



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
Chappie Jones, Chair
Raul Peralez, Vice Chair
Sylvia Arenas, Member
David Cohen, Member
Dev Davis, Member

Committee Staff
Lee Wilcox, Assistant City Manager
Toni Taber, City Clerk
Nora Frimann, City Attorney
Gloria Schmanek, City Manager's Office
Henry Smith, Mayor's Office

Wednesday, December 8, 2021

2:00 PM

Virtual Meeting -
<https://sanjoseca.zoom.us/j/91241177464>

*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution Nos. 79485, 80237, 80266 and 80290, the 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 Commission Meeting:

1) By phone 888 475 4499. 91241177464 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/91241177464>

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](#)
[21-867](#)

Review December 14, 2021 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](#)
[21-868](#)

Review December 21, 2021 Draft Agenda - Cancelled

B. Review of Upcoming Special Meeting Agenda(s)

C. Legislative Update

1. State

2. Federal

D. Meeting Schedules

E. The Public Record

[ROGC
21-869](#)

The Public Record for November 23 - December 2, 2021. (City Clerk)

Recommendation: Receive and file the Public Record for November 23 - December 2, 2021.

Attachments [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](#) Retroactive Approval of Multiple Special Events Sponsored by Council
[21-870](#) District 7 as a City Council Sponsored Special Event to Expend City
Funds and Accept Donations of Materials and Services for the Event.
(Esparza)

Recommendation:

1. Retroactively approve the Dumpster Day held on Clemence Avenue scheduled on September 11, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
2. Retroactively approve the Dumpster Day held on Lone Bluff Way scheduled on September 18, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
3. Retroactively approve the Franklin Family Movie Night held at Franklin Elementary School on September 24, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
4. Retroactively approve the Moon Festival at the Vietnamese American Cultural Center held on September 25, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
5. Retroactively approve the Dumpster Day held at Meadows Elementary School scheduled on September 25, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
6. Retroactively approve the Dumpster Day held at Yerba Buena High School scheduled on October 16, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
7. Retroactively approve the Lone Bluff Senter Family Movie Night held at Lone Bluff Park on October 16, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
8. Retroactively approve the Dumpster Day held in the Seventrees Neighborhood scheduled on October 23, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
9. Retroactively approve the Seventrees Halloween Trunk-or-Treat held at the Seventrees Community Center on October 29, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
10. Retroactively approve the Lairon Halloween Trunk-or-Treat held at Lairon Family Resource Center on October 29, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.
11. Approve and accept donations from various individuals, businesses or community groups to support the event.
12. Place the item on the December 14, 2021 Council Agenda for action.

Attachments [Memorandum from Esparza](#)

- b. [ROGC](#)
 [21-871](#) Approval of Gift Drive for Residents of Emergency Interim Housing at Evans Lane Sponsored by Council District 6 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Davis)

Recommendation: 1. Approve a Gift Drive for Residents of Emergency Interim Housing at Evans Lane scheduled from December 1, 2021 through December 17, 2021 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 14, 2021 Council Agenda for action.

Attachments [Memorandum from Davis](#)

- c. [ROGC](#)
 [21-872](#) Retroactive Approval of The Eastridge Tree Lighting Ceremony 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. Retroactively approve the Eastridge Tree Lighting Ceremony scheduled on November 19, 2021 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 14, 2021 Council Agenda for action.

Attachments [Memorandum from Arenas](#)

- d. [ROGC 21-873](#) Retroactive Approval of Deck the Doors 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. Retroactively approve the Deck the Doors scheduled from November 24, 2021 through the month of December 2021 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 14, 2021 Council Agenda for action.

Attachments [Memorandum from Arenas](#)

END OF CONSENT

2. [ROGC 21-874](#) ADA Compliance for Small Businesses. (Perez, Davis, Esparza)

Recommendation:

Direct the City Manager to:

1. Return to Council with a Certified Access Specialist (CASP) Inspection Grant program offering up to \$1,000 grants to assist small businesses seeking to reach ADA compliance by first initiating a CASp inspection by a CASp.
2. Develop an outreach and educational campaign targeting small businesses focusing on business areas such as Little Saigon, La Placita, The Alameda, Lincoln Avenue, Downtown Core, Japantown, East Santa Clara Street, Calle Willow and 13th Street Business Corridor.
 - a. As part of the outreach and educational campaign, direct Staff to develop a multilingual ADA Compliance for Small Businesses brochure including information such as the importance of ADA compliance, penalties for ADA noncompliance, financial resources available for small businesses to become compliant, and the benefits of hiring a CASp Inspector.
3. Return to Council with an informational memo on current State and Federal bills seeking to update legislation related to ADA compliance.

[Deferred from 12/1/2021 - Item G.2 (ROGC 21-850)]

Attachments [Memorandum from Perez, Davis, and Esparza](#)
[Letters from the Public](#)
[Early Consideration Response Form](#)

3. [ROGC](#) ADA Compliance. (Jones, Jimenez, Foley)
[21-875](#)

Recommendation:

Direct City Manager to ensure all businesses, specifically small, minority-owned businesses, are educated about the American with Disabilities Act (ADA) Compliance requirements at the state and federal level, and have access to resources and tools, to ensure the City of San José is barrier free, inclusive, and accessible to all residents and visitors through the following actions.

1. Provide and improve multi-language education through:

1) A new City webpage that includes information about ADA compliance tools, resources, and access to local and state services to help business owners and nonresident landowners comply with ADA requirements.

