Attorney to execute a Settlement Agreement.
CEQA: Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Attorney)

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

- 2.8** [21-2097](#) **Adoption of an Ordinance Ratifying Final Expenditures in Various Appropriations for 2020-2021 and Adoption of the Associated Appropriation Ordinance and Funding Sources Resolution Amendments in 2020-2021.**

Recommendation:

(a) Adopt an ordinance ratifying final 2020-2021 expenditures in various appropriations as detailed in the report to Council.

(b) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:

(1) Increase the Construction and Conveyance Tax estimate by \$8,402,134;

(2) Increase the Needs-Based Allocation Transfer to District 1 by \$697,964;

(3) Increase the Needs-Based Allocation Transfer to District 2 by \$317,548;

(4) Increase the Needs-Based Allocation Transfer to District 3 by \$288,942;

(5) Increase the Needs-Based Allocation Transfer to District 4 by \$236,387;

(6) Increase the Needs-Based Allocation Transfer to District 5 by \$731,115;

(7) Increase the Needs-Based Allocation Transfer to District 6 by \$657,715;

(8) Increase the Needs-Based Allocation Transfer to District 7 by \$649,290;

(9) Increase the Needs-Based Allocation Transfer to District 8 by \$463,018;

(10) Increase the Needs-Based Allocation Transfer to District 9 by \$505,483;

(11) Increase the Needs-Based Allocation Transfer to District 10 by \$212,549;

(12) Increase the Transfer to the Parks City-Wide Construction and Conveyance Tax Fund appropriation by \$2,381,503; and

(13) Increase the Transfer to the General Fund - Parks Eligible Maintenance Costs appropriation by \$1,260,620.

(c) Adopt the following 2020-2021 Appropriation Ordinance amendments in the Water Utility Fund:

(1) Increase the Non-Personal/Equipment appropriation to the Environmental Services Department by \$942,422;

(2) Increase the Fees, Rates, and Charges estimate by \$549,628; and

(3) Decrease the Unrestricted Ending Fund Balance by \$392,794.

(d) Adopt the following 2020-2021 Appropriation Ordinance amendments in the General Fund:

(1) Increase the Personal Services appropriation to the Fire Department by \$648,168;

- (2) Decrease the Personal Services appropriation to the Information Technology Department by \$648,168;
 - (3) Increase the Workers' Compensation Claims - Fire appropriation by \$99,093;
 - (4) Decrease the Workers' Compensation Claims - Police appropriation by \$99,093;
 - (5) Increase the Personal Services appropriation to the Independent Police Auditor by \$41,498;
 - (6) Decrease the Personal Services appropriation to the Transportation Department by \$41,498;
 - (7) Increase the Workers' Compensation Claims - PRNS appropriation by \$17,924;
 - (8) Decrease the Workers' Compensation Claims - Other Departments appropriation by \$17,924;
 - (9) Increase the PEG - CreaTV appropriation by \$5,771; and
 - (10) Decrease the City Dues/Memberships appropriation by \$5,771.
- (e) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the 1943 Gas Tax Maintenance and Construction Fund:
- (1) Increase the Gas Tax estimate by \$752,178; and
 - (2) Increase the Transfer to the General Fund for Street Maintenance by \$752,178.
- (f) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the 1990 Gas Tax Maintenance and Construction Fund:
- (1) Increase the Gas Tax estimate by \$218,068; and
 - (2) Increase the Transfer to the General Fund for Street Maintenance by \$218,068.
- (g) Adopt the following 2020-2021 Appropriation Ordinance amendments in the South Bay Water Recycling Operating Fund:
- (1) Increase the SCVWD - Advanced Water Treatment appropriation by \$196,433;
 - (2) Increase the Fees, Rates, and Charges estimate by \$162,433 and
 - (3) Decrease the Non-Personal/Equipment appropriation to the Environmental Services Department by \$34,000.
- (h) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:
- (1) Increase the Construction and Conveyance Tax estimate by \$23,637; and
 - (2) Increase the Transfer to the General Fund - Park Yards Operating

and Maintenance Expenses appropriation by \$23,637.

(i) Adopt the following 2020-2021 Appropriation Ordinance amendments in the Housing Trust Fund:

- (1) Increase the Overhead appropriation by \$1,554; and
- (2) Decrease the Unrestricted Ending Fund Balance by \$1,554.

(j) Adopt the following 2020-2021 Appropriation Ordinance amendments in the Sewer Service and Use Charge Fund:

- (1) Increase the Workers' Compensation Claims appropriation to the Human Resources Department by \$558; and
- (2) Decrease the Unrestricted Ending Fund Balance by \$558.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (City Manager)

Attachments [Memorandum](#)

2.9 [21-2096](#) **Conditional Summary Vacation, Declaration of Surplus, and Sale of a Portion of North Almaden Boulevard.**

Recommendation:

- (a) Adopt a resolution:
- (1) Approving the report of the Director of Public Works setting forth the facts justifying the conditional summary vacation of an approximately 1,381 square foot portion of North Almaden Boulevard located northeast of the North Almaden Boulevard and East Santa Clara Street intersection (“Subject Property”);
 - (2) Conditionally vacating the Subject Property, which after the satisfaction of the condition, will be superseded by relocation;
 - (3) After satisfaction of the condition, directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara; and
 - (4) Declaring the Subject Property “exempt surplus land” to the needs of the City.
- (b) Adopt a resolution authorizing the City Manager, or their designee, to negotiate and execute:
- (1) Purchase and Sale Agreement with the adjacent property owners Kenneth S. Tersini and the Kenneth S. Tersini Living Trust for the sale of approximately 674 square feet of conditionally vacated City-owned “exempt surplus property” on a portion of Almaden Boulevard, between N. Almaden Boulevard and W. Santa Clara Street, in accordance with Cal Gov. §54221(f)(1)(B) and San José Municipal Code §4.20.070(A), in exchange for the conditionally vacated 674 square feet and Assessor’s Parcel Number 259-35-055 being voluntarily annexed to the Convention Center Facilities District;
 - (2) Purchase and Sale Agreement with adjacent property owner Bit Holdings Sixty-Eight, Inc. for the sale of approximately 707 square feet of conditionally vacated City-owned “exempt surplus property” on a portion of Almaden Boulevard, between N. Almaden Boulevard and W. Santa Clara Street, in accordance with to Cal Gov. §54221(f)(1)(B) and San José Municipal Code §4.20.070 in the amount of \$1; and
 - (3) All other documents necessary to complete the transactions.
- CEQA: Supplemental Environmental Impact Report for the Almaden Corner Hotel Project, H18-038. Council District 3. (Economic Development and Cultural Affairs/Public Works)
[Deferred from 8/31/2021 - Item 2.8 (21-1886); 9/14/2021 - Item 2.10 (21-1978) and 9/21/2021 - Item 2.12 (21-2045)]

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

2.10 [21-2098](#) **Amendment to the Agreement for Legal Services Between the City of San José and Matteoni, O’Laughlin and Hechtman, APC.**

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute a First Amendment to the Agreement for Legal Services between the City of San José and Matteoni, O’Laughlin & Hechtman, APC to increase the maximum compensation by \$75,000 for a total contract amount not to exceed \$395,000, and extend the term of the agreement through December 31, 2022.
CEQA: Environmental Impact Report for CityView Plaza Project, File No. H19-016. Council District 3. (City Attorney)

Attachments [Memorandum](#)

2.11 [21-2099](#) **Permanent Trail Easement Agreement Between the City of San José and Brookdale Living Communities of California, LLC.**

Recommendation: Adopt a resolution authorizing the City Manager, or her designee, to execute an Easement Agreement with Brookdale Living Communities of California, LLC, and all documents necessary to acquire a 412 square foot trail easement, and a 1,248 square foot temporary construction easement to support construction of the Guadalupe River Trail, for a price of \$0.
CEQA: Mitigated Negative Declaration for the Guadalupe River Trail Project and addenda thereto, File Nos. PP03-092 and PP05-172.
Council District 9. (Economic Development and Cultural Affairs)

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

2.12 [21-2100](#) **Permanent Sidewalk Easement Between the City of San José and Center for Training and Careers, Inc.**