2) Mailers/flyers to be distributed to San José certified businesses in the zip codes listed in Attachment A, providing them education about the obligation to comply with state and federal ADA laws and access to resources and tools.

3) City-sponsored webinar in partnership with ADA compliance subject expert(s) providing overview and education on state and federal laws, local and state resources for assistance in ensuring places of business are accessible, and protection against accessibility lawsuits.

2. Include distribution of work between Office of Economic Development and the Planning Division's Business Ally Program/Coaching Center to utilize existing resources and workplans such as:

a. OED's current efforts towards redesign of the Business Owner Space website and creation of a Virtual Business Center as a "one-stop-shop" in alignment with the Mayor's Budget Message in June 2021.

b. Planning Division's "Disability Access and Education Revolving Fund;" this is a state mandated program that has created a local revenue stream for training and certification of municipal CASp inspectors, and education, outreach, and grants to facilitate ADA compliance for small businesses.

3. Increase promotion of the City's Disabled Access Improvement Grant Program, which was launched in 2020 to facilitate ADA compliance for small businesses; partner with third party organizations specialized in providing technical assistance and support for small businesses.

4. Report on appropriation of funds collected through the state mandated Disability Access Education Revolving Fund; expand use

of funds to include the “Accessibility & Legal Guidance Fund Program” to provide financial assistance grants and guidance to qualifying small businesses with:

a. Correcting construction-related physical access violations per a completed Certified Access Specialist (CAsp) inspection report, specifically to cover the top three violations reported statewide:

- 1) Noncompliant existing parking spaces, e.g. excessive slopes/cross-slopes, improper dimensions, striping, etc.;
- 2) Access heights within public facility, e.g. heights of surfaces such as counters, bars, or tables are not compliant;
- 3) Noncompliant or nonexistent Parking for Van-accessible and/or loading zones;

b. Navigating through remediation of accessibility violations and litigation.

5. Ensure the City’s “Al Fresco Forever” initiative includes education about ADA compliance requirements and guidelines on access solutions for businesses to implement in order to adequately serve customers with disabilities and prevent violations that may place businesses at risk for lawsuits.

6. When considering establishment of the new Office of Disability Affairs as part of the budget process, include a forum or point of contact for citizens to submit communication regarding access and barriers at public spaces and places of businesses within the City so that these issues may be potentially addressed proactively and outside of the litigation process.

7. Direct Office of Intergovernmental Relations to:

a. Work with City’s State lobbyist and/or Assembly Members Alex Lee, Evan Low, Ash Kalra, and Senator Dave Cortese to:

i. Advocate for maintaining the state mandated “Disability Access and Education Revolving Fund” fee at \$4 and retainment of the fees collected at 90% for local municipalities before it reverts to a \$1 fee and 70% retainment in 2023. This will allow the City to continue with providing funding for training of CAsp inspectors, the City’s Disabled Access Improvement Grant Program, and other potential programs as proposed at the local level that may serve as tools for small businesses to utilize and ensure accessibility for individuals with disabilities; and

ii. Request allocation in the state budget to establish grants for small businesses in order to upgrade their premises to be administered through the California Commission on Disability Access (CCDA); in

addition to working with members representing the Bay Area, consider also working with members representing the Central Valley, which historically has also been hard hit by these lawsuits.

b. Advocate for federal legislative reforms that make it more difficult to file predatory ADA lawsuits in federal court, especially considering the 45% increase in the number of ADA lawsuits against small businesses in California through the federal courts since 2017.

8. Collaborate with the State's California Commission on Disability Access (CCDA) and Disability Rights California to explore best practices in other cities throughout the State, increase education, and promote available state resources and tools to ensure businesses are accessible by individuals with disabilities.

9. Report Back to Council with an Information Memorandum on Recommendations 1 - 6, and 8; report back to Council on Recommendation 7 at the next IGR Quarterly Report.

[Deferred from 12/1/2021 - Item G.3 (ROGC 21-862)]

Attachments [Memorandum from Jones, Jimenez, and Foley](#)
[Letters from the Public](#)
[Supplemental Memorandum, 12/7/2021](#)
[Early Consideration Response Form](#)

4. [ROGC 21-876](#) Monthly Report of Activities for November 2021. (City Auditor)

Recommendation: Approve the Auditor's Office Monthly Report of Activities for the month of November 2021.

Attachments [Memorandum](#)

5. [ROGC 21-877](#) External Quality Control Review of the Office of the City Auditor for the Period July 1, 2019 to June 30, 2021. (City Auditor)

Recommendation: Accept the independent auditor's report, "External Quality Control Review of the Office of the City Auditor for the Period July 1, 2019 to June 30, 2021," which representatives of the Association of Local Government Auditors (ALGA) prepared.

Attachments [Memorandum](#)

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

- a. [ROGC 21-878](#) Public Records Appeal - Katherine Weiland. (Police)

Recommendation:

- a. As directed by Rules Committee on 12/1/2021, accept a progress update from staff.
- b. Deny the appeal from Katherine Weiland (aka Katherine Reichenbach) regarding the City's response to her request for public records seeking records, specifically body worn camera footage, related to a complaint submitted to the San Jose Police Department's Internal Affairs Unit (number I2020-2023), related to event number 20-211-0547.

[Continued from 12/1/2021 - Item I.a (ROGC 21-851)]

Attachments [Memorandum](#)
[Appeal Letter from Katherine Weiland](#)

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.