Recommendation: Adopt a resolution authorizing the City Manager, or her designee, to execute an Easement Agreement with Center for Training & Careers, Inc, and all documents necessary to acquire a permanent sidewalk easement for modification and maintenance of an existing traffic signal and pedestrian access ramp, for a price of \$0.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guidelines Section 15301, Existing Facilities. Council District 7. (Economic Development and Cultural Affairs)

Attachments [Memornadum Agreement](#)

2.13 [21-2149](#) **Hewlett Packard Ground Lease Termination. - RECOMMEND DEFERRAL**

Recommendation: (a) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Third Amendment to the Ground Lease of Parcel W-9 Agreement with Hewlett Packard Enterprise Company to terminate the agreement early, effective upon execution by the City with a payment to Hewlett Packard Enterprise Company of \$1,500,000.

(b) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Airport Renewal and Replacement Fund:

(1) Establish the Hewlett Packard Enterprise Lease Buyout appropriation to the Airport Department in the amount of \$1,500,000; and

(2) Decrease the Ending Fund Balance in the amount of \$1,500,000.

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

(Airport/City Manager)

[Deferred from 9/21/2021 - Item 2.10 (21-2043)]

RECOMMEND DEFERRAL TO 10/5/2021 PER ADMINISTRATION

Attachments [Memorandum](#)

2.14 [21-2156](#) **Implementation of AB 361 to Allow Teleconferenced Public Meetings to Continue Beyond September 30, 2021.**

Recommendation: Adopt a resolution of the Council of the City of San José amending the City’s Consolidated Open Government and Ethics Resolution No. 77135 to incorporate the Governor’s proclaimed COVID state of emergency to allow City legislative bodies to hold public meetings solely by teleconference or otherwise electronically pursuant to AB 361; to modify agenda noticing and document posting; and to incorporate all future Governor’s Executive Orders regarding the Brown Act into the City’s open government procedures, as deemed appropriate by the City Clerk and City Manager, without further Council action.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)
[Rules Committee referral 9/22/2021 - Item A.1.a]

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

2.15 [21-2163](#) **Approval of Two Neighborhood Day Events Sponsored by Council District 10 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.**

Recommendation: As recommended by the Rules and Open Government Committee on September 22, 2021:
(a) Retroactive approval of the Orchard Creek Neighbor Day held on September 18, 2021 as a City Council sponsored Special Event and approve the expenditure of funds;
(b) Approval of the Peppertree Neighbor Day scheduled on Saturday, October 2, 2021 as a City Council sponsored Special Event and approve the expenditure of funds; and
(c) 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. (Mahan)
[Rules Committee referral 9/22/2021 - Item G.1.a]

Attachments [Memorandum](#)

2.16 [21-2170](#) **Retroactive Approval of Laneview Dumpster Day Sponsored by Council District 4 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 September 22, 2021:
(a) Retroactively approve the Laneview Dumpster Day scheduled on September 25, 2021 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. (Cohen)
[Rules Committee referral 9/22/2021 - Item G.1.b]

Attachments [Memorandum](#)

2.17 [21-2171](#) **Request for Travel for Mayor Liccardo.**

Recommendation: Authorize travel for Mayor Liccardo to Dayton, Ohio from September 30 – October 2, 2021 to attend the United States Conference of Mayors (USCM) Leadership Meeting. Source of Funds: Mayor/Council Travel Budget.
CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Mayor)

Attachments [Memorandum](#)
[Supplemental Memorandum, 9/23/2021](#)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, Jennifer Maguire (Verbal Report)

[21-2178](#) (a) City Manager’s COVID-19 Update (Verbal Report).
(b) City Manager’s Report on Other City Matters (Verbal Report).

Attachments [Presentation - est. 15 minutes](#)

3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.
TO BE HEARD AT 9:30 A.M.

3.3 [21-2104](#) **Code Enforcement Management Controls Audit Report. - DEFERRED****Recommendation:**

As recommended by the Neighborhood Services and Education Committee on September 9, 2021, accept a report on the Code Enforcement Management Controls Audit.

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)

[Neighborhood Services and Education Committee referral 9/9/2021 - Item (d)1]

DEFERRED TO 10/5/2021 PER ADMINISTRATION

Attachments

[Code Enforcement Management Controls Audit Presentation](#)
[Presentation](#)

3.4 [21-2105](#) **Status of Open Audit Recommendations as of June 30, 2021.****Recommendation:**

Accept the Status of Open Audit recommendations as of June 30, 2021.

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)

Attachments

[Status of Open Audit Recommendations as of June 30 2021 Presentation, est. 9 minutes](#)

3.5 [21-2106](#) **Adoption of Resolution Apologizing to Chinese Immigrants and their Descendants.****Recommendation:**

Adopt a resolution apologizing to Chinese immigrants and their descendants for the role of the City of San José in systematic and institutional racism, acknowledging acts of fundamental injustice, recognizing the contributions and resilience of the Chinese community and resolving to rectify the lingering consequences of past discriminatory policies.

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

Attachments

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

3.6 [21-2107](#) **Actions Related to the 9821 - SJC Guadalupe Gardens Fencing Project and Temporary Closure of Spring Street and Asbury Streets.**

Recommendation:

(a) Adopt a resolution delegating authority to the Director of Public Works to award the construction contract for the 9821 - SJC Guadalupe Gardens Fencing Project, pursuant to City Charter Section 1217(h), in an amount not greater than \$1,500,000.

(b) Conduct a public hearing on the proposed temporary closure of Spring Street between Hedding Street and Asbury Street, and Asbury Street between Walnut Street and Irene Street, and Irene Street between Taylor Street and Asbury Street.

(c) Adopt a resolution to temporarily close Spring Street between Hedding Street and Asbury Street, and Asbury Street between Walnut Street and Irene Street, and Irene Street between Taylor Street and Asbury Street.

(d) Adopt the following 2021-2022 Appropriation Ordinance Amendments in the Airport Renewal and Replacement Fund:

(1) Decrease the Ending Fund Balance in the amount of \$700,000; and

(2) Increase the Guadalupe Gardens Fencing appropriation in the amount of \$700,000.

CEQA: Categorical Exemption, CEQA guidelines Section 15303(e) New Construction or Conversion of Small Structures, File No. ER21-005.

(Airport/Parks, Recreation and Neighborhood Services/Public Works/Transportation/City Manager)

Attachments [Replacement Memorandum, 9/24/2021](#)

[\(a\) Resolution](#)

[\(c\) Resolution](#)

[Presentation - est. 5 minutes](#)

3.7 [21-2108](#) **Temporary Expansion of Business Tax Financial Hardship Exemptions.**

Recommendation: Approve an ordinance amending Chapter 4.76 of Title 4 of the San José Municipal Code to amend Section 4.76.345.6 to temporarily expand and extend, from October 1, 2021 through June 30, 2022, eligibility for the existing financial hardship exemptions for low-revenue generating small businesses and small business owners with limited household incomes to include all persons engaged in business in the City who satisfy certain financial hardship requirements.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Finance)

Attachments [Memorandum](#)
 [Ordinance](#)

4. PUBLIC SAFETY SERVICES**5. TRANSPORTATION & AVIATION SERVICES**

5.1 [21-2109](#) **Construction Crane Fee Program Study Findings and Recommendation.****Recommendation:**

- (a) Approve an ordinance requiring developers whose means or methods of construction exceed the City's Downtown Building Height Limits to indemnify the City for all costs or losses arising out of developers construction means or methods, to make a deposit of estimated costs or losses prior to the City issuing a building permit, and to reconcile a percentage of costs associated with actual Air Carrier denied passenger boardings, prior to the City issuing a temporary or permanent certificate of occupancy.
- (b) Adopt a resolution to implement a Landing Fee Reduction Program for air carriers that incur passenger weight impacts caused by a developer's construction means and methods in the "Construction Crane Guidance Area" and to grant the Director of Aviation authority to waive landing fees up to 75% of the total Air Carrier denied boarding costs due to construction cranes and to set the estimated crane fee deposit percentage up to 50% and fee cap on an annual basis.
- CEQA: Not a Project, PP17-008, General Procedure and Policy Making resulting in no physical changes to the environment. Council Districts 3 and 6. (Airport)

Attachments[Memorandum](#)[Memorandum from Liccardo, Carrasco, Davis, 9/24/2021](#)[Ordinance](#)[Resolution](#)[Presentation - est. 10 minutes](#)[Letters from the Public](#)**6. ENVIRONMENTAL & UTILITY SERVICES****7. NEIGHBORHOOD SERVICES**

- 7.1 [21-2110](#) **Amendment to Chapter 6.87, Tobacco Retail License of Title 6, Business Licenses and Regulations, of the San José Municipal Code in Alignment with City Council Policy Priority #12: Flavored Tobacco and E-Cigarettes/Protecting Our Youth from the E-Cigarette Epidemic. - TO BE HEARD AT 5:00 P.M.**

Recommendation: Approve an ordinance amending Chapter 6.87, Tobacco Retail License, of Title 6, Business Licenses and Regulations, of the San José Municipal Code to prohibit the sale of flavored tobacco and e-cigarettes (or other flavored tobacco products), prevent further overconcentration of tobacco retail businesses, and reduce youth access to tobacco products, and implement City Council Policy Priority #12: Flavored Tobacco and E-Cigarettes, Items 1, 2, and 3 / Protecting our Youth from the E-Cigarette Epidemic.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Information Memos that involve no approvals of any City action. (Planning, Building and Code Enforcement)
[Deferred from 6/15/2021 Item 7.1 (21-1402)]
TO BE HEARD AT 5:00 P.M.

Attachments [Memorandum](#)
[Supplemental Memorandum, 9/15/2021](#)
[Memorandum from Mayor, Jones, Foley, Carrasco and Cohen, 9/](#)
[Ordinance](#)
[Presentation - est. 10 minutes](#)
[Letter from County of Santa Clara Public Health Department](#)
[Letters from the Public - 1 of 4](#)
[Letters from the Public - 2 of 4](#)
[Letters from the Public - 3 of 4](#)
[Letters from the Public - 4 of 4](#)

- 7.2 [21-2111](#) **Amendment to Chapter 9.44, Regulation of Smoking, of Title 9, Health and Safety, of the San José Municipal Code in Alignment with City Council Policy Priority #18: Smoke-Free Housing. - TO BE HEARD AFTER ITEM 7.1**

Recommendation: Approve an ordinance amending Chapter 9.44, Regulation of Smoking, of Title 9, Health and Safety, of the San José Municipal Code to prohibit smoking inside multifamily housing units, reduce the exposure to secondhand smoke in alignment with and completion of City Council Policy Priority #18: Smoke Free Housing.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Information Memos that involve no approvals of any City action. (Planning, Building and Code Enforcement)
TO BE HEARD AFTER ITEM 7.1

Attachments [Memorandum](#)
[Ordinance](#)
[Presentation - est. 10 minutes](#)
[Letters from the Public](#)

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 [21-2112](#) **Appropriation of Year One Award for the Permanent Local Housing Allocation Program Funding from the California Department of Housing and Community Development.**

Recommendation: (a) Approve an ordinance amending Chapter 4.80 of Title 4 of the San José Municipal Code to add a new part to establish the Building Homes and Jobs Act Fund, with an effective date of July 1, 2021.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Building Homes and Jobs Act Fund:

(1) Establish an estimate for Revenue from State of California in the amount of \$4,348,646;

(2) Establish a Housing Shelter appropriation to the Housing Department in the amount of \$4,248,646; and

(3) Establish a Personal Services appropriation to the Housing Department in the amount of \$100,000.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Housing/City Manager)

Attachments [Memorandum](#)
[\(a\) Ordinance](#)

8.2 [21-2117](#) Eviction Moratorium.

Recommendation: Accept the staff report on the status of the State’s Eviction Moratorium under Assembly Bill 832 and the Housing Department’s efforts to provide education and support to at-risk communities in the city of San José.

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

Attachments [Memorandum](#)
[Memorandum from Peralez and Arenas, 9/24/2021](#)
[Memorandum from Esparza, 9/27/2021](#)
[Memorandum from Cohen, 9/28/2021](#)
[Memorandum from Arenas, 9/28/2021](#)
[Presentation - est. 10 mins](#)
[Letters from the Public - 1 of 4](#)
[Letters from the Public - 2 of 4](#)
[Letters from the Public - 3 of 4](#)
[Letters from the Public - 4 of 4](#)

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

No Land Use items on Consent Calendar.

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.